

The Right Honourable Thomas Lord Fairfax, Baron of Cam-  
in that part of great Brittain called Scotland Proprietor of the northern neck of Virg-  
Walt to whom this present writing shall come sends Greeting. Knowe that for  
good causes for & in consideration of the composition for my use paid, And for the annual  
rent hereafter received, I have given granted & confirmed, And by these presents for me  
my heirs & assigns, Do give grant & confirm unto John Ball of the County of  
Fairfax, One certain tract of waste Land in this County, Bounded according to a  
survey thereof made by Mr. George Byrnes followeth, Beginning at a white  
oak in the fork of four mile run called the long branch & running N<sup>o</sup> 88<sup>o</sup> W<sup>o</sup> Three  
hundred thirty eight poles to the Line of Capt<sup>l</sup>. Pearson, then with the line of  
Pearson N<sup>o</sup> 34<sup>o</sup> E<sup>o</sup> One hundred eighty eight poles to a Gum on the S<sup>o</sup> W<sup>o</sup> side the  
run corner to Pearsons red oak & chunut Land, then down the run & ending there with  
S<sup>o</sup> 64<sup>o</sup> E<sup>o</sup> Two hundred & ninety poles to the beginning, Containing One  
hundred Sixty six Acres, Together with all rights members & appurtenances  
thereunto belonging, Royal mines excepted, And a full third part of  
all Lead, Copper, Tinn, Coals, Iron mines, & Iron ore, that shall be found  
thereon: To have & to hold the S<sup>o</sup> One hundred & sixty six Acres of Land,  
Together with all rights profits & benefits to the same belonging or in any  
wise appertaining, Except before accepted, To him the S<sup>o</sup> John Ball his  
heirs & assigns for ever; He the S<sup>o</sup> John Ball his heirs & assigns therefore  
yielding & paying unto me my heirs & assigns or to my certain Attorney  
or Attorneys Agent or Agents or to the certain Attorney or Attorneys of  
my heirs & assigns Proprietors of this northern neck yearly & every year  
on the feast day of S<sup>t</sup> Michael the Archangel the fee rent of one Shilling  
sterling money for every fifty acres of Land hereby granted & so proportionably  
for a greater or lesser quantity, Provided That if the S<sup>o</sup> John Ball his heirs  
& assigns shall not pay the before reserved annual rent so that the same or any part  
thereof shall be behind or unpaid by the space of two whole years after the same  
shall become due if lawfully demanded, That then it shall & may be lawful  
for me my heirs or assigns Proprietors as afores<sup>d</sup> my or their certain Attorney  
or Attorneys Agent or Agents into the above granted premises to reenter &  
hold the same so as if this grant had never passed, Given at my Office  
in the County of Fairfax within my S<sup>o</sup> Proprietary under my Seal (Witness)  
my Agent & Attorney fully authorize thereto. Dated the fifteenth day of  
January in the sixteenth year of the Reign of our Sovereign Lord George  
the second by the grace of God of great Brittain France & Ireland King  
Defender of the Faith &c. . . One thousand seven hundred & forty two.

John Ball's Deed  
for 166 Acres of Land  
In Fairfax County

T. Fairfax

John Ball's Deed

# John Ball and the Northern Neck Proprietary

BY WILLARD WEBB

Everyone in Arlington should be familiar with the Ball-Sellers house in Glencarlyn. That rare surviving 18<sup>th</sup> Century cabin stands on land that John Ball received from Lord Thomas Fairfax, the proprietor of the Northern Neck Proprietary, in 1742. In return for an annual quitrent,\* John Ball received 166 acres of land. (For John Ball's patent, see Appendix 1.) With certain enumerated exceptions, Ball and his heirs acquired the land with "all rights, profits & benefits to the same belonging." John Ball and his patent raise a number of questions. What was the Northern Neck Proprietary? How did it originate? How did it operate? To whom, where, and how did John Ball pay his annual quitrent?

The Northern Neck Proprietary dates back to 1649. The English Civil war had ended and Charles I had been executed. His young heir, who styled himself Charles II, though he had neither crown nor kingdom, had fled to France with a band of supporters and followers. There, in St. Germaine en Lay on September 18, 1649, Charles issued a patent to seven of his loyal supporters for a vast tract of land in the colony of Virginia. The recipients included Ralph Lord Hopton, Baron of Stratton; Henry Lord Jermyn, Baron of St. Edmunds Bury; John Lord Culpeper, Baron of Thoresway; Thomas Culpeper, Esquire (the Culpepers were cousins); Sir John Barkeley; Sir William Norton; and Sir Dudley Wyatt. That patent, two large stained parchment sheets with the crumbling remains of the original seal, survives today in the British Library in London. The writing remains distinct and legible.

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\*Quitrents in America were a medieval remnant transmitted to the colonies from England. They had their origin in the feudal due of food and labor owed by tenants to the lord of the manor, which had evolved over the years into an annual money payment. The name "quitrent" came into usage to show that the tenant was quit, free from all other annual feudal charges. All quitrents in America ended with the Revolution. Beverley W. Bond, Jr., *The Quit-Rent System in the American Colonies*. (New Haven: Yale Univ. Press, 1919), p. 25.

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Neither Charles nor any of the seven recipients had been to Virginia and none had any idea of what was being given or received. The patent was, nonetheless, sweeping and all encompassing. It comprised some five million acres including:

All that intire Tract, Territory, or porcon of Land, situate, lying and beeing in America, And bounded by, and within the heads of Tappahannocke als Rappahanocke and Quiriought, or Patawomeck Rivers, the Courses of the said Rivers...And Chesapayoake Bay, together with the Rivers themselves, and all the Islands within the Banks of those Rivers...

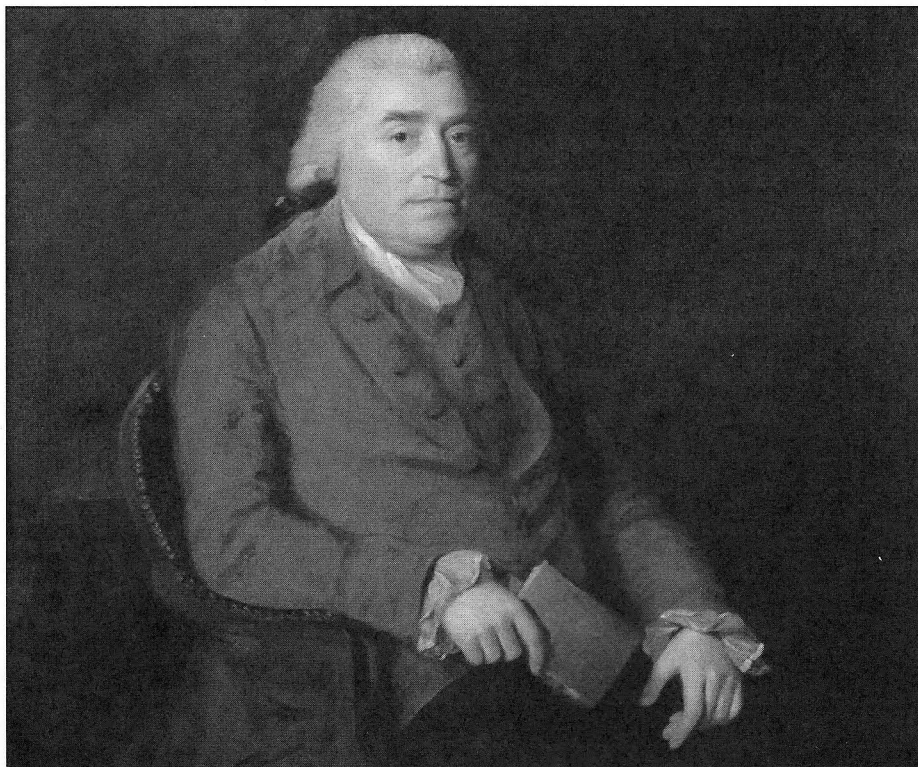
It also included:

all Woods, Vanderwoods, Tymber and Trees, wayes, waters, Rivers ponds, pooles, water Courses, ffishing streams, Havens, ports, Harbours, Creeks, wrecks of sea, ffish Royall. Deere, wild beasts and fowle of what nature or kinde soever."

Further, the recipients were granted, with certain exceptions, all gold, silver, lead, tin, iron, and copper as well as quarries or stone and coal. They could establish towns, hundreds, hamlets and parishes, build castles and forts, establish and endow colleges and schools, and divide and grant land within the proprietary requiring payment of rents as they saw fit.<sup>1</sup> (For the complete text of the patent see Appendix 2).

With Charles in exile and Oliver Cromwell and the Commonwealth ruling England, the 1649 patent remained meaningless. Then in 1660, when the monarchy was restored and Charles ascended the throne, the Proprietary patent was officially enrolled. Even though the patent was reissued in 1669, the status of the Proprietary remained somewhat uncertain throughout the reign of Charles II (1669-1685). The area of the Proprietary in the northern and western area of the Virginia colony was largely unsettled and there was continuing conflict between the colony and the Proprietary over who could make land grants and to whom quitrents should be paid. Lord Thomas Culpeper, who had succeeded his father (the original recipient) Lord John Culpeper, was named Governor of Virginia in 1677 and actually came to the colony in 1680 and again in 1682-1683.<sup>2</sup> Meantime, he had acquired the shares of the other proprietors. (Only five remained since Sir Dudley Wyatt had died previously and no one claimed his share.)<sup>3</sup>

Lord Thomas Culpeper died in 1689, leaving only one legitimate heir, a daughter, Catherine, who married Lord Thomas Fairfax, Fifth Baron of Cameron in 1690. Culpeper left a five-sixths interest in the Northern Neck Proprietary to



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### Lord Fairfax

his daughter Catherine and the remainder to his widow. Eventually, the son of Catherine Culpeper, another Thomas Fairfax, who would become the Sixth Lord Fairfax, Baron of Cameron, would inherit the entire Northern Neck Proprietary.<sup>4</sup>

Thomas Fairfax, the Sixth Lord (hereinafter referred to as Lord Fairfax), was born at Leeds Castle in Kent in 1693. He attended Oxford and eventually inherited the entire Virginia Northern Neck Proprietary from his mother and grandmother. Initially, he took little interest in the Proprietary, content to lead the life of a wealthy land owner. Management of the Proprietary was left to agents in Virginia. Among others, these agents included Thomas Lee, founder of the famous Lee family of Stratford, and Robert Carter. Both Lee and Carter acquired vast holdings in the Proprietary. Carter owned so much land throughout Virginia that he earned the sobriquet of “King Carter.” Meantime, growing controversy arose in Virginia over who could make grants in the Proprietary—the Proprietor and his agents or the Royal governor in Williamsburg.<sup>5</sup> *Text continued on page 11.*



Leeds Castle

Anne Webb

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Leeds is a medieval castle begun in 1278. Six queens of England owned it during the Middle Ages, and Henry VIII and his first wife, Catherine of Aragon, used it as a residence during the early years of their marriage. The castle came into the possession of the Culpeper family in the mid-17<sup>th</sup> Century and then passed to the Fairfax family when the Culpeper heiress married Thomas, Fifth Lord Fairfax, in 1690. Their son, Thomas, Sixth Lord Fairfax, was born and resided at Leeds until he came to Virginia in the mid-18<sup>th</sup> Century. Upon his departure from England, he turned Leeds Castle over to his brother. After passing into other hands, the castle was extensively restored and reconstructed during the 19<sup>th</sup> and 20<sup>th</sup> Centuries into an elegant country house. Today it is maintained and operated as a historic site by the Leeds Castle Foundation. Jessica Hoge, ed., *Leeds Castle*. (London: Scala Publishers Ltd., 2009), pp. 7-24.

In the column "John Kelley's Washington," appearing in the *Washington Post* on June 21, 2009, Kelley tells of a sundial at Leeds Castle that shows the time in Virginia and relates that tradition holds that there was also a sundial at Belvoir in Fairfax County that told the time in England. The author visited Leeds Castle in May 2009 and did not see such a sundial, nor does the Leeds Castle guide book or web site mention it. No remains or documentation of a sundial at Belvoir or its ruins have ever been found. John Kelley, "John Kelley's Washington," *Washington Post*, June 21, 2009, p. C3

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With the death of Carter in 1732 and growing questions in Virginia about the proprietary and its boundaries, Lord Fairfax grew concerned about his inheritance. He named his cousin William Fairfax the agent for the Proprietary. William Fairfax was the Collector of Customs in Massachusetts, but at Lord Fairfax's instigation, he moved to Virginia, first to Westmoreland County, and then to Falmouth, King George County (later Stafford County). In 1733, Lord Fairfax petitioned the King to appoint a commission to ascertain the

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exact boundaries of the Proprietary and to issue a royal order restraining the Governor of Virginia from making further grants in the area. His petition was granted, and armed with a royal order, Lord Fairfax traveled to Virginia in 1735.

Representatives of Lord Fairfax and the Governor met to consider the matter, but reached no agreement. A major issue of contention was the question of the southern boundary of the Proprietary, the Rappahannock River. Was it the north or south branch? Lord Fairfax claimed the latter, known as the Rapidan River, a claim that would add thousands of acres to the Proprietary. The Governor, on the other hand, supported the northern branch. Also at issue was the exact source of the Potomac. The two sides agreed to have a commission examine the conflicting claims. Lord Fairfax named three commissioners; the Governor three. As might have been expected, Lord Fairfax's commissioners supported the Fairfax claim, and the Governor's representatives his position.

Thereupon the dispute was sent to London for a decision by the Privy Council, and Lord Fairfax returned to England in 1737 to plead his case in person before the Council. Finally, in 1745, the Privy Council accepted the boundaries of the Proprietary claimed by Lord Fairfax and his commissioners and issued an order forbidding the Governor from making further grants in the Proprietary and authorizing Lord Fairfax to exercise full rights over the Proprietary. Lord Fairfax, in turn, agreed to recognize all grants which the Governor had previously made in the Proprietary and to give up all claims to the arrears of quitrents, provided such rents would be paid in the future.<sup>6</sup>

With all counter claims to his property removed, Lord Fairfax returned to Virginia in 1747 and remained there for the rest of his life. He was the only

English peer to leave England and take permanent residence in America during the colonial period. Meantime his agent and cousin, William Fairfax, had built a splendid house, Belvoir\*\* on the Potomac in Fairfax County, which had been cut off from Prince William County in 1742 and named in honor of Lord Fairfax. Here William carried out his duties overseeing the Proprietary and would soon be assisted by his son George William, who would marry the beautiful Sally Cary of Williamsburg, the great love of George Washington's life.<sup>7</sup>

Lord Fairfax resided for two years at Belvoir with his cousin William and oversaw the Proprietary there. During these years, the young George Washington and George William Fairfax surveyed much of Lord Fairfax's western land holdings. But with settlement in Virginia now spreading rapidly westward, Lord Fairfax moved to property in Frederick County (now Clarke County) called Greenway Court. He planned to build a suitable mansion, but lived initially in

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\*\*William Fairfax built Belvoir in the years 1736-1741 on a large tract of land he had acquired in Prince William (soon to be Fairfax) County. The house occupied a commanding location on a high bluff overlooking the Potomac and was a large two-and-a-half story brick structure with flanking outbuildings. It was the grandest house in Fairfax County at the time. There William conducted business as agent for Lord Fairfax and the Proprietary. Upon William's death in 1757, his son George William inherited Belvoir and succeeded his father as agent for the Proprietary. George William and his wife went to England in 1773 and never returned to Virginia. In 1774, the contents of Belvoir were auctioned. George Washington attended the sale and purchased two hundred pounds worth of furnishings, including a mahogany sideboard and chests, looking glasses, chairs, and curtains. Belvoir burned in 1782, but its ruined walls stood until 1814, when British ships in the Potomac firing at forces along the Virginia shore destroyed the ruins. The Belvoir foundations have been excavated twice, in the 1930s and again in 1974. After 1974, the foundations were covered to protect them and today the outlines of the house and outbuildings are marked out with stones. William Fairfax, his wife Deborah, and two sons are buried near the site of the house. The house site and cemetery are now maintained as a small park within the Fort Belvoir military installation. Calder Loth, ed., *The Virginia Landmarks Register*. (Charlottesville: Univ. of Virginia Press, 1999), p. 154. E.H. Schulz, *Belvoir on the Potomac, Fort Humphreys, Virginia*. (US Army: Ft. Humphreys Publication, 1933), pp. 1-3, 5, 9, 11, files of the Ft. Belvoir Historian. Interview, Author with Gustav Person, Ft. Belvoir Historian, July 9, 2009.

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Anne Webb

Lord Fairfax's land office at Greenway Court

a log hunting lodge. Business was conducted in a small stone land office, which still survives today. He never did build a larger, grander house and continued to live in the hunting lodge until his death in December 1781.<sup>8</sup>

When the Revolution broke out, Lord Fairfax did not return to England, but stayed quietly at Greenway Court. His cousin William had died, but William's son, George William, and his wife did go to England, never to return to Virginia. Lord Fairfax did resign as a justice of the peace in Frederick County so he would not be in treason to the Crown. No one bothered him or his property during the Revolution. In 1777, the Virginia Legislature abolished all quitrents in Virginia except for those in the Northern Neck Proprietary, and then in 1782, abolished the quitrents in the Proprietary. After the Revolution ended, all Proprietary lands that had not been already granted became the property of the Virginia Commonwealth.<sup>9</sup>

John Ball received his Northern Neck Proprietary grant in 1742. At that time, Lord Fairfax had returned to England to press his claims over the disputed boundaries of the Proprietary, and William Fairfax, the agent, issued the grant



on January 15, 1742. Ball received 166 acres “together with all rights profits & benefits to the same belonging...” Royal mines were excepted and he could have only “a full third part of all Lead, Copper, Tinn Coals, Iron Mines, & Iron ore that shall be found thereon...” In return, John Ball was to pay the Proprietor “yearly and every year” a quitrent on the feast day of Michael the Archangel, September 29, of “one Shilling sterling money for every fifty acres of Land hereby granted and “so proportionably for a great or lesser quantity...”<sup>10</sup>

Ball would have owed three shillings annually for 150 acres with a proportional amount for the remaining 16 acres. Since 16 is approximately one third of 50, and since there were twelve pence to a shilling, his total rent would have been three shillings and four pence. He would have paid the rent to the agent, William Fairfax, and later to George William Fairfax, who succeeded as agent upon the death of his father in 1757. He would have paid the rent at Belvoir. From his cabin, whether Ball walked or rode horseback, it would have been a half-day trip, requiring a full day to accomplish the task. He might even have had to go by way of Alexandria to go to the bank to get the sterling money. Coin money was not readily available on the Virginia frontier where barter and tobacco were the more common forms of exchange.

One question remains about John Ball’s patent. How long did he have to pay the quitrent? John Ball died in 1766,<sup>11</sup> well before the Revolution that brought the end of the Proprietary and quitrents in Virginia. Did the requirement for the rent end with Ball’s death or did it pass with the land to the new owner, William Carlin? No source has been found to answer this question or address how or when quitrents were finished. But Ball’s patent required “the s[ai]d John Ball his heirs & assigns” to pay the rent to the Proprietor or his heirs, assigns, attorneys or agents. Current legal usage defines “assign” as “one to whom property rights or powers are transferred by another.”<sup>12</sup> Since quitrents were a feudal holdover, it would seem that they attached to the land and passed with it. So did William Carlin become John Ball’s assign when he purchased Ball’s land? Carlin’s deed for the land contains no mention of a rent.<sup>13</sup> But several deeds for land transfers at the same time of the Carlin deed did include provision for quitrents.<sup>14</sup> So it would seem that quitrents did pass with the land until they were ended in 1782.

It is interesting to consider Charles II’s original grant to his courtiers. Little did he realize that his easy largesse, reflecting a feudal practice, would survive three hundred and sixty years later in the remnant of John Ball’s grant and, in fact, in all of the land in Arlington and Northern Virginia today.

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### *Endnotes*

- <sup>1</sup> Patent, Charles II to Ralph, Lord Hopton et al. September 18, 1649, British Library, copy in App. 2.
- <sup>2</sup> Emily J. Salmon and Edward C.C. Campbell, Jr., eds. *The Hornbook of Virginia History* (Richmond: Library of Virginia, 1994), p. 104.
- <sup>3</sup> Kenton Kilmer and Donald Sweig, *The Fairfax Family in Fairfax County* (Fairfax, VA: Office of Comprehensive Planning, 1975), pp. 5-7. Beverley W. Bond, Jr., *The Quit-Rent System in the American Colonies* (New Haven: Yale Univ. Press, 1919), pp. 61-69. See also "The Northern Neck Proprietary to 1745," Appendix I-1 in Douglas Southall Freeman, *George Washington, A Biography* (New York: Charles Scribner's Sons, 1948), I, pp. 447-513.
- <sup>4</sup> Kilmer and Sweig, *The Fairfax Family*, p. 7.
- <sup>5</sup> Kilmer and Sweig, *The Fairfax Family*, pp.7-11, 25-26; Bond, *The Quit-Rent System*, pp. 68-70.
- <sup>6</sup> Bond, *The Quit-Rent System*, pp 69-71.
- <sup>7</sup> Kilmer and Sweig, *The Fairfax Family*, pp. 26, 28-29, 31. William Fairfax's daughter, Anne, married Lawrence Washington, George Washington's older half-brother in 1743.
- <sup>8</sup> Kilmer and Sweig, *The Fairfax Family*, p. 26. Calder Loth, ed., *The Virginia Landmarks Register* (Charlottesville: Univ. of Virginia Press, 1999), p. 119.
- <sup>9</sup> Josiah Look Dickinson, *The Fairfax Proprietary* (Front Royal, VA: Warren Press, 1959), pp. 17-21. Acts of the Virginia Legislature: Act, Oct 1777, William W. Hening, ed., *The Statutes at Large; Being A Collection of all the Laws of Virginia, from the First Session of the Legislature, in the Year 1619* (facsimile reprint, 1969) Vol. 9, p. 359 (9H359); Act, Oct 1783, 11H128-129; Act, May 1783, 11H289; Act, Oct 1795, 12H111-113.
- <sup>10</sup> Patent, William Fairfax to John Ball, January 15, 1742, original in the Library of Virginia, copy in App. 1.
- <sup>11</sup> Martha Beggs Orth, *The House That John Built* (Arlington: self published, 1993), p. 8.
- <sup>12</sup> Bryan A. Garner, ed., *Black's Law Dictionary* (St Paul, MN: Thompson/West, 2004), p. 97. J.A. Simpson and E.S.C. Weiner, eds., *Oxford Dictionary* (London: Clarendon Press, 1980), I, p. 712.
- <sup>13</sup> Moses Ball, Executor to William Carlin, August 19, 1772., Fairfax County Deed Book, Liber K-1, p. 89.
- <sup>14</sup> Augustus and Sarah Darrell to John Wren, June 17, 1772, Fairfax County Deed Book, Liber K-1, p. 104; John Ballentine to Richard Thompson and Thomas Magruder, August 31, 1772, Fairfax County Deed Book, Liber K-1, p. 110; Thomas Carson to William Hubbum, July 24, 1772, Fairfax County Deed Book, Liber K-1, p. 117.