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Letter Concerning Tuscarora
Lands in Bertie County, N.C.

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A LETTER CONCERNING THE LANDS FORMERLY HELD
BY THE TUSCARORA INDIANS IN BERTIE
COUNTY, NORTH CAROLINA.

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NOTE.

This letter has been published to satisfy inquiries of numerous correspondents for information concerning the claim of the Tuscarora Indians to a reversionary interest in certain lands in Bertie County, North Carolina.

STATE OF NORTH CAROLINA.

DEPARTMENT OF STATE.

RALEIGH, April 5, 1911.

MR. LUTHER W. JACK,

Secretary People's Rights Society,

Lewiston, N. Y., R. F. D. 18.

DEAR SIR:—Your communication to the Governor has been referred to me, with the request that I give you information concerning the claim of the Tuscarora Indians to a reversionary interest in certain lands in Bertie County.

After the Tuscarora Indian War, about 1712-1715, most of that Nation moved to join the Iroquois in New York. A part of the Tuscaroras in this State were friendly to the whites and aided them in the war. The chief of this branch of the tribe was known as "King" Tom Blount, and in recognition of his services to the whites he was on the 5th day of June, 1717 (see Colonial Records of N. C., vol. 2, page 283), granted by the province of North Carolina certain lands on Morratock (later Roanoke) River in North Carolina.

In 1748 the General Assembly passed an act, chapter 3 (see State Records of N. C., vol. 23, page 299), entitled "An act for ascertaining the bounds of a certain tract of land formerly laid out by treaty to the use of the Tuscarora Indians, so long as they or any of them shall live upon the same; and to prevent any person or persons taking up lands or settling within said bounds by pretense of any purchase or purchases made, or that shall be made from the said Indians." These lands were described as follows:

"Beginning at the Mouth of Quitsnoy Swamp, running up the said Swamp Four Hundred and Thirty Poles to a Scrubby Oak, near the Head of the said Swamp, by a Great Spring; then North Ten Degrees East, Eight Hundred and Fifty Poles to a Persimmon Tree on the Raquis Swamp; then along the Swamp and Pocoson main Course, North Fifty Seven Degrees West, Two Thousand Six Hundred and Forty Poles to a Hickory on the East Side of the Falling Run, or Deep Creek, and down the various Courses of the said Run to Morratock River; then down the River to the first Station."

This was "confirmed and assured" unto James Blount, "Chief of the Tuscarora Nation and the people under his charge, etc." Section three of this act provided that parties who had taken up grants in that area could enter and occupy and enjoy the same upon the said Indians deserting or leaving the said lands.

In 1766, chapter 29 (see State Records of N. C., vol. 25, page 507), the General Assembly passed "An act confirming a lease made by the Tuscarora Indians to Robert Jones, Jr., William Williams, and Thomas Pugh, Esquires." The lease to Jones, Williams, and Pugh was for a large part of the Indian lands on Deep Creek, the consideration being fifteen hundred pounds proclamation money. It was signed by about forty of the chieftains and head men of the Nation on behalf of themselves and the rest of the Tuscarora Indians. The term of the lease was for one hundred and fifty years, and was to secure money "in order to defray the expense of removing themselves and their effects from this province to the settlements on the River Susquehanna." This act was also for the protection of the Indians in the enjoyment of the use and rights to their lands. Section six of this act provided that nothing contained therein should be so "construed as to invalidate the title or titles to any

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person or persons who have obtained a grant or grants for any tract or parcel of land within the limits within the boundaries of the land of the said Tuscarora Indians before the 15th day of October, one thousand seven hundred and forty-eight."

In 1778 the General Assembly of North Carolina passed an act (see State Records of N. C., vol. 24, Acts of 1778, chapter 16, page 171), entitled "An act for quieting and securing the Tuscarora Indians and others claiming under the Tuscaroras in the possession of their lands." This act confirmed a lease made by the Tuscaroras to Robert Jones, Jr.,* William Williams, and Thomas Pugh, Esquires, for one hundred and fifty years. It provided that Whitmell Tuffdick, Chief or head man of the Tuscarora Nation, and the Tuscarora Indians now living in Bertie County, should hold and occupy, possess and enjoy all the lands lying in Bertie County, which had heretofore been assigned to them. It forbade the leasing or purchasing of lands from Indians except by consent of the General Assembly. It confirmed the lands leased, demised, granted, or "farm let" to sundry persons between July 12, 1766, and December, 1777, except such as were obtained by fraud. It appointed William Williams, Thomas Pugh, Willie Jones, and Simon Turner, and Zedekiah Stone commissioners for the Indians, and empowered the said commissioners to hold courts, etc., for the redress of the grievances of the Indians. It further enacted that the land leased by the Tuscarora Indians to Jones, Williams, and Pugh, and to other persons prior to '77 "shall revert to and become the property of the State at the expiration of the terms of the several leases mentioned, if the said Nation be then extinct. And the lands now belonging to and possessed by the said Tuscaroras shall revert to and become the property of the State whenever the said Nation shall become extinct, or shall entirely abandon or remove themselves off the said lands and every part thereof."

In 1780 an act was passed amending the act of 1778 as to penalizing jurors and witnesses failing to respond when summoned by the commissioners mentioned in the act of 1778.

In 1798, chapter 17 (Martin's Laws, page 122), two other commissioners—William Williams of Martin and Samuel Johnston, Jr., of Bertie—were added to the number of commissioners named in the act of '78.

On November 3, 1801 (Letter Book, page 95), H. Dearborn, Secretary of War, in a letter to Governor Benjamin Williams, informs him that a deputation from the Tuscarora Indians, accompanied by an interpreter, was on the way to Raleigh to wait on him with the object "to procure from the State of North Carolina for the sale and cession of the right which they suppose still to possess, a sum of money with which to purchase the lands in the vicinity of those in which they now reside." He further notified Governor Williams that the President of the United States had appointed Hon. William R. Davie commissioner for the Indians, and that the United States gave its consent and sanction to such bargain and agreement as the State and the Indians might make.

In November, 1801, Governor Williams (Letter Book, page 18) recommended to the General Assembly the appointment of a commission to treat with the Tuscarora Indians.

This visit of 1801 seems to have been unsuccessful, for on October 18, 1802 (Letter Book, page 195), another letter from the Secretary of War, Mr. Dear-

*Father of Allen and Willie Jones.

born, to Governor Benjamin Williams, recites the fact that the chief of the Tuscaroras, with an interpreter, is on his way to Raleigh to "renew the negotiation," and that "the authority that he now brings from his Nation will be deemed sufficient for authorizing the sale." He further states that the Hon. W. R. Davie "is commissioned with full powers to attend the negotiation and give the necessary sanction and consent of the United States to such terms as the Legislature of the State or their agents and the Chief may agree on."

The General Assembly of 1802 (Martin's Laws, chapter 4, page 194) passed "An act for the relief of the Tuscarora Nation of Indians." This act authorized the chiefs to lease the lands and extend leases already made, which leases were to be confirmed by an act of the General Assembly in such manner that the whole of the leases on said land should terminate at the same period. (After the Jones-Williams-Pugh lease for 150 years, subsequent leases had been made for 99 years.) The act authorized the Governor to appoint commissioners for carrying the act into effect. The act further recites that "Whereas the Chiefs, Sacarusa and Longboard, and Samuel Smith, being duly and severally authorized and empowered by said Tuscarora Nation, have consented that the Indian claim to the use, possession, and occupancy of said lands shall cease and be extinguished when the said lease made in the year 1766 to Robert Jones and others shall expire: Be it further enacted, That from and after the 12th day of July which shall fall in the year 1916 the whole of the lands allotted to the said Tuscarora Indians by an act of the General Assembly passed at New Bern on the 15th day of October in the year of our Lord one thousand seven hundred and forty-eight, shall revert to and become the property of the State, and the Indian claim thereto shall from that time be held and deemed forever extinguished." Section six of this act relates to entries and rights of individuals. Under this act the Governor appointed commissioners to lease and sell these lands.

On the part of these commissioners, Jeremiah Slade and William Hawkins made a report to Governor James Turner dated June 20, 1803. This report can be found in the Governor's letter book for that year at page 80, and is too long to copy here. The commissioners acted in cooperation with Chiefs Sacarusa and Longboard. They sold the lands, or the undemised portions of them, which amounted to less than 4,000 acres, for \$21,146.23. Settlement for these lands was made with the Secretary of War.

A map of the Indian land, dated June 17, 1803, was made by these commissioners, showing an area of 41,113 acres, and showing the various leases, with lengths of term, and filed in this office, which can be exhibited to interested parties. The metes and bounds of the map are as follows:

"Beginning on Roneoke River at the Mouth of Quitsney Swamp, thence up the various courses of the said swamp to an oak near the head at the great spring, thence No. 10 E 904 poles to a posseman on Rockquis swamp, thence N. 57 W. 2888 poles to a Hickory at the head of Falling Run or Deep Creek, thence down the various courses of said Creek to Roneoke River, thence down the River to the first station, containing forty-one thousand one hundred and thirteen acres."

The report, map, and papers accompanying them are unique and interesting documents.

All the acts in reference to the Tuscarora Indian lands provided that the reversions after the expiration of the leases in 1916 should be vested in the State.

In 1816 the Supreme Court of North Carolina held, in the case of Sacarusa and Longboard against William King's heirs, that the grant made by Governor Eden in 1717 to the Tuscarora Tribe of Indians was absolute and unconditional, and that the Indians had a fee-simple right to the lands, and not an "Indian title." (See Supreme Court Reports of North Carolina, vol. 4, p. 316.)

In 1825 the General Assembly passed an act, chapter 13, page 13, entitled "An act concerning the lands held in leases from the Tuscarora Tribe of Indians." The preamble of the act stated that persons holding these leases were subject to great inconvenience from their estates "being mere chattel interest," and for the remedy thereof the General Assembly enacted a law declaring that the land should be considered as real estate in fee simple for the term of their leases, but "Provided, that nothing in this act shall be so construed as to give to the individuals holding the said terms of years a right to enjoy the same for a longer period than is designated in the leases executed by the Tuscarora Indians."

On November 12, 1828, P. B. Porter, Secretary of War, notified Governor James Iredell that Sacarusa and Longboard, two principal Tuscarora Chiefs, with the grandson of the former, were on their way to North Carolina "for the purpose of adjusting some claim which that Nation supposes itself to have on lands within your State, from which they formerly emigrated." He further says: "I feel confident they will receive from your Excellency and the other constituted authorities of North Carolina that consideration which is due to a people who have no other means of enforcing their rights than the moral obligations which such rights when established impose." (See Governor's Letter Book, 1828, page 160.)

On November 26, 1828, Governor Iredell transmitted to the General Assembly a memorial from the Chiefs of the Tuscarora Nation. This memorial was referred to a special committee of the House and Senate, and the report of that committee, signed by George E. Spruill, chairman, is to be found in the Journal of the General Assembly of North Carolina, beginning at page 275. Acting upon that memorial and report the General Assembly (see Laws of N. C., session 1828-'29, chapter 19, page 11) passed "An act concerning the lands formerly occupied by the Tuscarora Tribe of Indians lying in Bertie on the south side of Roanoke River." This act recited that "Whereas the Tuscarora Indians have for more than a century been the firm and undeviating friends of the white people of this country, insomuch that the State of North Carolina is disposed not only to render to them full and complete justice, but also to exercise towards them that spirit of generosity which their conduct has merited, therefore, etc." In this act William R. Smith of Halifax, Simmons J. Baker of Martin, and William Britain of Bertie were appointed commissioners for the purpose of advertising and selling these lands. "The title so sold by the said commissioners shall be understood to extend only to the reversion of the State in said lands after the expiration of the leases of the Indians from which they are now held." The Public Treasurer was to collect the money due on the lands and to pay the money over to the tribe or nation of Indians, or other properly authorized agent or agents; upon which the Indians surrendered and made "a full and complete release of all such claim or pretense of title as they now make or ever may have to aforesaid tract of land." Under this act these lands were sold, and the Treasurer in 1832 paid to Bates

Cook, he being appointed agent of the Tuscarora Indians, the sum of \$2,220.71. The record of this voucher, No. 258, is to be seen in the Treasurer's office, book of 1832, page 377.

The Treasurer's reports show two other small items paid to the Tuscarora Indians about this time, the reason for which payments I have not looked into.

On the 19th day of November, 1831, William Chew, Nicholas Casie, George Warchief, Jonathan Printup, Mathew Jack, William Johnson, and Isaac Miller, Chiefs of the Tuscarora Nation of Indians, of the first part, in consideration of \$3,250 lawful money of the United States to them in hand paid, executed to the State of North Carolina a deed by which they granted, bargained, sold, remised, released, aliened, and confirmed unto the people of the State of North Carolina, "in their actual possession now being and to their assigns forever, all their lands, tenements, and hereditaments situate, lying, and being in the County of Bertie in the said State of North Carolina, together with all and singular the appurtenances thereunto belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders thereof, and the estate, right, title, interest, claim and demand whatsoever of the said parties of the first part, either in law or equity, of, in, and to the above bargained premises, with the hereditaments and appurtenances." This deed was properly witnessed by the Indians in person coming before Robert Fleming, First Judge of the Niagara County Court of Common Pleas of New York. The signature of Judge Fleming was authenticated by Enos, T. Throop, Governor of the State of New York.

These are all the leases and papers that I find that I think will be of use to you in determining the status of your claim for the reversionary interest in the Tuscarora lands in Bertie County.

If you desire an investigation of this matter by an attorney representing the Indians, it seems to me that it would be wise for you to select some man of standing in this State who can go into the details of the matter very carefully for you. I shall be glad to assist him in finding all records connected with this transaction. I understand from Chief Mount Pleasant that an attorney at Washington City has been employed, which probably means useless expense to you all in the prosecution of an untenable claim.

Respectfully,

J. BRYAN GRIMES,
Secretary of State.



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