

Analysis of Title

Tract No. 145.

Lee Wiggins

Tract No. 145 is covered by the following grants:

Grant 993 to John Millsaps, Assignee
of David Shuler.
" 587 to Love, Battle and Welch.
" 702 to James Conley and John Sherrill.

These grants will be discussed in order.

1. Grant No. 993 was issued to John A. Millsaps, Assignee of David Shuler on November 25, 1870. It is for seventy-one acres and covers a portion of Tract 145, lying immediately south of the southern line of Tract 144 - Ben Lollis Tract. This grant is registered in Swain County and is fully set out on page 401 of the Abstract of Tract 144.

2. On March 1, 1871, John A. Millsaps conveyed to Enos A. Gunter a two-thirds interest in the lands covered by Grant 993 and to Elizabeth Lollis a one-third interest in said tract. The description in this deed is the same as that in the grant. This deed is registered in Swain County and is fully set out on page 402 of the Abstract of Tract 144.

Lollis

3. By deed dated April 28, 1873, Elizabeth Millsaps conveyed to Enos A. Gunter her one-third interest in the lands covered by 993. This deed is recorded in Swain County and is set out on page 403 of the Abstract of Tract 144.

4. On April 10, 1889, Enos A. Gunter and wife, Mary, and Elizabeth Lollis conveyed to A. J. Parris a tract of land, part of Grant 993 containing forty-six and one-third acres, which includes the northern part of 993 covered by tract 144 and also a portion of the lands covered by the said grant lying immediately south of and adjoining the southern line of the Ben Lollis Tract No. 144. This deed is recorded in Swain County and is fully set out in the Abstract of the title to said Tract 144 on page 404.

5. On the same date, to wit: April 10, 1889, Enos A. Gunter and wife, Mary conveyed to Elizabeth Lollis a tract of twenty-three and one-half acres, part of Grant 993 including that part of the southern portion of grant 993 embraced in tract 145. This deed is recorded in Swain County. Page 491 of Abstract.

6. Elizabeth Lollis then by deed dated February 25, 1903, conveyed to A. T. Lollis the same twenty-three and one-half acre

tract excepting seven acres which had been sold off on the northern end of said tract. This exception of seven acres is not included within the boundary lines of Tract 145. This deed is registered in Swain County. Page 492 of Abstract.

7. By deed dated January 6, 1913, A. T. Lollis, then conveyed a tract described as twenty acres more or less to W. E. Parris. This deed covers a portion of the southern end of Grant 993 included in tract 145. It EXCEPTS from the deed the clay or kaolin on this land. This deed is recorded in Swain County. Page 493 of Abstract.

8. W. E. Parris and wife, Annie Parris, then conveyed to A. M. Bradshaw and wife, M. D. Bradshaw, by deed dated November 6, 1915, the same tract of land described as containing twenty acres. This deed is recorded in Swain County. Page 494 of Abstract.

9. A. M. Bradshaw and wife, M. D. Bradshaw executed a deed in trust dated December 28, 1915, to Luther Baker to secure the payment of \$300.00 to W. A. Quiott. This deed in trust conveys the twenty acres described as the same land purchased by Bradshaw and wife from Ellis Parris. The property was sold under this deed in trust. It is recorded in Swain County. Page 495 of Abstract.

10. A. M. Bradshaw and wife, M. D. Bradshaw on November 6, 1915, executed a further deed in trust to Luther Baker, Trustee for W. E. Parris to secure \$100.00. This deed, however, has been canceled of record. It is recorded in Swain County. Page 496 of Abstract.

11. Luther Baker, Trustee, by deed dated January 27, 1917, conveyed the same tract of twenty acres to J. E. Coburn. This deed recites a sale of the lands made under the deed in trust executed by the said Bradshaw and wife to Luther Baker, Trustee, registered in Book 11 at page 217 and it recites that sale was made on the 27th day of January 1917 after due advertisement, because of default in payment. This deed is recorded in Swain County. Page 497 of Abstract.

12. By deed dated October 4, 1917, J. E. Coburn and wife, Bland W. Coburn, then conveyed this tract of land to Lee Wiggins. This deed is recorded in Swain County. Page 498 of Abstract.

GRANT NO. 587.

13. Grant No. 587 was issued to R. V. Welsh, W. W. Battle and J. R. Love on December 5, 1859, containing 50,000 acres and including and covering all of Tract 145. This grant is fully set out in the Abstract of Tract 172 at pages 46 and 47 of the Abstract of Tract 172.

14. The title to tract 145 is identical with that of tract 172 and will be found set out in the abstract of tract 172

beginning with page 46 down to and including two deeds from W. L. Hilliard and others to Clarke Whittier on pages 57 to 86 of said abstract.

15. The above deeds contain certain exceptions among them being exception No. 25 for 250 acres on Hammer Branch apparently excepted to Ingram and Son. This exception covers the eastern half of Tract 145 and other adjoining lands and is set out on page 82 of the Abstract of tract 172. It is also referred to in the second deed made by W. L. Hilliard and others to Clarke Whittier at page 84 of said abstract as 250 acre tract to Ingram & Son reserved for the benefit of R. V. Welsh and described as the exception in deed of conveyance from W. L. Hilliard and others to Clarke Whittier. A portion of this exception was later conveyed to W. C. Ingram, containing about fifty acres and is set out in the abstract of title to tract 143-a. Apparently said Ingram was never able to complete the purchase for the whole 250 acre tract. There is no bond for title of record and the evidence of an existing bond for title is from the exception contained in said deed from W. L. Hilliard and others to Clarke Whittier, although the exceptions are specific by metes and bounds. We also call attention to exception No. 25 in said deeds to E. A. Gunter for a tract of seventy-one acres which is called for and adjoins the 250 acre exception above mentioned. This exception is set out on page 72 of the Abstract of 172.

16. We then have a deed from R. B. Gilmer, Administrator de bonis non of James R. Love, deceased and James C. Welch, Guardian of R. V. Welch dated June 9, 1896, to A. J. Parris. This deed covers the eastern portion of tract 145. It is fully set out in the Abstract of Tract 144, at page 409.

17. A. J. Parris died leaving the following persons as his heirs at law:

M. C. Parris
S. B. Parris
J. G. Parris
Mary E. Jones, wife of H. H. Jones
E. Lee Parris
Robert Parris
W. W. Parris
Grover Parris

These heirs at law of A. J. Parris are shown by affidavit in the abstract of title of tract 144 at page _____.

18. By deed dated February 18, 1915, M. C. Parris, S. B. Parris and wife, Gertrude, J. G. Parris and wife, Abie, H. H. Jones and wife, E. Lee Parris and wife, Josie Parris, Robert Parris and Grover Parris executed a deed conveying this tract to J. H. Cassada. W. W. Parris is also named as one of the grantors in this deed but appears not to have acknowledged it. This deed is recorded in Swain County. Page 499 of Abstract.

19. W. W. Parris unmarried by deed dated April 1, 1915, then conveyed to W. H. Cassada a tract of land described in the last mentioned deed. As is recorded the name of the grantee is given

as W. H. Cassada and evidently this is a mistake and should be J. H. Cassada. This deed is recorded in Swain County. Page 508 of Abstract.

20. The two last deeds cover the eastern portion of Tract 145 and also a part of the western end of it lying just south of the Ben Lollis tract of which A. J. Parris was also seized at the time of his death.

21. J. H. Cassada and wife, Minnie by deed dated February 10, 1916, then conveyed this thirty-five acre tract to Hessie Sutton. This deed is recorded in Swain County. Page 501 of Abstract.

22. C. J. Sutton and wife, Hessie, by deed dated October 4, 1917 conveyed the same thirty-five acre tract to Lee Wiggins, excepting therefrom the acid wood on said tract until March 1, 1918, after which time all of the wood so excepted was to revert to the said Lee Wiggins. This deed is recorded in Swain County. Page 502 of Abstract.

GRANT NO. 702.

23. We also find of record a grant No. 702 issued to James Conley and John Sherrill on December 29, 1860, for a tract of 600 acres, which apparently covers all of tract 145. This grant is set out in full of the Abstract of title to tract 145 at page 439.

The only conveyances we have been able to find under this grant which would affect the title to tract 145 are as follows:

24. I. W. Fisher and wife, M. E. Fisher executed a deed dated November 27, 1860 to S. W. Cooper conveying all of their interest in Grant 702 issued to James Conley and John Sherrill on December 29, 1860. This deed is registered in Jackson County and also in Swain County and is set out on page 441 of the abstract of tract 146.

25. We also find a deed from J. P. Panther and wife to Sam Conley and wife dated September 16, 1889, conveying the lands covered by a number of grants including grant 702 to James Conley and John Sherrill registered in Jackson County. This deed is recorded in Swain County and is set out on page 440 of the Abstract of title to tract 146.

26. We also find a deed from Samuel Conley and wife, Aloyse Conley to S. W. Cooper dated January 22, 1890, conveying the lands covered by grant 702. This deed is recorded in Swain County and is set out on page 442 of Abstract of Tract 146.

27. We do not find any further conveyance of record in Swain County or elsewhere connecting this title with the grantees in Grant 702. Samuel Conley is named as the grantor in one of the above named deeds was an heir of James Conley and presumably interested in said lands. Grant No. 702 is junior in title to grant 507, the latter having been issued on December 8, 1859, so that such title as was acquired by the present holders through grant

587 would be superior to that under 702.

28. Also apparently a portion at least of the western part of Tract 145 was included in the exception in deed from W. L. Hilliard and others to Clarke Whittier hereinbefore referred to as having been made in favor of E. A. Gunter, and as No. 587 is senior in title to grant 702 it was probable that no further conveyances were made under the latter grant because of the superiority in title of grant 587.

29. However, in addition to the conveyances hereinbefore set out we rely for title upon long continuous adverse possession under said conveyances and which we think ~~is~~ matured as against grant 702 or any other outstanding title. Evidence of this possession is shown by the affidavit of _____. Page

TRACT NO. 145-a.

This is a small tract of ten acres, the title to which is complicated by reason of the fact that it is made up of portions of three grants, to wit: Grant 495, Grant 656 and Grant 998. The chain of title is not perfect under these grants but all of them are very old grants and have been held by continuous adverse possession for a long period of time. Portions of this tract and the title under each of these grants will be set out.

1. Grant 998 was issued to James H. Wiggins on December 12, 1870. This is a large irregular tract lying south of and adjoining Grant 656, the extreme northwestern corner of which covers a portion of Tract 145-a. This grant refers in its calls to a chestnut and locust as the beginning corner of Elbert Newton's tract No. 4818. This apparently refers to grant 495 as shown on the map and is a common corner of that grant and grant 656. This grant is recorded in Swain County. Page 503 of Abstract.

2. By deed dated October 5, 1878, James H. Wiggins conveyed to Thomas A. Wiggins a tract of thirty acres beginning at the chestnut and locust, the northwest corner of 408 and covering the portion of Tract No. 145-a covered by grant 998. This deed is registered in Swain County. Page 504 of Abstract.

For continuation of this title see paragraph _____ of this analysis.

GRANT NO. 656.

3. Grant 656 was issued to Samuel Ambourn on January 6, 1845 for one hundred acres. This grant covers the extreme south western corner of this grant and is included within the boundary lines of tract 145-a. This grant is registered in Swain County and is fully set out on page 96 of the "Abstract of Tract 167."

4. No conveyance is found from Samuel Ambourn and the

next deed of record being a deed from May Campbell to James H. Wiggins dated October 23, 1854, which conveys this one hundred acre tract covered by Grant 656. This deed is recorded in Swain County and is set out on page 97 of the Abstract of title to Tract 167.

5. James H. Wiggins by deed dated June 7, 1876, conveyed to Thomas A. Wiggins a tract containing twenty-five acres. This deed is recorded in Swain County and is set out on page 98 of the Abstract of title to Tract 167.

6. By deed dated May 5, 1879, Thomas A. Wiggins and wife, Nancy Wiggins, conveyed to Jane L. Kitchen, two tracts of land, the first tract covering the land embraced within grant 656 and the other covering the thirty acre tract hereinbefore referred to as having been conveyed to James H. Wiggins to said Thomas Wiggins as a part of Grant 998. This deed is recorded in Swain County and is set out in the Abstract of title to Tract 167 at page 99.

This title will be continued, see paragraph _____ of this Abstract.

7. Grant 495 was probably issued to Solomon Newton, but so far we have been unable to find the grant. A number of old deeds refer to and describe it as the "poplar cove tract". It is probably an old tract upon which long continuous adverse possession has existed.

8. The first conveyance which is found of record is a deed from Solomon Newton to John A. Millsaps dated April 24, 1855, which conveys a tract of fifty acres described as tract No. 495 Section No. 4387 and covering the "poplar cove tract". This deed is recorded in Jackson County and is set out in the Abstract of Tract 153 at _____. But see will of John A. Millsaps - Abstract of Title Tract 167, page 93 and deed from E. Everett, Executor of John A. Millsaps to W. P. Hyde Abstract of title Tract 153, page _____.

9. We are also unable to find a deed from John Millsaps, the next conveyance being a deed from W. P. Hyde and wife, Susannah, to W. L. Kitchen, dated April 20, 1879, conveying a tract of thirty acres and covering the poplar cove tract. This deed is recorded in Swain County. See page 505 of this Abstract.

10. The next conveyance is a deed from W. L. Kitchen and wife, Jane Kitchen to W. H. Clark, dated December 1, 1882. This conveys a tract of forty acres which includes that portion of tract 145-a covered and embraced within the several deeds hereinbefore referred to to W. L. Kitchen and Jane Kitchen. This deed is recorded in Swain County. Page 103 of the Abstract of tract 167.

11. W. H. Clark and wife, M. A. Clark, by deed dated January 15, 1900, then conveyed to D. N. Wiggins a tract of ten acres, which covers tract 145-a and being a portion of the forty acre tract referred to in the last named deed. This deed is recorded in Swain County. Page 506 of this Abstract.

12. D. H. Wiggins and wife, then conveyed to Lee Wiggins by deed dated November 30, 1912, the same tract of ten acres, last above referred to. This deed is recorded in Swain County. Page 507 of Abstract.

13. See affidavit of _____ as to possession.

EXCEPTIONS AND PRIOR CONVEYANCES.

It will be noted from the foregoing abstract that in the deed executed by A. T. Lollis and wife, Josie to W. E. Parris on January 6, 1913, said Lollis excepted the clay and kaolin. This clay and kaolin so excepted was conveyed by A. T. Lollis and wife Laura Lollis to C. J. Harris by deed dated February 3, 1905, and recorded in Swain County. The last tract described in said deed covering the clay or kaolin in the twenty-three and one-half acre tract conveyed by said Lollis to Parris. This interest is outstanding. This deed is set out in full on page 452 of the abstract of title to Tract 146.

DEEDS IN TRUST.

1. Lee Wiggins and wife, Mary Wiggins, executed a deed in trust to Luther Baker, Trustee for J. E. Shuler on July 4, 1916, to secure a small indebtedness of \$25.00. This deed in trust is recorded in Swain County and appears to have been properly canceled. Page 508 of Abstract.

2. Lee Wiggins executed a further deed in trust on June 17, 1916 to R. M. Thomasson for the State of North Carolina. This deed in trust appears to have been given in lieu of an appearance bond for John Wiggins and doubtless the terms have been complied with but it should be properly canceled of record. This deed in trust is recorded in Swain County. Page 509 of abstract.

NORTH CAROLINA PARK COMMISSION
ASHEVILLE, NORTH CAROLINA

RE: ON LEE WIGGINS TRACRS NOS. 145 and 145A 61.47 acres.

LOCATION:

These tracts are located on the waters of Deep Creek about three miles from Bryson City and adjoins other small property owners.

DESCRIPTION:

These tracts are mountain farms mostly steep and wooded land although there is some flat land of considerable width on the branches. The wood lands have been cut over but now consists of a thrifty growth of young timber. All the wood lands are steep.

IMPROVEMENTS:

The improvements are one three room log house in good condition a small log barn in good condition and a two room boxed house in poor condition, ten acres of pasture land. Considerable wire fencing on the place as well as a few bearing fruit trees.

VALUATION:

Three room log house	\$200.00
Log barn	100.00
Two room boxed house	100.00
Eight acres of flat land	770.00
Ten acres pasture land	2200.00
43 acres of wood land	430.00
Total	\$18,00.00

An option is taken on this land for \$18,00.00 and while the price seems high the tax valuation for this property has been \$18,00.00. Your approval of the trade is ask.

Appraisers

Approved by the
Executive Com.

Purchased 9/16/29.

Page.....
NORTH CAROLINA PARK COMMISSION

ATTORNEY'S CERTIFICATE AND OPINION

Tracts 145 and 145-a.

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.....:

Lee Wiggins

..... 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

Tract No. 145.

1. Subject to taxes.
2. Subject to the reservation of the kaolin and clay on a twenty acre tract - a portion of Tract 145 referred to in a deed from A. T. Lollis to W. E. Parris dated January 6, 1913. A. T. Lollis conveyed this interest in the clay and kaolin to C. J. Harris by deed dated February 3, 1905. This interest is now outstanding in C. J. Harris.

Tract No. 145-a.

Title to this tract is good.

OK
H

This 5th day of September, 1929.

John W. Kerr
John W. Kerr
Attorney.