

Laws Regarding Watermills

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In this section you will find three laws from colonial America relating to the encouragement of the construction of waterwheels. These documents can be used in conjunction for more advanced classes, or singly as examples of individual laws.

Below, an introductory essay brings out a number of the interesting features in the documents, and PDF versions with or without annotated endnotes are available through the links below. Both versions of the PDF files include brief explanatory footnotes for unfamiliar words.

Date	Law	Student Version	Teacher Version
1704/1715	"An Act for the Encouragement of such Persons, as will undertake to build Watermills,"		
June 10, 1720	"An Act for Encouragement of Building Water Mills," <i>An Abridgement of the Public Laws of Virginia in Force and Use</i>		
1769	"An Act concerning Water Mills," <i>The Acts of Assembly Now in Force, in the Colony of Virginia</i>		

Background

In Europe, watermills generally belonged to lords, to churches or monasteries, or to city corporations. Throughout the Middle Ages, although millers had lifetime or generational control of mills and often the same mill passed to their children, they still ultimately owed rent to the crown, bishops, or the town council. In particular, the governing body had to reaffirm the right of an heir to take over the mill from their father, mother, uncle, or whomever, and although it was rare, the government could simply choose to gift the mill to someone else.

In America, while it is true that large plantation owners in the southern and mid-Atlantic colonies often replicated a semi-feudal landholding pattern on a local scale, they did not maintain absolute control over their land as had their ancestors. Partially this was because the investors in the American colonies who owned the land were not always of the landed aristocracy themselves (many merchants were granted land or grants of land in the colonies). In addition, the landowners often did not have the resident laborers to

work the property; therefore, they had to entice prospective colonists to make the journey to a wild, untamed territory through offers of competitive wages and tracts of land (The issue of slavery and industry is a thorny question, and is dealt with in another essay). One way they did so was to grant encouragements to landowners and to millers to build and operate mills. Rents were still due, but increasingly, the mills came to be the property of the millers and their families. And increasingly, the rights of a miller to build a mill supplanted the rights of the landowner not to build a mill; that is, if the landowner was unwilling to build the mill, the land on the river was given to a miller to do so.

In the North American colonial setting, most states (initially colonies, or provinces of the United Kingdom or France) began as chartered companies and the settlers needed to develop laws to govern themselves, admittedly under the watchful eye of England, in a new and vast continent. In colonies up and down the seaboard, one of the first buildings constructed was the mill, even before the church was erected. The mill provided food (grinding grain), shelter (sawing lumber), and even clothing (fulling cloth or, later, powering looms). From a legal point of view, once the small colonies like Jamestown or Plymouth Colony spread out into broader settlement, mills were no longer the property of the colonies' corporations (the Massachusetts Bay Company, for example), but were instead built and operated by entrepreneurial millers from Florida to Quebec and the coast to the Appalachians and beyond.

Relatively common laws, at least in the mid-Atlantic colonies, were acts encouraging the construction of watermills. These colonial laws really have no parallel in medieval Europe. For one thing, mill building was so well-developed in Europe long before the dawn of printing that any early laws do not survive. But so far as we know, there are no entries in medieval law codes specifically relating to the encouragement to build mills. There are laws regulating disputes between mills, between millers and riverboats whose navigation up and down the river was impeded by dams, and between mills and local residents who also had claim to the rivers. In particular, there are many cases of what we would consider today environmental lawsuits when, for example, fulling mills discharged their waste into rivers. But the act of encouraging new mills to be built, and providing enticements to do so, seems to be a uniquely colonial situation.

Consider the three laws from Maryland in 1715 and from Virginia in 1720 and 1749 (DOCUMENTS 1-3, above), all for the encouragement of building mills for the "public good." They demonstrate the progression from a remarkably medieval style law system in 1715 (notice use of the term "demesne" and the absolute right of the Queen and her heirs) to a more and more recognizably modern system that encourages industrial production. It is useful to remember that all of these laws are from before the American Revolution, and as such, they all are laws established in a country with a ruling monarchy. And yet by 1749, still a quarter century before the revolution, the law regarding mills has become a local, entrepreneurial matter not much regulated by the King back in London.

Sources

Each document below includes copious endnotes (red letters) commenting on various sections. These notes are found at the end of the document in the Analysis Section. Vocabulary words or concepts are defined in the footnotes.

There are numerous things to notice about these three documents, but the following questions should stimulate discussion.

1. In what ways are the three documents similar in terms of who has rights and who must cede rights?
2. How do the provisions for grandfathering existing mills, or mills already under construction, change over the 50+ years covered by these documents?
3. What rights go along with the right to construct a mill, and how does that change over time?
4. Why are there sections in all three laws relating to the practice of the millers, not just the building of the mills?

Further Reading

- Richard Hoffmann, "Economic Development and Aquatic Ecosystems in Medieval Europe," *American Historical Review* vol. 101, no. 3 (1996): 630-669.
- Richard Holt, *The Mills of Medieval England* (Oxford: B. Blackwell, 1988).
- David Nye, *America as Second Creation: technology and narratives of new beginnings* (Cambridge, MA: MIT Press, 2003), ch. 5.
- Elizabeth Smith and Michael Wolfe (eds.), *Technology and Resource Use in Medieval Europe: cathedrals, mills, and mines* (Aldershot, UK : Ashgate, 1997).