

Mizell Citations in Surry County, Virginia

So that you may draw your own conclusions, the records themselves are in regular type. My comments and explanations of the records are in *blue italics*

A Note on Surry County Records:

Surry County has some of the best-preserved county records in all of Virginia, though all of the parish records for its two parishes have been lost. The earliest records (August 1652 to March 1672) are combined into a single book. There are conspicuously missing records in that volume – including all wills and nearly all other estate-related records, which may have been filed at the court across the river at the capital of Jamestown rather than in the local court for Surry County. Beginning in late 1671, the records are separated into books of court minutes and “deeds and miscellaneous” records. Deed books 2 and 3 have partially unreadable indices, and some later books have no indices at all. For readability, I have in most cases converted the original shorthand and archaic words into a more understandable version (e.g., I’ve substituted *that* for *yt, tion* for *êon*, *lbs* for *li*,). Likewise, dates are converted into the modern form. Those segments enclosed in quotation marks are direct transcriptions. Most records are abstracted in order to make their meaning clear and save space. A few records of no genealogical value are omitted. With regard to the spelling of surnames, each clerk seems to have had their own preferred spelling, and I have left those untouched.

27 Aug 1635 Land Patent: Thomas Gray, 550a. in James City County, on the south side of the Main River over against James City, adjoining on the East to the plantation now in his possession and to the land of Captain Perry, running along by Rolfe's Creek and South into the woods upon Cross Creek. 100a. due as an Ancient Planter at or before the time of Sir Francis Dale; 50a. due for first wife Annis Gray; 50a. for now wife Rebecca Gray; and 350a. due for transportation of his two sons, William Gray and Thomas Gray, and five servants: Jonathan Bishop, Robert Brown, Robert Welsh, **Luke Misle**, and Jonathan Banks. [Virginia Patent Book 1, p283]

This patent is for land on Grays Creeke (then called Rolfe's Creek or Smith's Fort Creek depending on the branch) and refers to a prior acquisition of land there, probably by purchase. This is our first citation for Luke Mizell, when he is approximately 21 years old. It could be that he arrived in Virginia in 1632 or before – in theory, a headright could not be claimed until three years after arrival in the colony. The Charter of 1618 was specific that a headright must “continue there three years or dye after they are shipped”, thus one could claim a living headright only after three years had elapsed (at least in theory). Luke's deposition of 1659 (see below) places his birth at ca1613-14, so he may still been a teenager when he arrived, as were many imported servants. This and subsequent patents by Thomas Gray are in what later became Surry County, so

presumably Luke Mizell arrived to work at Gray's Surry plantation and remained there for the rest of his life. Virtually all male indentured servants in the 1630s were imported as field hands, the production of tobacco having reached a fever pitch a few years earlier. Tobacco prices were still sky-high, permitting one to acquire significant wealth by employing servants in the fields, even for only their few years of servitude.

*Thomas Gray's status as an "ancient planter" tells us he came to Virginia before mid-1616. Dr. Robert A. Stewart, writing in the foreword to *Cavaliers and Pioneers*, somewhat gratuitously places his arrival date as 1608. This seems much too early, as Gray later deposed he was age 60 in 1653, thus was only about 15 in 1608. Thomas Gray and his unnamed wife, daughter "Jone" and son William are listed among the James City massacre survivors in February 1623/4. By the muster of 1625 they had moved onto James Island where Thomas, wife Margrett, and children William (age 3) and daughter "Jone" (age 6) appear, both children listed as having been born in Virginia. None of the five servants are listed in the musters, so must have arrived later.*

The headrights used in this patent force us to consider that Thomas Gray had taken his family back to England, where he may have married a second wife, had his son Thomas, and secured contracts for the five servants, then transported the whole lot back to Virginia. Son William was born in Virginia, so could be claimed as a headright only if he had left Virginia and then returned. Son Thomas, not born as of 1625, must have been born in England to be eligible as a headright. Likewise for the second wife. Daughter Joan is missing, suggesting that she did not accompany the family back to England. She may have married John Hux before her father left Virginia. Since free women were marrying at 16 or so at the time, this is entirely possible.

26 May 1638 Land Patent: Thomas Gray, 550a. (Same tract as patented on 27 Aug 1635, with slight variations in most of the names, e.g., **Luke Mille** instead of **Luke Misle**.) Apparently a new survey was done, as the land is described as adjoining Thomas Swann. [Virginia Patent Book 1, p631]

All of the patents in Book 1 are copies – the originals, now lost, were copied into the book in 1683. The same clerk entered both patents and obviously had trouble reading his predecessor's handwriting. This patent was a reissue of the 1635 patent, possibly motivated by the politics of the time. Several Governors in the 1630s were charged with malfeasance and forced to return to England. Gray was probably being prudent in getting the right signatures on his patent.

20 Jul 1639 Land Patent: Thomas Gray, 400a. in James City County, on the head of Gray's Creek, for the transportation of 8 persons: Richard Dean, Francis Fincash, Allen Sadome, William Short, John Hancock, and three Negroes. [Virginia Patent Book 1, p669]

This patent did not adjoin the land patented in 1635, though it was nearby. It was voided “for not planting or seeding same” and renewed in 1644 by Samuel Abbott. In 1652, Thomas Gray renewed the patent yet again, stating that he had purchased the rights from Samuel Abbott, and adding another 400a. of new land.

Indentured servants’ contracts varied in length, but nearly all fell between 4 and 8 years. By the time of this 1639 patent, Luke Mizell was certainly a freeman, though he may have continued to work for Thomas Gray as a paid laborer.

1 Apr 1644 Land Patent: John Newman, 150a. in James City County, near the head of Smiths Fort Creeke [*this part of the creek was later called Grays Creek*] on the north side thereof... first granted to Stephen Thompson and successively assigned to John Laine, John Rawlins, Richard Harris, and John Esgrame who assigned it to Newman. [Virginia Patent Book 2, p2.]

John Newman assigned part or all of this patent to Luke Mizell four years later. Luke Mizell would apparently remain on this land until his death.

18 Dec 1647 John Newman assigns his 1644 patent to **Luke Mizell**. [See entry for 4 March 1683/4]

From later descriptions of the adjoining lands, this parcel was located about two miles south of the James River between what is now called Grays Creek and Spring Run. The land was adjacent to the Southwarke church and within a mile or so of the location where the Surry courthouse would eventually be built. This probably explains why we find Luke Mizell serving on juries during the 1650s – the sheriff typically rounded up people visiting the courthouse or those living in the vicinity to serve on juries.

-- Feb 1651 Lt. Pittman ordered to send eleven named men to Jamestown “with their armes fixed and three weekes p’visions...” Among the names: **Luke Messel** [Mezel?] [Surry County Deed Book 1, p10.]

12 Oct 1652 Land Patent: Nicholas Williams, 200a. “lying up Smith’s Fort Creeke near the head thereof... along a swamp called the Reedy Swamp the easternmost branch thereof... along the markd trees of **Luke Misen** [sic]...” [Virginia Patent Book 3, p140] Renewed with identical wording by Nicholas Williams 9 January 1662 [Virginia Patent Book 5, p249]

18 Apr 1656 Henry & John Richards, merchants of London, record a list of debts owed to them through their Virginia agent William Thomas. Among the names: **Luke Mizell** 152 lbs tobacco, Thomas Gray 145 lbs tobacco. [Surry Deed Book 1, pp83.]

9 May 1659 “**Luke Mizell**, aged 45 years or thereabouts, sworn & examined as abovesd [on 9 May] that when this deponent was a servant to Thos: Gray Seneor deced, he did often hear the sd Gray & his wife say that one Gates had given fiftye acres of land to their sonne Thomas & daughter Jane which was part of the dividedent he lived on & further sayeth not.” Signed: Luke (x) Mizell. Recorded 10 January 1659/60. [Surry County Deed Book 1, p131.]

Luke Mizell Sr. signed this and all later documents with a distinctive “LM” mark.

This is part of a series of depositions. Taken together, the depositions tell us that a Thomas Gates gave 50 acres on Grays Creek to be divided between Thomas Gray Jr. and Joan Gray. The date of this gift was apparently sometime before John Hux married Joan Gray,, and apparently sometime before Luke Mizell’s contract expired. Who Thomas Gates was is uncertain. He was not the famous Sir Thomas Gates. A different Thomas Gates was listed as having 100a in Tappahanna (the future Surry County) in Sir Francis Wyatt’s May 1625 inventory of patents. He appears in no other records, and none of these early patents exist.

2 Apr 1660 **Luke (x) Mizell** signs presentment of a jury inquiring into the death of Robert Story. [Surry County Deed Book 1, p150.]

Jury service was a privilege reserved for freeholders, those owning at least 50 acres of land.

2 Mar 1661/2 Thomas Alcocke acknowledged receipt of 2,000 lbs of tobacco from **Luke Mizell**, due by a bill to Wm. Edwards in 1660, who assigned the note to Alcocke, which is “claime to bee lost otherwise the sd. Mizell should have it delivered in”. [Surry County Deed Book 1, p184.]

This is probably either a merchandise account or a bill to deliver Mizell’s crop for the year 1660, the most plausible explanations I can find for a sum this large. Alcocke was a merchant and tobacco broker in Jamestown, and Edwards was also a merchant and county commissioner. 2,000 pounds was a bit higher than the average amount a single farmer could produce [Kulikoff estimates 1600 pounds] and was worth about £16 at 1660 prices.

26 Jun 1662 **Luke Mizell** on another jury. [Surry County Deed Book 1, p192.]

1662 “Pd. for **Luke Mezell** 160 [lbs tobacco]” appears among a list of 1662 credits in a Surry accounting for merchants Henry & John Richards of London, recorded 1 November 1664. [Surry County Deed Book 1, p247.]

6 Jan 1663/4 Robert Dennis pledges “one feather bed & boulder” to **Luke Mizle** as security for a bond Mizle and Dennis jointly made as securities of Robert Spencer for 687 lbs tobacco. [Surry County Deed Book 1, p223.]

2-3 Mar 1663/4 **Luke (x) Mizell** security for Wm. Mathews in the amount of 10,000 lbs tobacco to the Sheriff for Mathew’s appearance in court to answer [unspecified] charges. Also security for a bond to the King’s representative for 10,000 lbs for Mathews’ good behavior, that Mathews “shall well & truly behave himselfe towards all of his Majties liege people at all times.” [Surry County Deed Book 1, pp226-7.]

It is possible that Luke Mizell was related in some way to William Mathews, for Luke Mizell is risking an amount that certainly greatly exceeded his entire net worth. Unfortunately, I could find nothing in the records to tell us who William Mathews was or what he was accused of. There is no record of any subsequent appearance in the court, nor does he appear in any further Surry records. “Liege people” included sheriffs, constables, justices, and other local officials – probably the meaning intended here since this bond amount was most often assessed on those who physically assaulted a county official.

5 Jul 1664 **Luke (x) Mizell** a witness to bond of John Gettings to John Sommers. [Surry County Deed Book 1, p239.]

Again he used the distinctive mark in both of the two cases above.

21 Apr 1665 William Strong appoints “my trusty & well beloved friend” **Luke Messell** as attorney to sell a mill to Ellis Vanter. The mill purchased by Strong from John Rawlings. Luke Messell records the power of attorney on 2 May. [Surry County Deed Book 1, p255.]

There are no deeds recorded in Surry for the prior sales of this mill, and there is no deed recorded for this sale, but later deeds tell us it was sold by John Corker to Rawlins. This mill existed as early as 1657 when John Corker patented land “on the south side of the head of Gray's Creek, called Ware Neck ...opposite the mill” Ellis Vanter sold the mill three years later, describing it as being on one acre of land at Ware Neck. It was subsequently resold frequently, being described as a “water corn mill” in later records. William Strong is another person who had posted a 10,000 lb bond for good behavior toward His Majesty’s liege people.

2 Nov 1665 Deed: John & William Corker to William Marriot for 1150a. called Ware Neck, excepting one acre for the mill [see above], the northernmost corner of which was a tree on “a point of land nigh the path that goes to **Mizells**”. [Surry County Deeds & Wills Book 1, p274-5.]

3 Jul 1666 **Luke (x) Mizell** a witness to a bill of sale from Barth. Owen to Wm. Rose.
[Surry County Deed Book 1, p271-2.]

4 Oct 1666 **Luke (x) Mizell** and Robert Spencer witnesses to pre-nuptial agreement
between Thomas Pittman and Mrs. Martha Gualtney. [Surry County Deed
Book 1, p281.]

June 1668 Surry Tithables (Wm. Marriott's list for Southwarke parish):
Luke Mizell & Mate – 2 [or “Male”?]

This is the first available tithables list for Surry County, and it identifies only the heads of households, not the taxable members. Marriott's list has only 9 names, with a total of 23 tithables. [See separate page on tithables for a detailed explanation of who was taxable in 1668 – accessible from the main page of this website.] The meaning of “Male” or “Mate” [whichever it was] is not obvious, for Marriott wrote “Sonn” on the very next entry. By later records, Lawrence Mizell was certainly tithable this year – though he may have been on someone else's list as an apprentice. The only women taxed this year were imported white women servants who worked as field hands, and non-white women above 16.

June 1669 Surry Tithables (Wm. Marriott's list for Southwarke parish):
Luke Mizell & Sonn – 2

The son is Lawrence Mizell from later records. If his later deposition is correct, he would have been about 17 at this time.

June 1670 Surry Tithables (Robt. Spensor's list for Southwarke parish):
Widow Mizell – 1

The tithable is surely Lawrence Mizell. This indicates that Luke Mizell was already dead by 7 June 1670 when this list was presented to the court. No wills, inventories, or executor bonds survive in the early Surry records, all of them apparently lost among the James City County records, so we can't conclude that he died intestate. In fact, from later evidence, it seems nearly certain that he did leave a will.

Note that both Luke and Lawrence Mizell were minors at this time and, unless Luke Mizell's missing will provided for guardians, one had to be appointed to manage their estates. Lawrence, being over 14, could choose his own guardian but Luke, who was under 14, would have had a court-appointed guardian [the guardian's only duty being to manage the orphan's property, not to actually house or feed him.] From later records, Luke's guardian was initially John Smith and later William Foreman.

5 Mar 1671/2 "To ye. worll. Court of Surry County these to certifie that I subscr___ my whole estate that my father left me." signed: **Lar. (x) Measell**. Recording date not noted, but the entry following was recorded on 8 March 1671/2. [Surry County Deed Book 1, p404.]

This document was delivered to the clerk, as it is not mentioned in the court minutes at all. It's not certain what the unreadable word(s) is, leading to two possibilities. (1) If the unreadable word is "subscribe", "subscribe rt", or something similar then Lawrence Mizell is simply notifying the court that he has received whatever legacy his father provided to him, something he needed to do in order to get his guardian or the administrator off the hook so that their bond could be voided. (2) A second possibility has been suggested: that Lawrence was relinquishing his share of the estate.

A relinquishment seems implausible for several reasons. First, this language would not have passed legal muster. Second, a search of the published court records through 1700 uncovered many similar entries, all of which are clearly receipts for legacies, but I found not a single instance of an heir relinquishing his legacy. Thirdly, Luke Jr. recorded a similar statement as soon as he turned 21 [see below].

If we presume the existence of a will leaving the land to Luke Jr. and the personal property to both sons (subject to the widow's dower rights), then it would make perfect sense that Lawrence, now 21, is acknowledging receipt of his share. His guardian and the estate administrator needed such a document in order to void the bonds they had posted.

Note that this document specifically refers to the "estate", which meant the personal property. Whatever action Lawrence was taking here, it applied only to the personal property. Land was not legally a part of the deceased's "estate" because the concept of land ownership was that it was never without title. Title to land was passed only by devise (will) or by deed. Personal property, however, could be untitled while awaiting a division – thus it is only personal property that is inventoried, appraised, and divided. From all evidence, the land was left to Luke Jr. [See Blackstone's Commentaries on the Laws of England for an explanation of 17th century inheritance and estate law, Virginia not yet having addressed the subject in its own laws.]

29 Nov 1672 Upon the petition of John Smith, who married the relict of **Luke Mezell**, which sd Mizell was security with Hezekiah Bunnel for the estate of John Flood's orphans... (ordered that Bunnel obtain a new security and discharge the obligation of Mizell) [Surry County Order Book 1671-91, p15]

The original bond is missing. John Smith assumed the obligation of Luke Mizell by marrying his widow. The assets in Mizell's estate remained pledged until Smith could void the obligation. There are no records in Surry of John Flood's

will, inventory, or any of these bonds. Apparently, these were filed in Jamestown court and later burned. Surry records only include an orphan's estate accounting (as in the case of Luke Mizell).

John Smith did not own land in Surry and probably lived on young Luke Mizell's land after marrying his mother. See 1679 for the record of his will.

21 Nov 1672 “Jno. Smith presenting an acct to this cort of the estate of **Luke Mizell** orpht of **Luke Mizell** deceased & the sd orpht parte being 5257 lbs of tobacco” It is ordered that the accounting be recorded and that “the sd Smith pay the sd sume unto Wm. Foreman guardian of the sd orpht alias exec...” [Surry County Court Orders 1671-91, p32.]

”Orphan” meant only that his father was dead, not his mother. The guardian’s duty purely fiscal: to manage the estate of the orphan until he came of age, and to pay his bills. Who the orphan actually lived with was a different matter entirely. The accounting referred to is recorded in the deed book on the same day:

21 Nov 1672 Following is very difficult to read:
 “An account of the estate of **Luke Mizell** late of this county ____” presented this date by Jno Smith who married **Deborah** the relict and [extrx.?] __ of ____ to **Luke Mizell**”

The Estate is Cr.		Contra Dr.	
by appraismt	11,505	by Clerks	756
by Fra: Gray	218	by levy & Kings ____	149
by Major Hone	220	by Tho: Sowersby appraisal	30
by ____ Spiltimber	700	by 8 ____ Lochrohanor? ____	130
		by Roger Welbeck	55
		by Coll. Swann	93
		by Ch: Lewis	110
		by Wm: Foreman	105
Cr.	12643		
Contra Dr.	1428	Allowed more by cort for Spiltimbers child & all other demands	400
Cr.	11215		1428 (sic)

“with 11215 rem it is to be equally devided between John Smith & **Luke Mizell**, orphant. ____ each ____ 5607” [Surry County Deed Book 2, p39]

Parts of this page are damaged, but it appears to read “extrx” – confirming that Luke Sr. did indeed leave a will. Note the reference to an unrecorded inventory and appraisal, the 350 lb discrepancy between the court record and the accounting [5,257 vs. 5,607] and the peculiar entry regarding [Anthony] Spiltimber’s children. [Anthony Spiltimber had died a few months earlier leaving two daughters, Patty and Martha, and his widow remarried to Mathew Swann.] Also note that the distribution to John Smith was the widow’s share, which he would own as her husband. There are only two ways in which she

could have received half of this estate: (1) This valuation of the estate is subsequent to Lawrence Mizell's distribution, making her share the normal widow's one-third, or (2) Luke Sr. left a will leaving equal shares to his wife and Luke Jr. Given Lawrence Mizell's statement, (1) seems more likely.

June 1673 Surry tithables [the first list since 1670] – no **Mizells** on the list. There is only one John Smith – in Southwarke parish – with a single tithable.

Luke Jr. is still under 16. Lawrence is probably living other than with the Smiths. In this particular year, the list on which Lawrence Mizell should appear does not give the names of tithables charged to others.

1 Aug 1673 Deed: Wm. Thompson and Katherine his wife to John Salway, 70a. nigh the church at the head of Gray's Creek... bounded with a valley running betwixt Wm. Foremans & the sd land N with **Young Luke Mizell's** line of marked trees... [Surry County Deed Book 2, p29]

William Thompson was the Southwarke minister at the time, and had bought Christopher Lewis's land adjacent Luke Mizell Sr.'s purchase of 1647. Clearly, the land was now owned by Luke Jr. [A minor could legally own inherited land.] A later 1684 patent to Thompson also mentions the adjoining tract as "the land of Luke Mizell".

7 Jan 1673/4 Wm. Foreman presents Mr. Geo: Proctor and Mr. Edward Petway security for the estate of **Luke Mizell** orpht.... Jno: Smith petitioning this cort to have his bond in, Wm. Foreman being guardian to the orpht of **Luke Mizell** & for whose estate the sd Smith was bound..." Smith's bond is voided. [Surry County Court Orders 1671-91, p39]

Smith was herein requesting that a previous bond of his be voided in favor of the bond that William Foreman had just posted. A bond was required to assure that the guardian in charge of the orphan's estate managed it properly. The language of the second line, and the consecutive filing of both items, strongly implies that Smith was specifically asking to be relieved of a guardian's bond. This is an indication that Deborah Mizell may already be dead.

Note: Did Luke Mizell Sr. Leave a Will?

There is no will, inventory, or administrator/executrix bond recorded for him or for anyone else in the Surry records of this period – all such records apparently being recorded elsewhere and lost. So the fact that we find no will is not evidence that there wasn't one. The accounting above is our only record, dated at least 2½ years after his death and referring to an earlier lost appraisal. As mentioned above, the accounting may use the work "extrx" which would confirm a will. Three additional factors lead me to conclude that there was a will: (1) Both Lawrence and Luke Jr. use the words "left to me by my father" or "that my father left me", which strongly implies a will. (2) Luke Jr. clearly

inherited the land, which was being referred to as his by the time he was 12 or so. That could only have happened if it were given to him by a will or by a deed from either his father or his brother Lawrence – given the state of the Surry records, a missing will is much more likely than a missing deed. (3) The possibility that the estate was not distributed equally; if he were intestate the law would have split the personal property into thirds and given the land to Lawrence. If there was a will, Deborah was obviously the executor, a duty that would have passed to her husband when she remarried.

7 Apr 1674 Will Proved: Will of Christopher Lewis, dated 1 September 1673. This will gives a silver flagon to the church at Southwarke and tobacco to William Thompson, its minister. It also makes bequests to two of William Thompson's children, William Jr. and Katherine. It makes small bequests to four godchildren: Solomon Davis, **Luke Measell**, Katherine Owen, and Christopher Moring. A variety of other bequests were made to people both related and (apparently) unrelated. [Surry County Deed Book 2, p35]

The godchild must be Luke Mizell Jr. As a side note, the Virginia act of 1661 required parish churches to keep records of births, baptisms, and deaths. If the Southwarke records had survived, we would have Luke Jr.'s birth date.

June 1674 Surry tithables (Lawrence Baker's list for Lawnes Creek parish)
Rich: Harris, Geo: Harris, **Law: Mizell** – 3

Lawrence is several miles away from John Smith, who is still in Southwarke parish.

4 Nov 1674 “**Lawrence Mizell** presenting an acct to this court against John Stock which being returned non est inventus...” attachment granted against Stock's estate for 1,800 lbs tobacco. [Surry County Court Orders 1671-91, p76]

”non est inventus” means that the Sheriff could not find John Stock. So before he could remove his property from the county, Mizell asked for the sheriff to attach whatever he could find. The same shoe would be on the other foot nearly twenty years later.

16 Mar 1674/5 Judgment granted Coll. Swann Esq. against **Law: Mizell** “for what he shall make appear due at the next court”. [Surry County Court Orders 1671-91, p89]

Lawrence Mizell is, at the age of 24 or so, encountering the first of many debt problems. He probably managed some temporary arrangement, for the next record of this debt is in early 1679.

June 1675 Surry tithables (Will: Browne's list for Southwarke parish)
Roger Williams, **Law: Mizell** – 2

- 6 Jul 1675 Judgment granted Jno: Smith against Rogr: Williams for 2,000 lbs tobacco “he in cort acknowledging himselfe security for the appearance of **Mr. Law: Mizell**”. [Surry County Court Orders 1671-91, p97]
- As with many of these records, the prior documents are not recorded. Roger Williams (with whom he was tithable a month earlier) was evidently security for Lawrence Mizell’s appearance to answer some suit or charge and forfeited the money when Mizell failed to appear. (The money would be returned, less costs, if Mizell was brought to a subsequent court.) There is a vague implication her that Deborah might have been dead, else John Smith might not have resorted to court action to assure Lawrence Mizell’s appearance.*
- 7 Sep 1675 Judgment granted Tho: Hye against **Law: Mizell** for 474 lbs tobacco “unless he give him security within 20 days for payment thereof”. [Surry County Court Orders 1671-91, p100]
- June 1676 *The 1676 tithables were not taken owing to the unrest of Bacon’s Rebellion, but from later records it appears that Luke Mizell Jr. would not have appeared in them, being a few months short of the age of 16 in June 1676.*
- June 1677 Surry tithables (Benjamin Harrison’s list for the “upper end” of Southwarke parish):
Mr. Jno. King, Geo: Arnold, Sam Lin, **Luke Mizell** – 4
- Nicholas Merriweather’s list for Southwarke parish:
Jno: Smith & **Law: Mizell** – 2
- 1 Dec 1677 Deposition of **Lawrence Meazle** aged 26 years or thereabouts... [concerning Thomas High’s statements regarding Col. Thomas Swann’s conduct during Bacon’s Rebellion.] Signed: **Lawrence (x) Meazle**. [William and Mary College Quarterly, Vol. 11, No. 2, p81]
- June 1678 Surry County tithables (by Benjamin Harrison for Southwarke parish “from Sunken Marsh to ye upper end of Surry County”):
Mr. Jno: King, Geo: Arnold, Rich: Greene, **Luke Mizell** - 4
- William Browne’s list for Southwarke parish:
Jno: Smith & **Law: Mizle** – 2
- 7 Jan 1678/9 Judgments granted to Col. Thomas Swann against **Lawrence Mizell** for 646 lbs of tobacco and Rogr: Williams for 1,697 lbs “the said Williams having liberty to make what just discount he can and pay costs...” [Surry County Court Orders 1671-91, p234]

Apparently a resolution of the suit brought three years earlier.

6 May 1679 **Lawrence Mezell** confesses judgment to Mr. Geo: Lee, attorney of Jno: Grascome for 430 lbs of tobacco. [Surry County Court Orders 1671-91, p251]

June 1679 Surry tithables (Geo: Lee's list for Southwarke parish "from Sunken Marsh upwards"):
Mr. Jno. King, Geo: Arnold, **Luke Mizell** – 3

William Browne's list for Southwarke parish:
Law: Mizle – 1

Lawrence is more than likely married about this time, when he first appears as "master of a family" [see Tithables document elsewhere on this website].

23 Jul 1679 Will of John Smith, makes bequests to George Williams and son John Smith. [Surry County Deed Book 2, p224]

This John Smith lived in the same precinct as Luke Mizell Sr.'s land was in, and is apparently the same one who married Deborah Mizell. There is no mention of a wife in this will or in any of the records of the estate, so she is apparently dead by now. John Smith was repeatedly sued during the last few years of his life. I did not bother to read his inventory and appraisal, but he had surely worked his estate down to nearly nothing by his death.

2 Mar 1679/80 Wm. Foreman, guardian to **Luke Mizle** orpht having brought his accusation against Mr. Wm. Thompson for trespassing upon the said orphans land, it is therefore ordered that the Sheriff impannell an able jury of the neighborhood who with the surveyor of the county are to lay out the said Thompson's land & if they find the sd Thompson hath trespassed upon the sd orphan's land they are to consider the damage & make report thereof to the next court. [Surry County Court Orders 1671-91, p292]

4 May 1680 In the matter of Wm. Foreman, guardian of **Luke Mizell**, vs. Mr. William Thompson, the jury determined that Thompson had indeed trespassed to the value of 30 lbs. tobacco. Judgment granted to Wm. Forman, guardian, in that amount. [Surry County Court Orders 1671-91, p297]

This not only helps to pinpoint the Mizell land, it also confirms that Luke Jr. is not yet 21. "Trespass", meaning planting crops or grazing livestock on another's land, was fairly common owing to the uncertainty of boundaries caused by the poor quality of surveyors and their surveys. This is precisely what the Virginia Assembly had tried to prevent with the 1661 act requiring that boundaries be "processioned" every four years. Processioning was a function of the parish court, whose records do not exist for Southwark parish. Note that

the land of William Thompson, the Southwarke minister, can be quite precisely located. Thirty pounds was a trivial award, being worth less than 2 shillings, and hardly worth the court costs of bringing the suit.

May 1680 Surry tithables (Benjamin Harrison's list for "upper end of Southwarke parish"): Mr. Jno. King, Ri: Winkeles, **Luke Meazell** – 3

William Browne's list for Southwarke parish:
Law: Mizell – 1

6 Jul 1680 Sheriff ordered to summon Mr. _____ [unreadable] to appear at the next court to answer "such things as shall be objected against him on behalfe of **Luke Mizell**, orphan. [Surry County Court Orders 1671-91, p307]

Best guess is the person summoned was George Williams, executor of John Smith's estate. The estate may have included items kept by Deborah Mizell from Luke Mizell's estate.

8 Sep 1680 William Foreman appears in court to acknowledge delivery of "a mare with foale" to the estate of **Luke Mizle**, orphan. [Surry County Court Orders 1671-91, p313]

The source is not mentioned, but it is likely that it was George Williams, the executor of John Smith, who appeared at the previous day's court with an accounting of the estate (which I did not read). Whatever part of the Smith estate had been part of Deborah Mizell's lifetime interest would now belong to young Luke and his brother Lawrence in whatever proportion Luke Mizell Sr.'s will provided for. An "orphan" was anyone under 21 whose father had died (a quite different meaning than in modern times).

June 1681 Surry tithables (Benjamin Harrison's list for Southwarke parish "from Sunken Marsh upwards"): Mr. Jno. King, Geo: White, **Luke Mizell**, Jno: Sinkler – 4

William Browne's list for Southwarke parish:
Law: Mizell – 1

From the tithables of 1677-1681, it appears that Lawrence Mizell is living on or very near the land of Luke Mizell Sr. because he is enumerated in that district. Luke Mizell Jr., still a minor, is enumerated in the area of Upper Chippokes Creek, several miles northeast.

It appears that Luke Mizell was apprenticed to John King of Upper Chippokes Creek, who is described as a cooper in several court records. It was typical that orphans be apprenticed to learn a trade until they reached majority. John King would have been obligated to teach him to read and write, pay his tithable

tax, and to feed, cloth, and house him. This probably explains why Luke Mizell Jr. later signs his name to documents, while his elder brother signs with a mark.

7 Sep 1681 **Law: Mizell** confesses judgment to Wm. Foreman for 4,026 lbs tobacco.
[Surry County Court Orders 1671-91, p351]

Given the amount and timing of this, I suspect that this was something of a formality. We know (see the record below) that Luke Mizell is about to turn 21. William Foreman had certainly put young Luke Mizell's land and livestock to use, possibly renting them out to Lawrence Mizell, and is here perhaps obtaining what amounts to an acknowledgment from Lawrence of the current value of Luke's personal property. In support of this, I would note that the amount of tobacco is at least two years' total production (thus quite a large amount, beyond Lawrence's ability to pay) and that there is no sign in the records that the case went any further.

1 Nov 1681 “Upon petition of **Luke Mizle**, orphan of **Luke Mizle** deced, it is ordered that Wm. Foreman doe forthwith pay him his estate, he being of full age.” [Surry County Court Orders 1671-91, p352]

Given the prior entry, and the 1681 tithables, it seems likely that Luke reached the age of 21 sometime in September or October – thus born in late 1660.

31 Dec 1681 “Recd of Wm. Foreman 5,600 lbs of tobacco ___ nine head of cattle according to these ___ were left to me by my father” Signed: **Luke Meazle**
Acknowledged in court on 3 January (see below) and recorded on 24 January.
[Surry County Deed Book 2, p299]

3 Jan 1681/2 “**Luke Mizle** appearing in cort & acknowledging a discharge to Wm. Foreman it is admitted to record.” [Surry County Court Orders 1671-91, p358]

Foreman is prudent enough to record the end of his fiscal obligation.

June 1682 Surry tithables (William Browne's list for Southwarke parish):
Luke & Law: Mizle – 2

Luke Mizell, who had apparently turned 21 in the previous year, is back in the district in which his inherited land lay. Lawrence Mizell has been in this district all along, and is likely still living on his brother's land. Luke is listed first because he is the landowner, and therefore the nominal head of household.

June 1683 Surry tithables (Samuel Swann's list for Southwarke parish):
Luke Mizle, Law: Mizle – 2

4 Mar 1683/4 Deed: **Luke Meazell** to Bartho. Brittle, consideration not given, 50 acres at the head of Grays Creeke, adjacent David Andrews and William Foreman, “part of

a patent granted to Jno. Newman dated 1 April 1644 and assigned by sd Newman to **Luke Mizell** decd, aforesd **Luke Mizell**'s father, bearing date 18 December 1647." Signed: **Luke Meazle**. Witness: William Foreman, George Matoon. [Surry County Deed Book 3, p349.] Acknowledged in court 9 March 1683 [Surry Orders 1671-91, p435.]

This is 50a. of the original 150a. patent. Bartholomew Brittle eventually sold the land to Robert Warren.

- 20 Apr 1684 Land Patent: William Thompson, 150a. on the north side of the head of Grays Creek...142a. being part of a patent of 400a formerly granted unto Christopher Lawson and upon a survey found to be overplus land...remainder a neck of waste land lying a little below the horse bridge between the sd 142a. and the land of **Luke Meazell**... (description of land includes common boundary lines with Luke Meazell, Mathew Marriot, and John Whittson). [Virginia Patent Book 7, p370] *The original of this patent is actually in the Surry deed book (see below).*
- June 1684 Surry tithables (Samuel Swann's list for Southwarke parish):
Luke Mizle – 1
Law: Mizle – 1
- 2 Sep 1684 "Exct. Corpis. Appl. 4th 85[?]" **Luke Mizle** confesses judgment to William Foreman, assignee of Nathaniel Roberts, for 100 lbs tobacco plus costs. *Either this note to the clerk was back-entered or the "85" should have been "84". Either way, the meaning is that he acknowledged the debt out of court.* [Surry Orders 1671-1691, p457.]
- 6 Jan 1684/5 **Luke Mizle** & Jonah Bennett make oath to power of attorney by John Thompson. [Surry Orders 1671-1691, p469.]
- June 1685 Surry tithables (Samuel Swann's list for Southwarke parish):
Luke Meazell, Jonas Bennett – 2
Law: Meazell – 1
- 1 Sep 1685 "It appearing that **Luke Mizle** did not sumon Mr. Bat. Brittle to mend the highway as he ought to have done being thereunto comanded by Lt. Coll. Browns warrent it is ordered that the sd Mizle pay all the fees that hath beene between Mr. Wm. Foreman surveyor of the highway and the said Brittle." [Surry Orders 1671-1691, p492. See also p482, p484]

In May, Bartholomew Brittle had been charged with contempt for not "going to mend the highway" when he was summoned to do so. Evidently William Foreman had charged Luke Mizell with delivering the summons. The June court had ordered Luke Mizell to "testify his knowledge" of the complaint against

Brittle, and the testimony was apparently given in September. This seems somewhat harsh treatment by Foreman of his former ward.

2 Mar 1685/6 Judgment granted Lt.Col. Wm. Browne, assignee of **Luke Mizell**, assignee of Wm. Newsum, against Law. Fleming for 700 lbs tobacco. [Surry Orders 1671-1691, p514.]

June 1686 Surry tithables (Samuel Swann's list for Southwarke parish):
Luke Mizle, Jonas Bennett – 2
Law: Mizle - 1

6 Jul 1686 Ja: Cane obtained a judgment against the estate of Wm: Chapman "which is returned executed by **Luke Mizle** who being summoned to declare what of the said Chapmans estate was in his hands but he appeareing in cort & alleadgeing he could not now do it" requests a referral to the next court. [Surry Orders 1671-1691, p526]

21 Dec 1686 **Luke Meazle** a witness to assignment of patent by William Thompson to Noah Barefoot. [Surry County Deed Book 3, p15] William Thompson's patent, dated the same day, was adjacent **Luke Mizell** [Virginia Patent Book 7, p370.]

William Thompson, the minister for Southwarke parish, patented land adjacent Luke Mizell's 1747 land and immediately sold it. Noah Barefoot deserted the land and it was re-patented by Roger Williams in 1688, at which time it was described as being adjacent Luke Meazell, Major Swann, William Foreman, Col. Brown and David Andrews.

6 Jan 1686/7 "Ja: Cane having obteyned a judgment against the estate of Wm. Chapman which is returned executed in the hands of **Luke Mizle** who being summoned to declare what of the said Chapmans estate was in his hands but he appearing in court & alledgeing he not now do it and praying refference [referral] till the next court to doe the same it is granted. [Surry Orders 1671-1691, p526.]

Subsequent records show that Mizle reported he had nothing of Chapman's in his possession and the case was dismissed [Ibid., p535]. Chapman may have left the county. He is not in the tithables after 1683.

1 Mar 1686/7 A list of debts due the estate of Thomas Jordan decd bearing this date includes: **Luke Mizell**, 100 lbs tobacco... **Law: Mizell**, 352 lbs tobacco. Recorded on 5 July 1687. [Surry Deed Book 3, p89 and Surry Orders 1671-1691, p576.]

Among other things, Jordan operated the only tavern in Southwarke parish. Perhaps the brothers ran a tab. 100 pounds of tobacco would not have bought more than a half-dozen meals or drinks at the rates in effect the previous year. Lawrence Mizell's debt was still unpaid five years later in 1691 when Thomas Jordan's administrators sued him and attached his property.

3 May 1687 **Luke Mizle** on a jury for the first time. Also on 5 July 1687. [Surry Orders 1671-1691, p562-3, p575.]

June 1687 Surry tithables (Samuel Swann's list for Southwarke parish):
Law: Meazell, Luke Meazell – 1

19 Dec 1687 List of militia for Southwarke parish of Surry County: **Luke Mizle... Law. Meazle** (Both listed as foot soldiers) [Surry Orders 1671-1691, pp598-601]

This list was revised a few weeks later at the instruction of the Governor to include only freeholders and housekeepers, and to remove those who were merely freemen not maintaining a separate household. This reduced the list of militia from 314 to 200, but both Mizells remained on the list [Ibid., p621-2] This is important mainly because it tells us that Lawrence Mizell, who was not a freeholder, must have been maintaining a separate household and thus was likely married. Luke Mizell was a freeholder (an owner of 50 acres or more).

June 1688 Surry tithables (Robert Randall's list for Southwarke parish – formerly Swann's district):
Law: Meazell, Luke Meazell – 1

29 Sep 1688 Deed: Robert Warren to Jno. Watkins, 100 acres, part of a grant to "my father Mr. Thomas Warren decd" dated 1 November 1669... "who bequeathed the same unto me" Witness: Allen Warren, Will: Gray, **Luke Meazle**. [Surry Deed Book 4, p89.]

Robert Warren would later sell the remaining 350 acres of this grant to Luke Mizell.

20 Oct 1688 Land Patent: Roger Williams, 150a. "Scittuate neer Southwark Church in Surry County... the sd Land being formerly granted to Mr Wm Thompson by pattend 21 October 1684 and by him deserted for want of seating according to Law, and now granted to sd Williams by ordr of the Court 16 October 1688... beginning at an old spanish oake Majr. Swans Corner tree... small red oake a Corner tree twixt David Andrews & **Luke Meazell**, thence by sd **Meazells** line ... to a red oake very neer Southwark Church... thence along Wm. Foremans line... a red oake stump Coll. Brownes corner tree... [Virginia Patent Book 7, p690]

This is easily plotted. The Mizell land referenced is not be the original 150a. patent, but it is clearly very close to it. See other entries for evidence that there was a second parcel owned by Luke Mizell.

June 1689 Surry tithables (Samuel Swann's list for Southwarke parish):
Law: Meazell, Luke Meazell – 1

June 1690 Surry tithables (Samuel Swann's list for Southwarke parish):
Law: Meazell – 1
Luke Meazell – 1

This is the last year in which any Mizell appears as a tithable. Tithables exist for all years 1691 through 1703, but no Mizells appear as taxables.

23 Oct 1690 Land Patent: **Luke Measell** (Misle) 150a being formerly John Newman's lately found to escheat by an escheat jury of 22 October 1689. [Virginia Patent Book 8, p87.]

This appears to be a renewal of the same land patented by John Newman in 1644 and sold to Luke Mizell's father in 1647. However, it may be that the original acreage was underestimated, because Luke had already sold 50a. to Bartholomew Brittle, who still owned the land at his death two decades later.

5 Jan 1690/1 Deed: **Luke Mezell** and **Eliza** his wife to Rob: Warren, consideration not noted, 150 acres... patented by Luke Meazle on 23 October 1690. Signed: **Luke Meazle, Eliza (x) Meazle**. Witness: Will: Foreman, Thos: Warren. Acknowledged by Luke and Eliza Mizell on 6 January 1690/1. [Surry County Deed Book 4, p174.]

This is the 150 acres originally bought by Luke Mizell I in 1647 and renewed by Luke Mizell II.

5 Jan 1690/1 Deed: Robert Warren and wife Ann to **Luke Meisle**, 350 acres, part of a grant to "my father Mr. Thomas Warren decd" dated 1 November 1669. Witness: Thomas Warren, Will: Foreman. Acknowledged on 6 January. [Surry County Deed Book 4, p175.]

These two deeds are a simple exchange of land. Luke is moving several miles south to north bank of the Blackwater in the fork between Cypress Swamp and the Blackwater River, just north of the border with Indian territory. The original grant to Thomas Warren was 450a. Robert Warren had sold 100a. to John Watkins (see above) and is now disposing of the remaining 350a. to Luke Mizell, in trade for Luke Mizell's 150a. tract in the more settled part of the county. Luke Mizell will now sell most of that tract to his brother and to James Bynum.

5 Jan 1690/1 Deed: **Luke Mezell** and **Eliza** his wife to **Lawrance Meazell** of Southwarke parish, 1000 lbs tobacco, 100 acres in Southwarke parish ... on the north side of Blackwater swamp beginning at the mouth of a great branch... up the sd branch to the side line soe along ye sd line to a stake...being part of a tract of land sold by Robt Warren to the above sd Luke Mizell. Signed: Luke Meazle, Eliza (x) Meazle. Witness: Tho: Warren, Rob: Warren. Acknowledged by Luke and Eliza Mizell on 6 January 1690/1. [Surry County Deed Book 4, p172.]

5 Jan 1690/1 Deed: **Luke Meazell**, cooper and **Eliza** his wife of Southwarke parish, to James Bynham, planter, 1100 lbs tobacco, 150 acres on the main Blackwater Swamp... up Wm. Rogers spring branch... to Jno. Watkins corner tree being a gum standing in the branch, up the branch to a red oak along Mr. Warren's line to the great branch between the sd land & **Lawrence Meazells** land... part of the land patented by Mr. Warren and sold to the sd Luke Mizell. Signed: **Luke Meazle**, Eliza (x) Meazle. Witness: Tho: Warren, Rob: Warren. Acknowledged by Luke and Eliza Mizell on 6 January 1690/1. [Surry County Deed Book 4, p173.]

5 Jan 1690/1 Deed: **Luke Mezell** and **Eliza** his wife to Will: Foreman, consideration not noted, 50 acres... [description follows]... adjoining Wm. Browne, William Foreman, and Thomas Smith. Signed: Luke Meazle, Eliza (x) Meazle. Witness: Tho: Warren, Rob: Warren. Acknowledged by Luke and Eliza Mizell on 6 January 1690/1. [Surry County Deed Book 4, p180.]

This land is not described particularly well in the deed, but it is another portion of the purchase from Robert Warren. William Foreman's will describes it as "land I bought of Luke Mizell at Blackwater." It is also referenced in later sales of adjoining land.

6 Jan 1690/1 **Luke Mizell** and wife **Eliza Mizell** acknowledge all of the above deeds in court, Elizabeth relinquishing her dower interest to each. [Surry Orders 1671-91, p784-5.]

All of these deeds are dated the same day and acknowledged in court on the following day. Note the interesting elements here: (1) He trades his old 150 acres for a 350 acre plot of Robert Warren's (2) He sells the Warren patent piecemeal to his brother and James Bynum. (3) He retains only 50 acres of the new tract for himself. Perhaps he needs minimal land because he is practicing his trade as a cooper.

At this point Luke Mizell Jr. owns 50 acres and his brother Lawrence Mizell owns 100 acres. Both will die owning these parcels.

4 Apr 1691 Order to Sheriff: On complaint by William Browne that **Lawrence Mizell** is indebted to him 1,126 lb of tobacco "and that said Mizell hath secretly conveyed himself from his plantation" and cannot be found, Sheriff is ordered to "attach soe much of the above said Mizells estate as will fully satisfy the above debt with costs" and report to the next court. The return by Thomas Swann, sub-sheriff, states that he seized 5 cows, two sheep, and "the halfe of six and twenty hoggs.". [Surry Deed Book 4, p200-201] Execution on the attachment was made on 3 June and is so noted in the court record [Surry Order Book 1671-1691, p813]

This attachment seems a bit excessive unless the price of livestock had dramatically declined. The five cows alone should have been worth more than 1,126 lbs. of tobacco.

6 Apr 1691 Order to Sheriff: On complaint by Joshua Proctor that **Lawrence Mizell** is indebted to him 350 lbs of tobacco, judgment for 405 lbs, including costs [and cannot be found, as above] Sheriff ordered to seize estate [as above]. Sheriff's return states seizure made of an assortment of household goods and stock [similar to above entry]. [Surry Deed Book 4, p201] Execution on the attachment was made on 3 June and is so noted in the court record [Surry Order Book 1671-1691, p814]

7 Apr 1691 Order to Sheriff: On complaint by Thomas Bagge that **Lawrence Mizell** is indebted to him 350 lb of tobacco [and cannot be found, as above] Sheriff ordered to attach estate. Sheriff's return states seizure made of an "an old table, couch chest, a meale tubb, two old joint stooles, three cow hides, a hoge hide" etc. [Surry Deed Book 4, p201] Execution on the attachment was made on 3 June and is so noted in the court record [Surry Order Book 1671-1691, p814]

16 Apr 1691 Judgment granted to Col. William Browne and James Jordan (as administrators of the estate of Thomas Jordan) against the estate of **Lawrence Mizell** for 352 lbs of tobacco. Browne & Jordan to be paid out of the estate. [Surry Deed Book 4, p201]

This is the old debt from 1687. Browne and Jordan have been trying for four years to collect the debts due Thomas Jordan's heirs and wrap up their administration. Aware of the problems the other three creditors are having in finding Lawrence Mizell, they are the last to obtain an order to seize his property.

12 Jun 1691 Order to Sheriff: On complaint of Col. William Browne and James Jordan (as administrators of the estate of Thomas Jordan) that **Lawrence Mizell** stands indebted to them on a bill for 352 lbs tobacco and "hath secretly convoid himself from his plantation". Sheriff ordered to attach Lawrence Mizell's property. The return from William Foreman, sub-sheriff, states that he had seized 518 lb of tobacco and delivered it to Wm. Browne. [Surry Deed Book 4, p201] Execution on the attachment was made on 7 July and is so noted in the court record. [Surry Order Book 1691-1713, p5]

Lawrence Mizell was not in any tithables list after June 1690, and pretty clearly had left the county after the deed of 5 January 1691 but before 4 April 1691 when these creditors and the sheriff began reporting that they were unable to locate him. A plausible explanation is that he had moved his family elsewhere, and was perhaps planning to return after they were settled to dispose of his livestock, crops, and remaining household goods. And, we hope, to pay his debts. Whether he was in another county, or had already moved into North

Carolina, is uncertain. He does not appear in Isle of Wight records, the only other county he might have passed through on the way to North Carolina.

Although we can't be certain, this explanation fits the facts nicely. If he was in the process of moving to a distant place, that would explain the rush of the creditors to attach his property in Surry. A debtor could be sued only in his county of residence, so suing him in North Carolina, say, would have been impractical. This practicality motivated the creditors to settle the debts before his property was moved out of the county and beyond their reach. Note that his real property (land) could not be attached by a creditor unless he had explicitly mortgaged it to them it via a deed of mortgage. It appears that most or all of his livestock and household goods were seized to satisfy the debts – perhaps that was his plan. The land he owned at this time was the 100 acres sold to him a few months earlier by his brother – this land was not attachable by his creditors, and was later sold in 1703 by Luke Mizell “of North Carolina”, presumably his son.

If Lawrence Mizell was moving, or had already moved, to North Carolina the most practical means of transportation was by boat, which would have prevented the shipment of livestock. There were only two routes available. The land route from Surry into North Carolina was blocked by a large expanse of Indian territory covering the entire area from the Blackwater River to the North Carolina border. Whites had been prohibited from settling south of the Blackwater, and just a few months before Lawrence's disappearance the Governor had ordered several squatters removed. It would be another ten years before settlement was permitted in that region. So the most practical migration was by ship down the James and along the coast into Old Albemarle. It is possible he may have gone down the Blackwater itself, though that would have meant several days of travel through Indian lands. Either way, the point is that livestock and furniture would have been next to impossible to move.

4 Jul 1693

Luke Mizell Will: The nuncupative (oral) and undated will of **Luke Meazle** proved and recorded. “I give unto my daughter **Eliza** my land after the decease of my wife and one red pied heifer. I give unto my daughter **Sarah** one red cow and one black heifer with a star in her forehead. If either of these dye without issue that her estate return to the other. And all the rest of my estate I leave to my wife when my debts are satisfied.” Proved by oaths of the witnesses: Thomas Smith, John Green, Eliza Binam. [Surry Deed Book 4, p308.] An entry in the court minutes also mentions that the will was proved this date, and administration granted to his relict, **Elizabeth Meazle**. [Surry Orders 1691-1713, p76.]

The formal letter of administration from the Governor to Eliza Mizell is postdated 20 April 1694 and filed with the inventory [Surry County Deed Book 5, pp6-7] stating “whereas Luke Mizell late of this colony dying and leaving an estate in diverse goods... according to an order of the Surry County Court

bearing date July the 4th 1693...” and granting administration of the estate to Eliza Mizell.

The will does not name an executor, so the widow had to apply for administration. Nuncupative (oral, unsigned) wills were valid only if dictated by the testator “during his last sickness”, that is, immediately prior to death. They were reduced to writing by one of the witnesses, the other two witnesses serving to verify the content. Legal custom dictated that nuncupative wills be proved as soon as possible after permitting the widow the opportunity to contest, usually within a month or two after the death. [See Blackstone’s Commentaries on The Laws of England for more information.] We can therefore be reasonably sure that Luke Mizell died not long before 4 July. Since he does not appear in the tithables for his district recorded in June 1692, he may have died as much as a month earlier.

The form of this will seems strong evidence that Luke Mizell had only the two children. The daughter Eliza, whom some believe to have been Eliza Bynum, was obviously a different person. The law prevented a legatee from also being a witness, else that portion of the will was invalidated. So Eliza Mizell and Eliza Bynum were certainly different persons. Eliza Mizell the younger certainly was underage at the time while Elizabeth Bynum was several years married with children of her own.

It is interesting that Luke Mizell does not appear on the Surry tithables lists for 1691, 1692, or 1693. His nuncupative will – unlike a written will - would not have been valid if filed a year, say, after his death [see Blackstone] but at the same time it seems implausible that the taxmen would have missed him in consecutive years. One explanation of this dilemma is that he may have accompanied his brother Lawrence Mizell to wherever Lawrence went, and returned to Surry after the 1692 tithables were taken.

5 Sep 1693 Ordered that **Eliza: Meazle** admx. with the nuncupative will annexed of **Luke Meazle** deced do at the next court produce an inventory of the estate... [Surry Court Orders 1671-1713, p81]

The language “administrix with the nuncupative will annexed” was a legal term used in the case where the will did not name an executor. Since the will failed to name an executor, the widow had to apply for administration. This terminology reminded the court that a will existed and that the administrator was to comply with its terms.

28 Sep 1693 **Elizabeth Meazle** admx. with the nuncupative will annexed of **Luke Meazle** deced having failed to produce an inventory of the said Meazles estate, it is ordered that she be summoned to appear at the next court and produce an inventory... [Surry Court Orders 1671-1713, p88]

3 Jan 1693/4 “Ordered that the Sheriff summons Robert Hill and Eliza his wife to appear at the next court and produce an inventory of the estate of Luke Mizle deced” [Surry Court Orders 1671-1713, p96]

Eliza Mizell has remarried to Robert Hill sometime between September 1693 and this date.

1 May 1694 Inventory of the estate of **Luke Measel** decd presented by Robert Hill and Eliza Hill. The inventory consisted of: 3 cows and calfs, 3 heyfers of 2 yrs old, 5 sows, 12 piggs, 3 barrows of 2 yrs old, 2 barrows of [1?] yrs old, 2 potts, 2 pewter dishes, 1 bed, 3 blankets, 1 chest, 1 case, 1 lot of coopers tools, 1 crose cut saw, 1 tenant saw, 1 old sifter, halfe doz spoons, 1 ___ & pott, 2 ___ ossengors, 1 old paile, 2 sett of wedges. Signed Robert (x) Hill, Eliza (x) Hill. [Surry County Deed Book 5, pp6-7. Acknowledgement by Eliza Hill on p27, on 6 November.]

On the back side of the inventory is a note by the clerk that it was presented on 1 May and recorded on 6 November 1694. According to the court minutes, Robert Hill did not appear in court to give oath to the inventory until 4 July and Eliza did not appear until 6 November. At that point the clerk could record the document he had received six months earlier.

In the terminology of the time, a “heifer” was a cow that had not yet given birth to a calf, and a “barrow” was a young gelded hog. The “lot of coopers tools” suggests that Luke was still active in his trade. Note that Luke Mizell died owning less livestock than his brother Lawrence had owned two years earlier.

1 May 1694 The court appoints Tho. Smith, Edward Newbee, Wm. Rogers and James Byneham or any three of them to appraise the estate of **Luke Mizle** deced. “and Robt. Hill and **Eliza** his wife admx. of the sd deced with his nuncupative will annexed are ordered to produce the same at the next court.” [Surry County Orders 1691-1713, p101]

11 July 1694 **Lawrence Mizell** in North Carolina by this date (see below)

4 Sep 1694 An appraisal of the estate of **Luke Meazle** presented by Robert Hill and Eliza Hill. The appraisal performed by Thomas Smith, William (x) Rogers, Edwd (x) Newby. The appraisal matches the inventory exactly, but adds a debt due from Richard Jordan Jr. of 355 lbs. The entire personal estate is valued at 3,405 lbs of tobacco including the debt from Jordan. [Surry County Deed Book 5, p19.]

This is a relatively small estate, smaller than Luke’s original inheritance. That is particularly striking in that the value of livestock had increased considerably over the last ten years. This is perhaps explained by a severe recession in Virginia beginning about 1680, with declining tobacco prices, after which tobacco farmers were hard-pressed to break even.

Eliza Mizell seems to have been the daughter of Matthew Marriott, who the widow of Luke Mizell Jr. married Robert Hill. Robert Hill was the son of Robert Hill Sr. and the brother of Sion Hill. Eliza was apparently the daughter of Matthias Marriott – his will mentions a daughter Elizabeth Hill.

2 Oct 1703 Deed: **Luke Mezell** of North Carolina to James Byneham of Surry County, 1000 lbs tobacco, 100 acres in Southwarke parish... on the north side of Blackwater swamp beginning at the mouth of a great branch... up the sd branch to the side line soe along ye sd line to a stake...being part of a tract of land sold by Robt Warren to Luke Mezell... [Metes and bounds matches the land sold to **Lawrence Mizell** in 1691.] Witness: James Minge Jr., Fra: Clements. Proved by a power of attorney from Luke Mizell to Francis Clements on 2 November 1703, signed by Luke Measell. [Surry County Deed Book 5, p293]

This is Luke Mizell III, who is evidently the heir of Lawrence Mizell. The land description in this deed is a word-for-word copy of the deed from Luke Mizell to Lawrence Mizell in 1691. [The abstracted version of this deed implies that Luke III is selling land inherited from Luke II, when he is in fact land selling the land owned by Lawrence Mizell.] Robert Warren sold 350a to Luke Mizell II, but Luke immediately sold all of it to other people – including his brother Lawrence and James Bynum. The detailed description of the land in this deed matches exactly the 100a that Luke II sold to Lawrence in 1691. It adjoined the land James Bynum bought from Luke Mizell Jr. back in 1691, Luke Mizell III has apparently inherited the land from Lawrence Mizell. Note that Luke Mizell II had left his 100a. of land to his wife (who was still living)for her lifetime, then to his daughter Elizabeth.

Note on Robert Hill: Robert Hill and Elizabeth continued to live in Surry County for another two decades. In 1703 Robert Hill acquired 200a. on the other side of the river, which he and his wife Elizabeth sold in 1724. They moved into what became Brunswick County where Robert Hill died in 1740, apparently a widower. The daughter Elizabeth Mizell who inherited Luke Mizell's land was not tracked. There is a possibility that she married Jeremiah Ellis Jr., who (with wife Elizabeth) appears to have owned the Luke Mizell land by 1703. He still owned that land at his death in 1738.

THIS IS THE LAST MIZELL CITATION IN SURRY COUNTY – BUT
HERE ARE A FEW FROM NORTH CAROLINA:

11 Jul 1694 Survey order to lay out 250a. for Wm. Charleton, for importation of five persons: **Lawrence, Bethinia, Luke, Ellinor Mezell** and Wm. Charleton, the first four names “assigned by **Law: Mezell**”. The survey made on 13 June 1695 and the grant is dated 25 February 1696/7 for 240a. in Chowan Precinct. [Albemarle Book of Warrants and Surveys 1681-1706, on reverse side of p118, page unnumbered. This is transcribed by Weynette Parks Haun, who assigned

this as page 119.]

William Charlton evidently sold this land before 24 August 1700, when it was sold by Daniel Perkins with William Brethitt a witness. [Chowan Precinct Deed Book W-1, p18]

28 Jul 1694 In a debt case against the estate of William Sprag (Sprague) who had “left the country”, the court ordered attachment of his estate in the hands of others. The sheriff reported that £3:5s belonging to Sprague was “in the hands of **Lawrence Measell**”. This record appears repeated three times (in different court records) spelled Larance Mesell, Lawrence Mesell, and Lawrence Measell, the last record being in late 1694. [The Colonial Records of North Carolina, Volume I 1670-1696, Mattie Erma Edwards Parker, ed., (State Dept. of Archives and History, 1968), pp 68, 88, 148.]

3 Dec 1696 “Upon the petition of William Brethitt and Bethinia his wife ordered that the administration of the goods and chattels of **Laurence Meazle** deceased be committed to the petitioners as nearest akin the said estate to be appraised by Major Alexander Lillington and Mr. Caleb Calliway...” [Parker, Vol. I, p301 and a similar record on p291]

“Nearest kin” had a specific legal meaning applicable to intestate estates, referring to whatever available adult was the nearest in the succession of heirs under the law. Specifically, to “such persons who have the best right to succeed thereto” the intestate’s personal property. [In NC, as in Virginia, the law awarded the land to the eldest son and the goods and chattels equally to all the sons with a one-third lifetime share to the widow. Daughters had no rights in estates unless there were no other male relatives.] The children being minors, this means the nearest kin in the line of succession in this case was either the widow or (if no living widow) the guardian of the minor sons. Either way, it seems most likely that Bethinia was the widow of Lawrence Mizell.

24 Oct 1697 Survey order for Thomas Clark in Chowan Precinct for importation of ten persons: **Wm. Meazle**, **Mary Meazle**, Geo. Jones, Ann Mathews, Patr. Raverly, Moriss Conovane, Alexandr. Jordan, Wm. Nash, Charles Wier, the headrights assigned by George Mathews. Patent dated 10 July 1701, with minor alternations in spelling of names. [Albemarle Book of Warrants and Surveys 1681-1706, p164.]

These are almost certainly children of Lawrence Mizell. Thomas Clark was not only from Surry County, but was a neighbor of William Charlton and William Brethitt. Note that William Charlton, Thomas Clark, and William Brethitt were the appraisers of the estate of Richard Stibell in Chowan Precinct in February 1694/5. Luke Mizell III was later a witness to the marriage of Stibell’s daughter Constance.

10 Oct 1702 Two Deeds: Between Edward Smithwick and Smithwick Warburton. Witness: Susannah Charlton, **Luke Mizell**. [Chowan Precinct Deed Book W-1, p32 as abstracted by Hoffman]

This is undoubtedly the same Luke Mizell who sells Lawrence Mizell's land back in Surry County the following year.

9 Mar 1703/4 Vestry's account of the public charges includes: "to **Luke Meazle**'s services... 0:9" [Vestry Minutes of St. Paul's Parish, Chowan County, North Carolina 1701-1776, Raymond Parker Fouts (GenRec Books, 1983), p7]

c1708? Undated deed from William Charlton to **Luke Mizell**, both of Chowan Precinct, and Susannah his wife my son and daughter... for the love and affection I bear... [Chowan Precinct Deed Book W-1, p99 as abstracted by Hoffman]

Luke Mizell, William Mizell, Ellinor Mizell, and William Brethitt are subsequently mentioned frequently in Chowan records. There is no further mention of Mary Mizell.