

Certificates of Settlement & Preemption Warrants Database

By Kandie P. Adkinson, Administrative Specialist, Land Office Division

It seems the Virginia General Assembly favored the alphabetical letter “S” when legislators developed procedures for land appropriation in eastern and western territories (including Kentucky). Soldiers, Settlers, and Speculators comprised the majority of persons for whom warrants were designed as payment for military service, meeting residency requirements, and promoting speculative ventures. (The list may be enhanced by adding the lesser-used authorizations for “Salt makers” and grants for “Seminaries”.)

In this article we will discuss the internet availability of certificates of settlement and preemption warrants used by Kentucky’s earliest settlers or their assignees.

In May 1779 the Virginia General Assembly passed various Acts that determined the method by which Kentucky land would be appropriated. In Chapter XII or “Land Law A” in the “Legislation” section of the online Land Office “Reference Library”, the legislature detailed the process “for adjusting and settling the titles of claimers to unpatented lands under the present and former government, previous to the establishment of the commonwealth’s land office.” The rationale for such legislation is stated in the opening paragraph as follows: “Whereas the various and vague claims to unpatented lands under the former and present government, previous to the establishment of the commonwealth’s land office, may produce tedious and infinite litigation and disputes, and in the meantime purchasers would be discouraged from taking up lands upon the terms lately prescribed by law, whereby the fund to be raised in aid of the taxes for discharging the public debt would be in great measure frustrated; and it is just and necessary, as well, for the peace of individuals as for the public weal, that some certain rules should be established for settling and determining the rights to such lands, and fixing the principles upon which legal and just claimers shall be entitled to sue out grants; to the end that subsequent purchasers and adventurers may be enabled to proceed with greater certainty and safety, be it enacted.....” With the passage of this Act, the Virginia General Assembly declared lands would be appropriated by governmental authority—the same process employed by King George III of England prior to the Revolutionary War.

Land claims by Kentucky’s earliest settlers are addressed in Sections IV & V of “Land Law A”. In those sections we find the requirements for certificates of settlement and the various types of preemption warrants.

- Certificates of Settlement: “Bona Fide” settlers “upon the western waters” prior to 1 January 1778 were entitled to 400 acres of land including their settlement. And to prevent doubts concerning settlements, the General Assembly declared in Section V “no family shall be entitled to the allowance granted to settlers by this act unless they have made a crop of corn in that country or resided there at least one year since the time of their settlement.”
- Preemption Warrants (1000 acres): “And if any such settlers shall desire to take up a greater quantity of land than is herein allowed them, they shall on payment to the treasurer of the consideration money

required from other purchasers, be entitled to the preemption of any greater quantity of land adjoining to that allowed them in consideration of settlement, not exceeding one thousand acres, and to which no other person hath any legal right or claim.”

- Preemption Warrants (400 acres): Persons who had settled “upon the western waters” after 1 January 1778, were entitled to a 400 acre Preemption Warrant claim which included their settlement.
- Preemption Warrants (1000 acres) for “chop claims” or “lottery cabins”: All those who, before 1 January 1778, had “marked out” or chosen for themselves any waste or unappropriated lands and built any house or hut or made other improvements thereon, were entitled to a preemption of no more than 1000 acres of unclaimed land. “But no person shall have the right of preemption for more than one such improvement; provided they respectively demand and prove their right to such preemption before the commissioners for the county to be appointed by virtue of this act within eight months, pay the consideration money, produce the auditor’s certificate for the treasurer’s receipt for the same, take out their warrants from the register of the land office within ten months, and enter the same with the surveyor of the county within twelve months next after the end of the present session of the assembly and thereafter duly comply with the rules and regulations of the land office.” (Note: Land Office records indicate as adventurers and surveying parties explored Kentucky’s unappropriated lands, they blazed trees and often built crude huts, frequently called “lottery cabins”, in an effort to establish land claims that could lead to land ownership. The planting of corn or actual residence as a “bona fide settler” determined whether their “improvement” qualified for the additional 400 acres under a Certificate of Settlement. The “consideration money” for a Preemption Warrant was the same as for a Treasury Warrant, i.e. forty pounds “of current money” per hundred acres.)

The Virginia General Assembly realized the various types of land allotments identified in Land Law A “may occasion numerous disputes.” In Section VIII the Land Law states commissioners in the respective counties would collect evidence, adjust and settle claims, and determine the titles of such persons as claim lands (in their district) in consideration of their settlements and preemptions. The counties on the western waters were allotted into the following districts: Monongalia, Yohogania & Ohio; Augusta, Botetourt & Greenbrier; Washington & Montgomery; and Kentucky. The Governor of Virginia, with the advice of the council, was directed to appoint four commissioners under the seal of the commonwealth to serve as members of the county land commissions. The appointees could not be inhabitants of their assigned county or district. Three of the four members of each commission could decide claims. The commissioners were directed to review settlers’ claims for eight months from the end of the May 1779 session of the Virginia General Assembly; for a period of four months thereafter they adjusted claims of settlers on lands surveyed for “the sundry companies.” (Ref: Section VIII, Land Law A) Note: The General Assembly later extended the deadline for some county commissions, excluding the Kentucky District. (Ref: Laws of Virginia, May 1782, Chapter XLIX, “An Act for further continuing an act for giving further time to obtain warrants upon certificates for preemption rights & returning certain surveys to the land office, and for other purposes”, Section I).

The May 1779 legislation further states “the said commissioners shall immediately upon receipt of their commissions, give at least twenty days previous notice by advertisements at the forts, churches,

meetinghouses, and other public places in their district, of the time and place at which they intend to meet, for the purpose of collecting, hearing, and determining the said claims and titles, requiring all persons interested therein, to attend and put in their claims, and may adjourn from place to place, and time to time, as their business may require; but if they should fail to meet at any time to which they shall have adjourned, neither their commission nor any matter depending before them shall be thereby discontinued, but they shall proceed to business when they do meet, as if no such failure had happened. They shall appoint and administer an oath of office to their clerk; be attended by the sheriff, or one of the under sheriffs of the county; be empowered to administer oaths to witnesses or others necessary for the discharge of their office; to punish contempts, enforce good behaviour in their presence, and award costs." The commissioners had free access to the county surveyor's books. The following provision was critical for properly determining settlers' claims. "In all cases of disputes upon claims for settlement, the person who made the first actual settlement, his or her heirs or assigns, shall have the preference. In all disputes for the right of preemptions for improvements made on the land, the persons, their heirs or assigns, respectively, who made the first improvement, and the persons to whom any right of preemption on account of settlement or improvements shall be adjudged, shall fix the quantity at their own option at the time of the judgment, so as not to exceed the number of acres respectively allowed by this act, or to interfere with the just rights of others."

The land commissioners were directed "to deliver to every person to whom they adjudged lands for settlement, a certificate under their hands, attested by the clerk, mentioning the number of acres and the time of settlement and describing as near may be, the particular location, noting also therein the quantity of adjacent land to which the person had the right of preemption."

Persons adjudged eligible for preemption claims also received a certificate from the Land Commission specifying the quantity and location of land, the cause for preemption, and a memorandum stating the last day the lands could be entered with the county surveyor.

Claimants paid the land commissioners the sum of ten shillings for every 100 acres of land contained in the certificates and ten shillings to the clerk of the commission for each certificate granted. (The "consideration money" for a preemption warrant was a separate fee.)

Upon receipt of the certificates of settlement and/or preemption warrants, settlers could proceed with the process of acquiring land title. An Entry (or Entries), filed with the county surveyor, reserved land for field survey and afforded landowners the opportunity to challenge a patent-in-process for potential shingling or overlapping boundaries. In those instances, an Entry could have been withdrawn or amended to resolve the conflict. The Field Survey depicted and described the tract or tracts in metes and bounds. The Governor's Grant, often called the "Patent Deed", finalized the patent by conveying title to the settler, his or her heirs, or assignees.

The Land Commission for the Kentucky District adjudicated land claims in five locations: St. Asaph (Logan's Fort), Harrodsburg, Boonesborough, Bryant's Station (near Lexington), and the Falls of the Ohio

(Louisville). Commission members were William Fleming, Edmond Lyne, John Barber (Barbour) and Stephen Trigg who replaced the original fourth appointee, James Steptoe.

In October 1779, the Virginia General Assembly approved legislation that affected the residency claims of officers and soldiers who were unable to attend the Land Commission hearings. The legislation reads: "Whereas many officers and soldiers of the Virginia line, now in the continental army, may have claims to lands on the western waters from settlements or improvements made thereon, and have it not in their power to attend the commissioners appointed to adjust and ascertain such claims within the time limited for that purpose; for remedy whereof, Be it enacted, That all officers and soldiers of the Virginia line, now in the continental army, shall be allowed twelve months from the time they resign or are discharged from the service, to ascertain their respective claims to lands by settlements or improvements before the court of the county, wherein the lands they claim may be; and such court is hereby empowered and required to hear and determine such claims in like manner as is prescribed for the commissioners of the several districts on the western waters." (Ref: "The Statutes at Large; A Collection of all the Laws of Virginia", Vol. X, Chapter II, compiled by William Waller Hening, 1822) Note: To access a preemption warrant issued while the soldier was in military service, open the "Certificates of Settlement & Preemption Warrants Database" and search for Preemption Warrant 2611.

In 1782, the Virginia General Assembly expanded the filing opportunity to include others involved in the Revolutionary War effort with legislation stating "many good people...were prevented from proving their rights of settlement and preemption in due time owing to their being engaged in the public service of this country." Legislation authorized the county courts in which claimants' lands were located to hear and determine disputes "as have not heretofore been determined by commissioners acting in that country under the act of assembly, taking for their guide and direction the acts of assembly whereby the commissioners were governed." The Register of the Land Office was empowered and directed to grant titles on the determination of such courts in the same manner as if the original Land Commission had determined the same. (Note: Several Certificates of Settlement and Preemption Warrants on the Land Office website were issued by county courts. To access a preemption warrant issued for "public service", open the "Certificates of Settlement & Preemption Warrants Database" and search for Preemption Warrant 2613)

In 1786 the Virginia General Assembly revoked the power of county courts to grant certificates of settlement or preemption rights.

Additionally, in 1786, the Virginia General Assembly extended the deadline to December 31, 1786, for those persons who were prevented "by unavoidable accident from obtaining and entering preemption warrants before the Register of the Land Office was prohibited from issuing such warrants" to obtain and enter such warrants by December 31, 1786. Although the time period allowed for entering Certificates of Settlement rights had also expired in 1786, the Virginia General Assembly deemed it lawful for surveyors to receive and enter all such certificates, or attested copies, and to proceed to survey the same as the law directed, provided the attestation was made by the commissioners who granted the original certificate, or by the clerk of the superior court for the District of Kentucky, or the

Register of the Land Office. (Ref: "The Statute Law of Kentucky", Vol. I, compiled by William Littell, pg 456).

With the 1789 Compact with Virginia, Kentucky agreed to honor all patents issued by Virginia governors prior to Kentucky's impending statehood. Documents regarding Kentucky land title were transferred to Kentucky thus eliminating the need for researchers to travel to Richmond, Virginia, to access patent files pre-1792.

In 1977 the Kentucky Secretary of State's Office initiated a records preservation project for all land patent files and books including patents authorized by Certificates of Settlement and Preemption Warrants.

Two Kentucky researchers visiting the Library of Virginia in the late 1990's were granted access to original Land Commission documents. When it was determined the records included Kentucky's earliest land allotments, the documents were microfilmed in 1999 at the request of then-Secretary of State John Y. Brown III. Six rolls of microfilm were reproduced for indexing by the Kentucky Land Office; additional rolls were copied for selected Kentucky libraries.

Shortly after his election to the office of Kentucky Secretary of State, and with the permission of the Library of Virginia, Trey Grayson employed state-of-the art technology when he ordered the digital transfer of Land Commission microfilm. On April 25, 2005, the newly-formatted "Certificates of Settlement & Preemption Warrants Database" on the Kentucky Land Office website was enhanced by including the digitally-transferred images of 2700+ certificates issued by land commissioners and county courts. For the first time in 200 years researchers have access to original "corn and cabin" certificates, the justification for their issuance, signatures on assignments, and a memorandum submitted by Daniel Boone regarding lost land certificates. Researchers can also access patent files authorized by the original certificates of settlement and preemption warrants.

KEY POINTS TO REMEMBER

- Persons who had resided in Kentucky County prior to January 1, 1778, could patent 1400 acres if the Land Commission, or later the county court, approved their claim. Proof of planting a crop or corn or one year residence was required. The 1000 acre preemption claim had to adjoin the 400 acre claim. If 1000 acres was not available in one parcel, the claimant patented less acreage or divided the 1000 acres into smaller parcels, such as 600 acres and 400 acres.
- By studying the patent file researchers can determine when land claimants actually resided in Kentucky. If an individual—male or female—patented 1400 acres and no assignments were included in the file, the person who qualified for the 400 acre Certificate of Settlement was residing in the Kentucky District prior to January 1, 1778.
- Certificates of Settlement and Preemption Warrants do not convey title. The entire patenting process, i.e. Warrant, Entry, Survey & Grant, must be followed.

- Certificates of Settlement & Preemption Warrants could be sold or assigned. Check the back of all documents associated with the patent file to determine if and when assignments were made.
- Women were eligible for Certificates of Settlement and Preemption Warrants.
- Certificates issued by various Land Commissions may be viewed on the Kentucky Secretary of State's "Certificates of Settlement & Preemption Warrants Database" at <http://apps.sos.ky.gov/land/nonmilitary/settlements/> The online database is not limited to certificates issued by the Land Commission for the Kentucky District.
- Color scanned images of patent files associated with Certificates of Settlement and Preemption Warrants used in Kentucky are also available on the Kentucky Secretary of State's "Certificates of Settlement & Preemption Warrants Database" at <http://apps.sos.ky.gov/land/nonmilitary/settlements/>
- Contact the Library of Virginia for further research regarding certificates issued by commissioners of the following districts: Monongalia, Yohogania & Ohio; Augusta, Botetourt & Greenbrier; Washington & Montgomery. (Note: We have found a few instances in which Kentucky patents were authorized by commissioners from the other districts.)
- Patents issued to "Certain Poor Persons" were inadvertently included on the database, however, the listing is incomplete. Eventually those records will be moved to a "Virginia" and "Old Kentucky" Database now under construction.
- The online Gazetteer linked to the "Certificates of Settlement & Preemption Warrants Database" identifies the county location for many of the areas described in the Land Commissioners' Certificates.
- Subsequent conveyances of patents are recorded on the county level with the county clerk's office. Many county records are also available at the Kentucky Department for Libraries & Archives in Frankfort. Remember to study county formation dates when tracing chain of title.
- There is no master patent map that depicts the location of patents authorized by Certificates of Settlement, Preemption Warrants, or any other type of patent.
- Researchers are reminded the counties identified as Washington and Montgomery are not the Kentucky counties with the same names. Washington County, Kentucky, was not established until 1792; Montgomery County, Kentucky, was not established until 1797.
- The online database reflects Certificates of Settlement & Preemption Warrants as the required fees were paid and the Preemption Warrants were issued. Although the Commissioners' Certificate Book indicates the first claimant at St. Asaph's (or Logan's Fort) on October 14, 1779, was Captain John Logan "for and behalf of Isaac Shelby", Preemption Warrant #1 was issued to Daniel Hawkins. Shelby's "Knob Lick" claim may be found by accessing Preemption Warrant #18.

- Certificates of Settlement & Preemption Warrants issued to officers and soldiers authorized patents for lands claimed by the soldier prior to the Revolutionary War. The patents were not issued as payment for military service, therefore the lands may be located outside the Military District.
- Information on the “Certificates of Settlement & Preemption Warrants Database” may be accessed by county (use the drop-box for a complete listing); Preemption Warrant Number (if known); Name (includes persons qualifying for allotments and possibly their heirs or assigns and names in the “Note” field); Watercourse/Location (search for locations and other key words such as cabin, trace or buffalo. Note: Additional information will be added as certificates are re-edited.
- Patents authorized by Certificates of Settlement and Preemption Warrants are identified in the “Authorized” field. Additional patents may be added as certificates are re-edited.
- Complete text of early Virginia Land Laws may be researched by accessing the “Land Office”, “Reference Library”, “Legislation”, then “Virginia & Old Kentucky” pages on the Kentucky Secretary of State’s website at <http://www.sos.ky.gov>.
- Documents appearing on all Land Office websites may be printed or saved to personal files. Payment is not required to access these records.
- For optimal printing results, click “Hide All Options” then submit. The document will be “branded” with the abbreviation of the patent series (VA = Virginia Series & OK = Old Kentucky Series) and the patent file number. The document may also be saved in photo software.
- Copies of patent files may be requested by contacting: Kentucky Secretary of State’s Land Office, Room T40, Capitol Annex, Frankfort, KY 40601; Kentucky History Center Library, P.O. Box 1792, Frankfort, KY 40602; or the Department for Libraries & Archives, Coffee Tree Road, Frankfort, KY 40601.
- To search for specific text in Word documents, such as Land Laws A & B on the Land Office website, hit the control button (CTRL) and the letter F on your keyboard. A box will open that will allow you to enter a specific word (or words) for search purposes, such as commission. (Newer versions of Microsoft Word allow you to highlight the word in yellow.) As you scroll through the article, the word (or words) you are researching will be enhanced.