

Fortsen (Fortson), Mary ^[1]

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Fortsen (Fortson), Mary

By Mattie Erma E. Parker, 1986

d. 1664 or 1665

Mary Fortsen, was the first woman who is known to have owned North Carolina land. By patent dated 25 Sept. 1663, issued by [Sir William Berkeley](#) ^[2], governor of Virginia and Proprietor of Carolina, she was granted 2,000 acres of land on the west side of Pasquotank River. The land adjoined tracts granted to John Battle and Thomas Keele on the same date. The reasons for issuance of the grant to Mary instead of her husband, Frederick, are not known. Presumably, there were legal technicalities involving the twenty [headrights](#) ^[3] on which the grant was based, for ordinarily such a grant was not made to a married woman.

Mary Fortsen also was exceptional in that she made a will that she signed herself, evidence that she was literate. In her day a married woman had no legal right to dispose of her property by will unless her husband consented, and few wives made wills. Mary's will appears to have been made primarily to enable her husband, in the event of her death, to give clear title to 900 acres of her land, for which a sale was being negotiated when she became ill. The will also gave her husband greater flexibility in handling the remaining land than he would have been allowed otherwise under the [common law](#) ^[4]. The will, dated 20 Jan. 1663/64, is the oldest North Carolina document of its kind now on record. It was proved on 15 Nov. 1665 before the governor and council of the North Carolina colony, which was then called [Albemarle](#) ^[5]. It empowered Frederick to give bills of sale for the land involved in the pending transaction and confirmed his right under the common law to a life estate in the remaining 1,100 acres. Under the will, as under common law, that land was to go to the Fortsens' son, Theophilus, at Frederick's death. The will provided, however, that Frederick, if he saw fit, was to have power to sell the portion retained and invest the proceeds in cattle for the benefit of the child. It further provided that the land or cattle should be equally divided between Theophilus and an unborn child that Mary then carried, if that child should live.

It is not certain that Mary and her family ever lived in North Carolina. They appear to have been residing in Virginia at the time of the grant. The original will of Mary Fortsen is in the [North Carolina State Archives](#) ^[6], Raleigh.

References:

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William S. Powell, ed., *Ye Countie of Albemarle in Carolina*(1958)

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