

AN HISTORICAL
AND GENEALOGICAL SKETCH
OF
JUDGE JAMES LEIGH OF BATH
By Myron C. Banks, J.D.

Presented
at
the Organisation of the
Henry Lee Society
Bath, North Carolina
25 September 1981

Copyright 1981
by Myron C. Banks
2801 Rothgeb Drive
Raleigh, North Carolina 27609

JUDGE JAMES LEIGH OF BATH

The County of Bath was established in 1696¹, near the end of a period of relative tranquility in North Carolina.² With the growth in population and economic importance of the new county, friction between it and the older precincts of Albemarle was inevitable.³ The disparity in political power between the two regions is illustrated by the fact that between 1696 and 1705, each of the four precincts of Albemarle had at least two members in the lower house of the Assembly while Bath in its entirety had only two.⁴ In 1705, when Bath was divided into Pamptecough, Wickham and Archdale Precincts, its six representatives were still outnumbered by the twenty from Chowan, Currituck, Pasquotank and Perquimans.⁵

Other tensions were also building. Among organised religious denominations, Quakers and other dissenters were probably in a majority, but Anglicans held the greater political and economic power.⁶ A series of Anglican governors, especially Robert Daniel, obtained the passage of Vestry Acts which provided for the organisation of vestries and the erection of churches in every parish, support of the clergy by poll taxes, and oaths of allegiance by office holders.⁷ The latter provision in particular was anathema to the Quakers.

At the same time, Queen Anne's War in Europe had brought economic depression to the colonies on the Chesapeake and to Albemarle which traded with and through them.⁸ Bath, with poor trade routes to the north, developed a lucrative Indian trade.⁹ Bath

flourished modestly during a period when Albemarle did not.

There were also enough minor outbreaks of violence between settlers and Indians before 1711 to keep animosities smoldering just beneath the surface.¹⁰ Bath provided an unsteady stage when James Leigh entered in 1701.

On 5 January 1702, one Hannah Cockerham assigned to James Leigh a land entry of unspecified size which she had made on 30 August 1699, and a 640 acre entry which she had made on 7 October 1701.¹¹ As to the latter entry, she was apparently entitled to a grant for having transported James Leigh and his family to the province, because on 11 January 1702, he recorded an instrument whereby he "lay these ten rites upon an entry made by Hannah Cockarum", naming James Leigh, senior and junior, Sarah Leigh, senior and junior, Mary, Patience, John and Elizabeth Leigh and two others as those headrights.¹²

James Leigh must have been a man of some learning and influence, because by November 1704 he held a commission as a justice of the peace and consequently was a member of the Court of Pleas and Quarter Sessions for the County of Bath.¹³ This was the major institution of local government in the Province of North Carolina. It heard civil suits involving limited amounts, and criminal cases involving misdemeanors and lesser felonies. It also had jurisdiction over the probate of deeds and wills and the administration of estates, heard appeals from magistrates, and exercised many administrative duties now performed by county commissioners and other local officials.¹⁴ It was the primary interface between citizen and government. James Leigh continued to serve as a Justice of the County Court from time to time until 1726.

On 16 November 1704, he took his oath as collector of customs "in the rivers of Pamptico and Neuse in the county of Bath", pursuant to a commission from "the Honorable the Commissioners of her Majesties customs bearing date the 2nd day of November 1703"¹⁵. The appointment was executed by Colonel Robert Quarry, who was then Surveyor General of Customs in North America.¹⁶ Quarry was heavily involved with the New Pennsylvania Company which at the time was active in the North Carolina Indian trade.¹⁷ By 1704 the province was collecting export duties on deer, bear, beaver, otter and wildcat skins as well as raw beef and cowhide.¹⁸ Import duties were collected on rum.¹⁹ Since most commerce was waterborne, and since North Carolina had a reputation as a haven for pirates and smugglers, James Leigh undoubtedly held a difficult office. It is not clear how long he served in that position but probably no longer than 1708, since by that time trade with the Indians had diminished and there were fewer Indian goods being exported.

James Leigh's acquaintance and friendship with many of the province's most influential persons is apparent. Governor Robert Daniel was a frequent visitor to and resident of Bath, where he maintained his mistress, Martha Wainwright and the children she had borne him.²⁰ It is clear that Daniel considered him a trusted friend and confidante since in 1709 Daniel appointed him trustee to hold certain lands for Martha and her children,²¹ and later appointed him his attorney-in-fact.²²

Another associate of his was John Lawson, the explorer, surveyor, naturalist and historian who became the first victim of the Tuscarora War. He witnessed an affidavit of Lawson's in 1707, and witnessed his will on 12 August 1708.²³ He was perhaps an executor

of Lawson's estate as well, since Lawson appointed the entire county court as his executors.

One of the results of the various Vestry Acts and the religious squabbling they produced was the so-called Cary Rebellion. Both Governor Daniel and Thomas Cary who succeeded him were ardent Anglicans. Under the Vestry Act of 1701, office holders were required to take oaths of allegiance and since Quakers refused to do so, they were virtually disenfranchised - or perhaps more accurately, they chose to disenfranchise themselves. When Cary became governor in March 1704/5, dissenters assumed the law requiring oaths would not be enforced, because Cary was related to John Archdale, the lone Quaker Proprietor. In this they were mistaken, and serious troubles began. However, in a series of political twists and turns, Cary ultimately found himself supported by Quakers, other dissenters, and by Anglicans sympathetic to their cause. Cary's main opponents, Glover and Pollock, were supported by the chief Anglican faction. Cary was succeeded in the momentous year 1711 by Edward Hyde, and this brought about armed rebellion by Cary and his supporters, who included many of the most influential men in Bath. The rebellion ended when Cary fled to Virginia with several supporters, was²⁴ arrested and sent to England.

Existing records do not establish what role, if any, James Leigh played during the turmoil, but it is probably safe to say that he favored the Anglican party. His friend Robert Daniel was a staunch Anglican, and Leigh continued throughout the period to serve as a Justice, an office that required the giving and taking of oaths.

In addition, two other men he was closely associated with, Christopher Gale (Attorney General and later Chief Justice) and Lionel Reading, were in London during the time, apparently trying to intercede with the Proprietors on behalf of the Anglican faction. However, he may have wisely chosen to take no side and ride out the storm, since his name does not appear in various accounts of the controversy.

The end of the Cary affair during the summer of 1711 also marked the beginning of a drought that brought serious crop failures, and a yellow fever epidemic that brought death to many settlers.²⁵ An even greater tragedy was poised to strike.

In the autumn of 1711, the Tuscaroras murdered John Lawson and massacred scores of colonists between the Pamlico and the Neuse. The bloody conflict wiped out entire settlements and eventually led to the elimination of the Tuscaroras and their allies from eastern North Carolina.²⁶ James Leigh and his family were affected, of course - everyone was. But none of his family was killed, and if he suffered any losses, claims for them have not survived. However, it has been said that every home on the south side of the Pamlico was destroyed, with the exception of that of Lionel Reading,²⁷ which was turned into a fort. If that account is accurate, then the Leigh plantation was burned, along with those of his neighbors, because it lay on the south side of the River.

James Leigh's next public service came in 1715 when the General Assembly established the first public library in North Carolina, and appointed him a trustee.²⁸ Earlier in the century, the Society for the Propagation of the Gospel had donated a large

number of books to Saint Thomas Parish, and those books became the nucleus of the library.²⁹ When an inventory of his estate was taken in 1728, James Leigh had in his possession "one Great Bible, one Small Bible, two Treatises on the Whole Duty of Man, one book entitled The Snake in the Grass, one entitled the Divine Act of Prayer, one of the Society for the Reformation of Manners, The Pilgrims Progress" and several other books.³⁰ One might wonder whether Judge Leigh had borrowed any of those books from the library at Bath and neglected to return them.

His final public service came in 1727 when he was appointed judge of the General Court.³¹ The General Court was the highest law court in the province and included every county in its venue. The Court sat in Edenton and had exclusive jurisdiction over civil suits involving values over £50 and over felonies punishable by death or by the "loss of a member". It also had appellate jurisdiction over the county courts and was presided over by a Chief Justice.³² There was no court in the province superior to it and James Leigh's appointment to that Bench capped a long and useful career of public service to Bath County and to the Province of North Carolina.

In his private life, James Leigh was a planter, whose plantation was located on the south side of the Pamlico River between South Dividing Creek (now called South Creek) and Leigh (Lee) Creek, which today is the site of the Texasgulf phosphate facility.³³ From his estate inventory, it is clear that he was economically and socially of the class that provided leadership in the province. In addition to a number of books in his library, he also owned a sword (a weapon

carried by "gentlemen"), a cutlass, a walking cane, a beaver hat, a pistol, tomahawks, and a substantial quantity of clothing, household furnishings and other goods. Several rooms in his house, and some outbuildings, are identified: the parlour, hall, chamber, kitchen, cellar, dairy, cockloft, barn and milk house. He also owned a considerable herd of horses, cattle, sheep and hogs.³⁴ When he died in the fall of 1728, his life in North Carolina had spanned the last half of the Proprietary years, and the province's most turbulent ones.

While extant North Carolina records tell much about the public life of James Leigh, they tell far less about his origins. They do, however, provide a number of clues.

In 1701, Joseph Rodgers obtained a grant after proving twenty headrights.³⁵ His 1704 will shows that nine of those rights represented members of his family.³⁶ After himself and his wife Mary, he was responsible for the transportation of his daughter Hannah Cockerham, Nathaniel Cockerham (presumably Hannah's husband), Hannah's children Lydia, Mary and Joseph Cockerham, Hannah's adult son by a previous marriage, Charles Hopton, and another of Rodgers' children, Elizabeth Dearham. Among others transported was Magdalin Napkin.

In the same year, Rodgers' daughter Hannah proved two sets of headrights, the first including herself, Nathaniel, Joseph and Lydia Cockerham, as well as the same Magdalin Napkin;³⁷ the second, already mentioned, including all of the James Leigh family except son Lionel.³⁸

Also in the same year, Thomas Dearham proved twenty-two rights, including himself, his wife Elizabeth, and persons who were apparently his children: Thomas, Elizabeth, Mary, Richard, Ann, Francis, and Joseph Dearham (who later married James Leigh's³⁹ daughter Milly).

It is not unusual to find the same person being claimed as a headright by more than one prospective grantee of land, and often persons being transported were related in some way - by blood, marriage or at least by geographic proximity. Thus there must have been a Leigh connection with the Dearham, Cockerham and Rodgers families. Possibly Sarah Leigh was another Rodgers daughter, brought to Bath with her family by her sister Hannah.

There were Cockerham, Rodgers and Napkin families in Surry County, Virginia during the last half of the seventeenth⁴⁰ century. Virginia researchers may yet find records in that and surrounding counties which will shed light on James Leigh's origins.

In 1702, Thomas Dearham was convicted of manslaughter, having beaten another man to death with a cat-o-nine-tails, and was sentenced to be branded.⁴¹ Being able to read and write, he claimed benefit of clergy and postponed punishment during an appeal.⁴² He died in 1706, apparently before his appeal was concluded.⁴³ By 1716, Sarah Leigh had also died, and Thomas' widow had married James Leigh.⁴⁴ When her unmarried daughter Elizabeth died, she named her step-father, James Leigh, whom she called "father in law", as her executor.⁴⁵

One of the prominent figures in early Bath was Lionel Reading who was, at times, a fellow justice with James Leigh.⁴⁶ Since James' son Lionel was not among his family listed as headrights in 1701, it may be that he was born in Bath ^{NOT POSSIBLE - HE WAS FATHERS} ~~perhaps a child of Elizabeth Dearham Leigh~~ ^{EXECUTOR IN 1728} and named for Lionel Reading.

About 1720 Elizabeth died and James Leigh married for a third time. His wife was Ann Darden, another widow, and an antenuptial agreement was entered into, providing that the estate of each party to the marriage should pass to that party's own heirs.⁴⁷

In 1727, James Leigh made gifts of 221 acres each to two sons in law. In doing so, he not only identified them but also left another clue to his origins.

To each he left land which had "formerly belonged to Charles Meagure deceased and for want of heirs escheated to the Lords Proprietors and from them purchased by me the said James Leigh as nighest of kin and as will appear by patent granted to me."⁴⁸ This Charles Meagure (Major?)⁴⁹ was in Bath as early as 1708 and it is interesting that James Leigh had a kinsman by that name residing near him in Bath County. There is no evidence to prove what their relationship was. However, there was a Ralph Mazey in Surry County and other researchers have speculated that his name may properly have been "Major" as well.⁵⁰

From James Leigh's will and other extant records, his children, their spouses, and many of his grandchildren can be identified.

even the authors now agree that the John they descend from was not the son of James Leigh, Sr.

His eldest son, James, married Mary, perhaps a Payton, and had children named John, Peter and Levi. He died in 1738.⁵¹

His son John is the subject of a chapter in the Wilson and Glover genealogy of the Lee family, where his children are⁵² named. It should be noted that, based upon a 1754 deed from Durham Leigh conveying a tract "formerly belonging to James Leigh and by his will given to his son John and now in the possession of Durham Leigh", it is possible that Durham Leigh was another son⁵³ of John. He later appears in Craven, Jones and Duplin County records.⁵⁴

Sarah Leigh died in Beaufort County, unmarried and without issue, in 1752.⁵⁵

Lionel Leigh died in Craven County in 1751⁵⁶ and had a son William, and perhaps a son James.⁵⁷

Milly (Mary?) Leigh married Joseph Dearham,⁵⁸ son of Thomas Dearham.

Patience Leigh married Robert Purser and predeceased him.⁵⁹ They lived on South Dividing Creek and when he died in 1733, he named in his will his children Robert, Richard, James, Benjamin and Mary.⁶⁰ As late as 1800, their descendants were still living in the vicinity.⁶¹

Elizabeth Leigh married Thomas Underwood.⁶² She may have been the youngest daughter, because when Thomas died in 1734, she was pregnant and had at least one other minor child. In addition to the child she was carrying, her children were Thomas, James and Elizabeth, according to her husband's will.⁶³

Even James Leigh's third wife can be accounted for. She died in 1733 and left her estate to her children, Samuel and Joseph Darden, Ann Adams, and Jane Watkins.⁶⁴

While it has not been the purpose of this study to trace additional generations of the Leigh family, it should be noted that numerous descendants of James Leigh continue to reside within a radius of only a few miles of his home on Lee Creek. For example, three of his great grandsons, Joseph (the writer's great-great-great grandfather), Benjamin and John (all sons of James Leigh, Jr.'s son John) acquired land on Upper Broad Creek in what is now Pamlico County,⁶⁵ where many of their descendants still live. The family name, now spelled "Lee", appears in place names in Beaufort County (Lee Creek) and Pamlico County (Lee's Landing), and a descendant was the donor of the land on the Neuse River which is the site of the Methodist camp which bears his name, Don Lee.

Lee descendants can take genuine pride in the founder of this large and very old North Carolina family.

NOTES

1. Colonial Records of North Carolina, Second Series (hereafter "CR2d"), vol. 4, p. xiv.
2. Ibid., p. xix.
3. Ibid., p. xiii.
4. Ibid., p. xiii.
5. Ibid., p. xiv.
6. Ibid., p. xv.
7. Ibid., p. xvii.
8. Ibid., p. xix.
9. Ibid., p. xx.
10. Ibid., p. xx.
11. Beaufort County Deed Book (hereafter "BDB") vol. 1, p. 38.
12. BDB 1, p. 38
13. Hathaway, North Carolina Historical and Genealogical Register (hereafter "Hathaway"), vol. 1, p. 441.
14. North Carolina Archives Information Circular no. 9, p. 7.
15. BDB 1, p. 42.
16. 4 CR2d xxi.
17. Ibid.
18. Ibid.
19. Ibid.
20. BDB 1, p. 134.
21. Ibid.
22. Ibid., p. 147.
23. Grimes, North Carolina Wills and Inventories, p. 281.
24. 4 CR2d xxiv, xxv.
25. Reed, Beaufort County-Two Centuries of Its History (hereafter, "Reed"), p. 65.
26. Ibid.
27. Ibid.
28. 2 Hathaway, pp. 276-281.
29. Reed, p. 26.
30. Secretary of State Wills, North Carolina Archives, File SS 876, p. 217.
31. 2 CR2d 676.
32. North Carolina Archives Information Circular no. 9, p. 9.
33. Wilson and Glover, The Lees and Kings of Virginia and North Carolina (hereafter "Wilson and Glover"), p. 34.
34. Secretary of State Wills, North Carolina Archives, File SS 876, p. 217.
35. 1 Hathaway, p. 305.
36. Grimes, Abstract of North Carolina Wills (hereafter "Grimes"), p. 318.
37. 1 Hathaway, p. 305.
38. BDB 1, p. 38.
39. 1 Hathaway, p. 305.
40. Surry County Records - Surry County, Virginia 1652-1684.

41. 4 CR2d 33.
42. Ibid., p. 34.
43. Ibid., p. 379.
44. 5 CR2d 124.
45. BDB 1, p. 276.
46. 1 Hathaway, p. 441; Reed, p. 24.
47. Wilson and Glover, p. 34.
48. BDB 1, pp. 507, 508.
49. BDB 1, p. 89.
50. Otken, The Lea Family (bound manuscript).
51. Beaufort County Will Book OW, p. 26.
52. Wilson and Glover, pp. 37-44.
53. BDB 3, p. 171.
54. Colonial Records of North Carolina, vol. XXIV, p. 872.
55. North Carolina Archives, Beaufort County Estate File CRX, Leigh.
56. North Carolina Archives, Craven County Estate Files, Leigh.
57. Craven County Deed Book vol. 4, p. 81.
58. Wilson and Glover, p. 34.
59. Ibid.
60. North Carolina Archives, Beaufort County Will Files, CR 009.508, Purser.
61. Grimes, p. 304.
62. Wilson and Glover, p. 34.
63. Beaufort County Will Book OW, p. 16.
64. Wilson and Glover, p. 34.
65. Craven County Deed Book vol. 11, p. 167; Beaufort County Will Book OW, p. 211.