

NORTH CAROLINA PARK COMMISSION

ASHEVILLE, N. C.

REPORT ON THE J. L. STILES TRACT - NO. 159

LOCATION: This tract, consisting of 74.70 acres, lies on Indian Creek, a tributary of Deep Creek. It is about five miles from Bryson City.

DESCRIPTION: It is a mountain farm embracing a large proportion of cutover timber lands and old fields that were once cultivated but now thrown out to woodland. About two acres of flat land furnish all the cultivated land. It is a poor place and rather poorly kept. Twenty-five fruit trees are scattered over the old fields.

IMPROVEMENTS: There is one 3-room log house on the tract. There are no other improvements of value.

OPTION: An option has been taken on the tract for \$860.00.

VALUATION: The appraisers set up the following values:

Three room log house		\$100.00
2 acres flat land	@ \$20.00	40.00
20 acres old fields	@ 10.00	200.00
52 acres timber land	@ 10.00	520.00
74 acres	TOTAL VALUATION	<u>\$860.00</u>

Apparently the land has never been listed for taxes. At least, no record could be found.

RECOMMENDATION: The appraisers recommend that the price in the option be approved. The tract is surrounded by lands of the Champion Fibre Company and is essential for rounding out the Park area.

Home Ranch

S. F. Chapman

W. H. W. W. W. W.

APPRAISERS.

APPROVED BY THE EXECUTIVE COMMITTEE
NORTH CAROLINA PARK COMMISSION

P. H. E. E. E.

Mr. S. H. H. H.

W. H. W. W. W.

Original

Duplicate

Analysis of Title

Tract No. 159

J. L. Stiles

Tract No. 159 is covered entirely by Grant No. 967 to E. B. Olmstead and partly by Grant 125 to A. W. Parris. Grant No. 967 is a senior grant, therefore, superior in title. These grants and chain of title under each will be discussed.

1. Grant No. 125 was issued to A. W. Parris on Jan. 11, 1881. It contains 145½ acres and includes a large part of Tract 159 as will be seen by reference to the plat attached. This Grant is recorded in Swain County. Abstract page 771.

2. By deed dated November 18, 1919, A. W. Parris and wife, Louise Parris conveyed to James Branton and wife, Emma, a tract of land calling for thirty-eight acres, which lies within Grant No. 125 and also 967 and covers the northern part of Tract 159. This deed is registered in Swain County. Page 772 of Abstract.

3. J. S. Branton and wife, Emma, conveyed to J. E. Vick and wife, Mary Vick, the same tract of thirty-eight acres mentioned in the foregoing deed. This conveyance is dated December 30, 1902 and is recorded in Swain County. Page 773 of Abstract.

4. By deed dated February 6, 1915, John E. Vick conveyed to J. W. Vick a tract of land calling for 55½ acres but corresponding in description to that contained in the foregoing deed from Branton to John E. Vick. It will be noted that J. S. Branton and wife conveyed this tract of land to J. E. Vick and wife, Mary, while the deed from John E. Vick to J. W. Vick is signed and executed only by John E. Vick, his wife, Mary Vick, not joining in the conveyance. If Mary Vick was living at the time of this conveyance it would not convey any title whatever and a quit claim would be necessary. This should be investigated and the facts ascertained. This deed is recorded in Swain County. Page 774 of Abstract. Mary Vick was dead at time deed was executed. See affidavit. 775

5. J. W. Vick and wife, Lydia Vick by deed dated Feb. 5, 1918, conveyed to Ellis Parris a tract of land which states that the deed is made to include thirty acres of the lower end of said tract, referring to the 55½ acre tract hereinbefore described. This deed is recorded in Swain County. Page 776 of Abstract.

6. On January 20, 1919, J. W. Vick and wife, Lydia Vick executed a further deed apparently conveying the 55½ acre tract mentioned in the foregoing conveyance excepting one acre formerly deeded to John E. Davis. The description in this deed will apparently cover the thirty acres mentioned in the last foregoing deed from J. W. Vick and wife to Elias Parris and would include the northern portion of Tract 159 running up what is called the Ramsaur line, which is also the northern line of Grant 967. This deed is recorded in Swain County. Page 777 of Abstract.

7. As above stated all of tract 159 is covered by Grant No. 967 to E. B. Olmstead and the present claimant, J. L. Stiles, also has title to a portion of Tract No. 159 through this Olmstead Grant which will now be set out.

8. Grant No. 967 to E. B. Olmstead dated November 10, 1867 conveyed a tract of 2560 acres lying in what was then Jackson County, North Carolina and covering all of Tract 159 and adjoining lands. This grant is recorded in Swain County. Page 778 of Abstract.

9. About the year 1882 George W. Swenson brought an action in the Superior Court of Macon County, North Carolina against E. B. Olmstead, in which action it was alleged that the said E. B. Olmstead held certain lands including Grant 967 in trust for the said George W. Swenson, subject, however, to the payment of a certain indebtedness of \$500.00 due the defendant Olmstead. The judgment in the cause recited that it appeared to the satisfaction of the court that a summons had been duly executed on the defendant and no defense had been made to the action and it was further adjudged and decreed that the defendant held said lands as trustee for the plaintiff and among other things directed a sale of the lands described in the pleadings including Grant 967, said sale to be made by K. Elias, Commissioner, at public or private sale, the said commissioner to pay off certain indebtedness together with the costs of the action and execute deeds to the purchaser or purchasers of said lands. This decree was signed by Judge H. A. Gilliam at spring term 1882 of the Superior Court of Macon County. The report was made by said Commissioner at the fall term of said court which was approved at that term by Judge James E. Shepherd, Judge Presiding, and it appeared from this report that A. Rosenthal had become the purchaser of these lands at the price of FORTY THOUSAND DOLLARS and the sale, and the report of Commissioner was duly confirmed and he was directed to execute deed to said Rosenthal for the lands mentioned in the pleadings. This decree is not of record in Swain County but is fully recorded in the Office of the Clerk of the Superior Court of Macon County. Page 779 of Abstract.

10. Pursuant to the foregoing proceeding and the decree therein, K. Elias, Commissioner, executed a deed to A. Rosenthal dated October 28, 1882. This deed recites the proceeding last hereinbefore mentioned and the decree made therein and conveys the said A. Rosenthal among other lands the lands covered by Grant 967, containing 2560 acres and Grant 969 containing 1280 acres, above tracts lying in Swain County. This deed is recorded in Swain County. Page 781 of Abstract.

11. It further appears from the record that E. B. Olmstead and wife, M. E. Olmstead, also executed a quit claim deed to A. Rosenthal dated October 31, 1882, conveying the lands covered by State Grant 967 and 969 and also a large number of other tracts of land. This deed is recorded in Swain County. Page 782 of Abstract.

12. A. Rosenthal and wife, Henrietta Rosenthal by deed dated May 21, 1889, conveyed to J. H. McAden, Trustee, all of the lands which were conveyed to said Rosenthal by E. Elias, Commissioner and by E. B. Olmstead and wife by the deeds hereinbefore mentioned. This deed transfers the title to said lands to said McAden in trust for the heirs and devisees of R. Y. McAden. This deed is recorded in Swain County. Page 743 of Abstract.

13. R. Y. McAden died, having executed a will devising a one-eighth interest in his lands to his wife, Mary McAden, and devising the balance of his real estate to J. H. McAden in trust for his heirs at law with full power and authority in said trustee to sell and convey said lands. This will is set out in full in the Abstract of Title to Tract 154, page .

14. Subsequently Mary McAden, the wife of R. Y. McAden died leaving her interest in said lands to her children and heirs at law which were identical with the heirs at law of R. Y. McAden.

15. While the title to these lands was as above indicated, the heirs at law of R. Y. McAden for whom J. H. McAden had held the title in trust brought a large number of proceedings or suits in ejectment in the Superior Court of Swain County, North Carolina to protect the title of the McAden heirs under Grants 967 and 969. These actions were brought at the time the portion of Tract 158 which was conveyed to John E. Vick and wife, Mary Vick, by J. S. Branton, was held in possession and claimed by them. In this action it was adjudged that the plaintiffs were the owners of the lands covered by Grant No. 967 except a certain tract of thirty-eight acres which they had contracted and sold to the said John E. Vick and wife, Mary Vick, and adjudged them to be the owners of said tract of thirty-eight acres which is the same as that set out in the deed from J. S. Branton and wife to said Vick and wife hereinbefore referred to. The names of the heirs of the said McAden are fully set out in said proceeding which is recorded in Minute Docket Book 6, page 552 in the Office of the Clerk of the Superior Court of Swain County. Page 744 of Abstract.

16. It will be noted that that portion of Tract 158 embraced within the 55½ acre tract hereinbefore mentioned has become vested in Ellis Parris partly through Grant 125 and also through Grant 967. Ellis Parris and wife, Annie, then convey to J. L. Stiles and wife, Iva Stiles, said 55½ acre tract excepting one acre formerly deeded to John E. Davis. This deed is recorded in Swain Co. Page 746 of Abstract.

17. A small portion of Tract 159 containing about nineteen acres lying at the southern end of the tract also comes through Grant 967. The records do not disclose any deed to N. W. Gentry and wife, F. L. Gentry but we find that said N. W. Gentry (whose name was given as Nick Gentry) was made a defendant in one of the

actions brought by Giles Meaden, et al, heirs at law of R. Y. Meaden against various persons claiming lands lying within Grant 967. At the July-August Term 1905 a judgment was entered in the action brought by the heirs of R. Y. Meaden against J.S.F. Edwards and others in which it was stated that Nick or N. W. Gentry disclaimed any interest in the lands covered by Grant 967 but that for reasons therein stated the plaintiffs released all their right, title and interest to the said Nick Gentry in and to said nineteen and one-half acres of land described by metes and bounds in said judgment and being the same lands embraced in the deed hereinafter set out from N. W. Gentry and wife to John B. Queen. This proceeding and judgment is recorded in deed Book 27, page 148 of the records of Swain County and also is recorded in Minute Docket Book 6 at page _____ in the Office of the Clerk of the Superior Court of Swain County. The names of the heirs at law of the said Meaden and all defendants are fully set out in this Abstract. Page 747 of Abstract.

18. We find a deed from N. W. Gentry and wife, F. L. Gentry, dated September 30, 1905, conveying said tract of nineteen and one-half acres by metes and bounds to J. B. Queen. The deed is recorded in Swain County. Page 749 of Abstract.

19. J. B. Queen and wife, Kina Queen by deed dated April 31, 1906, conveyed the said nineteen and one-half acres to W. H. Stiles. This deed is recorded in Swain County. Page 790 of Abstract.

ENCUMBRANCES

20. On October 26, 1903, Mary Vick and husband, J. E. Vick, executed a mortgage to T. D. Shuler conveying to said Shuler the tract of thirty-eight acres mentioned in the deed from J. S. Branton to said Vick to secure an indebtedness set out in said mortgage. This mortgage is uncanceled of record. It is recorded in Swain County. Abstract page 791 .

21. By Deed in Trust dated April 12, 1918, Ellis Parris and wife, Annie Parris, who at that time owned a portion of Tract 159, executed a Deed in Trust thereon to Joe Lee Shuler. This Deed in Trust was given to secure \$_____ and is uncanceled of record. It is recorded in Swain County. Page 792 of Abstract.

NORTH CAROLINA PARK COMMISSION

ABSTRACT OF DEED OR GRANT

Grantors
Grantees

In Preamble	As Signed	As Acknowledged
North Carolina		
A. W. Parris		

- Kind of Conveyance.....
- Date of Conveyance.....
- Is it properly executed **Grant No. 125**
- Date of Entry and No. **1-11-311**
- Before what Officer acknowledged.....
- Acknowledgments, regular.....
- If irregular, copy in full on back.....
- Did all grantors acknowledge.....
- Date of acknowledgment.....
- Was privy examination of wife taken.....
- Did officer affix Seal.....
- Was order of probate correct.....
- Does conveyance contain covenants—
- Date of filing for record.....
- (a) of seizin.....
- Book **4-13-35**
- (b) power to convey.....
- for **5** **167**
- (c) against encumbrances.....
- Does deed contain any special limitations, provisions or restrictions.....
- (d) against claims of all others.....
- Habendum clause (Quote fully).....

Exact Description of Property

On the waters of Indian Creek.

BEGINNING in the Love line at a dogwood, runs

North 64 1/2 East 80 poles to a locust in Love line

South 60 East 20 poles to an spanish oak in Andrew Wiggins line

South 10 East with A. Wiggins line 65 poles to a chestnut,

Wiggins corner,

South 45 West 140 poles to a small chestnut

South 80 West 56 poles to a chestnut oak

North 48 West 70 poles to a pine

North 54 poles to the Love line

North 64 1/2 East 116 poles to the BEGINNING.

Containing 145 1/2 acres.

NORTH CAROLINA PARK COMMISSION

ABSTRACT OF DEED OR GRANT

In Preamble

As Signed

As Acknowledged

Grantors

A. W. Parris & wife
Louisa Parris

2

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Grantees

James S. Branton
& wife Emma

1. Kind of Conveyance
3. Is it properly executed
5. Before what Officer acknowledged C. S. C.
7. If irregular, copy in full on back
9. Date of acknowledgment 11-19-98
11. Did officer affix Seal
13. Does conveyance contain covenants—
 - (a) of seizin yes
 - (b) power to convey no
 - (c) against encumbrances yes
 - (d) against claims of all others yes

2. Date of Conveyance 11-19-98
4. Date of Entry and No.
6. Acknowledgments, regular yes
8. Did all grantors acknowledge yes
10. Was privy examination of wife taken yes
12. Was order of probate correct yes
14. Date of filing for record 5-19-99
15. Book 19 Page 500
for Swain County.
16. Does deed contain any special limitations, provisions or restrictions

17. Habendum clause (Quote fully) To have and to hold the above said land, tenements, and hereditaments together with the priv. and appur. belonging to the said James S. Branton & wife Emma Branton and assigns in fee simple.

Exact Description of Property

Beginning at a Chst. in the Lave line
on the Ramseur line and runs
up the ridge S 65° E. 5.3 p. to Heckman
an top of a ridge, Sam Shuckert with
Stells Curry; thence with the
line of Sam Shuckert tract S 27° E
129 p. to a St. and fence in Shuckert
line; thence with line of State G. 125
N 48° E. 40 p. to a S. Oak in the Cutney
line; thence North with said line
94 p. to B Oak in the Lave line; thence
with the Lave line N 64° E 70 p. to bay.
Sheet 8

can 38 acres.

Page.....

NORTH CAROLINA PARK COMMISSION

ATTORNEY'S CERTIFICATE AND OPINION

Tract No. 159.

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.....:

J. L. Stiles

is 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. It will appear from the Abstract that a portion of this tract became vested in John E. Vick and wife, Mary Vick and that later on February 6, 1915, John E. Vick executed a deed to J. W. Vick for the same lands without his wife's signature and acknowledgment. We were first of the opinion that it would be necessary to secure a quit claim deed, but from an affidavit we have subsequently secured it appears that Mary E. Vick at the time said John E. Vick executed the deed to said J. W. Vick was dead and therefore, the title vested in J. E. Vick and wife, Mary Vick passed by this deed. It appear, however, that John E. Vick subsequently married again, the second wife's name being Mary which lead to the opinion that she was still living and a quit claim would be necessary.

3. There appears of record a Deed in Trust executed by Ellis Parris and wife to Joe Fee Shuler covering a portion of this Tract. This Deed in Trust was given to secure an indebtedness of \$55.00. However, it was dated in 1913 and more than ten years has elapsed since the maturity of the indebtedness and we think that any power of sale under this deed in trust is now barred by the statute.

This 25th day of May, 1929.