

Analysis of Title

Tract No. 167--Hardy Clark

1. This tract of land is covered by the following grants: 685, 656, 121 and 998.

G R A N T N O. 9 9 8.

2. Grant No. 998 was issued to James H. Wiggins on December 12, 1870. This grant is registered in Swain County. See page 503, Book 4.
3. On October 5, 1878, James H. Wiggins conveyed to Thomas A. Wiggins a portion of Grant 998, which covers the southern portion of Tract 167. This deed is recorded in Swain County. See page 504, book 4.
4. Thomas A. Wiggins and wife, Nancy L. J. Wiggins, by deed dated May 5, 1879, conveyed two tracts of land to Jane L. Kitchen. The second tract in this deed covers that portion of Grant 998 embraced within Tract 167. This deed is also referred to in paragraph 15 of this abstract.

G R A N T N O. 6 8 5.

5. State Grant No. 685 was issued to John A. Millsaps, December 29, 1860, and is said to contain three hundred acres. This grant is of record in Jackson County. See page 92 of this abstract.
6. On October 21, 1872, John A. Millsaps executed his last will and testament, which was duly probated in the Clerk's Office of Swain County in Will Book 1, page 14. In this Will, E. Everett is appointed executor with power to sell land. See page 93 of this abstract.
7. On January 26, 1880, E. Everett as Executor of John A. Millsaps conveyed to W. L. Morris a tract of land containing 290 acres which is a portion of State Grant 685. This deed is of record in Swain County. See page 94 of this abstract.
8. On December 2, 1882, W. L. Morris and wife conveyed to W. H. Clark a tract containing seventy-six and one-half acres, which is a portion of the land described in the deed mentioned in the preceding paragraph. This deed is of record in Swain County. See page 95 of this Abstract.

9. State Grant No. 656 was issued to Samuel Amburn, January 16, 1845, and is said to contain one hundred acres. This Grant is of record in Jackson County. See page 96 of this abstract. So far as we have been able to determine from the records, Samuel Amburn never made a conveyance of Grant No. 656.

10. The next trace that we have been able to find of State Grant No. 656 is in a deed of conveyance dated October 23, 1854, from Mercy Campbell to James H. Wiggins. This deed is of record in Jackson County. See page 97 of this abstract.

11. On June 2, 1876, James H. Wiggins conveyed to Thomas A. Wiggins a tract of land containing twenty-five acres, which is a portion of State Grant No. 656. This deed is of record in Swain County. See page 98 of this abstract.

12. On May 5, 1879, Thomas A. Wiggins conveyed two tracts of land containing in the aggregate 130 acres to Jane Kitchen. This deed reserves one-fourth acre at the graveyard and says that W. L. Kitchen is to have a life estate in said land. We have been unable to determine from what source Thomas A. Wiggins derived title for a portion of the land described in this deed as we have been unable to find from the records any conveyance to him covering part of this land. This deed is of record in Swain County. See page 99 of this abstract.

13. On May 1, 1888, W. L. Kitchen and wife, Jane Kitchen, conveyed to J. C. Rogers a tract of land containing 154 acres. This deed includes a portion of the land mentioned in the preceding paragraph of this abstract; and also includes some land adjoining that we have been unable to find conveyed to either W. L. Kitchen or his wife, Jane Kitchen, and are unable to state where these parties acquired their title.

14. On June 14, 1885, J. C. Rogers and wife conveyed two tracts of land to W. H. Clark. This deed is of record in Swain County. See page 101 of this abstract.

15. On February 18, 1893, J. C. Rogers and wife, conveyed to W. H. Clark a tract of land containing 111 acres. This deed is of record in Swain County. See page 102 of this abstract.

16. On December 1, 1882, W. L. Kitchen and wife, Jane, conveyed a tract of land containing forty acres to W. H. Clark. This deed is of record in Swain County. See page 103 of this abstract.

The above conveyances to W. H. Clark compose what is known as the "W. H. Clark Homestead Land" situated on Deep Creek and estimated to contain about 240 acres.

Thereafter W. H. Clark died, intestate without conveying the above land and left surviving him the heirs set out in the affidavit on page \_\_\_\_\_ of this abstract.

17. The following conveyances are from the heirs at law of W. H. Clark to Hardy Clark conveying their interest in Tract No. 167, which said tract is a portion of the W. H. Clark lands.

(a) On August 10, 1915, M. A. Clark as Guardian of Thomas and Ernest Clark conveyed a two-eighths undivided interest in Tract No. 167 to Hardy Clark. This deed is of record in Swain County. See page 104 of this abstract.

The records in the Clerk's Office of Swain County show that on the 16th day of May, 1915, M. A. Clark was appointed Guardian for Thomas Clark and Ernest Clark, sons of Franklin Clark; but the records do not disclose that said guardian filed a petition asking for the sale to be made of these lands, nor is there an order authorizing her to make this sale. The qualification for Guardianship will be seen by reference to page 106 of this abstract.

(b) On June 25, 1925, M. A. Clark, widow, conveyed to D. H. Clark all her interest in Tract No. 167. This deed is of record in Swain County. See page 107 of this abstract.

(c) On May 15, 1909, Mary E. Sherrill and husband conveyed to D. H. Clark all their interest in Tract No. 167. This deed is of record in Swain County. See page 109 of this Abstract.

(d) On October 20, 1915, Annie Cagle and husband conveyed to D. H. Clark all their interest in Tract No. 167. This deed is of record in Swain County. See page 110 of this abstract.

(e) On September 14, 1910, D. L. Clark and wife conveyed to M. M. Clark a one-eighth interest in the W. H. Clark lands. This deed is of record in Swain County. See page 111 of this abstract.

(f) On May 25, 1916, M. M. Clark and wife conveyed to D. H. Clark a one-fourth interest in the W. H. Clark lands. This deed is of record in Swain County. See page 112 of this abstract.

(g) On July 30, 1925, M. M. Clark and wife, Lillie B., D. L. Clark and wife, N. L. Clark, T. L. Clark and wife, Laura Clark conveyed to D. H. Clark all their interest in the W. H. Clark lands. In this deed Lillie B. Clark failed to sign and acknowledge. However, her name appears in the preamble. This deed is of record in Swain County. See page 113 of this abstract.

18. After purchasing the W. H. Clark lands, D. H. Clark purchased a four acre tract located on the western boundary of the W. H. Clark lands and adjoining same.

The chain of title of this tract if as follows:

G R A N T N O. 121.

19. State Grant No. 121 was issued to W. P. Hyde on October 13, 1880. This grant is of record in Swain County. See page 114 of this abstract.

20. On June 11, 1884, W. P. Hyde and wife, S. E. Hyde, conveyed to A. J. Cline a tract of land containing seventy acres, which portion embraces the locus in quo. This deed is of record in Swain County. See page 115 of this abstract.

21. On June 25, 1907, A. J. Cline conveyed to Amanda Cline two tracts of land which embrace the locus in quo. This deed is of record in Swain County. See page 116 of this abstract.

22. On July 12, 1888, A. J. Cline made his wife, Amanda, a free dealer. See page 117 of this Abstract.

23. On May 1, 1909, Amanda Cline, a free dealer, conveyed to Nathaniel Cline a tract of land containing twenty-five acres, which tract embraces the locus in quo. This deed is of record in Swain County. See page 118 of this Abstract.

24. On May 22, 1915, N. A. Cline and wife conveyed to D. H. Clark a tract of land containing four acres which is the locus in quo. This deed is of record in Swain Co. See page 119 of this abstract.

25. There are several deed in trust effecting tract No. 167 that have been canceled of record, which may be seen by reference to pages 120 to 126 of this abstract.

26. A Deed in Trust, dated May 25, 1887 from W. H. Clark to Clarke Whittier, given to secure the sum of \$20.00 recorded in deed in trust Book 1, page 132 has never been canceled of record. However, we are of the opinion that this instrument is barred by the statute of limitations. See page 127 of this abstract.

27. A Deed in Trust dated August 28, 1925, from D. H. Clark to Federal Land Bank of Columbia, given to secure the sum of \$2,000.00 due and payable thirty-four years after date. See page 128 of this abstract.

## NORTH CAROLINA PARK COMMISSION

## ABSTRACT OF MORTGAGE

(NORTH CAROLINA)

D. R. Clarke and wife;

Edith Mortgagor

to

Federal Land Bank of

Columbia Mortgagee

NOTE:—In deeds of trust give name of  
third party.

1. Kind of instrument Deed in Trust
2. Date of instrument 8-28-25
3. Consideration \$ 2,000.00
4. Maturity date 34 years after date
5. Is it properly executed? Yes
6. Date acknowledged 8-28-25
7. Before what officer acknowledged? C.S.C.
8. Was privy examination of wife held? Yes
9. Date of filing for record 8-29-25
10. Recorded in Book 13 Page 565  
for Swain County.
11. Does this instrument form a link in the chain of title Yes

## DESCRIPTION OF PROPERTY

All that certain tract parcel of land containing 179 acres more or less located lying and being in Charleston Township, County of Swain and State of North Carolina, being bounded on the North by the lands of James Cathey; East by lands of Henry Elliott; South by lands of H. P. Worley heirs and A. M. Frye; on West by lands of Lee Cagle and Lee Wiggins and having such shape, metes, courses and distances as will more fully appear by reference to a plat thereof made by S. B. Smiley, Surveyor, July 22, 1925, which plat is on file with the Federal Land Bank of Columbia.

NORTH CAROLINA

SWAIN COUNTY

D. H. Clark, being first duly sworn, deposes and says that he is a resident of Jackson County, North Carolina, and is well acquainted with M. M. Clark; said M. M. Clark being his brother; that he was acquainted with Lillie B. Clark, wife of M. M. Clark; that the said Lillie B. Clark died during the year 1918; that the said M. M. Clark on July 30th, 1925, was unmarried.

D H Clark  
Affiant

Subscribed to and sworn to before me this 13th day of March, 1929.

Will W. Young  
Notary Public

My Commission expires Dec.  
19th, 1930.

Lee Cagle being duly sworn deposes and says that he is 56 years of age and has been a resident and citizen of Swain County for a period of 35 years. Affiant further states that he is familiar with the ownership and possession of a certain tract of land owned by D. H. Clark located in Swain County North Carolina and more particularly bounded and described as follows:

"Beginning at Corner 1; thence with lines of the Annie Cagle Tract and with meanders of ridge South 13-34 West 1.33 chains; South 29-59 West 3.12 chains; South 22-54 West 2.82 chains; South 18-53 West 4.70 chains; South 27-38 West 2.79 chains; South 72-26 West 4.68 chains, corner 2; thence South 23-52 West 13.94 chains, corner 3; thence South 12-56 East 8.16 chains, corner 4; thence up the ridge with its meanders South 42-57 East 1.77 chains; South 25-57 East 1.94 chains; South 1-09 East 4.57 chains; South 10-17 West 3.41 chains, corner 5; thence along ridge with its meanders South 84-06 East 4.68 chains; North 84-26 East 1.76 chains; North 87-50 East 2.25 chains; South 60-29 East 18.63 chains; North 52-53 East 2.22 chains; North 71-34 East 6.09 chains; North 51-28 East 5.63 chains, corner 6; thence along the top of the ridge with its meanders 19.73 chains, corner 7, North 51-51 West 2.72 chains, corner 8, North 4-52 East 11.28 chains, corner 9, North 00-26 West 8.84 chains, corner 10; thence with a line of the tract up the ridge with its meanders 25.85 chains to a point; North 78-20 West 1.75 chains, the place of beginning, containing 158. 74 acres."

That D. H. Clark and those under whom he claims to-wit:

W. H. Clark and heirs  
A. J. Cline  
W. L. Kitchen

N. A. Cline  
J. C. Rogers  
W. L. Morris

have been in the open notorious, continuous and adverse possession of said land and premises for a period of thirty years or more, living thereupon, cultivating portions thereof, taking timber and firewood therefrom and making such other uses of said lands as they are susceptible of.

*Lee Cagle*

\_\_\_\_\_  
Affiant

Sworn to and subscribed before me this the 13 day of March, 1929.

*Herb Wiggin*  
Notary Public

# NORTH CAROLINA PARK COMMISSION

## ATTORNEY'S CERTIFICATE AND OPINION

### Tract No. 167.

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.....:

D. H. Clark

..... 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 for the year 1928.

2. A Quit Claim Deed should be secured from Lillie D. Clark, wife of M. M. Clark conveying all her interest in Tract No. 167 as she failed to sign and acknowledge the deed that her husband made for his interest in these lands.

3. A Petition should be filed and an order made authorizing M. M. Clark, Guardian, to convey the interest of Thomas Clark and Ernest Clark in Tract No. 167.

4. A Quit Claim Deed from Heirs of Thomas A. Wiggins for one-fourth acre reserved as graveyard, should be obtained. See page 79 of this Abstract.

5. Since completing this Abstract, a Petition by M. A. Clark, Guardian, has been filed with the Clerk of the Superior Court of Swain County curing the defect mentioned in paragraph No. 3 of this Opinion; also we have secured an affidavit to the effect that Lillie D. Clark, wife of M. M. Clark, was dead on July 30, 1925, thus curing the defect mentioned in paragraph No. 2 of this opinion. See page 129 of this Abstract.

6. Since there were several breaks in the chain of title to this tract that we were unable to connect and as we were dependent, largely, upon possession for title to this tract, we have obtained an affidavit to the effect that D. H. Clark and those under whom he claims have been in adverse and continuous possession of this land for a period of thirty years or more. See page 130 of this Abstract.

NORTH CAROLINA,  
SWAIN COUNTY.

)  
)  
)

T. L. CLARK

\_\_\_\_\_, being duly sworn, deposes and  
says that he is 35 years of age, and has been a resident of Swain  
County for 35 years; that he was well acquainted with W. H. Clark  
during his lifetime, and that the said W. H. Clark is now dead, and  
left surviving him as his heirs-at-law the following named persons:

M. A. Clark (widow)  
Mary E. Sherrill  
Annie Cagle  
D. H. Clark  
M. M. Clark  
D. L. Clark  
T. L. Clark.

T. L. Clark

Affiant.

Sworn to and subscribed before me this the 25th day of March, 1932.

H. C. Wicks  
Notary Public.

NC # 121  
 10-13-80  
 2/15 275 A.  
 W. G. Myrick wife  
 S. E. 164th Rec  
 6-11-84  
 5/20 20 acres  
 7 6 1/2  
 4 0  
 3 7 3/4  
 1 8 3/4  
 111  
 28 1 1/2  
 28 3/4

A. J. Blaine  
 6-22-87  
 3/1 2 lots  
 62 A.  
 70 A.  
 Amanda Blaine f. T.  
 3-1-09  
 25 A.  
 31/478

Hathaway Blaine & wife  
 Basil 3-23-15  
 6/2 4 A  
 93 1/42  
 M. A. West Gaylor f.  
 Spouse Gaylor & Gaylor  
 6-23-80  
 8-10-10  
 41/351 5 lots  
 2 66 A.  
 38 meters  
 1/4 lot  
 1/4 lot  
 1/4 lot

NC 656  
 1-6-85  
 3/100 100 A.  
 Samuel Anderson

111

25A

Sylvia N.C.  
July 1st 1929

Mr. P. D. Ebbs

Green Park Conn.

Ashville N.C.

Dear Mr. Ebbs in regard to the  
donation I made to the Park.  
will say I would have had it  
Paid before now. but I happen  
to have a farm inside the Park boundary  
and Mr. Wood Berry and me have agreed  
on the price of the farm. He took an option  
on it with the understanding that the donation  
be taken out of the price of the farm. I  
am now waiting check for the farm (D.H.Clark)

GREAT SMOKY MOUNTAINS NATIONAL PARK  
PURCHASE FUND CAMPAIGN  
NORTH CAROLINA HEADQUARTERS  
P. O. BOX 1232  
ASHEVILLE, N. C.

TO D. H. Clark,

Bryson City, N. C.

TELEPHONE 2515

INTERSTATE CAMPAIGN COMMITTEE

COL. D. C. CHAPMAN, KNOXVILLE, CHAIRMAN  
HON. P. D. EBBS, ASHEVILLE, SECRETARY  
HON. MARK SQUIRES, LENOIR, N. C.  
HON. B. M. A. MORTON, KNOXVILLE  
DR. HERBERT ACUFF, KNOXVILLE  
CHAS. A. WEBB, ASHEVILLE  
MAJ. W. A. WELCH, WASHINGTON

NORTH CAROLINA ADVISORY COMMITTEE

SENATOR F. M. SIMMONS  
SENATOR LEE S. OVERMAN  
GOVERNOR A. W. MCLEAN  
HON. CHARLES L. ABERNATHY, NEW BERN  
D. H. BLAIR, WASHINGTON, D. C.  
W. C. BROWN, GREENSBORO  
HON. A. L. BULWINKLE, GASTONIA  
JUDGE T. D. BRYSON, BRYSON CITY  
JOHN A. CECIL BILTMORE  
HON. JOSEPHUS DANIELS, RALEIGH  
HON. R. L. DOUGHTON, LAUREL SPRINGS  
WADE L. HARRIS, CHARLOTTE  
LT. GOV. J. ELMER LONG, DURHAM  
SANFORD MARTIN, WINSTON-SALEM  
MRS. E. L. MCKEE, SYLVA  
HON. CAMERON MORRISON, CHARLOTTE  
JULIAN PRICE, GREENSBORO  
A. S. SIMPSON, CHARLOTTE, N. C.  
H. A. WARD, WASHINGTON, D. C.  
HON. ZEBULON WEAVER, ASHEVILLE

NORTH CAROLINA NATIONAL PARK COMMISSION

MARK SQUIRES, CHAIRMAN, LENOIR  
EUGENE C. BROOKS, SECRETARY, RALEIGH  
D. M. BUCK, BALD MOUNTAIN  
JOHN G. DAWSON, KINSTON  
PLATO D. EBBS, ASHEVILLE  
FRANK LINNEY, BOONE  
HARRY NETTLES, BILTMORE  
E. S. PARKER, JR., GREENSBORO  
J. ELMER LONG, DURHAM  
R. T. FOUNTAIN, ROCKY MOUNT  
J. A. HARDISON, WADESBORO

Statement of amount due on subscription to GREAT SMOKY MOUNTAINS NATIONAL PARK PURCHASE FUND.  
PAYMENTS DUE

|                |      |          |
|----------------|------|----------|
| First Payment  | 1926 | \$ ..... |
| Second Payment | 1927 | \$ ..... |
| Third Payment  | 1928 | \$ 31.67 |
| Fourth Payment | 1929 | \$ 31.67 |
| TOTAL NOW DUE  |      | \$ 63.34 |

For your information we are giving below the status of your subscription:

|                            |           |                  |          |
|----------------------------|-----------|------------------|----------|
| Amount of subscription - - | \$ 100.00 |                  |          |
| Amount due 1926            | \$ 5.00   | Amount paid 1926 | \$ 5.00  |
| Amount due 1927            | \$ 31.66  | Amount paid 1927 | \$ 31.66 |
| Amount due 1928            | \$ 31.67  | Amount paid 1928 | \$ ..... |
| Amount due 1929            | \$ 31.67  | Amount paid 1929 | \$ ..... |

P. O. Box 1232,  
Asheville, N.C.

A-Purchase  
Clark, D. Hardy  
#167

March 25, 1929.

Mr. George H. Bramlett,  
Bryson City, N. C.

Dear Mr. Bramlett:

No doubt Mr. Rhoades has handed you check payable to Mr. D. Hardy Clark for \$5250.00, in payment of his land in the Park area.

Mr. Clark made a subscription to the Park Purchase Fund of \$100.00 in 1926, and he has paid to date on that subscription \$36.66, leaving a balance of \$63.34.

On February 1, 1929, Mr. Clark wrote us that he owned a farm in the Park area that Mr. Woodbury had taken an option on, and that the understanding was that the donation of \$63.34 would be taken out of the purchase money. Now, in order to keep our records clear, we would prefer to make the check in full for Mr. Clark's land and then have him make us a check for the balance due on his pledge.

Please ascertain if this will be agreeable with Mr. Clark.

Yours very truly,

NORTH CAROLINA PARK COMMISSION

By

# NORTH CAROLINA PARK COMMISSION

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This Eleventh day of March, 1929

*Worth McKinney*  
Attorney