Land Title Records in the New York State Archives

New York State Archives Information Leaflet #11

[DRAFT]

Introduction

The New York State Archives holds numerous records documenting title to real property in New York. The records range in date from the early seventeenth century to the near present. Practically all of the records dating after the early nineteenth century concern real property acquired or disposed by the state. However, many of the earlier records document conveyances of real property between private persons. The Archives holds records of grants by the colony and state for lands above and under water; deeds issued by various state officers; some private deeds and mortgages; deeds to the state for public buildings and facilities; deeds and cessions to the United States; land appropriations for canals and other public purposes; and permits, easements, etc., to and from the state. The Archives also holds numerous records relating to the survey and sale of lands of the colony and state.

This publication contains brief descriptions of land title records and related records in the Archives. Each record series is identified by series number (five-character control number, e.g. "12943" or "B1371"), creating agency, title, date span, and quantity (cubic feet, bound volumes, and/or microfilm rolls). Following the series identifier is a brief description of the records. (A fuller description may be available in the State Archives online catalog, "Excelsior.") The availability of access tools (indexes, lists, etc.) and microfilm is indicated.

This publication also describes types of deeds of conveyance and the statutes that pertain to recording of the same; and court actions and proceedings affecting title to real property. The information about land deeds and land-related court records should be helpful in understanding the records listed and described below. The New York State Archives was established in 1971 and opened to the public in 1978. The Archives holds over 100,000 cubic feet of records, the earliest being a 1630 Indian deed for lands now in New Jersey. The Archives research room on the eleventh floor of the Cultural Education Center, Empire State Plaza, Albany, is open to the public 9-5 Monday-Friday except state holidays. The State Archives' online catalog

[http://www.archives.nysed.gov] contains detailed information about many of the record series listed in this publication. For further information about the records and services of the New York State Archives, contact:

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[A.] Indian Deeds and Treaties

Both the Dutch and English governments claimed title to lands now in New York by right of discovery and conquest. Those governments conceded that the native peoples occupying those lands had rights of occupancy to them. They required that such rights be extinguished prior to issuance of patents for those lands. The Duke's Laws of 1665 declared that anyone who purchased land from the Indians must first obtain a license from the governor to do so, and that the Indian deed be recorded by the provincial secretary. Despite these requirements, many irregularities and some outright frauds occurred in the purchase of Indian lands throughout the colonial period. The New York Constitution of 1777 required that all land purchases from the Indians be "made under the authority, and with the consent of the Legislature." In addition, under the U.S. Constitution, Congress passed the Non-Intercourse Acts of 1790 and 1793, which required that all treaties or agreements between states and Indian nations be witnessed by federal representatives and ratified by the U.S. Senate. Only two New York treaties complied with those requirements, giving rise to litigation that is not yet concluded.

A4609 (formerly #448A) Secretary of State. Original Indian Treaties and Deeds, 1703-1847 (bulk 1802-1847) [1.1 c.f. = 2 vols. (1 microfilm reel)]

Series contains Indian treaties, deeds of cession, and related documents (powers of attorney, agreements, releases, letters, etc.). The native groups involved in the treaties and deeds were the Brothertown, Cayuga, Mohawk, Oneida, Onondaga, Seneca, and Stockbridge Indians and the Seven Nations of Canada. All documents date from 1781 or later except a transcription of an agreement between the Montauk Indians and the inhabitants of Easthampton, 1703.

Access: 1) Each volume contains an index to Indian nations or groups who were parties to treaties or deeds. 2) Texts of treaties between the state and various Indian nations or groups are published in N.Y. (State) Special Committee to Investigate the Indian Problem of the State of New York, *Report Transmitted to the Legislature February 1, 1889* (Assembly Document no. 51) (Albany: 1889), known as the "Whipple Report."

Microfilm: Produced by New York State Archives.

Related records: Most of the treaties and deeds (but not the related documents) are recorded in series A0448 (see next item). Some original Indian treaties and deeds, mostly dating between the 1790s and the 1820s, were destroyed in the Capitol fire of 1911. Many original Indian

deeds from the colonial period are found in series A0272 Applications for Land Grants (described below).

A0448 Secretary of State. Recorded Indian Treaties and Deeds, 1703-1871 (bulk 1748-1871) [0.8 c.f. = 3 vols. (1 microfilm reel)]

Series contains recorded official texts of Indian treaties and deeds of cession. All documents are dated 1748 or later, except for a 1703 agreement between the Montauk Indians and the inhabitants of Easthampton and the 1712-13 Indian deed for the Wawayanda Patent. Most of the colonial-era documents relate to lands within the territories of the Mohawks and Oneidas. The post-revolutionary documents relate to lands of the Oneida, Brothertown, Stockbridge, Cayuga, Mohawk, Seneca, Onondaga, and Tuscarora Indians, and the Seven Nations of Canada. Incorporated into this series is a copy of Franklin B. Hough, ed., *Proceedings of the Commissioners of Indian Affairs, Appointed by Law for the Extinguishment of Indian Titles in the State of New York* (Albany: 1861).

Access: 1) Each volume contains an index. 2) Indian deeds and treaties are also indexed in series A4688 (under "Indians" then by location; and also by individual grantor). 3) Facsimiles of colonial and state treaties in this series are reproduced on microfilm in Francis Jennings, William N. Fenton, and Mary A. Druke, eds., *Iroquois Indians: A Documentary History of the Diplomacy of the Six Nations and Their League* (Woodbridge, Conn.: 1985). 4) Texts of treaties with the state of New York are published in N.Y. (State) Special Committee to Investigate the Indian Problem, *Report* (Albany: 1889).

Microfilm: Produced by New York State Archives.

Related records: This series once contained an initial volume, spanning the years 1692-1747; that volume was destroyed in the Capitol fire of 1911. Other recorded Indian deeds are found in series A1880 Dutch Patents and Deeds, 12943 Letters Patent (Book 5), and A1885 Warrants of Survey, Powers of Attorney, Indian Deeds, and Other Miscellaneous Records (all three series are discussed below). A late eighteenth or early nineteenth century transcription of Indian treaties in the period 1766-1811 is series A0232 (damaged by fire; use is restricted).

[B.] Dutch Land Grants and Deeds

Settlers of New Netherland were permitted, by a directive of 1629, to occupy lands for cultivation, with permission of the director and council of the colony, though they did not obtain title to those lands. Starting in 1638 patents were issued, granting absolute ownership of lands

(freehold). The provincial secretary recorded patents, Indian deeds, and private deeds and leases. Dutch patents were issued by the director general on behalf of the States-General of the United Provinces (the Netherlands), the Prince of Orange, and the directors of the West India Company.

A1880 Dutch Patents and Deeds [Books GG and HH Part 2], 1630-1651, 1654-1664 [0.8 c.f. (1 roll microfilm)]

A1882 Dutch Land Deeds [Book II *alias* HH Part 1], 1652-1653 [0.2 c.f. (1 roll microfilm)]

Books GG and HH Part 2 contain recorded grants (patents) of land by the director and council of New Netherland, and a few Indian deeds. Book II (also designated as HH Part 1) contains recorded private conveyances (deeds).

Access: 1) Indexed in series A4688 (grantor), A4689 (grantee), and A4690 (location). 2) Abstracted and indexed in Edmund B. O'Callaghan, comp., Calendar of Historical Manuscripts in the Office of the Secretary of State, Albany, N.Y. (Albany: 1865; repr. Ridgewood, N.J.: 1968), 1:364-87. 3) Translated and indexed in Charles T. Gehring, ed., New York Historical Manuscripts: Dutch, Volumes GG, HH & II: Land Papers (Baltimore: 1980). 4) Some of the documents are also translated (not always satisfactorily) by Berthold Fernow, comp., Documents Relative to the Colonial History of New York, Vols. 12 (Delaware River settlements), 13 (Hudson and Mohawk Valleys), and 14 (Long Island) (Albany: 1877-1883). 5) Dutch patents for Nieuw Amsterdam are abstracted and mapped in I. N. Phelps Stokes, The Iconography of Manhattan Island, 1498-1909, 6 vols. (New York: 1916; repr. Union, N.J.: 1998), 2:353-411. 6) Dutch patents for Beverwyck (established 1654, renamed Albany in 1664) are abstracted and indexed in Janny Venema, Beverwijck: A Dutch Village on the American Frontier, 1642-1664 (Hilversum and Albany: 2003), Appendices 3, 8.

<u>Microfilm</u>: Produced by New York State Library; copy in State Archives (call no. A-FM 45, Reels 9-10 [microfilm is only partly legible]).

Related records: A0270 Register of the Provincial Secretary (next item). Additional Dutch deeds recorded in Nieuw Amsterdam are now in custody of the New York City Register's Office, and are translated and indexed in Berthold Fernow, ed., *The Records of New Amsterdam from 1653 to 1674*, 7 vols. (New York: 1897; repr. Baltimore: 1976). Other original and recorded land documents from New Netherland are listed in Charles Gehring, ed., *A Guide to Dutch Manuscripts Relating to New Netherland in United States Repositories* (Albany:

1978), with references to microfilms and published translations.

A0270 Register of the Provincial Secretary, 1642-1660 [1.5 c.f. (1 reel microfilm)]

Contains occasional entries of conveyances (deeds) and leases for the periods 1642-1652, 1654-1658.

Access: 1) Abstracted and indexed in O'Callaghan, comp., *Calendar of Historical Manuscripts*, 1:17-60. 2)
Translated and indexed in *New York Historical Manuscripts: Dutch*, Vols. 1-3: Register of the Provincial Secretary, 1638-1660, trans. Arnold J. F. Van Laer, ed. Kenneth Scott and Kenn Stryker-Rodda (Baltimore: 1974). (Vol. 1 of this series, covering the years 1638-42, was destroyed in the 1911 Capitol fire. The Van Laer edition was made from a transcription and translation that survived the fire.)

Microfilm: Produced by New York State Library; copy in State Archives (call no. A-FM 45, Reel 1).

Related records: A1882 Dutch Land Deeds, 1652-1653.

A1881 Dutch Colonial Administrative Records, 1673-1674 [1.5 c.f. (part of 1 reel microfilm)]

Contains patents issued under the administration of Governor Colve, and a few private deeds from the same period.

<u>Access</u>: Abstracted and indexed in O'Callaghan, comp., *Calendar of Historical Manuscripts*, 2:28-31.

Microfilm: Produced by New York State Library; copy in State Archives (call no. A-FM 44, Reel 10).

[C.] New York Patents for Uplands and Lands under Water

Authority for issuance of patents: During the colonial period letters patent were issued by the Governor, by authority of the Duke of York, proprietor of New York (1664-1685), and subsequently by authority of the sovereigns of England (1685-1776). Patents were employed usually to make grants of land, occasionally grants of privileges, or infrequently for both purposes (e.g. charters of towns which included both land grants and privileges of self-government). The colonial land patents required the payment of quitrents, in lieu of the feudal obligations of a tenant of the crown. Colonial land grants prior to October 15, 1775, were confirmed by the state constitutions of 1777, 1822, 1846, and 1894. Statutes of 1784, 1785, and 1786 established the Commissioners of

the Land Office and provided for orderly disposition of the "waste and unappropriated lands" belonging to the state of New York. Patents were issued commencing 1786, in the name of the People of the State of New York. Starting in 1787, patents for "uplands" (lands above water) vested absolute ownership in the patentee with no quitrents reserved to the state. Patents were issued pursuant to resolutions of the Commissioners of the Land Office until 1960, when that office was abolished. Since then patents have been issued by the Office of General Services.

Unappropriated and abandoned lands: Under the English regime, colonial patents granted lands belonging to the Duke of York or (after 1685) the sovereign. State patents are issued upon the sale of "unappropriated lands," abandoned canal lands, and the Onondaga salt springs reservation lands. Unappropriated lands are properties not currently used for any state purpose. Property belonging to the crown as of July 9, 1776, was vested in the state pursuant to a statute of 1779. The claims of various Indian nations were believed to be extinguished by treaties and deeds of cession beginning in 1785. The ceded lands lay in central, western, and northern New York. The lands lying west of the "Preemption Line" running north from the 82nd milestone on the New York-Pennsylvania border were granted by the Commonwealth of Massachusetts. That state claimed those lands by virtue of its colonial charter. The Treaty of Hartford (1786) recognized the title of Massachusetts but gave jurisdiction over this territory to New York. Subsequently the state acquired other lands as investments for the common school fund and the canal fund. The state also has acquired lands through mortgage foreclosure and escheat (reversion of property to the state because of lack of heirs of a deceased owner). All those acquisitions are considered part of the unappropriated lands, as are those lands originally acquired for state purposes and "abandoned" by an agency because they are no longer needed.

Lands under water: The colony and state of New York have held title to lands under navigable streams and lakes, and under ocean waters adjacent to New York City, Westchester County, Staten Island, and Long Island. Certain colonial charters to municipalities (notably the New York City charters of 1686 and 1732) granted them title to lands under water between the high and low tide marks. A 1786 statute empowered the Commissioners of the Land Office to grant lands under water to promote the commerce of the state. Despite the commerce provision, "water grants" were made with no conditions. In 1832 the commissioners began to require grantees to erect docks and wharves and fill the lands. That requirement was codified in an amendment to the Revised Statutes in 1835, and starting in 1839 water grants conveyed not ownership of land under water but only the right to construct docks

and wharves. An 1850 statute reversed this position, and henceforth the Commissioners of the Land Office granted title to lands under water either to promote commerce, or for "beneficial enjoyment" (i.e. for non-commercial purposes). The position was again changed starting in 1900, when water grants were issued either for commerce or for restricted beneficial enjoyment. The current statute [Public Lands Law Art. 6] authorizes "grants, leases, easements, and lesser interests, including permits, for the use of state-owned land under water" for a variety of purposes.

Published lists and maps of patents: Convenient lists of most of the colonial and earlier state patents, alphabetical by patent name, are found in John H. French, *Gazetteer of the State of New York* (Syracuse: 1860), pp. 49-53. The most accurate published maps of patents and their subdivisions are found in Joseph R. Bien, comp., *Atlas of the State of New York* (New York: 1895) [state and county maps]. Other maps of patents are found in Robert J. Rayback, ed., *Richards Atlas of New York State*, 2d ed. (Phoenix, N.Y.: 1965) [state map], and David Burr, *An Atlas of the State of New York* (New York: 1829; rev. eds. 1839, 1841) [county maps]. Wall maps and atlases of counties published in the nineteenth and early twentieth centuries sometimes depict boundaries of patents and their subdivisions.

B1371 Secretary of the Colony. Charter of the Proprietary Colony from Charles II to the Duke of York, 1664 [1 item]

Access: Recorded in series 12943 Letters Patent, Book 1, starting p. 139. Published in *Report of the Regents of the University on the Boundaries of the State of New York*... 1873 (Albany: 1874), 10-21 (two slightly variant versions); *The Colonial Laws of New York* (Albany: 1894), 1:1-5; and Jerrold Seymann, comp. *Colonial Charters, Patents and Grants to the Communities Comprising the City of New York* (New York: 1939), 193-98. Reproduced in facsimile for the New York State Museum. The second charter to the Duke of York, dated 1674, confirming the charter of 1664, is recorded in Archives series A0453 Deeds, Book 1.

12943 [formerly A0450] Secretary of State. Record of Letters Patent, 1664-1997 [100 vols. = 41 c.f. (24 rolls microfilm)]

Series contains recorded copies of letters patent granting real property and/or various privileges. Many of the patents issued immediately after the English conquest of 1664 confirmed grants made under Dutch rule. Many of the colonial patents granted lands that were then part of New York, but later became parts of other colonies and states (particularly New Jersey and Vermont). Some of the patents issued in the years around 1700 were later

revoked. The colonial patent books include charters of incorporation for the cities of New York and Albany, several towns, and a few churches. The books include grants of land under water, the earliest dating from 1717, mostly in New York harbor and in the Hudson River. These so-called "water grants" become numerous after ca. 1800 (recorded in separate books within this series starting 1832). This series also contains Comptroller's deeds for lands of non-resident owners sold for unpaid taxes (recorded in separate books in this series starting 1878) and patents for abandoned canal lands (starting ca. 1849).

Access: 1) Most but not all books contain an index to patentees. 2) Land grants are indexed in series A4684 (colonial grantees), A4685 (state grantees), A4686 (colonial locations), A4687 (state locations), A4696 (lands under water—locations). These microfilmed indexes end ca. 1973. 3) Patents for lands within the present five boroughs of New York City are published in Seymann, comp., Colonial Charters, Patents and Grants to the Communities Comprising the City of New York. 4) Patents for lands lying within present-day Vermont are published in Mary Greene Nye, ed., State Papers of Vermont, Vol. 7: "New York Land Patents 1688-1786 Covering Land Now Included in the State of Vermont (Not Including Military Patents)" (n.p.: 1947).

<u>Microfilm</u>: Produced by Genealogical Society of Utah [Books 1-54 (1664-1912) only]

Related records: Books 1-7, 11-12, and 17 in this series are certified transcriptions made pursuant to a 1786 statute; the original (deteriorated) patent books are found in series A0487. See also A0447 Record of Military Patents. Comptroller's deeds for lands sold for unpaid taxes, and related records, are discussed in section L., below. An 1845 statute permitted recording of letters patent also in the office of the county clerk in the county where the lands were located.

Patent maps and surveys: No maps and surveys were filed for most colonial land patents, and the boundaries described in the patents were often ill-defined and ambiguous. Because of boundary disputes, statutes of 1762 and 1784 required the Surveyor General to file survey field books and maps of patented lands. The statutes required that duplicate copies of those field books and maps be filed in the office of the Provincial Secretary; after 1777, the Secretary of State. The 1762 and 1784 statutes also required that duplicate copies of the field books and maps be filed in the offices of the county clerk in the county where the lands lay. However, this requirement was not continued after 1786.

Record series in the State Archives containing survey field notes and maps of colonial and state patents are: A0452

Secretary of State Field Books, 1762-1845; A4019 Surveyor General/State Engineer Field Books, 1668-1848 (bulk 1749-1830); A0273 Surveyor General/State Engineer Survey Maps of Lands in New York, ca. 1711-1913 (bulk ca. 1772-1913); A4011 Surveyor General Survey Maps of Lands in New York and Vermont ("State Hall Maps"), 1736-1822 (bulk 1760-1790). Patent maps originally filed in the office of the Secretary of State are now in the Office of General Services, Bureau of Land Management.

The State Archives also holds color microfiche copies of Adirondack survey maps, series B1405 Verplanck Colvin Maps of the Adirondack Wilderness, ca. 1872-1900; and microfilm copies of related field books, B1406 Field Books by Verplanck Colvin for the Adirondack Survey, ca. 1872-1900. The original maps and field books are held by the Department of Environmental Conservation, Bureau of Real Property.

Published indexes to survey maps and field books of patents include David E. E. Mix, *Catalogue of Maps and Surveys*... (Albany: 1859; repr. Syracuse: 1981); Freeborn G. Jewett, *Catalogue of Records of the Office of Secretary of State* (Albany: 1898); and State Engineer and Surveyor, *Catalogue of Maps and Field Books in the Land Bureau* (Albany: 1920).

A0447 Secretary of State. Record of Military Patents, 1764-1775, 1790-1797 [8 vols. = 4 c.f. (5 rolls microfilm)]

Record of grants of land by letters patent for military service. The colonial grants were made pursuant to a royal proclamation of Oct. 7, 1763, to demobilized officers and private soldiers of British regiments and New York provincial troops who had served during the Seven Years' War and resided in America. The state grants were made pursuant to a New York statute of 1790, to individuals holding land bounty rights issued to commissioned officers and private soldiers who served in New York Continental regiments during the Revolutionary War. Militia officers and privates were *not* eligible for these land grants, unless they served in the Levies, groups of militiamen drafted into the Continental service. Lands granted by military patents during the period 1764-1775 were located mostly in the Champlain Valley and the upper Susquehanna Valley. Lands granted in 1790-1797 were located in the Military Tract of central New York, which was located by a 1782 statute. Many or most of the grantees of military patents were assignees who had purchased land bounty rights from soldiers.

<u>Access</u>: 1) Each book contains an index to patentees. 2) Indexed by series A4684 (colonial grantees), A4685 (state grantees), A4686 (colonial locations), A4687 (state

locations), and A3121 Geographical index to patents, ca. 1786-1899. 3) Lists of lots in the new Military Tract and their patentees are found in *The Balloting Book, and Other Documents Relating to Military Bounty Lands, in the State of New-York* (Albany: 1825) (available on microfilm in series A0476). 4) Lists of applicants for military patents are found in B0256 Register of Applications for and Sales of Forfeited Estates and Military Lots, 1783-1807.

Microfilm: Produced by Genealogical Society of Utah.

<u>Related records</u>: Book 2 of this series contains certified transcriptions made pursuant to legislation of 1786; the original (deteriorated) second book of military patents is found in series A0487.

A0487 Secretary of State. Letters Patent Transcribed Pursuant to an Act of 1786, 1664-1786 [12 vols. = 1.5 c.f.]

These volumes are the original Books 1-7, 11-12, and 17 of series 12943 Record of Letters Patent and Book 2 of series A0447 Record of Military Patents. Those books were transcribed and the transcriptions certified by the Secretary of State because they were (and are) in poor condition. This series contains the recorded texts of certain patents issued by the governor and later vacated by the crown; those texts were *not* transcribed in the replacement volumes in series 12943.

<u>Access</u>: Books 7 and 17 contain indexes to patentees; not otherwise indexed. This series is closed to research because the books are in fragile condition. Main indexes to patents (series A4684, A4685, A4686, A4687, cited above) refer to page numbers in series 12943, described above, not to this series.

<u>Related records</u>: See descriptions of series 12943 and A0447.

A4005 Surveyor General. Abstracts of Letters Patent, 1665-1767 [0.7 c.f. = 4 vols. (1 roll microfilm)]

These abstracts were compiled by the Secretary of State's office in the early 1790s for the Surveyor General's office. They contain the essential information about a patent (name of patentee, date of patent, abbreviated description of property granted, acreage).

<u>Access</u>: Vols. 1-3 each contains an index to patentees and patents. Vol. 4 consists of a name index to patentees.

Related records: See series 12943 Letters Patent, A0447 Military Patents.

A3122 Secretary of State. Abstracts of Land Patents, ca. 1664-1886 [8 vols. = 2 c.f.]

These abstracts were compiled after ca. 1860 and contain the essential information about a patent (name of patentee, date of patent, abbreviated description of property granted). Six of the original fourteen volumes in this series are missing.

<u>Access</u>: Each volume contains an index to patentees, with references to volume and page number in series 12943.

Related records: Series 12943, A0447.

[D.] Applications for Patents for Uplands and Lands under Water

<u>Procedure for obtaining a land patent</u>: During the English colonial period, 1664-1776, the procedure for obtaining a land grant included the following steps and resulting documentation:

- --Petition to Governor for license to purchase lands from the Indians
- --Indian deed to persons proposing to obtain a patent
- --Warrant of survey from Governor to Surveyor General to survey tract for petitioner
- --Return of survey by Surveyor General
- --Petition to Governor for land grant by letters patent
- --Report by Council committee on the petition
- --Warrant from the Governor to the Attorney General or Solicitor General to prepare letters patent
- --Issuance of letters patent

From 1786 through 1960 the procedure for obtaining a land grant was essentially as follows (the Surveyor General was succeeded by the State Engineer in 1846):

- --Commissioners of the Land Office direct the Surveyor General to have a tract of land surveyed.
- --Surveyor returns to the Surveyor General an appraisal, field book, and map of the subdivided tract. (Copies of the field book and map are filed in the office of the Secretary of State.)
- --Commissioners direct the Surveyor General to sell a parcel at public auction, with due notice through newspaper advertisements.
- --Sale occurs, usually in Albany.
- --Purchaser makes a down payment and gives a bond for the remainder of the purchase price.
- --Surveyor General issues the purchaser a certificate of sale and delivers the bond to the Comptroller.
- --Commissioners issue a land patent when the purchaser presents the Surveyor General's certificate of sale and the

Treasurer's receipt for the entire purchase price; Comptroller cancels the bond.

Since 1960 the Commissioner of General Services has sold unappropriated lands by sealed bid, after due notice of sale being given. The Commissioner issues letters patent for those lands when presented with thecertificate of sale and a receipt showing full payment of the purchase price.

A0272 Secretary of State. Applications for Land Grants ("Land Papers"), 1642-1803 (bulk 1664-1803) [63 vols. = 22 c.f. (39 rolls microfilm)]

A complex series of documents relating to grants of lands or privileges. The series was compiled in 1819 by the Secretary of State from several different groups of filed "land papers" in his office. The most numerous documents dating from the colonial period, prior to March 1776, are:

- --petitions for license to purchase land from the Indians
- --Indian deeds
- --warrants of survey
- --returns of survey
- --petitions to the governor for land grants
- --warrants by the governor to the attorney general to prepare letters patent.
- --letters and other related documents

Many of the documents pertain to seventeenth-century land grants in parts of New York that were later included in New Jersey, Delaware, and southeastern Pennsylvania, and to eighteenth-century grants in what became Vermont. Not all applications for land grants resulted in the issuance of letters patent. Many or most of multiple individuals named in an application for a patent were dummy partners, added to circumvent limitations on the number of acres that could be granted to an individual. Other documents found occasionally are caveats (formal objections to issuance of letters patent, usually because of an overlapping boundary); confirmations of Dutch deeds (dating back to 1642); petitions for grants of land under water (mostly in New York harbor, commencing ca. 1717); and petitions for ferry licenses (New York harbor and elsewhere). After 1763 there are numerous documents relating to grants of lands, mostly located in the Champlain Valley, to veterans of the British army who served in the Seven Years' War.

Documents dating from 1782 or later include:

- --petitions or claims for land grants
- --returns of survey
- --certificates of location (confirming right to a land grant)
- --powers of attorney
- --caveats

A large number of documents relate to land grants to individuals holding Revolutionary War bounty rights for lands situated in the new Military Tract of central New York. Most claims for grants of those lands were made by persons who had purchased bounty rights from veterans. Other applications relate to grants of lands sold for unpaid taxes; grants of land under water; and ferry licenses. The "Land Papers" also contain some documents relating to the survey of state roads in central, northern, and western New York, and a few releases of real property to the state (see series A0451).

Access: 1) Documents in series A0272 are abstracted and indexed in Edmund B. O'Callaghan, comp., Calendar of N.Y. Colonial Manuscripts Indorsed Land Papers . . . 1643-1803 (Albany: 1864; repr. Harrison, N.Y.: 1987). ("Indian deeds" are indexed by purchaser's name; "water lots," by location.) 2) Actions by the Governor and Council during the colonial period, such as receiving and reporting on petitions for grants, issuing licenses to purchase land from Indians, and approving patents, are abstracted and indexed in Berthold Fernow, comp., Calendar of Council Minutes 1668-1783 (New York State Library Bulletin 58) (Albany: 1902; repr. Harrison, N.Y.: 1987). 3) Maps are indexed in Mix, Catalogue of Maps and Surveys, pp. 134-244. 4) References to surveys of land grants in present-day Vermont are published in Nye, ed., State Papers of Vermont, Vol. 7. 5) Lists of Revolutionary War veterans' claims are found in Books 37, 41, 43, 45, 46, and 48.

Microfilm: Produced by New York State Archives.

Related records: 12943 Letters Patent; A0447 Military Patents; B2321 Lands Under Water Application Files; A0558 Records of Original Land Grants and Land Under Water; A0451 Releases to the State. Some related documents, from the office of the Surveyor General, are found in A4016 Records of Surveys and Maps of State Lands. Minutes of the Commissioners of the Land Office and applications for land grants, both uplands and lands under water (ca. 1804-present), are held by the New York State Office of General Services, Bureau of Land Management.

B2321 Commissioners of the Land Office. Lands Under Water Application Files, 1802-1885 [17 c.f.]

Earlier files contain the application, legal description of lands applied for, and reports of attorney general and surveyor general, affidavits, objections (if any) to the proposed grant, and (infrequently) a map. Later files contain additional documentation, including detailed maps and abstracts of title. Subsequent files (1886-current) are held by the Office of General Services.

Access: Files are arranged chronologically. Applicants' names are found in B1870 Commissioners of the Land Office Minutes (described below).

A0558 Secretary of State. Records of Original Land Grants and Land Under Water, ca. 1799-1879 [26 c.f. (177 reels of 70 mm. miniature photographs)]

This series is a continuation of series A0272, described above and also reproduces documents in series B2321.

<u>Access</u>: Produced in an experimental format, ca. 1950, these miniature positive images on rolls of photographic paper are unreadable with any equipment now available.

Microform: Produced for the Department of State.

Related records: Original records are held by Office of General Services, Bureau of Land Management. Some nineteenth-century documents relating to applications for land grants, from the offices of the Surveyor General and the State Engineer and Surveyor, are found in A4016 Records of Surveys and Maps of State Lands, ca. 1686-1892.

A1885 Governor. Warrants of Survey, Powers of Attorney, Indian Deeds, and Other Records, 1721-1776 (bulk 1752-1776) [1 c.f. (1 reel microfilm)]

Series contains mostly warrants of survey issued by the Governor to the Surveyor General to survey lands to be granted by letters patent (copies of warrants are in series A0272, described above); also a few Indian deeds for lands to be patented, powers of attorney, and other documents. The documents were originally part of vols. 16-18 and 20-21 of miscellaneous documents bound for the Secretary of State in 1819. Much of the text of these documents was lost in the 1911 Capitol fire.

Access: Each volume contains an alphabetical index.

Microfilm: Produced by New York State Archives.

<u>Related records</u>: Additional warrants of survey, Indian deeds, etc., are found in A0272 "Land Papers." A volume of recorded warrants of survey and Indian deeds from the period 1692-1714 was destroyed in the Capitol fire of 1911.

A1884 Governor. Warrants to Prepare Letters Patent, 1753-1770 [0.3 c.f. (1 roll microfilm)]

Orders by the Governor to the Attorney General to prepare patents for named patentees and described tracts of land.

Considerable amounts of text were destroyed in 1911 Capitol fire.

Access: Alphabetical index to patentees.

Microfilm: Produced by New York State Archives.

Related records: Additional warrants to prepare letters patent are in A0272 "Land Papers."

B1870 Commissioners of the Land Office. Minutes, 1784-1796, 1807-1869 [6 rolls microfilm]

Minutes contain summaries of proceedings and records of actions of the Board of Commissioners of the Land Office. Entries are chronological.

Access: Microfilm reel list.

Related records: Minutes for the period 1784-1960 are held by the Office of General Services, Bureau of Land Management. Minutes for the period 1882-1957 were published in Commissioners of the Land Office, *Proceedings*...(Albany: 1882-1957).

A0171 Commissioners of the Land Office. Original Minutes, 1785-1798 [0.5 c.f.]

<u>Access</u>: Badly damaged in Capitol fire of 1911; closed to research.

A0450 Secretary of State. Register of Caveats, 1811-1854 [2 vols. = 0.5 c.f.]

Register of objections (caveats) filed with the Commissioners of the Land Office. A caveat protested the legal validity of an application for a land grant and asserted a superior claim. A rule of the Commissioners required that the caveat be accompanied by a statement of the objection and the evidence supporting it, but the location of those statements is unknown.

Access: Index to locations in each volume.

19116 Office of General Services. Maps of Grants of Lands Under Water, ca. 1777-1970 [36 c.f. = 12 vols, 7 rolls]

Maps indicate the bounds of property granted, various features (such as shoreline), and names of grantees.

Access: Index to maps and grantees in each volume.

<u>Related records</u>: A duplicate set of these maps, bearing more recent annotations, is held by the Office of General Services, Bureau of Land Management.

B1304 Secretary of State/Office of General Services. Lands Under Water Transaction Files, 1943-1965 [52 c.f.]

Files document grants of lands under water, in navigable rivers and lakes. Older and newer files are held by the Office of General Services, Bureau of Land Management.

<u>Access</u>: Records Center transfer list gives dates of transactions. Indirectly indexed by series A4696 (grantees and locations).

<u>Related records</u>: Water grants are recorded in series 12943 Letters patent.

[E.] Deeds by Commissioners of Forfeitures

New York's revolutionary government began seizing the personal and real property of suspected Loyalists in the summer of 1776. Statutes of 1779 and 1784 authorized the forfeiture and sale of real property of "persons who have adhered to the enemies of this State." A person's real property became forfeit to the state when he was adjudged guilty of treason, either by an act of attainder passed by the State Legislature, or by trial and conviction in the Supreme Court of Judicature. Commissioners of Forfeitures were appointed to manage, sell at public auction, and convey by deed the lands forfeited to the state. The deeds from the Commissioners of Forfeitures were full warranty deeds. Statutes of 1780 and 1784 required the Commissioners to prepare a full abstract of Loyalist properties sold in each county, and required the county clerk to file and record the abstract. The abstracts of sales by the Commissioners of Forfeitures were not required to be filed or recorded by the Secretary of State. The State Archives holds no records of those abstracts, or of the judicial proceedings that resulted in a judgment of treason. The 1784 statute also required that the Commissioners of Forfeitures file survey field books and maps of lands partitioned and sold by them, in the offices of the clerk of the county where the lands lay, and in the office of the Secretary of State. In 1788 the Legislature abolished the office of Commissioners of Forfeitures and transferred their function and records to the office of the Surveyor General. At least some of those transferred records, mostly fiscal accounts and survey maps, are now in the State Archives. (See "Other Records Relating to Loyalists," below.)

A4016 Surveyor General/State Engineer and Surveyor. Records of Surveys and Maps of State Lands, ca. 1686-1892 (29.3 c.f. [29 vols.])

Vols. 7-10 and 17 of this series consist entirely or partly of documents relating to the sale of lands of Loyalists. Those

documents include contracts of sale by the Commissioners of Forfeitures; drafts or copies of deeds issued by the Commissioners of Forfeitures (up to 1788) and the Surveyor General (1788 and later); formal "locations" of lands by applicants to purchase; descriptions and surveys of those lands; and appraisals. Found infrequently are correspondence; copies of judgments of attainder; and other documents relating to the title history of the lands conveyed. There are documents pertaining to forfeited lands in all sections of the state except for the Southern District (New York, Kings, Queens, Richmond, Suffolk, and Westchester Counties). Most of the documents concern lands located in the Western District (Albany and Tryon-Montgomery Counties).

<u>Access</u>: Documents are indexed by name of purchaser and (in a few cases) by name of Loyalist in series A4024 Indexes to Maps, Surveys, and Other Land Records, vol. 3, and in series B1858.

A4032 Commissioners of Forfeitures. Lists of Sales of and Accounts of Payments for Confiscated Lands, 1784-1788 [0.5 c.f. = 3 vols., 1 item]

Lists summarize sales of forfeited real property of Loyalists in the Western District (composed of Albany and Tryon-Montgomery Counties) and the Eastern District (Charlotte, Cumberland, and Gloucester Counties). Entries include names of forfeitors and purchasers, dates of sale, prices paid, location of lands.

Access: No index. Documents are fragile.

B0256 Surveyor General. Records of Applications for and Sales of Forfeited Estates and Military Lots, 1783-1807 [0.3 c.f. = 1 vol.]

Applications include names of forfeiter and purchaser, prices paid, locations of lots, etc.

Access: No index. Volume is fragile.

A1816 Legislature. Assembly. Petitions, Correspondence, and Reports Relating to Forfeited Estates, 1778-1826 ("Assembly Papers," vols. 25-27) [2 c.f. (2 rolls microfilm)]

Documents were selected and compiled into volumes ca. 1830, and include petitions to purchase forfeited lands, some lists of sales, petitions from reputed Loyalists seeking restoration of property, and Assembly committee documents relating to the sale of forfeited lands.

<u>Access</u>: Alphabetical name indexes at the front of each original volume.

Microfilm: Produced by New York State Archives.

Other records relating to Loyalists: A0200 Revolutionary War Accounts and Claims, contains numerous fiscal accounts of the Commissioners of Forfeitures for the Western District, Middle District (Dutchess, Orange, Ulster Counties), and Southern District (New York, Kings, Queens, Suffolk, Richmond, Westchester Counties) (microfilm rolls 25-31). A0273 Survey Maps of Lands in New York, Portfolio E, contains maps received by the Surveyor General from the Commissioners of Forfeitures. A0452 Field Books may include a few field books filed by the Commissioners in the office of the Secretary of State. A0451 Original Releases to the State, includes claims to forfeited lands sold by the Commissioners of Forfeitures or the Surveyor General; also claims by widows of Loyalists to their dower interest in those lands, and releases of those claims. B0964 Minutes of Commissioners to Extinguish Claims Against Lands Sold by the State, records the proceedings of the commissioners who

reviewed and determined claims to dower interest in

[F.] State Deeds, Cessions, Releases, and Easements

forfeited lands (the minutes are not indexed).

The State Archives holds title documents for lands acquired by the state starting in the late eighteenth century, as well as deeds and cessions to the United States, leases of and easements on state lands, notices of discovery of minerals, etc. All these documents have been maintained at the Department of State (Secretary of State's Office) and transferred by that agency to the Archives. However, the largest bodies of records relating to state land acquisitions are held by other agencies. The Department of Audit and Control (State Comptroller's Office) maintains documentation of state land acquisitions dating back to the 1880s. Lands have been acquired for highway construction, the Barge Canal, the Adirondack and Catskill Forest Preserves, flood control projects, state parks, and state institutions. The Department of **Environmental Conservation maintains** documentation of forest preserve lands, including numerous maps and surveys. (Later nineteenth century survey maps and field books of the Adirondacks have been reproduced on microfiche. State Archives series B1405 and B1406.) The Department of Transportation regional offices hold extensive documentation, commencing ca. 1900, of

state highway rights of way. The <u>Office of General Services</u> holds files on state land grants, commencing ca. 1800 (see discussion in section D., above) and the official inventory of state lands. The <u>Department of Law</u> (Attorney General's Office) holds extensive records on both acquisition and disposition of state lands.

A0050 Secretary of State. Deeds of Cession and Assorted Documents of Record, ca. 1774-1846 [1.9 c.f.]

Series contains apx. 60 documents filed together apparently because of their large size. Most of the documents are deeds (also termed "leases" or "certificates") conveying title and/or ceding jurisdiction of property to the state or the federal government, usually for military and other protective purposes (e.g., forts, arsenals, lighthouses). Among the deeds of cession is the original 1786 Treaty of Hartford, an interstate agreement whereby Massachusetts ceded to New York jurisdiction and sovereignty over land it claimed west of Seneca Lake. Also present are some surveys, descriptions, and reports of ceded or conveyed lands from various locations around the state.

Access: Item lists.

A0451 Secretary of State. Original Releases to the State, 1782-1929 (bulk 1787-1929) [15 vols. = 9.0 c.f. (8 rolls microfilm)]

Most documents are releases to New York State of a private person's right and claim to real property. Releases were executed for:

- --Lands erroneously granted by letters patent (lands released usually because of inaccurate description in patent)
- --Claims to lands of Loyalists sold by the Commissioners of Forfeitures or the Surveyor General; also claims by widows of Loyalists (mostly residing in Canada) to their dower interest in those lands (that interest was not subject to forfeiture and sale)
- --Lands purchased by the state for public buildings, through 1883 (old and new Capitols, prisons, arsenals, asylums, normal schools, etc.)
- --Lands of non-residents sold by the Comptroller at tax sales, not subsequently redeemed for unpaid taxes, and deeded by the Comptroller to the state (most or all of the documents in the later books; in1927-28 the lands were sold and deeded by the State Tax Commission)

--Lands of residents sold by county treasurers at special tax sales, not subsequently redeemed, and deeded to the state

The series also contains a few releases of claims against the state by state officials, and a few deeds of cession by the state of New York to the United States.

Related series: Releases are recorded in A0478 Record of Releases to the State and A0453 Record of Deeds (Books 31-42). After 1928 releases to the state are found in A0464 Original Deeds and Title Papers and 12945 Miscellaneous Deeds and Title Papers.

Access: 1) Indexes to releasors and grantors are found in Books 1-6; there are cross-references to series A0478 and A0453 in Books 1-4. 2) Locations are indexed in series A4691.

Microfilm: Produced by Genealogical Society of Utah [Books 1-11 (1782-1900) only].

A0478 Secretary of State. Record of Releases to the State, 1788-1887 (bulk 1800-1887) [3 vols. = 1.0 c.f. (1 roll microfilm)]

Recorded copies of original releases in series A0451; also (in Book 2) deeds or releases to the state by the attorney general or by county commissioners appointed to loan money under an act of 1808, for lands whose mortgagors defaulted in their payments.

<u>Access</u>: 1) Each book contains an index to releasors and grantors. 2) Indexed by series A4691 (locations).

Microfilm: Produced by Genealogical Society of Utah.

Related records: A0451 Original Releases to the State.

A0464 Secretary of State. Original Deeds and Title Papers, 1855-1975 (bulk 1867-1975) [40 vols. = 16 c.f.]

Series contains filed deeds or releases of real property disposed or acquired by the state of New York, along with related documents. Most of the documents are:

- --Deeds or releases of real property to the state of New York
- --Leases from the state to private individuals or business firms
- --Certified copies of deeds conveying real property to the United States for government facilities such as post offices courthouses, lighthouses, customs houses, and military and naval installations
- --Deeds ceding jurisdiction to the United States for properties deeded

-- Easements for federal flood control projects (after 1936)

Deeds to the U.S. usually include maps or plats, and occasionally cessions of jurisdiction from the state. Conveyances of real property and cessions of jurisdiction to the United States have also been accomplished by statute; see note on "Related Records," below.

Other types of documents found in this series occasionally are:

- --Releases to the state for property acquired for normal schools, state hospitals, and fish hatcheries
- --Deeds of partition or exchange of Adirondack Forest Preserve lands
- --Transcripts of proceedings of the Forest Purchasing Board (starting 1897)
- --Releases from the state to private persons of lands that had escheated (reverted) to the state (starting ca. 1930)
- --Leases of state lands (especially adjacent to the Barge Canal) for industrial or commercial uses (after 1934)
- --Leases of state lands under water (including dredging rights)
- --Releases to the state of previous grants of lands under water (starting 1919)
- --Easements for oil or gas pipelines under lands under water, and for electrical transmission lines over water over lands under water (starting 1953)
- --Deeds for New York monuments on Civil War battlefields [see also series A0468]
- --Documents relating to the boundaries between New York and Massachusetts and Connecticut

The conveyances may be accompanied by related documents such as correspondence; abstracts and certificates of title; searches for judgment and tax liens; Comptroller's certificates of taxes due and receipts for payment; transcripts of mortgage foreclosure, partition, or condemnation proceedings affecting title; quitclaim deeds; and releases of dower rights.

Access: 1) Most books contain indexes to names of parties and to locations of property. 2) Indexed by series A4688 (grantors), A4689 (grantees), A4690 (locations). These microfilmed indexes end ca. 1973.

Microfilm: Microfilmed by Genealogical Society of Utah.

Related records: Series concludes in 1975 and is continued by 12945 Miscellaneous Deeds and Title Papers. Some of the deeds to the United States are also recorded in the office of the register or county clerk in the county where the property lies. Statutory transfers of real property and cessions of jurisdiction to the United States are found in the session laws and summarized in the *Revised Statutes*, Part I, Chap. 1, Title 3 (1829 and later eds.) and in the

Consolidated Laws (1909 and subsequent eds.), State Law, Art. 3.

12945 [formerly A0458] Secretary of State. Miscellaneous Deeds and Title Papers, 1847-1997 (bulk 1899-1997) [39 vols. = 12.7 c.f.]

Books 1-20 in this series contain recorded copies of documents filed in other record series, principally A0464 Original Deeds and Title Papers. The recorded documents in series 12945 do not include the maps and other associated documents filed in series A0464. Starting in 1976 the Secretary of State's office has used series 12945 as the sole location for filing/recording title documents required to be filed in that office, except for letters patent, which are recorded in series 12943. Starting in 1933 series 12945 also includes leases by the state to oil and gas companies to drill on state lands. Also part of series 12945 is "Book A," which contains original filed partition or quitclaim deeds to the state for a few lots in the Totten and Crossfield Purchase, with accompanying field notes, title abstracts, and other documents; a few releases to the state of property conveyed by Comptroller's tax deeds; and a few leases by the state.

<u>Access</u>: Indexed by series A4688 (grantors), A4689 (grantees), A4690 (locations). These microfilmed indexes end ca. 1973.

Related records: A0464 Original Deeds and Title Papers.

A0449 Secretary of State. Register of Gold and Silver Mines, 1791-1914 [4.3 c.f. = 23 vols. (2 rolls microfilm—vols. 1-2 and 23 {index} only)]

The state of New York has retained sovereign ownership of gold and silver mines and other mineral deposits anywhere in the state, and of mineral deposits and fossils on state lands. Persons discovering such resources are required to file notice of their discovery; the notice contains information on the location and nature of the mine or deposit. Upon filing notice, the filer is granted the privilege of exploiting the resource. The register consists of a chronological listing of notices of discovery of gold and silver mines (and other mineral deposits) recorded in series A0453 Deeds, during the years 1791-1839 (first part of A0449, Book 1); and the full texts of such notices for the period 1839-1914 (second part of Book 1, Books 2-22).

<u>Access</u>: 1) Each book contains an index to filers of notices. 2) Book 23 contains an index to filers of notices recorded in series A0453 (Books 24-42) and in Books 1-10 only of series A0449.

Microfilm: Produced by Genealogical Society of Utah.

<u>Related series</u>: A0453 Deeds; A4697 Indexes to Discovery of Mines (refers to permits and other documents for period 1898-1969, now on file at the Office of General Services).

A0468 Secretary of State. Title Papers Pertaining to the Erection of Monuments on the Gettysburg and Chattanooga Battlefields, 1887-1898 [0.5 c.f. = 1 vol.]

Volume contains transmittal letters, agreements, legislative bills, correspondence, maps or plats, deeds of conveyance and dedications, and other documents pertaining to monuments to New York units that participated in the battles of Gettysburg and Chattanooga.

Access: Summary listing of documents in series A4697.

<u>Related records</u>: Other Civil War battlefield monument title papers are found in series A0464 Original Deeds and Title Papers.

[G.] Records of State Land Sales

A4002 (formerly part of A0094 and B0255) State Engineer and Surveyor. Books of Sales of State Land, 1786-1927 [14 c.f. = 17 vols.]

Registers document sales of lands in the Military Tract of central New York and in former Indian reservations; and sales of lands on foreclosure of state mortgages and for non-payment of real property taxes. Sales were conducted by the Surveyor General (through 1846) or the State Engineer and Surveyor (after 1846); or by the Comptroller. There are several sub-series of sales books or registers.

Access: Volume list.

A4003 (formerly part of A0094) Surveyor General/State Engineer and Surveyor. Certificates and Bonds for Sales of State Land, ca. 1786-1903 (bulk 1840-1903) [4.3 c.f. = 17 vols.]

Series consists of certificates of sales of land and in some cases bonds stating the terms of payment. The sales were made by the Surveyor General (through 1846) or the State Engineer and Surveyor (after 1846). Sub-series include: 1) certificates and bonds for original sales (of land not previously sold), 1840-1849; 2) certificates and bonds for "absolute resales" (no redemption right by previous owner), 1840-1883; 3) certificates for conditional resales (subject to redemption by previous owner), 1842-1849, 1884; 4) certificates for conditional resales (subject to preferential right of previous purchaser), 1840-1841; 5) certificates and bonds for sales of lands obtained through

mortgage foreclosure, 1843-1849; 6) certificates of sales, 1888-1903. Also in the series are blank certificates of sale for various described lots to be sold pursuant to a 1786 statute; and loose certificates of sales, 1807-1854.

A4004 Surveyor General/State Engineer and Surveyor. Records of Sales of State Lands Belonging to Various State Funds, 1824-1860 [0.5 c.f. = 2 vols.]

Series consists of registers of sales of lands belonging to the general fund, the common school fund, the canal fund, and the literature fund. Volumes contain references to a sales book in series A4002.

A1335 Comptroller. Register of Buyers of State Lands, 1818-1834 [1 c.f. = 1 vol.]

Volume contains three sections: 1) Arranged geographically by tract location, the entries give purchaser name, date of sale, lot number, book and page numbers (referring to an unidentified record series), and other data on the sale. 2) Arranged by volume number in series A1336 (see below), the entries give purchaser name, lot number, book and page numbers. 3) Arranged geographically by tract location, entries give purchaser name, lot number, book and page numbers (referring to an unidentified record series), and payment data.

Access: No indexes.

Related series: A1336, A1280.

A1336 Comptroller. Sales and Mortgage Books for Lands Sold by the Surveyor General, 1794-1812 [0.2 c.f. = 1 vol.]

Volume contains numerous small books recording sales and mortgages of lands sold by the Surveyor General.

Related records: Series A1335 (described above).

A1337 Comptroller. Registers of Lands Sold by the Surveyor General, 1835-1881 [1 c.f. = 3 vols.]

Registers contain yearly statements of sales of lands sold for the benefit of the general fund, the common school fund, and the literature fund (for support of academies). Each entry gives date and amount of bond, name of person giving bond, location and acreage of parcel sold, payment data, and information about any previous incomplete sale of the same parcel.

Access: Chronological entries; no index.

B0969 Comptroller/Department of Taxation and Finance. Reports of Sales of State Lands, 1880-1939 [1.25 c.f. = 6 vols.]

Volumes contain summaries of sales of state lands by the State Engineer and Surveyor (to 1926), Department of Public Works (1926-1928), Department of State, Division of the Land Office (1928-1939), and Conservation Department (various dates).

Access: Chronological entries; no index.

[H.] Mortgages to the State

Since 1797 the Comptroller has been authorized to hold and if necessary foreclose mortgages for land purchased from and/or mortgaged to the state. (During the early nineteenth century the Comptroller was also authorized to take mortgages to secure loans of surplus state funds.) This authority was frequently exercised up until the early twentieth century. State mortgages, and any resulting foreclosure by public notice and sale, were recorded by the Secretary of State.

A0477 Secretary of State. Registers of Mortgages to the State ("State Mortgages"), 1807-1883 (bulk 1807-1842) [4 vols. = 2 c.f. (1 reel microfilm)]

Mortgages recorded in these volumes were taken by the state to secure sales of lands in former Indian reservations and other tracts, between 1807 and 1822, or to secure issues of state loans or stock for railroads and other transportation corporations between 1825 and 1842. Discharges or cancellations of mortgages date as late as 1883.

<u>Access</u>: 1) An index to mortgagors is found in each volume. 2) Indexed by series A4692 (mortgagors) and A4693 (locations).

Microfilm: Produced by Genealogical Society of Utah.

A1280 Comptroller. Ledgers for Bonds and Mortgages Held by the State of New York, 1796-1910 [26 c.f. = 41 vols.]

Ledgers contain mostly entries of debits and credits for mortgages to the state by purchasers of various parcels of unappropriated lands, and of lots within former Indian reservations. Each account provides name of purchaser/mortgagor, date and amount of bond, location of property, and payments of principal and interest by cash or other credits. Ledgers also contain numerous accounts of loans to counties and towns, as authorized by special statutes, for the erection of public buildings and the

improvement of roads and bridges; and of loans to school districts and academies for building construction.

<u>Access</u>: Each volume contains an index to names of purchasers/mortgagors or tracts.

A1323 Comptroller. Register of Bonds and Mortgages on State Lands Delivered to the Attorney General, 1811-1817 [0.3 c.f. = 1 vol.]

Register lists, by tract, the names of mortgagors, and indicates action taken: mortgage paid and discharged, foreclosed, or delivered to Attorney General.

Access: Index to mortgagors in front of volume.

A0836 Comptroller. Closed U.S. Deposit Fund Mortgages and Farm Loan Mortgages, 1837-1975 [22 c.f.]

The United States Deposit Fund was established by an 1837 statute to provide for loaning out surplus monies received from the U.S. government. County commissioners appointed by the Governor were responsible for making the loans, secured by mortgages. In 1911 the office of county commissioner was abolished and the Comptroller was made responsible for administering the system. This series of files, arranged by county, contains applications for loans, original mortgages (cancelled), satisfactions of mortgages, insurance policies, title searches, and correspondence.

<u>Access</u>: Indexed by series A4692 (mortgagors—cites mortgage numbers) and A4693 (locations—cites mortgage numbers).

Related records: B1062 U.S. Deposit Fund Foreclosed Mortgage Files, 1843-1910; A0983 County Commissioners' Annual Reports of the U.S. Deposit Fund, 1837-1909; A1281 County Commissioners' Ledgers of Mortgage Loans of the U.S. Deposit Fund, 1837-1911; A1282 County Commissioners' Minute and Account Books of the U.S. Deposit Fund, 1837-1911; A1284 Ledger of General Accounts with County Commissioners of the U.S. Deposit Fund, 1837-1911; and other series. Series A4692 indexes three books of recorded U.S. Deposit Fund mortgages; the location of those books is unknown. The offices of the county clerks and the New York City register retain the books of recorded mortgages issued by the county commissioners.

[I.] Records of Land Appropriations—Highways, Streets, Parks, Railroads, and Purposes

The State of New York exercises its power of eminent domain to acquire lands for public purposes such as

canals, highways, parks, public buildings, etc. Described below are records in the State Archives that document land appropriations for state highways, city streets, parks, historic sites, institutions, etc. Title documents are filed in the offices of the Secretary of State or the State Comptroller (see discussion in section F., above). The Archives also holds numerous records relating to the appropriation of lands for canal purposes (see discussion in section J., below). Eminent domain powers have also been extended to private railroad companies.

J0130 Supreme Court of Judicature. General and Special Term Minute Books (Albany), 1797-1847 [11 c.f. = 29 vols.]

J0128 Supreme Court of Judicature. General Term Minute Books (Utica), 1820-1829, 1831-1832, 1836-1846 [3 c.f. = 13 vols.]

The Albany and Utica minute books contain numerous orders confirming the proceedings of commissioners appointed to assess the value of lands taken for laying out or widening streets in New York City. The orders include copies of the commissioners' reports, which contain detailed descriptions of the property taken. The Supreme Court was given jurisdiction over those proceedings by statutes of 1813 and 1816.

Access: Each of the Albany minute books starting 1824 contains an index to proceedings. See also series J2130 Index (Partial) to Minute Books (Albany). Each of the Utica minute books contains an index to proceedings.

Related records: Petitions by city officials for opening or widening streets in New York City are found in series J0011 Motions and Declarations (Albany), 1796-1847 and J1014 Reports of Commissioners Appointed to Appraise Lands Taken for Street Openings in New York City and Brooklyn, 1817-1845. Orders appointing commissioners are found in series J0011 and J0126 Motions (Utica). Minute books for terms of the Supreme Court of Judicature held in New York City are at the New York County Clerk's Office.

18552 Department of Public Works. Right-of-Way Map Tracings, 1900-1945 [168 microfilm reels]

Microfilm reproduces original maps and descriptions of real property appropriated for construction of state highways, some secondary highways, flood control dikes and channels, and other state facilities.

<u>Access</u>: Finding aid is incomplete, but the maps appear to be arranged by modern DOT region, then by county; or by other project type. Master negatives are stored off-site and are not available for research.

<u>Microfilm</u>: Produced by or for the Department of Public Works.

<u>Related records</u>: Held by the twelve regional offices of the New York State Department of Transportation.

A1346 Comptroller's Office. Conservation Commission Recommendations to the Commissioners of the Land Office on Land Purchases for New State Parks, 1917-1925 [0.8 c.f. = 3 vols. (2 microfilm rolls)]

Volumes contain procedural documentation (including appraisals of properties recommended for purchase) for recommendations of property purchases for state parks. Once the Commissioners of the Land Office approved a recommendation, the Comptroller issued bonds or a warrant for payment of the purchase price.

Access: Indexes to transactions.

A0460 Department of State. Land Appropriations, Correspondence, and Maps, 1924-1974 [18 c.f. = 50 vols.]

Series contains resolutions of state agencies appropriating real property, certified descriptions and maps of the properties appropriated, and where required, the governor's approval of the appropriation. Most of the appropriations were made for state parks and historic sites. Some were made for mental hospitals and other state facilities.

<u>Access</u>: Chronological box/volume list. Index to appropriations in each volume.

B0635 Department of State. Terminations of Easements, ca. 1948-1960 [4 c.f.]

Easements were obtained for construction of the New York State Thruway; the St. Lawrence Seaway; urban arterial highways and state highways (Department of Public Works); railroad grade crossing elimination projects (Public Service Commission and New York City Transit Commission), flood control projects; emergency housing projects; and oil and gas leases (Conservation Department).

<u>Access</u>: Container/folder list arranged by type of easement.

13633 Office of General Services. Transfer of Jurisdiction Files, 1972 [3 c.f.]

Original orders of the Office of General Service transferring property from jurisdiction of one state agency to that of another. Accompanying the orders are reports of the Department of Law and photocopies of certified descriptions and maps of transferred properties.

Access: No index.

<u>Related records</u>: Held by Office of General Services, Bureau of Land Management.

18541 Board of Equalization and Assessment. Railroad Valuation Maps, ca. 1916-1978 [125 c.f. = apx. 4,000 maps]

These are copies (usually blue-line) of base maps prepared originally for the U.S. Interstate Commerce Commission after World War I. The large-scale maps (typically 1 in. = 100 ft.) show railroad rights of way, railroad structures and adjacent features, and (sometimes) property lines and names of owners. The maps were annotated to show changes over many decades.

<u>Access</u>: Key maps to valuation sections of operating railroad companies. Some maps are missing.

[J.] Records of Land Appropriations—Canals

Construction of the initial Erie Canal system, completed in 1825, required that the state appropriate, through its power of eminent domain, lands and waters along numerous canal corridors. An 1817 statute empowered the appointed Canal Commissioners to take possession of and make use of all lands and waters necessary to construct the canals. (The office of Canal Commissioner was abolished effective 1878, and its functions given to the Superintendent of Public Works.) Similar legislation facilitated the construction of branch canals and the enlargement (widening and deepening) of the main canals during the mid-nineteenth century; and the construction of the Barge Canal system, completed in 1918. With rare exceptions, the state acquired lands and waters for canal purposes not by deed, but by entering, occupying, and using those resources. Documentation of the state's title to canal lands took the form of official maps and awards of damages to affected property owners. An 1884 statute first required service of notice of the taking of property for canal purposes. The "Canal Law" of 1894 declared that the notice to the property owner, served after the appropriation map was approved, was conclusive evidence of entry upon and appropriation of the lands.

A0848 Comptroller. Canal System Survey Maps, 1832-1843 [19 c.f. = 27 vols. (4 rolls microfilm)]

The lands permanently appropriated for construction of the original Erie Canal and its branches are depicted in this series of maps, known collectively as the "Holmes Hutchinson" maps, from the engineer initially in charge of their production. The maps were made pursuant to a provision of the *Revised Statutes* enacted in 1828. An 1837 statute confirmed that the maps were to be presumptive evidence that "the lands indicated on such maps as belonging to the state, have been taken and appropriated by the state."

Access: List of contents of each volume.

Microfilm: Produced by New York State Archives.

Related records: Copies of maps and accompanying field notes for canal lands within a particular county were required to be filed by the Comptroller in the county clerk's office in that county. The field notes and linear survey diagrams from which the Holmes Hutchinson maps were compiled are series A1078 Canal Engineer's Field Notes for State Canals, ca. 1834-1843. Detailed maps of lands acquired by the state for the original Erie, Champlain, and Oswego Canals, or for the enlargements of those canals, and not included in the Barge Canal system constructed in the early twentieth century, are in series B1761 Maps of Portions of Canal Lands Belonging to the State of New York ("Abandonment Maps" and "Blue Line Maps"), ca. 1910-1951 (bulk 1917-1918). (The maps in series B1761 are not filed in the county clerk's offices.)

B0602 Comptroller/Department of Audit and Control. Canal Damage Awards by Canal Appraisers, Board of Claims, and Court of Claims, 1835-1953 [46 c.f.]

Series contains documentation of awards of damages by the Canal Appraisers (through 1883) and the Board of Claims (1883-1897) and of judgments of the Court of Claims (1897-1953). Many of those damages were sustained when property was appropriated temporarily or permanently for repairs to or enlargement of the Erie Canal and its branches, for the so-called Nine Million Dollar Improvement at the turn of the twentieth century, and for construction of the Barge Canal system, including the terminals. Files pre-dating 1849 contain only the claimant's receipt for payment; the receipt may state the location of the appropriated or damaged property but does not describe it. Starting 1849 the receipts bear the certificate of the Canal Commissioner stating that the land was taken and appropriated for public use; often there is an abstract of title attached to the receipt. Starting 1883 there is additional documentation about the claim and the award, consisting of a certified copy of the judgment and abstract of title and occasionally other documents. An 1884 statute for the first time required the state to serve a

written notice on the owner of property appropriated for canal purposes; the notice advised the owner of the filing of a map depicting the appropriated lands and described the property taken. The claims are arranged by canal, then sequentially by number, corresponding to date of award. There are separate sequences of files for the Erie, Champlain, Oswego, Black River, and Chenango Canals, and for the Barge Canal system.

Access: 1) Container list. 2) Canal construction damages claims and awards are abstracted or listed in *Digest of Claims, and the Action Thereon by the Legislature and the Canal Board Together with the Awards Made by the Board of Canal Appraisers, from 1818 to 1858* (Rochester: 1858) and three supplements through 1870; Canal Appraisers, *Annual Report*, 1849-1882 (Albany: 1850-1883); Board of Claims, *Annual Report*, 1883-1897 (Albany: 1885-1898); Court of Claims, *Annual Report*, 1897-1909, 1910/15, 1916-1918 (Albany: 1898-1910, 1916-1919).

Related records—Erie Canal: The original determinations of the Canal Appraisers may have been destroyed in the Capitol fire of 1911. Transcripts of determinations, describing each parcel of land appropriated and stating the amount of the Canal Appraisers' award, were required to be filed in the office of the county clerk in the county where the lands lay. However, this requirement took effect January 1, 1828, after the original canal system had been completed. The Canal Commissioners were required to maintain books containing entries of the determinations of the Canal Appraisers. Starting 1829 those books were to include "testimony taken" by the Canal Appraisers and the "grounds and reason for their decision." The location of those books is unknown.

Appeals from determinations of the Canal Appraisers were taken to the Canal Board, pursuant to an 1829 statute. See A0868 Canal Board Minutes, 1833-1855; A0856 Canal Board Rough Minutes, 1832-1926; and A1140 Petitions and Appeals to the Canal Board, 1828-1926.

Certain lands used for construction of the original Erie Canal were donated to, not appropriated by the state. About 190 of these original "deeds of cession" were on file in the Comptroller's Office ca. 1920, but their present location is unknown. A list of the grantor names and dates is found in Anson Getman, *Principles and Sources of Title to Real Property as Between the State and the Individual*... (Albany: 1921), pp. 630-34.

Many canal lands were abandoned when the Erie Canal was enlarged and improved (a process essentially completed by 1862), and the branch canals were abandoned (mostly in the 1870s). Statutes of 1849 and

1857 provided for sale of abandoned canal lands by the Commissioners of the Land Office, pursuant to resolution of the Canal Board. The deeds for such abandoned lands are found in 12943 Letters Patent. The resolutions for abandonment are found in A0856 Rough Minutes of the Canal Board, which are partly published in the board's *Proceedings*, 1868-1926 (Albany: 1869-1927).

Related records—Barge Canal: Lands permanently appropriated for the Barge Canal system are depicted in series B1762 New York State Barge Canal System Residency Maps, ca. 1903-1920, which are indexed by series B1768. Starting in 1888 duplicate copies of notices of land appropriations for canal purposes were required to be recorded in the office of the county clerk of the county where such lands lay.

[K.] Canal Permits

From the early years of the Erie Canal system the Canal Commissioners issued permits for access to or use of canal lands and waters. The Constitution of 1846 barred the state from selling or leasing any property used for canal purposes. However, revocable permits continued to be issued and were specifically authorized by a constitutional amendment adopted in 1938.

10970 Canal Commissioners/Superintendent of Public Works. Canal Permit Files, 1828-1915 [7.0 c.f.]

B1789 Canal Commissioners/Superintendent of Public Works/Department of Public Works/Department of Transportation. Inactive Revocable Permits, 1837-1988 (bulk 1907-1988) [22 c.f.]

These two series contain the texts of permits issued by the Board of Canal Commissioners (1828-1878), Superintendent of Public Works (1878-1926), Department of Public Works (1926-1967), and Department of Transportation (1967+) for various canal-related purposes. The purposes of permits include:

- --construction of bridges, slips, dry docks, boat docks, buildings, marinas, and other structures
- --use of canal waters or lands for industrial or agricultural purposes
- --use of canal right-of-way for utility and sewer lines
- --removal of sand, gravel, and other materials

Files contain applications for permits, correspondence, maps, drawings, surveys, etc.

Starting 1868 some of the permits include linen or blueprint maps or drawings. Cancellations and revocations are noted on most of the documents, though some very old permits do not bear such notes. Between 1828 and July 1896 the permits are recorded on pages that were later removed from series B0201 Minutes of the Canal Commissioners and Superintendent of Public Works, 1817-1921, and filed in these two series. Starting July 1896 the permits and attachments are pasted on sheets that were later trimmed down to the size of the documents. (These sheets were originally bound in canal permit books and later disbound and filed.)

Access: Indexed in B0202 Index to Minutes of the Canal Commissioners and Superintendent of Public Works and B1787 Index to Inactive Revocable Permits. Series B0205 contains indexes to canal permit books 10 and 11, which are now evidently part of series B1789.

Related records: Other permits not found in series 10970 and B1789 were filed with the Department of Transportation regional offices and transferred to the Canal Corporation in 1992. See also series B1790, next item.

B1790 Department of Transportation. Permits for Use and Occupancy of New York State Canal Lands, 1975-1985 [4 c.f.]

Most of these permits grant use or occupancy of real property on canal lands for periods of one year or more. Files contain applications, correspondence, superseded permits, maps, plans, etc.

<u>Access</u>: Indexed by series B1788 Index to Permits for Use and Occupancy of New York State Canal Lands.

<u>Related records</u>: Series B1789 Inactive Revocable Permits.

[L.] Deeds for Comptroller's Tax Sales and Related Records

Starting in 1801 the State Comptroller was responsible for selling and conveying by deed lands owned by delinquent non-resident taxpayers. County treasurers were responsible for selling lands owned by residents of the county who had not paid their taxes. (Between 1850 and 1855 the county treasurers temporarily assumed the function of selling and conveying lands of delinquent nonresident property owners.) Starting in 1893 the county treasurers conducted tax sales for lands of delinquent resident and non-resident taxpayers in counties not containing Forest Preserve lands. In 1927 the Department of Taxation and Finance assumed from the Comptroller certain residual responsibilities concerning tax sales for non-resident lands; that function was abolished in 1928. Thereafter the county treasurers conducted all tax sales in all counties. The State Archives holds nearly 600 cubic feet of records documenting Comptroller's tax sales, and the proceedings before and after those sales. The records

include accounts of unpaid taxes, registers of corrected property descriptions, notices of tax sales and redemptions, registers of bids and sales, certificates of sales, applications to redeem land from tax sales, applications to cancel tax sales, notices to mortgagees and occupants of tax sales, and other related records. Comptroller's deeds are available on microfilm at the Department of Audit and Control. Statute permitted but did not require recording of Comptroller's deeds on the county level.

Following is a selective list of record series in the State Archives documenting Comptroller's sales of non-resident lands for unpaid taxes. The list starts with series containing recorded or filed Comptroller's deeds. (Those deeds were *not* required to be recorded in the county clerk's office, though they may have been.)

12943 [formerly A0450] Secretary of State. Record of Letters Patent, 1664-1997 [100 vols. = 41 c.f. (24 rolls microfilm)]

Contains many recorded Comptroller's deeds for lands sold for unpaid taxes and not redeemed; see discussion of series in section C.

A0453 Secretary of State. Record of Deeds ("Miscellaneous Records"), 1640-1884 (bulk 1664-1855) [45 vols. = 22.2 c.f. (20 rolls microfilm)]

Contains a few recorded Comptroller's deeds for lands sold for unpaid taxes, and not redeemed; see discussion of series in section F.

A0451 Secretary of State. Original Releases to the State, 1782-1929 (bulk 1787-1929) [15 vols. = 9.0 c.f. (8 rolls microfilm)].

Contains filed Comptroller's deeds for lands sold for unpaid taxes and not redeemed; see discussion of series in section F.

A0478 Secretary of State. Record of Releases to the State, 1788-1887 (bulk 1800-1887) [3 vols. = 1.0 c.f. (1 roll microfilm)].

Contains recorded Comptroller's deeds for lands sold for unpaid taxes and not redeemed; see discussion of series in section F.

B1614 Comptroller/Department of Taxation and Finance. Abstracts of Deeds Conveyed to Purchasers of Land Sold for Unpaid Taxes, 1873-1937 [4.5 c.f. = 12 vols.]

Forms contain all substantive information contained in deeds issued by the Comptroller (through 1926) or the State Tax Commission (starting 1927).

<u>Access</u>: B0956 Register of Tax Sale Certificates Surrendered for Deeds (1873-1931) provides chronological access to most of this series.

A1299 Comptroller. Copies of Deeds from the Comptroller, 1889-1923 [1 c.f. = 1 vol.]

Certified copies of deeds for lands (mostly within the Adirondack Forest Preserve) conveyed by the Comptroller to private individuals and firms.

Access: No index; rough chronological order.

A1071 Comptroller. Geographical Registers of Comptroller's Tax Deeds, 1815-1845, 1895, 1900, 1924-1926 [9.3 c.f. = 8 vols.]

Registers serve to locate parcels sold by the Comptroller. Data includes description of parcel, amounts of taxes and interest due and paid, name of grantee or redeemer, etc. The location of registers for other years is unknown.

<u>Access</u>: No indexes, but the arrangement is chronological by year, then geographical by county and tract.

B0953 Comptroller. Registers of Non-Resident Lands Sold in Tax Sales, ca. 1808-1926 [104.5 c.f. = 241 vols.]

Yearly registers contain summary data on lands sold by the Comptroller for unpaid taxes, in sales held every few years commencing in 1808. Registers are arranged by county, then by town or tract, then by lot number. Each entry gives year of unpaid tax, lot number, description and acreage of parcel, amount of tax due, payment and sale data, and redemption data (if the parcel was redeemed from the tax sale). Some of the volumes are published, some of them with handwritten notes.

Access: Most volumes contain location/tract indexes.

<u>Related records</u>: A1610 Maps of Undivided Tracts and of Tracts Sold by the Comptroller for Unpaid Taxes, ca. 1700-1935.

B0918 Comptroller/Department of Taxation and Finance. Certificates of Sale of Land for Unpaid Taxes, 1815-1928 [82.3 c.f.]

Documents certify the purchase of parcels of land sold by the Comptroller for unpaid taxes. Each certificate gives name of purchaser, lot number and description, acreage, county where located, amount paid, date of sale. <u>Access</u>: Arranged by year of tax sale, then by county and name of purchaser.

B0956 Comptroller/Department of Taxation and Finance. Register of Tax Sale Certificates Surrendered for Deeds, 1873-1931 [0.4 c.f. = 2 vols.]

Registers document the surrender of tax sale certificates and the subsequent issuance of deeds to purchasers of lands sold for unpaid taxes.

Access: No indexes.

Related records: Serves as an index to B1614 Comptroller/Department of Taxation and Finance. Abstracts of Deeds Conveyed to Purchasers of Land Sold for Unpaid Taxes, 1873-1937.

[M.] Other Deeds and Miscellaneous Records

A0453 Secretary of State. Record of Deeds ("Miscellaneous Records"), 1640-1884 (bulk 1664-1855) [45 vols. = 22.2 c.f. (20 rolls microfilm)]

Though labeled "Deeds," the volumes in this series contain not only deeds but also a wide variety of other documents recorded by the Secretary of the Colony, starting in 1664 (documents dated as early as 1640), and by the Secretary of State, starting in 1783. After the Revolutionary War the series was known, appropriately, as "Miscellaneous Records." The most numerous documents are deeds for real property conveyed by one private person to another. The private deeds from the colonial period mostly concern properties located in New York City and adjacent counties, but occasionally in other parts of the colony (including lands included in the 1664 royal grant to the Duke of York but later made part of other colonies). Deeds recorded after 1783 are mostly for large tracts purchased by land investors.

Prior to ca.1720, the series also contains numerous other recorded documents concerning land, such as mortgage bonds, powers of attorney, land sale contracts, and a few Indian deeds and treaties. From ca.1720 through 1884 the deed books are mostly a record of deeds, mortgages, bonds, and powers of attorney. Some of the deeds in the late volumes of this series were recorded pursuant to an 1806 statute which permitted recording of unrecorded deeds duly acknowledged and pre-dating April 6, 1801. Such recording could be performed either by the Secretary of State or by any county clerk in the state. Starting April 12, 1813, such deeds were required to be recorded in the county clerk's office in the county where the lands lay.

Volumes from the late eighteenth and early nineteenth centuries also contain some deeds or releases to the state, deeds to the United States, Comptroller's deeds for properties sold for unpaid taxes, and many deeds involving alien landowners (e.g. members of the Holland Land Company and heirs to the Pulteney Estate, whose lands lay in western New York).

Other land-related documents recorded in the "deed books" are numerous assignments by Revolutionary War veterans of their rights to military bounty lands (1783-1791) and notices of discovery of gold and silver mines (i.e. mineral rights) (1789-1839). The series also contains recorded copies of charters granted by the Board of Regents to academies (1788-1855), and in some cases the applications for those charters.

Access: 1) Each book contains a grantor/grantee index. 2) Indexed by card indexes available on microfilm in series 14688 (grantor), 14689 (grantees), 14690 (locations), A0479 (grantors/grantees through 1842), and A3074 (incomplete grantors/grantees through 1855). 3) Mines and mineral rights are indexed in series A0479. 4) Maps found in the deed books are listed and indexed in Mix, Catalogue of Maps and Surveys, pp. 125-33, and in Freeborn G. Jewett, comp., Catalogue of Records of the Office of Secretary of State (Albany: 1898). 5) Deeds for properties in New York City (Manhattan Island) prior to 1800 are indexed in Charles F. Grim, An Essay Towards an Improved Register of Deeds, City and County of New-York to December 31, 1799 Inclusive (New York: 1832).

Microfilm: Produced by Genealogical Society of Utah.

<u>Related records</u>: A3074 Abstracts and Indexes of Deeds; A0449 Register of Gold and Silver Mines.

A3122 Secretary of State. Abstracts and Indexes of Deeds, ca. 1640-1855 [7 vols. = 5 c.f.]

These abstracts were compiled after ca. 1860 and contain the essential information about a deed (names of grantor and grantee, date of deed, abbreviated description of property conveyed). Documents recorded in the deed books that are *not* deeds are not abstracted in this series.\

<u>Access</u>: Each volume contains indexes to grantors, grantees, and locations.

Microfilm: Produced by Genealogical Society of Utah.

Related records: A0453 Record of Deeds.

[N.] Holland Land Company Records

The Holland Land Company was formed in 1796 by a consortium of Dutch banking firms with the main purpose of developing and selling several tracts of land in western New York, totaling 1.3 million acres, which they had purchased from Robert Morris and others starting in 1792. Surveys of townships and lots began in 1798, but the company's title was not perfected until 1801. Land sales began early that year. The Holland Land Company began selling its interests to American investors in 1835, and completely divested the last of its properties in western New York in 1846.

Related records: The largest collection of records of the Holland Land Company is in the Municipal Archives of Amsterdam (Holland). See Wilhelmina C. Pieterse, Inventory of the Archives of the Holland Land Company . . . 1789-1869 (Amsterdam: 1976). These records have been microfilmed on 202 reels for Reed Library, SUNY College at Fredonia; see Franciska Safran, comp., Microfilm Reel List . . . (Fredonia: 1984). Another large collection is in the Buffalo and Erie County Historical Society; it has been microfilmed on 23 reels. Both sets of microfilm are available in the New York State Library. These and other collections of Holland Land Company records and related records are listed in Franciska Safran, comp., "The Archives of the Holland Land Company in Reed Library and Related New York State Collections," State University College at Fredonia, Daniel A. Reed Library, Research Guide no. 56 (Fredonia: 1996).

A0025 Secretary of State. Holland Land Company Maps, Field Notes, and Deeds, 1788-1899 (bulk 1788-1839) [13.2 c.f. = 234 items (5 rolls microfilm)]

Series contains the original deeds from Robert Morris and others to members of the Holland Land Company for lands within their purchase; other documents relating to properties in New York owned by the company; field books for meridians, township lines, Indian reservation boundaries, and roads; and several large maps. These documents were acquired by the state from the agent of the Holland Land Company in 1841, pursuant to an 1839 statute. (A few newspaper clippings are dated 1899.)

<u>Access</u>: 1) Unpublished document and volume lists. Most of the documents are oversized and/or fragile; use and copying may be restricted. 2) Field books are listed in Mix, *Catalogue*, pp. 117-24.

Microfilm: Field books only were microfilmed by the New York State Library (State Archives old call nos. A-FM 107, 108).

Related records: At least some of the deeds to the members of the Holland Land Company are recorded in series A0453. For additional maps, see A4018 Maps of Land Purchased from the Holland Land Company, 1804-ca. 1849 (bulk 1840s).

B0280 State Engineer and Surveyor. Holland Land Company Deed Books, 1803-1857 [24 c.f. = 41 vols.]

Registers of deeds contain data on deed number, name of purchaser (grantee), date of deed, diagram or plat of land deeded; boundary measurements; and acreage. The entries were made by employees of the Holland Land Company and the successor firm, the LeRoy and Redfield Company. Arrangement of entries in each volume is numerical by deed number. These records (as well as series A4027 and B0277, listed below) were purchased by the state from the widow of surveyor David E. E. Mix pursuant to an 1895 statute.

Access: Most volumes contain an alphabetical name index to grantees. Published lists of purchasers are found in Karen E. Livsey, comp., Western New York Land Transactions, 1804-1824: Extracted from the Archives of the Holland Land Company (Baltimore: 1991), and same, Western New York Land Transactions, 1825-1835... (Baltimore: 1996). Livsey used the microfilm copies of the company's records, which are in the Municipal Archives of Amsterdam.

<u>Related records</u>: Series A4027 contains several original, undelivered deeds to one Charles E. Dudley.

B0277 State Engineer and Surveyor. Deed Tables Regarding Sale of Holland Land Company Lands, 1802-1833 [1 c.f. = 3 vols. (1 roll microfilm)]

Tables contain data on name of purchaser, location and acreage of lands purchased; purchase price; and obsolete references to deed and mortgage books not in the State Archives.

Access: Volume list.

Microfilm: Produced by New York State Archives.

[O.] Local Government Records

The New York State Archives holds many historical local government records on microfilm. Such records are identified by a year-project-roll number [e.g. 74-40-1] (for microfilm produced mostly during the American Revolution Bicentennial, 1974-1976) or a five-character series number [e.g. A4593] (for microfilm produced mostly with funding from the Local Government Records

Management Improvement Fund). The Archives holds the following microfilmed county and city records documenting real property titles and locations:

Albany County/City: 74-40-1, 2 Deeds and other documents recorded by the clerk of Beverwyck (1652-1660) and notarial records (1660-1695); 74-40-14,15 Mortgages and discharges (1765-1775, 1787-1789); 74-40-18,19 various survey field books, etc. (1730-1844) Cayuga County: A4718 Deed books and indexes (1794-1879), mortgage books and indexes (1790-1879), etc.

<u>Marbletown</u> (Ulster County): 74-6-1, 2 Contains recorded deeds for the patent and town of Marbletown (1704-1847)

Ontario County: A4593 Deed books (1789-1925; indexes not filmed)

<u>Rockland County</u>: A4483 Mortgage books (1959-1965; indexes not filmed)

Schuyler County: A4558 Transcribed deeds and indexes for properties within the county, recorded in Chemung, Steuben, and Tompkins Counties (1796-1856)

Steuben County: 80-23-1 to 16 Records of the land office for the Pulteney Estate and Johnstone Estate, now in the Steuben County Clerk's Office, Bath, N.Y., including deed books, survey field books, maps, letter books, etc., as well as other county government records and some non-government records (ca. 1793-1910)

<u>Tioga County</u>: A4644 Deed books (1789-1901) and indexes (1791-1866); A4678 Mortgage books (1835-1900; indexes not filmed)

<u>Ulster County</u>: A3369 Ashokan Reservoir land appropriation records (1907-1958)

<u>Note</u>: The Archives also holds microfilm copies of record books for a few towns in eastern and southern New York, seventeenth and eighteenth centuries. Those books may contain scattered records of conveyances.

[P.] Types of Deeds of Conveyance

<u>Dutch deeds</u>: Deeds issued under the Dutch government were simple in form, compared to English forms. The Dutch deeds conveyed absolute "right and ownership" upon acknowledgement of purchase of the property conveyed.

<u>Feoffment with livery of seisin</u>: Under English common law, inheritable rights in real property were usually conveyed by "feoffment" (grant of a feudal tenement)

with "livery of seisin" (delivery of possession). The grantor ("feoffer") orally conveyed rights to and possession of the property to the grantee ("feoffee"), in a ceremony performed on or near the premises, in presence of witnesses. A clod of earth, stone, tree branch, or other symbol was handed over as a sign of the transaction. While a written deed was not required, a deed of feoffment was usually executed afterward. Feoffment with livery of seisin was used frequently in colonial New York. This mode of conveyance was abolished by the *Revised Statutes* of 1829, effective January 1, 1830.

<u>Fine and recovery</u>: Another ancient method of conveying title to real property under common law, continued by a New York statute of 1787, was the court proceeding known as *fine and recovery*. The "fine" was the record of an amicable agreement, made in open court, to end a fictitious action at law to enforce a covenant to convey real property. The actual conveyance was recorded in an indenture, sometimes known as a *chirograph*. The proceeding was cumbersome and seldom employed, but it had the advantage of conferring absolute title to lands and extinguishing any other claim. The State Archives holds some fines and chirographs in the records of the Supreme Court of Judicature (series J1011). The proceeding of fine and recovery was abolished by the *Revised Statutes* of 1829, effective January 1, 1830.

Bargain and sale conveyance: Two main types of (written) deeds for real property were employed in colonial New York. Both types were developed in England to circumvent restrictions on the absolute ownership of land (which belonged to the crown). The bargain and sale deed was in effect a contract between the seller and the buyer, whereby the seller in possession of the land agreed to hold it for the use (or benefit) of the buyer, who then sued the seller for an absolute conveyance of the property. Recording of this type of deed was required, and an original bargain and sale deed should have an endorsement by the recording officer. (See next section Q., "Recording Statutes.") The bargain and sale deed is still a valid form of conveyance [Real Property Law Sect. 246], though it lacks the "full covenants" (guarantees) of the warranty deed (see below).

Lease and release conveyance: The other type of deed very commonly employed in colonial New York was the *lease and release*. In this form of conveyance, the seller made a fictitious lease, then immediately released the buyer from the terms of the lease, in effect conveying use (effectively the ownership) of the land. Recording of this type of deed was *not* required in colonial New York. The deed is customarily endorsed "lease," which sometimes causes this type of document to be confused with a lease of real property for rent. The deed of lease and release is still a valid form of conveyance [Real Property Law Sect.

246]; it has evolved into what is now called a "quitclaim deed" (see below).

Warranty deed: The warranty deed came into general use in New York very soon after legislative acts of 1787 and 1788 abolished the legal vestiges of feudal tenure. Resembling the bargain and sale deed, the warranty deed with full covenants conveys property absolutely and warrants (guarantees) title as being free of liens or other legal impediments. Under the *Revised Statutes* of 1829, effective January 1, 1830, all deeds conveying real property were considered "grants" of absolute title. However, the standard form of deed in common use still contained much standardized verbiage regarding covenants, powers, reservations, etc., even when the deed actually included no special conditions. An 1890 statute explicitly authorized use of a short form of a deed to save expense in recording.

Quitclaim deed: The *quitclaim deed* is used to release "all title, interest or claim" by the grantor in the property; it does not extinguish any potential "cloud" on title to the property.

[Q.] Recording Statutes

Dutch law: Under Dutch law, starting in 1580, deeds were required to be registered in a court. Some were also recorded by a notary, though his books were not public records subject to inspection. Most deeds executed in New Netherland under Dutch rule were recorded by the provincial secretary (see series A0270 and A1882, discussed above, Section B); some were recorded by municipal officials. Notaries were active in New Netherland by the 1650s. Dutch notarial records survive for New Amsterdam (New York City) and Beverwyck (Albany). These notary's records are held by the New York City Clerk's Office and the Albany County Clerk's Office, respectively. (Microfilm copies of the Albany notary records are in the State Archives [call no. 74-40-1, 2].) The articles of capitulation of 1664, by which the government of New Netherland surrendered to an English force in the employ of the Duke of York, provided that patents and deeds issued by the Dutch government be confirmed by the English government. (See series 12943 Letters Patent, discussed above.)

English law: Recording of deeds was not required under common law; deeds were retained as evidence of title by persons holding rights in land. An act of Parliament in 1535 required enrollment (i.e. recording) of "bargain and sale" deeds of freehold property. Landowners wishing to avoid this recording requirement used "lease and release" conveyances. Written deeds were not generally required in England until the statute of frauds was enacted in 1677.

New York law: The "Duke's Laws" of 1665 required 1) that all deeds and mortgages be in writing, and 2) that they be recorded by the clerk of the local court of sessions and also transmitted to the provincial secretary for recording (see series A0453, discussed above). This requirement applied at first only to English-speaking towns, but after 1674 to the entire province. Nevertheless, some later town records in Long Island, Westchester County, and elsewhere contain records of conveyances. When New York was divided into counties in 1683, recording of deeds and mortgages became a statutory responsibility of the county clerk, effective December 25, 1683. If the consideration mentioned in the conveyance exceeded 50 pounds, the deed or mortgage was also required to be recorded by the provincial secretary in New York City. A statute of 1710 provided that the record or transcript of any deed or other title document, duly acknowledged and subsequently recorded either in the county clerk's office or in the secretary's office, would be valid evidence in a court of record. The option of recording either in the county clerk's office or in the Secretary of State's office was continued by a statute of 1788 and by the Revised Laws of 1813 (with exceptions noted below), but not by the Revised Statutes of 1829.

Despite the laws requiring recording, many deeds in colonial New York were not recorded. The Duke's Laws, including the recording requirement, were repealed by an Assembly resolution in 1691, but the validity of that repeal was disputed. The English enrolling statute of 1535, which applied to bargain and sale deeds, was considered not to be in force in New York. A Governor's ordinance of 1723 did require recording of all conveyances, but great uncertainty still prevailed about the applicable law. In 1767 a judgment and opinion of the Governor and Council declared that in the province of New York "there is no law which compels the recording of deeds." In practice, deeds of bargain and sale seem generally to have been recorded, because recording was required by English law. Deeds of lease and release were rarely if ever recorded, because they were exempted from recording in England. Therefore, major gaps in the recorded chain of title for properties in colonial New York are to be expected.

Registering and recording of mortgages: A New York statute of 1753 required that mortgages on real property be registered, because of numerous frauds—individuals selling mortgaged property as if it were unencumbered, or mortgaging property more than once. The statute required the county clerks to maintain books to register *all* mortgages commencing 1754; the requirement was continued by an act of 1801. Registering a mortgage meant entering a summary of the document, not a full transcript. Compliance with the mortgage registration

statutes was good, because a mortgage could not be foreclosed unless it was recorded.

Strengthening of recording requirements: Around the turn of the nineteenth century, new laws strengthened and simplified the recording of conveyances (deeds and mortgages), initially for the new counties in central and western New York, eventually for the whole state. A 1794 statute required the recording of conveyances for lands in the Military Tract of central New York in the Onondaga County Clerk's Office, because of "many frauds" committed in buying and selling lands granted to individuals holding Revolutionary War bounty rights. Statutes passed starting in 1798 and subsequent years extended this local recording requirement to several other counties. The so-called "recording counties" and the effective dates for recording were as follows:

1794 – Onondaga (then embracing the entire Military Tract)

1799 – Chenango, Herkimer, Oneida, Ontario, Otsego, Steuben, Tioga

1802 – *Genesee, *St. Lawrence

1805 – *Jefferson, *Lewis

1806 – *Allegany, *Broome, *Madison

1808 – *Cattaraugus, *Chautauqua, *Niagara

1811 – New York City/County

1819 – Rensselaer

1821 – Clinton, Delaware, Franklin, Greene; certain towns in Cayuga, Herkimer, Onondaga

1822 - Kings, Saratoga, Sullivan

*Date of erection of county; the recording requirement for conveyances of lands lying within the new county was retroactive to Feb. 1, 1799.

An 1823 statute extended the recording requirement for mortgages and deeds statewide, effective July 1 of that year. Up until that date, a conveyance in one of the "non-recording" counties could be recorded optionally either in the county clerk's office or in the Secretary of State's office. An 1826 statute required county clerks and the New York City register to prepare indexes to deeds and mortgages. An 1843 statute reiterated the requirement, noting that in some counties the indexes "have not been made and preserved" as required by the 1826 act. Recording of conveyances is still technically optional, but if a deed or mortgage is not recorded it is "void as against any subsequent purchaser in good faith and for a valuable consideration" [Real Property Law Sect. 290]. Recording of conveyances is now practically universal.

Recording in New York City: In 1813 a separate register's office was established for New York City and County (then occupying just Manhattan Island). That office was given responsibility for recording deeds and mortgages,

and the county clerk continued as custodian of civil court records. A register's office was established in Kings County (including the City of Brooklyn) in 1852. After 1898 branches of the New York City register's offices operated in the newly-established boroughs of Bronx, Brooklyn, and Queens. In the Borough of Staten Island (Richmond County) the county clerk's office continues to record real property conveyances. A register's office is also responsible for recording functions in Westchester County. Since 1966 deeds and mortgages recorded in the New York City Register's Office have had a unified index. In counties outside New York City the indexes to deeds and mortgages are still maintained separately.

[R.] Transfer of Real Property by Will

The English statute of wills of 1540 first permitted the transfer ("devise") of real property by will. However, that statute was not officially recognized in colonial New York, and therefore the older common-law rule of primogeniture remained technically in force. (Primogeniture was the right of the eldest son to inherit his father's real estate, to the exclusion of younger sons and of daughters—who would inherit if there were no sons.) Despite the rule, many wills in colonial New York devised real property, often to multiple heirs, typically recognizing and satisfying the claim of the first-born son with a special bequest of personal property. In addition, under the articles of capitulation of 1664, the Dutch inhabitants retained under English rule their own inheritance customs concerning division of property among heirs; those customs were more flexible than the prevailing English rules. Primogeniture was abolished in New York in 1782. A New York statute of 1787 for the first time explicitly established the right to devise real property by will. A statute passed in 1786 had authorized the New York Supreme Court of Judicature to prove wills devising real property located in more than one county, and the county court of common pleas to prove wills devising real property located within the county. A provision of the Revised Statutes, enacted in 1827 and effective January 1, 1830, required that wills devising real property be proved and filed by the Surrogate's Court, which had been established in each county in 1787. For more information about wills and other probate records held by the State Archives, the Surrogate's Courts, and other repositories, see New York State Archives Information Leaflet #3 Probate Records.

[S.] Judicial Actions and Proceedings Concerning Real Property

<u>Common-law actions</u>: The common law provided a variety of judicial remedies relating to titles to and possession of real property. The most frequently-used

action was ejectment, discussed below. Other commonlaw actions infrequently employed in early New York included the following:

- --Right [action to recover title to land held by another person by adverse possession]
- --Entry [action to recover possession of lands, to which the title was not in dispute]
- --Novel disseisin [action to recover possession of lands or rights in land after being dispossessed, or to recover rents]

These and certain other "real" actions could be brought either in the Supreme Court of Judicature or a county court of common pleas. These actions were abolished by the *Revised Statutes* of 1829, effective January 1, 1830, and replaced by statutory proceedings. Their modern equivalent is the action to compel the determination of a claim to real property [Real Property Actions & Proceedings Law (RPAP) Art. 15]. Other common-law actions (ejectment, dower) are discussed below.

<u>Dower</u>: The common-law action of dower was brought by a widow to recover the one-third share of the income of her deceased husband's property due to her during her lifetime. The common-law action was abolished effective 1830. It was replaced by a statutory proceeding, whose modern equivalent is the action for dower [RPAP Art. 10].

Ejectment: Before 1848 the common-law action of ejectment was the court proceeding usually employed to decide a contested title to real property. If the ejectment action was brought in a county court, the records should be in the county clerk's office. If the action was brought in the Supreme Court of Judicature, and a judgment was filed prior to July 1, 1847, the records are in the State Archives (for upstate proceedings) or the New York County Clerk's Office (for downstate proceedings). Judgments and other papers filed in Supreme Court starting July 1, 1847, are in custody of the county clerk's office in the county where the real property in dispute was located. The modern equivalent is the action to recover real property [RPAP Art. 6].

Partition: Partition originated as an equity proceeding in the English Court of Chancery, and the New York Court of Chancery had jurisdiction over partition. In addition, a common-law court (e.g. the New York Supreme Court of Judicature) could adjudicate a question of title in a partition proceeding. In a partition proceeding, joint tenants (owning real property under the same title—e.g. heirs, the survivor of which takes all) or tenants in common (owning real property under distinct, different titles) petition a court for division or sale of the land. Family relationships had to be proven to the court when family members were the joint tenants. Records of partition proceedings in the Court of Chancery and the

Supreme Court of Judicature, all dating before July 1, 1847, are found in the State Archives and the New York County Clerk's Office. The county courts of common pleas were given concurrent jurisdiction in partition proceedings in 1813. The reorganized Supreme Court and the new County Court received such jurisdiction in 1847, when the Court of Chancery was abolished. The county clerks are the official custodians of the records of the county civil courts in all time periods and the Supreme Court (trial level) in the period after 1847. The modern equivalent is the action for partition [RPAP Art. 9].

Mortgage foreclosure: Mortgages were relatively little used during the colonial period, but were frequently used by the late eighteenth century. Prior to July 1, 1847, judicial proceedings to foreclose mortgages took place in the Court of Chancery. Records of those proceedings are found in the State Archives or in the New York County Clerk's Office. Since July 1, 1847, mortgage foreclosure has belonged to the jurisdiction of the Supreme Court, and the resulting records are filed in the county clerk's office in the county where the proceeding occurred. Foreclosure of mortgages (except on certain residential properties) may also occur without judicial intervention, by advertisement and sale. Records of this type of foreclosure, which dates back to 1830, are held by the county clerks' offices. [Mortgage foreclosures are governed by RPAP Arts. 13-14.]

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