

NORTH CAROLINA,
BUNCOMBE COUNTY.

IN THE SUPERIOR COURT
BEFORE THE CLERK.

STATE OF NORTH CAROLINA,
Petitioner,

-vs-

FINAL JUDGMENT.

HEIRS AT LAW OF W.H.QUEEN, -viz.:

S.A.QUEEN (IDOW),

T.C.QUEEN AND WIFE; MARIAM QUEEN,

CANDLER QUEEN AND WIFE, _____ QUEEN,

HENRY QUEEN,

MARY FLOYD AND HUSBAND, ED FLOYD,

FLORENCE PARKER AND HUSBAND, VERNON

PARKER,

COLEMAN QUEEN AND WIFE, CTENNA QUEEN,

RUFUS B.QUEEN AND

AVA AMSBERRY AND HUSBAND, M.H.AMSBERRY,

Respondents.

This cause coming on to be heard before the undersigned Clerk of the Superior Court of Buncombe County, North Carolina, on this the 20th day of April, 1931, and being heard, and the Court having found, and hereby finding, the facts as follows, to-wit:

1. That this action and proceeding is duly constituted in this Court, that is to say, that summons herein was duly issued on the 15th day of November, 1929, and that the duly verified petition of the State of North Carolina was on said date duly filed in this Court, and that said summons and said duly verified petition herein have been duly served upon the respondents herein, and every of them, in all respects as required by law, and that the notice required by Chapter 48, Section 19, of the Public Laws of North Carolina, Session of 1927, has been duly given and published in all respects as therein required, waereby all persons whom it may concern and all persons having or claiming any estate or interest in the lands and premises sought to be condemned in this proceeding have been duly notified and required to appear in this proceeding at the time and place therein mentioned and to make such answer, defense or plea as they may be advised; and that certain of asid respondents shown in said petition and said summons to be non-residents of the State of North Carolina have been duly served by publication, as required by law, and that the time for answering was extended by an order made by the Clerk of the Superior Court of Buncombe County, allowing all of the respondents to appear and answer the petition on or before the 6th day of January, 1930; that S.A.Queen (widow), T.C. Queen and wife, Mariam Queen, Candler Queen and wife, _____ Queen, Henry Queen, Mary Floyd and husband, Ed Floyd, Florence Parker and husband, Vernon Parker, filed and answer in said proceeding, dated January 9, 1930, by leave of the Court, setting up their claim to the lands described in Paragraph 4 of the petition, and being Tract No. 56 of the survey made by the North Carolina Park Commission; all of which will more particularly appear by the records and files of the Court in this cause, and the Court hereby finds as a fact that no other person, firm or corporation whomsoever has appeared herein or has, in any manner, asserted any interest in or claim in the subject matter of this action and proceeding.

2. That heretofore, to-wit, on the 31st day of January, 1931, (the time for

answering having fully elapsed and expired as to all and every of the respondents, summoned herein of all other persons whom it may concern notified by the above recited publication and notice herein), the undersigned Clerk of the Superior Court of Buncombe County, North Carolina,, duly made and entered an interlocutory judgment and order in this cause, whereby it was duly ordered and adjudged, inter alia, that FRANK JORDAN, E. GROVER ROBINSON and T. LUTHER MANEY be, and they were, duly appointed commissioners by the Court, and they were required fairly and impartially to appraise the lands and interests in lands mentioned in the petition herein, and to ascertain and determine the compensation which ought justly to be made by ~~the~~ petitioner to the party or parties owning or interested in the realestate so appraised by them, and to make a report to the Court herein, according to law, and the said commissioners were required, before entering upon their duties, to ~~take~~ and subscribe an oath, in form of law, that they would fairly and impartially assess and award the compensation aforesaid, as required by law, all of which will more fully appear by reference to said order, and all and singular the requirements thereof, as the same appears upon the records and files of this cause, and the said commissioners proceeded, having first been duly sworn, conformably to the provisions and requirements of said order, to duly appraise the same, as required by said order, and thereafter, to-wit, on the 27th day of March, 1931, the said Commissioners made written report of their said proceedings and returned the same to the Court, together with the evidence taken by them, as required by law and the order aforesaid, all of which will more particularly appear by the records of the proceedings in this cause, which are hereby particularly referred to.

3. That said commissioners and appraisers, by their report in the last proceeding paragraph hereof mentioned, appraised, ascertained and determined the compensation which ought justly to be made by the petitioner to the party or parties owning or interested in the lands and premises described in the petition, and so appraised by them, at the sum of TWENTY-SEVEN THOUSAND, SIX HUNDRED and 00/100 DOLLARS (\$27,600.00).

That said commissioners found that NO SPECIAL BENEFITS were assessible against said lands.

4. That none of said respondents has filed any exceptions or appeals to said report within the time allowed by law.

5. That the lands described in the petition lie wholly within the boundaries of the proposed Great Smoky Mountains National Park as defined and delimited in the Act of the General Assembly of North Carolina, entitled "An Act to provide for the Acquisition of Parks and Recreational Facilities in the Great Smoky Mountains of North Carolina," ratified on the 25th day of February, 1927, the same being Chapter 48 of the Public Laws of North Carolina, Session of 1927, and particularly in Section 4 of said act, and that all of said lands are embraced within the area of 214,000 acres of land situate in the State of North Carolina designated by the Secretary of the Interior of the United States under authority of the Act of Congress mentioned in the statute aforementioned, namely, Chapter 48, Public Laws of North Carolina, Session of 1927, as properly constituting a portion of the said Great Smoky Mountains National Park, all of which will more particularly appear by reference to said Act of Congress and to said Chapter 48, Public Laws of North Carolina, Session of 1927, aforementioned.

6. That the right of eminent domain appertains to and resides in the petitioner as sovereign state, and that the petitioner has those other and further rights and powers to condemn and appropriate the lands described in the petition for the purposes in said

petition mentioned and enumerated under and by virtue of the statute aforementioned.

7. That it is both lawful and necessary for the petitioner to condemn the lands described in the petition for the purposes therein expressed and declared, and that the petitioner is entitled to the relief demanded in the petition:

NOW THEREFORE, IN THE PREMISES AFORESAID AND UPON MOTION OF COUNSEL FOR THE PETITIONER, IT IS CONSIDERED, ORDERED, ADJUDGED AND DECREED BY THE COURT, as follows:-

I.

That the interlocutory judgment and order appointing commissioners in this cause, of date to the 31st day of January, 1931, hereinbefore referred to, be, and the same hereby is, in all respects, approved, ratified and confirmed.

II.

That the aforementioned report of said commissioners and appraisers, as the same appears in the records and files of this cause, be, and the same hereby is, in all respects, approved, ratified and confirmed.

III.

That the petitioner forthwith pay into the registry of this Court the sum of TWENTY-SEVEN THOUSAND, SIX HUNDRED and 00/100 DOLLARS (\$27,600.00), in full of compensation which ought justly to be made by the petitioner to the party or parties owning or interested in the lands described in the petition and so appraised by the commissioners, conformably to the report of said commissioners; the said amount of money to be paid out and disposed of under the orders of this Court to the party or parties, person or persons entitled thereto, as their interest or interests severally may be made to appear.

IV.

That upon the payment into Court by the petitioner of the amount of money aforesaid, as hereinbefore and hereby required, the title to all and singular the lands, premises, and real estate described in the petition and hereinafter more particularly described, shall, eoinstanti, pass to and vest in the petitioner, the State of North Carolina,, in fee simple, for the uses and purposes expressed and declared in said petition and in Chapter 48, Public Laws of North Carolina, Session of 1927, free and discharged of and from all adverse claims, liens and encumbrances whatsoever, and the respondents and all other persons whomsoever, as well such person or persons not parties to this proceeding, if any, as to the parties hereto, are forever barred from claiming or asserting any manner of estate or interest in said lands, either legal or equitable, whatsoever, the person or persons not parties hereto, having or claiming such estate or interest, if any, being hereby, remitted solely to the right of recourse upon the money so paid into Court by the petitioner, and to follow said moneys, or any part thereof, into the hands of any person or persons having the same without good right thereto, as provided by law.

V.

That the lands described in the petition, the title to which, through and by virtue of the proceedings had in this cause, becomes vested in the petitioner, the State of North Carolina, are more fully and particularly described as follows:-

W.H.QUEEN TRACT NO. 56

(As shown by the survey made by North Carolina Park Commission)

NOTE: All bearings in this description were turned from the true meridian and all distances are expressed in chains of 66 feet.

Lying on the West side of Ocons Luffy River, below the mouth of Couches Creek.

BEGINNING at Corner 1, which is Corner 1 of the H.K.Revis Tract (53), an 8" Hickory with old marks, blazed and scribed C.Cor. IV.; Thence with four lines of the

H.K.Revis Tract (53) S. 3-11 W., 21.92 chains, Corner 2, a pine with old corner marks on top of a ridge; N. 86-01 W., 15.26 chains, Corner 3, a chestnut post scribed R. Cor. III. A 20" chestnut, blazed and scribed B.T.-R.Cor. III bears S. 21-30 W., .28 chain distant. S. 2-32 W., 11.64 chains, Corner 4, a chestnut post scribed R.Cor.IV. A 15" black oak, blazed and scribed B.T.R-Cor. IV. bears N. 14-00 W., .15 chain distant; N.39-28 W., 31.01 chains, Corner 5, which is corner 7 of the Tom Childers Tract (51), a planted stone beside a 5" chestnut, scribed W.R.C. V. on a ridge. Thence with the meanders of the ridge a line of the Tom Childers Tract (51) S. 69-45 W., 5.14 chains, a point; N. 64-49 W., 2.23 chains a point; S. 84-19 W., 4.94 chains, a point; S. 80-29 W., 5.96 chains, Corner 6, a stake scribed F.F. Cor. IX. Thence, S. 19-10 E., 5.88 chains, Corner7, a 24" dead post oak. Thence, S. 13-11 E., 8.25 chains, Corner 8, a chestnut post beside a dead pine with old marks, scribed F.F. X. Thence, down a spur ridge, with its meanders, S. 76-16 E., 6.30 chains, a point; S. 50-16 E., 4.97 chains, a point; S. 53-26 E., 1.88 chains, a point; S. 47-35 E., 4.48 chains, a point; S. 41-12 E., 4.06 chains, a point; S. 37-13 E., 2.22 chains, a point; S. 17-31 E., 5.92 chains, a point; S. 43-21 E., 1.18 chains, Corner 9, a locust post, scribed F.F. Cor. XI, in an old ^{maple} stump, on bank of stream. Thence, S.48-48 E., 3.77 chains, Corner 10, a sourwood post scribed F.F. Cor. XII. A 10" sourwood, scribed B.T.F.F. Cor. XII, bears N. 60-00 E. .14 chain distant. Thence, S. 79-58 E., 20.39 chains, Corner 11, a point with old witnesses at fence corner. Set a post scribed F.F. Cor. XIII. Thence S. 5-40 W., 2.50 chains, Corner 12, common to C.C.Nations and W.H.Queen, and in F.F.Floyd's line. Thence N. 58-37 E., 3.36 chains Corner 13, a fence post in bank of small stream. Thence, down the stream and with its meanders S. 39-20 E., 7.79 chains, a point; S. 69-54 E., 1.28 chains, a point; S. 50-55 E., 2.77 chains, a point; S. 87-41 E., 3.30 chains, Corner 14, a point where public road crosses branch. Thence, with the meanders of the road, S. 18-12 W., 2.56 chains, a point; S. 65-01 W., 1.71 chains, Corner 15, a point ~~at~~ intersection with F.F.Floyd's line. Thence, S. 87-21 E., 5.00 chains, Oconalufy River flows S. 64-00 W., 9.75 chains, Corner 16, a stake near the railroad. Thence S. 70-33 E., 10.04 chains, Corner 17, a black oak stump with witnesses, on top of ridge. Thence, up the ridge with its meanders, N. 70-49 E., 4.15 chains, Corner 18, a chestnut oak stump with dogwood witnesses. N. 60-25 E., 4.32 chains, a point; N. 48-03 E., 3.18 chains, a point; N. 52-23 E., 1.28 chains, Corner 19, a point with a chestnut oak witness. Set a post scribed N-C-Q. N. 34-30 E., 5.11 chains, Corner 20, a red oak stump, N. 55-26 E., 2.35 chains, Corner 21, a black oak stump on a ridge. Set a sassafras post scribed Q-C-C. N. 20-08 E.1.78 chains, Corner 22, a chestnut with corner marks. N. 4-33 E., 3.25 chains, Corner 23, a hickory with corner marks and witnesses. N. 28-46 E., 3.49 chains, a point; N. 56-12 E., 2.91 chains, a point; N. 3-32 W., 3.64 chains, Corner 24, which is Corner 4, of the M.B.Enloe Tract (57), a point at corner of fence. Thence, with two lines of the M.B.Enloe Tract (57), N. 13-00 E., 26.24 chains, Corner 25, a 24" black oak, with corner marks and witnesses. An 18" white oak, blazed and scribed B.T. bears N. 57-00 E., .35 chains distant. N. 0-27 W., 2.54 chains, Corner 26, which is Corner 3 of the J.A.Chambers Tract (55), a point at intersection of old marked lines. Set a post scribed C. on N.E. side ^{and Q on S.W. side} A 12" white oak, blazed and scribed B.T. bears S. 45-00 E., .16 chain distant. Thence, with three lines of the J.A.Chambers Tract (55), S. 75-03 W., 16.35 chains, Corner 27, a 12" black gum beside a fence, identified as his corner by Mr.Chambers. A 14" white oak, blazed and scribed B.T. bears S. 46-00 W., .15 chain distant; S. 88-01 W., 11.31 chains, Corner 28, a large rock in east edge of Oconalufy River. N. 34-19 W., 11.27 chains, Corner 29, a point in the public road, and on west bank of river, shown by

J.A.Chambers as his corner. Thence with two lines of the Leary Connor Tract (54), N. 42-13 W., 9.40 chains, Corner 30, a fence post, scribed C. Cor. V, where originally stood a dogwood corner. N. 85-28 W., 10.72 chains the place of BEGINNING, containing 256.20 acres.

VI.

IT IS FURTHER CONSIDERED, ADJUDGED AND DECREED BY THE COURT that all the costs of this proceeding properly incurred by both the petitioner and respondents, up to and including the costs of this judgment, to be taxed by the Clerk, shall be paid by the petitioner. This shall be deemed the final judgment in this cause in respect to the rights, claims, interests and obligations of the petitioner, the State of North Carolina and in respect of the title acquired by said petitioner in and to the lands and premises above described, but this cause is retained for the purpose of adjudication of any and all claims that have been or may hereafter be asserted in, to or against the money to be paid into Court by the petitioner, pursuant to the provisions of this judgment, and for no other purpose whatsoever.

This the 20th day of April, 1931.

(SEAL)

J.B.Cain
Clerk Superior Court.

(Signed) J.B.Cain
Clerk Superior Court, Buncombe County,
North Carolina.

STATE OF NORTH CAROLINA)
BUNCOMBE COUNTY)

In the Superior Court

I, J.B.Cain, Clerk Superior Court of Buncombe County, North Carolina, do hereby certify that the foregoing is a true and perfect copy of the Final Judgment in case of STATE OF NORTH CAROLINA vs Heirs at Law of W.H.Queen, et al, as the same appears on file and record in my office.

Witness my hand and official seal, this the 22nd day of April, 1931.

J.B.Cain
CLERK SUPERIOR COURT.

STATE OF NORTH CAROLINA
SWAIN COUNTY.

The foregoing or annexed certificate of J.B.Cain a C.S.C. of Buncombe County, is adjudged to be correct. Let the said deed and the certificates, be registered.

Witness my hand and official seal, this 30 day of April, 1931.

V.A.Browning
Clerk Superior Court.

Received for registration on this the 30th day of April, 1931; then was the foregoing Final Judgment registered in Book 59 at page 556.

Frank Hyatt
Register of Deeds