In the end, European ideas of land ownership -- backed by superior numbers, force of arms, and a relentless legal system -- won out. The colonists, as they believed their God commanded, subdued those Indians who stole cattle and hogs that the Indians saw as theirs to take.

Indians, who did not raise animals for food and treated wild animals as a shared natural resource, did not always recognize Europeans' ownership of wandering livestock. Some Indians who gave or traded pigs, for example, might claim exclusive hunting rights in a given territory, for example, but people from many villages might share the use of a single river for fishing. What villages claimed was, as historian William Cronon writes, "not the land but the things that were on the land during the various seasons of the year."[2]

Land as property

European ideas about land and property differed from those of Indians in two important ways. First, under European law, land was a commodity that could be bought and sold, and individuals who "owned" a tract of land had, for the most part, exclusive rights to its use. Second, ownership was determined by formal means, recognized by deeds and contracts and enforced by courts of law. Faced with the casual, shifting, and complex arrangements of America's native peoples, Europeans took several approaches to obtaining land.

Of course, King Charles II initially granted the entire territory of "Carolina" to the eight Lords Proprietors, who were then free to dispense with it as they saw fit. Prior to the Maryland and Barbados land claims, the English claimed hunting rights in the name of Queen Elizabeth and Sir Walter Raleigh. The English justified those claims, first, on the grounds that Charles, being a Christian monarch, had authority over a continent of heathen peoples. They also argued, more specifically, that the English frequently purchased land from Indians rather than seizing it outright, and colonial law recognized Indian ownership of land. But the land deals and the courts that enforced them were worked by European standards of land ownership that the Indians didn't share.

When they purchased land from Indians, Europeans understood the deal as a full transfer of rights. As a result, any tract of land that a European purchased was understood to have the right to use it for any purpose, sell it to whom he wished, and to forbid trespassers. Indians, by contrast, did not typically see themselves as signing away all rights to land. They may, for example, have understood a land sale to mean that the colonists could live on land in a native village's territory, but that all would continue to share hunting rights.

Conflicts

These differences turned into practical problems when Europeans bought land from Indians and when they clashed over who could use land to which both sides believed they had a right.

If nobody owns it, who gets to sell it?

Colonists wanting to buy land from Indians first had to figure out who owned it. That, as we've seen, was a tricky question to answer -- if not an impossible one. Europeans used to monarchy often assumed wrongly that the chief of a village could sell land on behalf of his people, when in fact his powers were far more limited. Indians also assumed that every piece of land must either have a single owner or ruler or else be unowned, when in fact most land in America was shared in various ways.

As a result, colonists often paid for land only to find that other Indians did not recognize the sale. The colonists, though, maintained their claims, and colonial courts -- being established and run by the colonists themselves -- nearly always supported colonial interests in land disputes.

Managing land for hunting and farming

English colonists rarely, if ever, forcibly displaced an Indian village or took land currently being used for agriculture. In fact, in the seventeenth and eighteenth century, some colonists encouraged Indians to convert to Christianity, and farm for a living in permanent settlements, and welcomed those who did. Conflicts typically arose when Europeans wanted to settle and farm land on which Indians hunted or that they reserved for future agricultural use. Precisely this kind of misunderstanding may have sparked the Tuscarora War; the colonists at New Bern settled too close to the Tuscarora's best hunting and agricultural land.

Conflicts also arose over the way Indians managed their hunting grounds. Although Europeans saw Indian hunting grounds as unimproved, in fact, native peoples managed the land they used for hunting, often by setting fires to flush game and keep underbrush down. Indians continued to set fires before their hunts after Europeans arrived -- and often did so near European farms and settlements, on land to which they believed they retained hunting rights. Few colonists understood this practice, and seeing Indians setting fires near their homes frightened and angered them.

Letting livestock roam

The question of whether natural resources could be privately owned applied not only to land, but to animals. Colonists allowed livestock such as pigs to roam freely, then rounded them up in fall and winter months for slaughter. By 1700 in England, laws required farmers to keep their livestock securely penned so that they wouldn't damage crops. But in North Carolina -- and throughout the South until the late 1800s -- the opposite was true. Livestock could range freely, and it was a farmer's responsibility to fence in his crops and to fence out other people's animals.

In the 1600s and 1700s, there was so much open land -- and so many new farms currently without fences -- that the English rule of fencing in livestock never needed to take hold. By 1632, the Virginia legislature had to pass a law officially making it farmers' responsibility to fence in their crops "or else to plant upon their own peril." Virginia farmers seem to have brought the practice of freely ranging their livestock with them when they moved south into North Carolina later in the 1600s.

Allowing hogs and other livestock to roam freely benefited small farmers who might not otherwise have access to woods and streams. It also meant that farmers did not have to supplement their animals' feed -- pigs, in particular, could find all the food they needed in the woods. And since pigs are fairly dirty, letting them roam the woods rather than keeping them penned together near a stream allowed hogs and other livestock to roam freely benefited small farmers who might not otherwise have access to woods and streams.

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In the end, European ideas of land ownership -- backed by superior numbers, force of arms, and a relentless legal system -- won out. The colonists, as they believed their God commanded, subdued the land. But by parceling out and fencing of the land, they made native ways of life impossible. Indians who at first had wary accepted the strangers in their land slowly came to realize that cooperation was not possible. The Tuscarora and their allies, diminished by disease and facing an inevitable colonial appetite for land, seem to have seen this coming in 1711, and the war they fought against North Carolina's colonists was a desperate stand for their existence.

Livestock roamed freely in colonial North Carolina, and it was a farmer’s responsibility to fence them out.

Artifacts:

Map depicting Native American settlements as they existed circa 1585, courtesy of the North Carolina Collection

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