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## The Catawba Indian Land Suit

The Catawba Indian Land is an area that is 15 miles square, or 144,000 acres. It encompasses the eastern part of York County--Rock Hill and its suburbs, all of Fort Mill township--and the northern section of Lancaster County called Indian Land. Also there is a little point that goes down into Chester County. The Catawba Indian Land is the territory involved in a law suit today..

There has been a great deal published about the Catawba Indians--4 full length books, a bibliography, numerous articles. The last and most scholarly book of all was written by James Merrill -The Indians New World.

The theme of the book, it seems to me is "the survival of the Catawba Indians." It is the only S.C. tribe now in existence. There were at least twenty in 1700. James Merrell thinks the Catawbas survived because they had a special cohesiveness and a rare shrewdness. He found them to be tough and adaptable. More than once he points out that time and again white men, including several governors of South Carolina, had pronounced the Catawba Nation as dead or destroyed but that the Nation had come back. Once there were only 30 people who could be identified as Catawbas. Now there are at least 1500.

Besides the survival abilities of the Catawbas, Merrell dwells often on the fact that the Catawbas were geographically well-placed--that if one looks at the maps closely, one can see that the Catawbas had a superb central point with trails running in all directions. When the Virginians wished to trade with them there was a trail--Okeeneechee Trail--that already existed and that the Catawbas were trading with other Indians before the whites arrive. They had a trail network that stretched from Philadelphia, through Petersburg, Salisbury, N.C., Charlotte, crossing the Catawba River at the Nation Ford, down to Chester, to Saluda, to Augusta and thence to the Mississippi River. The Catawbas were already the dominant trading group when the white man first turned to the notion of buying deerskins from the Catawbas.

The effects of smallpox reduced the Catawbas to one-third of their former numbers in 1739 and again by two-thirds in 1759. As the Catawbas became smaller in population they naturally had such a reduction in warriors that they are less of a threat to the whites. But the Catawbas became more vulnerable to invasion by other Indian tribes and this causes them to seek more aid from the South Carolina government. They pled for forts and got two.

In 1763, at the end of the French & Indian wars, the Catawbas ceded their claim to a large area of land that stretched up into the Yadkin Valley of NC and down to Camden between the Catawba and Broad Rivers to the English government in exchange for the absolute guarantee of the 15 mile square area and the right to hunt anywhere in S.C. The English allowed the Catawbas to decide whether they wanted to be a part of N.C. or S.C. and they chose S.C. In 1772, just four years before the outbreak of the American Revolution, the NC-SC

boundary line was drawn and the line jogs because it was drawn around the Catawba Indian Land, keeping it in S.C.

The next important step is the Catawba decision to rent out, or lease, their land. The reason was two-fold: first, the Catawbas were too weak to keep out the whites who came in droves after the Revolutionary War; and second, the Catawbas having lost the deerskin trade were dependent upon some income. The rent money, little as it was, became a necessity.

The lease system lasted for 55 years. Then in 1840 five white men and a dozen Indians negotiated the Nation Ford Treaty in which S.C. promised to find a new home, preferably in North Carolina. Five thousand dollars was appropriated and if no home was found the state promised the Indians the \$5,000 in cash. The state also promised the Indians \$2,500 for resettlement in the first year and \$1,500 each year for nine years. That was \$21,000 plus land or \$26,000 if no land was found.

Joseph White of Fort Mill was named as state agent to handle the money.

The state of N.C. didn't want the Catawbas and said so. Some of the Catawbas did move into the Cherokee villages but not more than a third. About one third left, some of them for Chester County and other sites to try to become tenant farmers. The other third refused to leave the area. At his wit's end, Joseph White took the first year's allotment and bought 630 acres on the west side of the river for those who were roaming the countryside. That is what we call the reservation today.

White found it impossible to keep in contact with the Indians who left no forwarding addresses and who sent unidentified people to collect the rents. He administered only to those who were at hand. This angered those who moved. They were caught on the horns of a dilemma, these Indians. SC really wanted them out of state but if they left they got nothing at all. And the less than one square mile that White purchased was eroded and abandoned cotton lands.

The state sent White no money at all in 1841 or in 1842 forcing White and his neighbors to feed the Catawbas out of their own pockets. With the Catawbas begging on their doorsteps, the white-Indian relations were strained. According to a federal law passed in 1794, no treaty was valid between a state and an Indian tribe unless it was ratified by the U.S. Congress. South Carolina never submitted the Nation Ford Treaty to Congress. Probably the state did not submit it because the terms had proven unenforceable. The Indians had dissolved as a tribe, drifted apart, and could not cope with the loss of their homeland. No other state or tribe of Indians would accept them. The Indians were wandering beggars but the state did not have the nerve to sell the reservation that the agent purchased and then force the Catawbas into exile. Maybe they remembered that the Catawbas had served the state well in the French and Indian Wars and in the American Revolution. Maybe they simply felt pity for a people who were now in misery. There seemed to be no solution.

And how about the whites who turned in their leases to the state in exchange for a state grant? The terms are real interesting. When the state put

up the money to pay the Indians (which the Indians didn't get) they also required the whites who lived on the 144,000 acres to pay a one and a half cent tax on each acre each year until the \$21,000 was paid back to the state and charged these landholders 7% interest on the money. So the state didn't pay the Indians but got back the appropriated money from the leaseholders. It was not until 1856 that the landholders paid off the principal of \$21,000. With interest the amount was \$34,560.

Joseph White suggested that the state allow him to divide up the money originally appropriated but never received among the Indians and send them all to Oklahoma. Instead, the state appointed a second commissioner, Benjamin Massey but that was not until 1848, 8 years after the treaty was signed.

Massey set out to locate all of the Catawbas--not easy. Massey, a planter from near Van Wyck, spent nearly three years ferreting out Catawbas in Chester County, Greenville, Heywood Co., N.C. and the Cherokee towns--often accompanied by an Indian to show him the way. He did all he could and he reported back to the legislature as instructed. The SC legislature concluded that it could not administer to the out-of-state Indians, only those who lived on the reservation. Massey resigned and the Rev. Adam Ivy, his neighbor, became the agent for the few families on the 630 acre reservation. Over time various white men tried to help the Indians get the money promised by the state.

This is either the third or fourth time that the Indians have gone to the courts using lawyers to attempt to get back either the land or the money promised by the Nation Ford Treaty. The preliminaries of the current suit began in 1976. The suit itself went into the courts in 1980, so it is nearly 12 years since the case started. It has been up to the Supreme Court twice.

The suit is the Catawba Indians vs. the State of South Carolina, et. al. Et. al. includes the landholders. In 1980 there were 87 specific landowners named--included members of the county councils and those local landholders who held large tracts of land along the Catawba River. That same year - 1980 - the McFadden Commission was formed with Judge Robert McFadden as chairman. They proposed a 4,800 acre area to be purchased with federal funds. Cong. Ken Holland arranged with the Dept. of Interior to purchase the land and to create a park on the Catawba River that would be run by the Interior but would give Catawba Indians exclusive rights to live on it and use it. Along with it was to be a Catawba Museum, educational grants for college tuition for Catawbas, etc. Holland got a promise of \$7 from interior. That was 1980 and Holland was a Democrat and the Carter administration was in office. Ronald Reagan got elected before the process was finished and James Watt the new Republican head of Interior wasn't about to endorse the arrangement. A very tough break in this case.

For a long time the cost of this suit has not been borne by the State of S. C. but by the Tri-County Land Holders Association. Local people who are interested and big corporations including Springs Industries, Bowater, and

Celanese Corporation. Catawbas charge that SC never took the Nation Ford Treaty to the US Congress to be ratified as the law required.

An odd thing happened in January 1989, the US 4th District Court of Appeals ruled that the Catawbas have the right sue to regain their ancestral grant even though they do not have tribal status (they gave up tribal status in 1959 willingly so that they could divide up the existing 660 acres of land that Joseph White bought for them in the 1840s). But a certain group of whites were excluded from the suit. Using the term "the right of adverse possession" it was ruled that title insurance was valid on property that was held by the same owner for 10 years between the years 1962 and 1980. If the land changed hands between those ten years then the Catawbas could sue to gain possession. This creates a bit of economic distress. Strange things happen. The Galleria is where it is because of this twist of the case.

Finally, Governor Campbell had to take notice. I honestly believe he tried to ignore the matter as long as he could. After all it only involved three out of 46 counties and the legislators of our three counties don't have that much clout. People in the low state and, really, outside the claim area aren't that interested in the matter. Finally, though, Campbell did appoint a new commission. Congressman John Spratt is trying to coordinate matters between the four parties--the Catawbas, the landholders (of which he is one of the prime ones), the state, and the federal government. It is a very tough proposition. The whole thing is a can of worms.

Very soon we should have another court ruling. My prediction is this: that if the landholders lose they will sue the state of SC. If the Catawba Indians lose they will sue the federal government. There is no end in sight if the courts are used. The best hope lies in the efforts of John Spratt and his commission to negotiate a fair settlement.

By Louise Pettus