

DESCRIPTION OF THE BOUNDARY

ALLEN BUMGARNER TRACT.

SWAIN COUNTY, NORTH CAROLINA.

59.27

ACRES.

Thence, N. 79-39 W.

Thence, with the Laney Tract (117).

N. 77-18 W.

Thence, up and with Indian Creek.

N. 7-59 W.

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

NORTH CAROLINA PARK COMMISSION

ASHEVILLE, N.C.

REPORT ON THE ALLEN BUMGARNER TRACT No. 114.

Location of Tract: This tract lies on Indian Creek, a tributary of Deep Creek, about five and one-half miles from Bryson City and adjoins the lands of W. M. Laney and J. F. Shuler.

Description of Tract: This tract has been used and occupied as a home place for many years; the house is old; the land is productive and that which is cleared is not very steep.

Improvements: Two-room log house and log barn, old and in poor condition, the fencing is very good and there is an old orchard on the place which has been fairly well cared for and is still productive.

Valuation: This tract contains 59.27 acres, and values are arrived at as follows:

Two-room log house	\$200.00
Log barn	50.00
Other buildings	25.00
Fifty-one acres of cleared land	
part of which is cultivated	700.00
Eight acres of flat land	325.00
	<u>\$1,300.00</u>

The appraisers recommend this price.

Analysis of Title

Tract No. 114.

Allen Bumgarner.

1. Tract No. 114, containing 59.27 acres is a part of Grant 587, originally issued to R.V. Welch, W. W. Battle and J. R. Love and is fully set out on page 46 of the Abstract of Tract 172.

2. By deed dated April 18, 1862, Emiline Battle, Executrix of W.W.Battle conveyed to B. F. Hawkins an undivided interest in the lands of W. W. Battle, Deceased, covered by Grant 587. This deed was made pursuant to an order and decree of the Court of Pleas and Quarter Sessions of Jackson County at September Term 1860. The papers in the proceeding cannot be found but I think the recitals in a recent deed of this grantor will presume their correctness. This deed is recorded in Jackson County and is set out in Abstract of Tract 172 at pages 49 and 50.

3. B. F. Hawkins by deed dated April 18, 1862, conveyed the same land with the same exceptions to Emiline Battle. This deed is recorded in Jackson County and is set out in the Abstract of 172 at page 51.

4. Emiline Battle then conveyed to Robert G.A. Love by deed dated February 18, 1871 all of the interest of W. W. Battle in this tract as described in the grant. This deed is recorded in Jackson County and is set out in the Abstract of 172 at page 52.

5. From the records it appears that the heirs at law of Robert G. A. Love were, - M. E. Hilliard, wife of W. L. Hilliard, Samuel L. Love, M. H. Love, M. J. Branner, wife of J. A. Branner, M. M. Stringfield, wife of W. W. Stringfield and E. J. Thomas, wife of W. H. Thomas, Sr. W. H. Thomas, Sr. dies leaving as his heirs, W. H. Thomas Jr, J. R. Love and Sallie Thomas.

6. Judgment was obtained by Rankin, Pulliam and others against S. L. Love sometime prior to May 2, 1881 and under an execution issued upon said judgment, the sheriff of Swain County, J. A. Franks, sold the interest of said S. L. Love in Grant 587 and executed a deed therefor dated May 9, 1881, to Margaret E. Hilliard, wife of W. L. Hilliard, Josephine Branner, wife of J. A. Branner, M. M. Stringfield, wife of W. W. Stringfield, M. H. Love, Will H. Thomas, James R. Thomas and Sarah J. Thomas, apparently the heirs at law of E. J. Thomas, wife of William H. Thomas, Deceased. This deed is recorded in Swain County and is fully set out on page 53 of the Abstract of Tract 172. In a record of Judgment Book "M" page 630 of Swain County appears a judgment in a case entitled "Mary Rhinehardt et al against S. L. Love et al" from which it appears that an execu-

tion involving the interest of W. W. Battle was pending in the Superior Court of Swain County and had been settled and compromised and a decree was entered to the effect that all the heirs at law of W. W. Battle, Deceased, except Sallie Culbertson, should make execute and deliver to the defendants a quit claim deed for the lands described in the complaint. The papers in this case have not been found.

7. Following this decree, Mary A. Rhinehardt and husband, William, Malinda Crymer and husband, William M., M. E. McElroy and husband David M., J. L. Rateliff, widow of J. Rateliff Jr., E. E. Felmot and husband D. W. Felmot, Sallie Culbertson and husband, G.H. Culbertson, Alice O. Felmot and husband B. A. Felmot, Abida J. McCracken and husband M. B. McCracken, descendants as children and heirs at law of W. W. Battle, Deceased executed a deed dated July 27, 1885, to Samuel L. Love, M. H. Love, M. E. Hilliard, M. J. Branner, M. M. Stringfield, W. H. Thomas, Jr. J. R. Thomas and Sallie L. Thomas, descendants as the heirs at law of R.G.A. Love conveying all the right, title and interest of the grantors in Grant 587. This deed is set out on page 55 of the Abstract of Tract 172.

8. The next deed is from Sallie R. Culbertson, one of the heirs at law of W. W. Battle, Deceased, and husband, G. H. Culbertson to the same parties mentioned in the foregoing deed, dated January 22, 1886 and conveying by a quit claim deed the same land. This deed is recorded in Swain County and is set out on page 56 of the Abstract of Tract 172.

9. By deed dated December 20, 1885, W. L. Hilliard and wife, M. E., J. A. Branner and wife, M. J., W.W. Stringfield and wife, M. M. M. H. Love and wife M. R., S. L. Love and wife, Margaret, W. H. Thomas, Jr., J. R. Thomas and Sallie L. Thomas, children of Sarah J. Thomas, Deceased, all being heirs at law of J. R. Love and R.G.A. Love, Dec'd, and Elmira Thomas, wife of W. H. Thomas, Jr. and R.V. Welch and wife, M.C. Welch and W. L. Hilliard, Guardian in Lunacy of W. H. Thomas, Sr. conveyed to Dr. Clarke Whittier all of the lands embraced within Grant 587, with various exceptions. Among these exceptions are a number of tracts for which bonds for title had been executed by W. L. Hilliard and others. The particular exceptions involving Tract No. 114, being set out on page 81 of the Abstract of Tract 172. The deed is set out in full in said Abstract beginning at page 57 and is recorded in Swain County.

10. Following this conveyance, W. L. Hilliard and wife, M. E., J. A. Branner and wife, M. J., W. W. Stringfield and wife, M. M., M. H. Love and wife, M. R., S. L. Love and wife Margaret, W. H. Thomas Jr. and wife Elmira J., J. R. Thomas and Sallie L. Thomas and R. V. Welch and wife, M. C. Welch are named in a deed dated December 20, 1885 quit claiming to Clarke Whittier all of the exceptions for which bonds for title had been formerly executed by the grantors and for which deeds had not been made by them, which exceptions are set out in the foregoing deed for Grant 587 to Clarke Whittier and authorizing said Clarke Whittier to execute deeds of conveyance to the several persons to whom such bonds for title were outstanding. This deed is recorded in Swain County and is not acknowledged by W. L. Hilliard, one of the Grantors and by R. V. Welch and wife, M. C. Welch. It also appears that the deed was signed by W. H. Thomas and wife, E. J. Thomas, whereas the names of the grantors as given in the preamble of the deed are W. H. Thomas, Jr., J. R. Thomas and Sallie L.

Thomas, who were the heirs at law of William H. Thomas. This deed is recorded in Swain County and is fully set out in Abstract of Tract No. 172 at page 84 and a copy is set out in this Abstract, page 629.

11. Prior to the execution of the deed above mentioned to Clarke Whittier, W. L. Hilliard and S. L. Love, Executors of J. R. Love and R. V. Welch, through E. Everett, Agent, executed a bond for title to Sherrill Wiggins dated February 18, 1881. By the terms of which they were to convey to said Wiggins two tracts of land on the waters of Deep Creek, containing one hundred acres more or less, the first of these tracts covering Tract 114. There is, however, excepted from this instrument, two-thirds of all minerals, mines, wood and water for mining purposes without warranty. P631

12. The Power of Attorney referred to in the foregoing deed is set out on page of Tract and is duly recorded in Swain County.

13. Clarke Whittier, by deed dated July 21, 1886, conveyed to Sherrill Wiggins two tracts of land, the first tract described in the deed covering tract 114. This deed recites the power and authority given to said Clarke Whittier by the said W. L. Hilliard and others by Book "C", page 479 of the records of Swain County. This deed is recorded in Swain County. Page 632 of Abstract. There is excepted from this conveyance, a two-thirds mineral interest.

14. On August 14, 1905, Sherrill Wiggins and wife, Laura Wiggins, conveyed to Allen Bungamer a tract of land containing sixty acres being identical in description with the foregoing deed from Clarke Whittier to Sherrill Wiggins and covering Tract 114. This deed is recorded in Swain County. Page 633 of Abstract.

15. This tract has been in long and continuous adverse possession as will more fully appear by reference to the affidavit of page of Abstract.

NORTH CAROLINA PARK COMMISSION

ATTORNEY'S CERTIFICATE AND OPINION

TRACT NO. 114

IT IS HEREBY CERTIFIED: That the title to the within described land as disclosed in the attached abstract which contains a full, complete and correct abstract of all instruments and court proceedings of record affecting the same from and including the beginning entry there of has been carefully examined and noted, and that the following named owner.....:

Allen Bumgarner

.....seized in fee simple of a good and valid title to the same, subject only to any lien, charge or encumbrance shown in this abstract and listed hereon.

ENCUMBRANCES

1. Taxes.

2. This is derived through a large grant to Love, Battle and Welch. In 1881, E. Everett, acting as Agent for W. L. Hilliard and S. L. Love, Executors of J. R. Love and R. V. Welch, executed a bond for title to Sherrill Wiggins for a tract of land covering Tract No. 114 now belonging to Allen Bumgarner. This bond for title excepts two-thirds of all minerals, mines, woods and water for mining purposes.

Later W. L. Hillard and others owning Grant No. 587 made a conveyance excepting all tracts of land for which bonds for title had theretofore been given and by a subsequent conveyance to Clarke Whittier quit claimed to the latter all of the tracts covered by such bonds for title and directed said Clarke Whittier to execute deeds to the persons holding such bonds for title; among these was Sherrill Wiggins. Clarke Whittier thereupon executed a deed to Sherrill Wiggins, under whom Allen Bumgarner, dated July 21, 1886, conveying Tract No. 114 but excepting therefrom a two-thirds mineral interest in the tract. This is outstanding.

OK
check interest?