

July 14th. 1928

Mr. Joe Keyes,
Horneton, W. Va.,

Dear Mr. Keyes:-

Now that some other matters are out of the way, I should be pleased to see you at an early date, or hear from you with a proposal as to Forney Creek.

I think you and I could come to some conclusions before taking it up with my associates or the Commission and thus possibly pave the way for a deal.

Kindly let me hear from you.

Yours truly,

W.H. Woodbury.

P. O. Box 1532,
Asheville, N. C.

A-Purchase
Norwood Lumber Company
Forney Creek

October 23, 1928.

Anderson & Howell,
Attorneys for Norwood Lumber Company,
Asheville, N. C.

Gentlemen:

Answering yours of the 23rd, will say that we are unable to accept the proposition you make for the cut-over lands on Forney Creek, and will state that we are unable to find any such value as you name and could not advise the Commission to pay more than we consider the property worth.

Unless we can receive a more favorable offer, there is no doubt but that the Commission will proceed to condemn the land, as you suggest.

Without answering your letter more fully, we can definitely state that we are unable to agree with you as to any inflated valuation on cutover lands, as we are familiar with the situation as it appears to us on Forney Creek.

Yours truly,

NORTH CAROLINA PARK COMMISSION

By

W.H.W.:S
Mr. Keys:

The writer feels that if any agreement is reached on this property that it will be much better for both of us to have personal conferences as we started out to do, and assures you that he will be glad to talk with you at any time.

Woodbury.

ANDERSON AND HOWELL
ATTORNEYS AT LAW
406-408 MEDICAL BUILDING
ASHEVILLE, NORTH CAROLINA

October 23rd, 1928.

North Carolina Park Commission,
City Hall,
Asheville, North Carolina.

Gentlemen: Attention: Mr. Woodbury:

We again call your attention to our previous letter in which we offered for sale the lands on the water shed of Forney's Creek belonging to the Norwood Lumber Company, for the sum of Six and 50/100 (\$6.50) Dollars per acre.

Your Mr. Woodbury rejected this offer and submitted to us a counter proposition of Three and 50/100 (\$3.50) Dollars per acre.

Our clients declined to accept this proposition, and this letter is to acquaint you with the fact that we are now in a position to dispose of the property at the price of Seven (\$7.00) Dollars an acre, and we certainly would not consider any price less than Six and 50/100 (\$6.50) Dollars, and we do that only on account of the interest of the Company in the National Park.

We feel that it will be a great benefit to North Carolina, and especially to Western North Carolina, and are therefore willing to sacrifice something to aid the project, in addition to the contributions made by our clients.

ANDERSON AND HOWELL
 ATTORNEYS AT LAW
 406-408 MEDICAL BUILDING
 ASHEVILLE, NORTH CAROLINA

-2-

We are now satisfied that the copper on this property is very valuable and an extension of the Westfelt-Adams vein.

Your Mr. Woodbury stated to Mr. Keyes that the Park Commission would not consider any property where the mineral interest cut a figure. At the price made you the mineral interest was not figured or counted, and this price stands good for thirty (30) days, but must be accepted within that time.

If you do not chose to purchase this property, if you will release it from the National Park, we can dispose of it immediately. If you do not wish to release it, we feel that it is only fair to us to begin immediate condemnation proceedings in order that we may not lose the present sale which we have for the land.

We trust that the Board will discuss this matter and consider it carefully, remembering at the same time that it has the finest young growth of poplar timber in Western North Carolina. It also has merchantable timber for which we are offered Five Thousand (\$5,000.00) Dollars in cash now. It has the added attractions of Clingman's Dome, Andrew's Bald, Siler's Meadows, Siler's Bald and Double Springs. Siler's Meadows is protected and skirted by virgin forest which has not been touched.

We will appreciate it if you will let us hear from you on this matter at once.

Yours very truly,
John B. Anderson
 ANDERSON & HOWELL,
 Attorneys for Norwood
 Lumber Company,
 By: *John B. Anderson*

ANDERSON AND HOWELL
ATTORNEYS AT LAW
406-408 MEDICAL BUILDING
ASHEVILLE, NORTH CAROLINA

September 13th, 1928.

North Carolina Park Commission,
City Hall,
Asheville, North Carolina.

Gentlemen:

In compliance with your request for a proposition, we offer to sell all of our lands on the water shed of Forney's Creek, Swain County, North Carolina, except about one hundred twenty five (125) acres at the mouth of Forney's Creek which has been improved, at the price of Six and 50/100 (\$6.50) Dollars per acre.

This proposition is made for immediate acceptance, as we would be unwilling to sell our lands at that price to anyone except the North Carolina Park Commission.

We are very much interested in the National Park and have subscribed to its support, and after thinking the matter over, we have decided to make this offer to your Committee.

Yours very truly,

NORWOOD LUMBER COMPANY,

BY: *Anderson & Howell*
Attorneys.

Asheville, N.C. September 13, 1928

Anderson & Howell, Attorneys,
Norwood Lumber Co.,
Gentlemen:-

Answering yours of to-day, we are not interested
in cut over lands on Forney's Creek at the price you name.

If Mr. Joe Keys would like to continue personal
conferences (which have been pleasant) in connection with
same, we would be pleased to carry on with him.

Yours truly,
North Carolina Park Commission,
per-
(W.H. Woodbury)



The
George Vanderbilt Hotel
OPERATED BY
SOUTHEASTERN HOTELS COMPANY

Asheville North Carolina

September 19, 1928

Mr. W. H. Woodbury,
Member, North Carolina Park Commission,
Asheville, N. C.

Dear Sir:

In my absense, take up the purchase of our lands on Forney's Creek with our attorneys, Anderson and Howell. If necessary notify me or have them do it and I will come immediately.

Yours very truly,

NORWOOD LUMBER COMPANY

By *Joseph Keys*

Joseph Keys

ONE OF



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

A-Purchase
Norwood Lumber Co.

November 14, 1928.

Sheriff of Jackson County,
Sylva, N. C.

Dear Sir:

We are enclosing you some papers to be served.

Of the defendants named: ~~if~~ the heirs of W. W. Welch and the heirs of John A. Woody, we wish to say that we don't know whom these heirs are, and therefore are not expecting you to attempt to make a service of this paper upon any of said heirs.

We have no information to know whether Mrs. H. M. McCoy is a resident of Jackson County or whether George Frame and Mary Frame are residents of Jackson County. We are inclined to think opinion that they are not. However, if you have any information that these last above named defendants can be found in your county, we would be pleased to have you use the enclosed addressed stamped envelope and inform us whether or not they can be found in your county. If they can be found in your county, we will send you additional copies of this proceeding and get you to serve it upon them.

As to the other defendants named in the proceeding, we understand that Mr. Joseph Keys of the Norwood Lumber Company, or Mr. James Walker of the Norwood Lumber Company, are agents or officers of said Norwood Lumber Company. Mr. Keys and Mr. Walker are now connected with the Blackwood Lumber Company of Sylva and may be either in Sylva or up at their mill on their line of railroad. If you find either of these gentlemen, please make return on the back of the original herewith to the effect that you have served it by delivering the copy of the original to either Mr. Keys or Mr. Walker, as the case may be.

As to the Siler Meadows Mining and Lumber Company, we understand that Mr. Joseph Hooker of Sylva is an officer or agent of said company. You will please, therefore, serve and deliver a copy to Mr. Jos. Hooker of Sylva for said Siler Meadows Mining and Lumber

Company and make notation in your return on the back of summons that a copy had been delivered to Mr. Hooker.

We understand that the fees will be \$1.00 each for the Norwood Lumber Company and for the Siler Meadows Mining and Lumber Company, and herewith enclose check for \$2.00 covering the fees.

If this sum is insufficient, please advise this office and we will mail whatever addition fees as are proper.

Please return to this office here the original with your notation of service thereon. Your kindness will be appreciated. We would appreciate getting these papers returned at the earliest possible moment.

Yours very truly,

NORTH CAROLINA PARK COMMISSION

By

S. F. Chapman.

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

A-Purchase
Norwood Lumber Co.,
#172

December 1, 1928.

Sheriff of Jackson County,
Sylva, N. C.

Dear Sir:

On November 14, 1928, we mailed you summonses in the case of State of North Carolina vs. Norwood Lumber Company and others, to be served on Norwood Lumber Company and Siler Meadows Mining and Lumber Company. A letter accompanied these papers, giving full instructions as to the agents of said companies to whom you were to deliver copies of summonses and complaint.

To date we have heard nothing from you regarding this matter. In our letter of November 14 we also asked for information regarding certain other defendants in this case, and to this we have had no answer.

Please drop us a line advising us as to the disposition you have made with these papers in order to clear our minds in this matter.

Yours very truly,

NORTH CAROLINA PARK COMMISSION

By

S. F. Chapman.

SFC:S

Norwood Lumber Co.
Davy Creek
#172 172a G.C.

FORNEY CREEK EXPEDITION OF THREE

BY CAMPBELL A. HANNY

December 10, 1928
First Day

We left Shittier drove to Forney Creek and up said Creek seven miles, left car at Junction Camp and walked up said Creek looking at the cut over land on both sides of Creek. As we went along railroad grade we saw no standing timber except some hardwood saplings here and there, and when we came to the Spruce Lands which we find was all taken off, also all of the hardwood was all taken off, which left the lands absolutely bare of all timber for many acres along the lower railroad and creek.

When we came to the end of the lower railroad, we took up an incline road that went on through the spruce areas up near the top of the mountain. At this point absolutely nothing left of value. The above mentioned roads are about five miles long. Then we turned to our left and took the high line of railroad that went through the Spruce belt and we find all of the Spruce and hardwoods taken absolutely ~~xxxxxx~~ clean along this road for three or more miles. This Spruce area will include near 1800 acres. Then we went down on another incline to Higgins Creek, saw some acid wood along this incline and on down Higgins Creek to camp.

December 11, 1928
Second Day

We went up railroad and viewed out Big Steel Trap Branch and Low Gap Branch to Low Gap and found no timber left standing on these branches, and we climbed up to Clingman's Dome. We found some small Spruce timber along the top at Clingman's Dome too small for saw timber, will do only for pulp wood. Did not consider it of any value, as the cost of operating would over run the market price. Then we turned to our right down the top of the mountain the divide between Forney Creek and Noland Creek toward Anderson Bald. After leaving the gap between Clingman's Dome and Anderson Bald, we find another narrow strip of Spruce along top of mountain too small for saw logs, which would only do for Pulp wood, no merchantable value at the present price for Pulp wood.

Then we went over Anderson Bald and down the divide between Noland Creek and Forney Creek. We saw some short Red Oak along the top and some acid wood, but we did not consider it of any merchantable value. Then we came to the head of Buckhorn Branch and turned to our right leaving top of the mountain and went down said branch about one and one-half miles to Forney Creek. We find some old Oak timber and some low grade Sound Wormy Chestnut that was left when it was logged. We understand that this was logged by the Norwood Lumber Company, and Mr. Jack Rhodes was manager. There was also acid wood, some Basswood and some Birch, which we did not consider of merchantable value at present prices for Lumber and Wood.

December 12, 1928
Third Day.

We went up Forney's Creek to second switch back on railroad and went up Little Trap Branch for more than one mile, we find it logged clean, nothing

left but some acid wood on this branch. Then we crossed a ridge over on Christian branch. We find the most of the timber on this branch cut and part of it logged, balance of logs too decayed for lumber, some low grade Chestnut still standing, quite a bit of acid wood, ~~now~~ but of no value at present prices on low grade Chestnut lumber and acid wood. Then we went over on Log Ridge and went down this ridge about two miles back to Forney Creek. We find acid wood, some six or eight cords of tan bark and a lot of bear sign, but could not figure that this timber was merchantable at present prices of wood and bark. Then we went to the west side of Forney Creek and went up Choke Berry Branch, we find all of the saw timber and acid wood cut on this branch to its head springs, but above springs, we find some acid wood, but of no value at present price of acid wood. We crossed the ridge to our left on the right hand prong of Rattle Snake Branch, and find acid wood on this branch above the head spring, but after we got down on the branch we find the timber all cut, but a very little acid wood here. Also we did not consider it of any value. Then we went back to the Junction.

December 13, 1928
Fourth Day.

We went up Forney Creek to ~~Booch~~ Flat and went over this section and find the timber all taken off along the creek, but up on the mountain we find some small Maple and Birch, also ~~some~~ small Basswood about two thousand feet per acre, but of no commercial value at the market prices today. Then we went to the Big Branch and find all of the timber taken off this branch up on the mountain as far as the timber would pay out, then find the timber to be some small Birch, small Beech, some scattered Basswood and a small Spruce tree here and there. Did not consider it of a merchantable value. Then we went out to the top of and down a ridge that led to Rattle Snake Branch. We find some short Red Oak trees along the top of the ridge and some acid wood, around the head springs of Rattle Snake Branch, but when we got down on said branch we find the saw timber all taken off, so it leaves this area without a working value.

December 14, 1928
Fifth Day.

We went up ~~Board Camp Branch~~ and find this branch with all the timber taken off clean also all of the acid wood, except a little wood at the head of the branch. Then we went over on Indian Camp Branch, where we find a few thousand feet of Basswood and a good sprinkle of acid wood. The cost of operating leaves it without value. Then we looked over lower Rattle Snake Branch that hasn't been cut, only a part of the way up the branch, we find some timber on ~~xxxxxx~~ upper part of the branch, some Oak of low quality, Chestnut only good for acid wood, which we consider of a little value. Then we looked over Locust Cove Branch and find the timber all taken off.

December 15, 1928
Sixth Day.

We spent the day on ~~Bear Creek~~ above the Stovall lands. We find the timber taken off clean on this creek, except along the water sheds near the tops of the mountain where we find a good sprinkle of acid wood, but of no value at the present price of wood.

Now we also find some patches of the land retimbering itself, mostly with Poplars, that will be valuable in thirty to forty years for saw timber if properly protected from forest fires. All of the hardwood when mentioned in these six days of work is retimbering in patches, mostly in young Poplar and by carefully preventing it from forest fires in thirty or forty years it will be valuable as saw timber.

*many & Campbell
by E. Campbell.*

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

A-Purchase
Norwood Lbr. Co.
and
Montvale Lbr. Co.

November 7, 1928.

Mr. Mark Squires,
Lenoir, N. C.

Dear Mr. Squires:

I am enclosing herewith the original of the petitions we have prepared for condemnation of the Norwood Lumber Company and the Montvale Lumber Company tracts.

When you have looked over these papers and found them to your satisfaction, will you please sign Judge Varser's name and return them to us and we will have the summons served immediately.

Yours very truly,

Verne Rhoades,
Executive Secretary.

VR:S
Encl. 2

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

A-Purchase
Norwood Lumber Co.

December 4, 1928.

Mr. C. E. Campbell,
Whittier, N. C.

Dear Sir:

We received your report of December 1 for the estimate made over on the Martin Land on Lufty River.

This report is satisfactory to us, although I would be glad if you and Mr. Maney could give us some idea as to the percentages of the different species found on Beck's Branch and Bear Wallow Creek. I would be glad also if you would indicate what you think this timber is worth, either giving the different species a separate value or else giving them all an average value which a portable mill man or anyone else interested in buying timber land at market value would give.

With reference to your inquiry about Forney Creek, we would like for you and Mr. Maney to go over Forney Creek as soon as you conveniently can, making an estimate of whatever portable mill sets of timber you may find as well as of the pulpwood and acidwood that is on the ground. Would be glad if you would pay particular attention in making this estimate as to whether, in your opinion, any of the material left on Forney Creek can be gotten out at a profit in any way at all.

We would prefer to have you and Mr. Maney make this estimate for the Park Commission rather than have a joint estimate with the Norwood Lumber Company. Of course, it is understood that these estimates which you make for the Park Commission are to be held absolutely confidential by you, and the only report you make is to be made to us.

A map of Forney Creek is enclosed, showing the boundary of the Norwood Lumber Company as it is included in the Park Area. We will endeavor to get your checks out to the names included in your letter sometime this week.

Yours very truly,

Verne Rhoades,
Executive Secretary.

VR:S

Whistler, N. C.
December 17, 1928

North Carolina Park Commission,
Asheville, N. C.

Gentlemen:

Enclosed you will find report of estimation made by Maney & Campbell on a portion of Norwood Lumber Company boundary on Forney Creek, as you will see from the report.

We think we are over one-third of the boundary. The Norwood people have had four estimators on this boundary for the past two weeks. They are estimating it very close including all of the saw timber, acid wood and poles and the young timber, so we are giving it a very accurate estimation, as our estimation will be compared with theirs if it should come to litigation. We intend to continue the work right along.

Yours very truly

MANEY & CAMPBELL

leslie campbell

Dec. 17, 1928

Seventh Day.

We went up Harris Creek to its forks, there we took the left hand fork. We find the timber taken off up the creek about one mile except some small hardwoods just a short distance below the forks of said left hand creek, then we find the timber not cut up to second forks of creek, also we find the timber not cut on second left hand creek cut up to the Double Springs on divide between North Carolina and Tennessee. There would be about 300,000 ft. of hardwoods maple, birch, beech, some basswood and some buckeye and some acid wood on the left ridge. We understand that this timber is ^{12" to 18"} taken out at the present cost of lumber. We also did not figure it profitable at the present ~~price~~ for lumber, but as a forest it could be of some value.

Dec. 18, 1928

Eighth Day.

Harris Creek
We went back up to same upper forks of said creek and estimated the timber on the right hand prongs of the said left hand creek. We find up part of the way the timber was not taken off. It consists of Maple, Birch and Hemlock 150,000 ft. Then we came to a trap road and we find the timber taken off for some distance on up the mountain, but up at the top of North Carolina and Tennessee divide we find some saw timber Spruce, say 40,000 ft. and some Spruce pulp wood. We did not consider it of a merchantable working value, but has a forest value. Then we went down said mountain and turned over on the water shed of Jonas Creek and went down Long Branch. We find some short Red Oak and acid wood on this branch, but did not consider it merchantable at present prices of lumber and wood.

Dec. 19, 1928

Nineth Day.

We made our way to the top of the mountain, the divide between North Carolina and Tennessee, and went up this top. We find a strip of Spruce along the top for about three miles, but short and small. We considered it only pulp wood.

Dec. 20, 1928

Tenth Day.

We went up Big Huggins Creek or right hand prong. We find the timber taken off this creek clean, except some spruce on top of mountain pulp wood only. But on Log Ridge side, we find some short spruce saw timber. It was too far for them to log when operating. We certainly do not consider it of any merchantable value now. Then we went down on Fern Knob and find some few cords of tan bark along ridge, then we looked over the timber on Fern Branch, we find on upper part of this branch 2,000 or 4,000 ft Poplar and 3,000 or 4,000 small Oak, a few telephone poles and some acid wood, but down below the rough part of branch we find all the timber and acid wood taken off clean, but find this branch retimbering itself with young timber, mostly Poplar. Also for a long way up Huggins Branch we find patches of young timber mostly young Poplar. Then we looked over Mine Branch and find it cut very clean, but it is retimbering itself, mostly with Poplar, and it seems when they were cutting this timber the young Poplar was cared for. We find lots of young Poplar trees from six to eighteen inches diameter. We feel that this as a young forest is valuable.

January 8, 1929

We made our way to Jonas Creek, went up to its forks and went up right hand near to top of mountain. We find all of the timber on this branch taken off, only some Chestnut acid wood at top of ridges, some buckeye cut and left in the logs along the skid line, some hardwood along top of mountain. Then we crossed the Fork Ridge between the right and left hand creeks of Jonas Creek, we find along top of mountain some red Oak and Chestnut about 300,000 ft. on water sheds of left hand creek, but of no commercial now.

December 21st. 1928.

Report on lands of Norwood Lumber Co., at Forney, N. C.

Spruce Pulpwood on Huggins Creek	5.000 cords.
Spruce Pulpwood on Big Creek	4.000 cords. 9.000 cords.
Chestnut extract and poplar pulp wood	140.000 cords.
Poles 35 foot and longer	28,000 cords.
Tan Bark	2.000 cords.

Valuation.

9.000 cords spruce pulpwood	© \$2.00 per cd.	\$18.000-
140.000 cords chestnut extract wood	.50 " "	70.000-
28.000 poles	.50 each	14,000-
1.000 cords tan bark	2.00 per cd.	\$2.000-
		\$104.000-

Land valuation.

17,000 acres within Park area

30% of above is considered grazing and farm land,
divided as follows.

1,000 acres Orchard and Farm lands	© \$20.00 per acre	\$ 20.000-
4,000 acres grass lands	7.50 " "	30.000-
12,000 acres summer range lands	3.00 " "	36.000-
1200 Apple trees - 6 to 8 years old	10.00 per tree	12.000-
		\$98.000-

Total valuation-

Wood, poles and bark	\$104.000.00
Land and apple trees	98.000.00
Total valuation-----	\$202.000.00

Note- I found the following burned areas.

In spruce area on Big Creek	Approximately 600 acres.
On Red Ridge-White Mans Glory Creeks	Approximately 600 acres.
On Board Camp Creek	Approximately 300 acres.
Total burned area-----	1,500 acres.

Note-On Bear Wallow Bald, I found by doing some grade work, that a field 200 feet wide and 1,000 feet long can be constructed, which would be level. An additional field 100 feet wide and 400 feet long can be added to end of this larger field, all being level and suitable for an airport, or air plane landing.

Note- I found that the railroad grades constructed by you extended practically to all parts of your property, and that with some work on these grades, they can be changed into wagon or truck roads, making the entire property accessible by wagon or truck.

To Norwood Lumber Co.,
Forney, N. C.

(SIGNED) H. Rotha.

12/19/28

Report of J. E. Rhodes and S. W. Monteith of their estimate of the Merchantable hardwood and spruce timber also chestnut poles and spruce pulp wood, on the water shed of Forney Creek.

Big Fork, hardwoods	1000000 ft.
Crisp branch, hardwoods	500000 ft.
Buckhorn, hardwoods	800000 ft.
Chokeberry, hardwoods	500000 ft.
Rattle Snake, hardwoods	200000 ft.
Christians Branch, hardwoods	1000000 ft.
Right hand side of Big Huggins,hardwoods	200000 ft.
Right hand side of Big Huggins,spruce	300000 ft.
Little Huggins, hardwoods	2000000 ft.
Jonah Branch,hardwoods (Main Jonah)	1600000 ft.
Jonah Branch left fork, hardwoods	800000 ft.
White Mans Glory branch, hardwoods	600000 ft.
Board Camp Branch, no timber	
Bee Branch, hardwoods	1800000 ft.
Bee Branch, hemlock	700000 ft.
Mill Branch, hardwoods	300000 ft.
	12300000

* Young growth poplars 15000 trees
* Young growth poplars 6 to 16" 10000 trees
* Merchantable poplars 16" & up 591 trees

* Chestnut poles 25 to 50 ft. long, average 35 ft. 21000 poles

Note: Items marked thus * not included in the timber estimate.

January 9, 1929

We went up Slab Camp Branch, we find some acid wood along the tops of ridges, also two or three cars of acid wood, split and on railroad right of way and find this branch resetting itself with young timber, mostly Poplar.

January 10, 1929

We went up White Man's Glory Creek and find it cut clean for three miles, then above the rough, we find some 200,000 ft. Red Oak, 200,000 ft. Chestnut and other hardwoods, but of no commercial value at present.

January 11, 1929

We went up Red Ridge Creek, we find the timber all taken off very clean, and land all burned over up near the top of the mountain. Then we find some Oak and Chestnut left, not much but we did not consider it of any merchantable value.

5-0. 200' Red Oak
1-0. 200' Chestnut

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

A-Purchase
Norwood Lumber Co.
#172

January 11, 1929.

Mr. Mark Squires,
Lenoir, N. C.

Dear Mr. Squires:

Mr. Penn asked me in Bryson City the other day if the petition of condemnation against the Norwood Lumber Company had been amended in accordance with the suggestions made when their attorney, Mr. Smith, and chief engineer, recently went through this section.

I told Mr. Penn that I had no knowledge of whether the complaint had been amended or not, but that I would ask you and get the information to him as soon as I heard from you.

Yours very truly,

Verne Rhoades,
Executive Secretary.

VR:S

LAW OFFICES
SQUIRES & WHISNANT
LENOIR, N.C.

MARK SQUIRES
J. W. WHISNANT

A-Purchase
Norwood Lumber Co.
#172

January 12, 1929.

Mr. Verne Rhoades,
Executive Secretary,
P. O. Box 1232,
Asheville, N. C.

Dear Mr. Rhoades:-

In the above matter concerning the inquiry of Mr. Penn, I have already told Mr. Smith we would eliminate a few acres if they desired whenever the time came to make a decree. I have been bothered so much about it that I have about come to the conclusion that unless they let us alone we will take the whole business. However, since the premise is made with the affirmation of Cammerer, we must comply therewith.

Very truly yours,

Mark Squires

Asheville, N.C.

January 15, 1889.

Mr. Joseph Keys,
Highlands Apts.,
Washington D. C.

My dear Mr. Keys:

For personal reasons, I feel that it is due you as well as myself that we meet and have another conference in regard to Forney Creek. I am not sure that anything would come of it, but in view of the agreement, we had between us, that each of us would try to handle the matter privately, it might be well that we give it another try.

If this meets your approval, write me at 606 City Hall, Asheville, N.C., when you will be coming through. It may be that I will not get your letter in time, as I am spending considerable time in the mountains and might be out of the city; so write as far ahead as you can.

Your truly,

W. H. GOODBURY
Copy to Herndon, West Virginia.

LAW OFFICES
SQUIRES & WHISNANT
LENOIR, N.C.

MARK SQUIRES
J. W. WHISNANT

January 24, 1929.

Mr. Verne Rhoades,
Asheville, N. C.

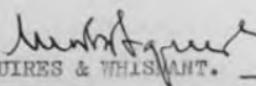
Dear Sir:

In re: Norwood Lumber Co.
Condemnation.

I do not know that we got exactly the names of the parties over the telephone this morning and, therefore, I would ask Mr. Sanders to copy the caption of the Petition and instead of the word "Petition" use the word "Order", and have entered by the Clerk an Order in form substantially as enclosed. Mr. Chapman can, no doubt, attend to this for you without calling Judge Carter.

I enclose copy of map and description furnished me by the Attorney for the Aluminum Company.

Very truly yours,


SQUIRES & WHISNANT. 2

MS:VLP;

Excepting from the Park Area heretofore designated the following on and near Forney Creek in Swain County, North Carolina;

Beginning at a point on Pilot Ridge due West of S.W. Monteith's S.W. corner (number 21 of the Norwood Lumber Company's tract in the Smoky Mountain Park Survey); thence due East to said corner No. 21; thence with the lines of the said Monteith's tract to corners number 20, 19, 18, 17; thence with the North line of the W. B. Cole tract to corner number 16; thence South with the East line of the W. B. Cole tract to a point opposite corner No. 43; thence East to corner No. 43; thence with the lines of the Woody tract to corners number 44, 45, 46, 47 and 48; thence due East to the top of Forney Ridge, so as to exclude from the Park Area all lands South of the above described lines as shown on said map.

NORTH CAROLINA,
BUNCOMBE COUNTY.

IN SUPERIOR COURT
BEFORE THE CLERK.

STATE OF NORTH CAROLINA,

Petitioner,

-vs-

ORDER

NORWOOD LUMBER COMPANY,
HEIRS OF J. R. SILER,
MRS. M. M. MCCOY, SILER
MEADOWS MINING AND LUMBER
COMPANY, GEORGE FRAME AND
MARY FRAME, HEIRS OF JOHN
A. WOODY and HEIRS OF W. W.
WELCH,

Respondents.

This cause coming on to be heard and it appearing to the Court that due service of the Summons and Petition has been made and that the publication as required by Section 19, Chapter 48, Public Laws, 1927, is duly made and proof thereof filed.

It is now ordered by the Court that the petitioner have leave to amend, and it does hereby amend, its petition by excepting from the boundary set forth to be condemned therein the following described lands, viz:

Beginning at a point on Pilot Ridge due west of S. W. Monteith's Southwest corner (number 21 of the Norwood Lumber Company's tract in the Smoky Mountain Park Survey); thence due East to said corner No. 21; thence with the lines of the said Monteith's tract to corners number 20, 19, 18, 17; thence with the North line of the W. B. Cole tract to corner number 16; thence South with the East line of the W. B. Cole tract to a point opposite corner No. 43; thence East to corner No. 43; thence with the lines of the Woody tract to corners number 44, 45, 46, 47 and 48; thence due East to the top of Forney Ridge, so as to exclude from the Park area all lands South of the above described lines as shown on said map.

Said lands so above described are not to be condemned in this proceeding.

This cause is retained for further orders.

This January 26, 1929.

(Signed) Ethel S. Kickman
Assistant Clerk Superior Court,

Buncombe County.

NORTH CAROLINA,
BUNCOMBE COUNTY.

IN THE SUPERIOR COURT
BEFORE THE CLERK.

STATE OF NORTH CAROLINA,

Petitioner,

-VS-

NORWOOD LUMBER COMPANY,
MINING OF J. H. SILER, MRS.
M. M. MCGOY, SILER MEADOWS
MINING AND LUMBER COMPANY,
GEORGE FRAME AND MARY FRAME,
HEIRS OF JOHN A. WOODY and
HEIRS OF W. W. WELCH,

Respondents.

JUDGMENT AND ORDER

APPOINTING COMMISSIONERS.

The above entitled cause coming on to be heard before the undersigned Clerk of the Superior Court of Buncombe County, North Carolina, on the 4th day of March, 1929, and being heard:

And it appearing to the Court, and the Court having found as a fact, that this action and proceeding are duly constituted in this Court and that the summons and the 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 published in all respects as therein required, whereby all persons whom it may concern and all persons having or claiming any estate or interest in said lands 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 no appearance has been made in this action by any other person, firm or corporation than the respondent, Norwood Lumber Company, as hereinafter recited; and it further appearing that the respondent, Norwood Lumber Company, has heretofore appeared and answered herein as will more fully appear by the record; and said Norwood Lumber Company having expressly stipulated that it waives and withdraws

each and every allegation of its said answer which, by any construction or intendment, can be deemed to deny the right of the petitioner to acquire the lands described in said petition in fee simple by this proceeding of condemnation, to the end that the acquisition of said lands by the petitioner may be accomplished and consummated herein without unnecessary delay;

And it further appearing to the Court that the right of eminent domain appertains to and resides in the petitioner as a 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 Chapter 48, of the Public Laws of North Carolina, Session of 1927;

And it further appearing to the Court, and the Court having found as a fact, that the lands described in the petition lie wholly within the boundaries of the proposed Great Smoky Mountains National Park as defined and delimitated 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 514,000 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 aforesaid, 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, aforesaid;

And it further appearing to the Court, and the Court having found as a fact, 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;

And it further appearing to the Court, and the Court having found as a fact, that the respondent, Norwood Lumber Company, is solely seized and the owner in fee simple of all the lands described in the petition, with the exception of the mineral interests in a portion thereof described in a certain deed of conveyance from the Biler Meadows Mining and Lumber Company to said Norwood Lumber Company, of date January 5, 1924, and duly recorded in the office of the Register of Deeds for Swain County, North Carolina, in Book of Deeds No. 51, at Page 480, containing 922 acres, more or less; said reserved mineral interests in said 922 acre tract being outstanding in one or more, or all, of the respondents herein named other than said Norwood Lumber Company; and it further appearing to the Court, and the Court having found as a fact, that no person, firm or corporation other than the respondents herein has or claims any right, title, property, interest, or estate whatsoever in the lands and premises described in the petition and condemned herein:

IT IS THEREFORE CONSIDERED, ORDERED AND ADJUDGED BY THE COURT that the respondent, Norwood Lumber Company, is solely seized and the owner in fee simple of all the lands described in the petition, with the exception of the mineral interests in 922 acres, more or less, thereof, hereinbefore mentioned and described, and that the respondents other than the said Norwood Lumber Company are the sole owners of the mineral interests aforesaid, and that no other person, firm or corporation whomsoever has any right, title, property, interest or estate whatsoever in the said lands or in the said mineral interests.

AND IT IS FURTHER CONSIDERED, ORDERED AND ADJUDGED BY

THE COURT that the lands described in the petition in this cause, and all the right, title, interest, property and estate whatsoever of the respondents, and of all, each and every of them, in said lands, and the title to all of said lands in fee simple be, and the same hereby are, condemned, and the title thereto is hereby vested in 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. The lands so condemned, appropriated and vested in the petitioner are more particularly described in the petition herein and in Exhibits "A" and "B" thereto attached, which said description and said exhibits are hereby expressly referred to and made parts of this judgment and order.

AND IT IS FURTHER ORDERED BY THE COURT THAT 7 W.

Gennett, R. Y. Scott and W. J. Anglin be, and they hereby are, appointed COMMISSIONERS to appraise and assess the compensation which ought justly to be made by the petitioner to every of the parties owning or interested in the lands so condemned, allotting to each of them the share or portion to which they, or either, or any of them are severally entitled.

The said COMMISSIONERS shall hold their first meeting in the office of the Clerk of the Superior Court of Buncombe County, in the City of Asheville, North Carolina, on Monday, the 4th day of March, 1929, and before entering upon their duties, said COMMISSIONERS shall severally take and subscribe an oath in form of law that they will fairly and impartially assess and award the compensation aforesaid, as required by law; and thereafter, to wit, on Tuesday, the 5th day of March, 1929, the said COMMISSIONERS shall go upon and view the premises described in the petition, hear the proofs and allegations of the parties, and reduce the testimony, if any is taken by them, to writing, and transmit the same to this Court, together with their report, and the said COMMISSIONERS shall make their report to the under-

signed Clerk of the Superior Court within 10 days after receiving the notice of their appointment, and shall file their report in writing as required by law.

This 4th day of March, 1929.

(Signed) M.B.Cain

Clerk of the Superior Court,
Buncombe County, North Carolina.

NORTH CAROLINA,
BUNCOMBE COUNTY.

IN THE SUPERIOR COURT
BEFORE THE CLERK.

STATE OF NORTH CAROLINA,

Petitioner,

-vs-

MONROE LUMBER COMPANY,
HEIRS OF J. R. SILVER, MRS.
H. M. McCOY, SILVER MEADOWS
MINING AND LUMBER COMPANY,
GEORGE FRANK AND MARY FRANK,
HEIRS OF JOHN A. WOODY, and
HEIRS OF W. W. WELCH,

OATH OF THE
COMMISSIONERS,

Respondents.

We, the undersigned commissioners, duly appointed
in the above entitled proceeding, solemnly swear that we will
fairly and impartially appraise and assess the compensation
which ought justly to be made by the petitioner to the party,
or parties, owning or interested in the lands and premises
mentioned in the petition and condemned in this cause.

This the 4th day of March, 1929.

(Signed) N.W. Gennett
" R.Y. Grant
" W.G. Angline

Sworn to and subscribed before me this 4th day of
March, 1929.

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

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

A-Purchase
Norwood Lumber Co.

March 4, 1929.

Mr. Mark Squires,
Lenoir, N. C.

Dear Mr. Squires:

We are enclosing herewith copy of "Judgment and Order Appointing Commissioners" in the condemnation case against the Norwood Lumber Company and others.

Yours very truly,

NORTH CAROLINA PARK COMMISSION.

HKS

*Memo by Wiggins
made by*

Bryson City, N.C.

March 5, 1929.

The following is a list of grants in which Mrs. M. M. McCoy of Macon County owns one-half the mineral interest with mining privileges, these grants are listed One Group for Hazel Creek and One for Forney's Creek. However, in some cases the Grants listed for one watershed lap onto the other. All inside the Park area.

<u>Hazel Creek</u>			<u>Forney's Creek</u>		
Grant No.	1378	640 acres	Grant No.	1328	640 acres
"	3100	300 "	"	1329	200 "
"	2101	640 "	"	1738	640 "
"	2105	640 "	"	1372	100 "
"	2104	640 "	"	1374	100 "
"	1400	100 "	"	1530	200 "
	Total	2860 "		Total	1880 "

NOTE: The total acreage in the deed for the mineral interest from J. R. Siler to C. P. Siler which is registered in Book 1 page 57 records of Swain County is 4440 acres. This discrepancy, I think, is caused by lapage in grants.

NOTE: Of the above grants lying on the watershed of Hazel and Forney's Creek, the Siler Meadows Mining and Lumber Company owns ^{one-half} the mineral interest on 1883 acres, and from the best information we have they are the owners in fee except the one-half mineral interest owned by Mrs. M. M. McCoy in Grant 1378 on Hazel Creek containing 640 acres.

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

A-Purchase,
Norwood Lumber Co.,
#172.

March 14, 1929.

Mr. Mark Squires,
Lenoir, N. C.

Dear Mr. Squires:

Mr. John Anderson, attorney for the Norwood Lumber Company, is anxious that the deal between the Commission and his client be closed as soon as practicable.

He requests that I write you and ascertain from you as soon as you can give the information, about what date you and Mr. Whisman could be in Asheville to meet him and Mr. Keys, the president of the Norwood Lumber Company.

Mr. Keys is in Florida and Mr. Hunter, the secretary of the company, is in West Virginia, and it would mean some expense as well as some delay in getting these men into Asheville without first having some idea of the date when you, yourself, could be here.

Mr. Anderson thinks it necessary for you to be here because as chairman of the Commission you may wish to help draw the judgment for the Court to sign.

Very truly yours,

Verne Rhoades,
Executive Secretary.

VR:S

134 Hillside Road
Watertown, Mass.

March 16, 1929

North Carolina Park Commission
P. O. Box 1232
Ashville, North Carolina

Gentlemen:

As an officer of the Siler Meadows Mining and Lumber Corporation, I am writing you in behalf of that company in relation to certain lands owned by us on the Hazel Creek Side of the Siler Meadows property.

We understand that you are buying up certain lands in that territory for National Park purposes and as it will be necessary for us to put this whole proposition before our Board of Directors I would like to have as much information as possible at hand at that time. Will you kindly advise me when you anticipate taking over this entire territory, and approximately what price is being paid for such lands.

An early reply will be greatly appreciated.

Very truly yours,

SILER MEADOWS MINING & LUMBER CORP.

Walter H. Field Pres.

NORTH CAROLINA PARK COMMISSION

COMMISSION ON THE PART OF NORTH CAROLINA FOR THE PURPOSE OF
PRESENTING THE CLAIMS OF NORTH CAROLINA FOR A NATIONAL PARK

EUGENE C. BROOKS, Chairman
J. W. BLACK, JR., Vice-Chairman
John D. DAWSON, Secretary
PLATE TRACT, Franklin
E. L. PUGH, Assistant Secretary

MARK B. QUIRKS, Chairman, League
EUGENE C. BROOKS, Secretary, League

J. A. PARSONS, Representative
TRANSLINER, Roanoke
C. CLARK LONG, Durham
HARRY HETTLER, Greenville
E. L. PARKER, JR., Winston-Salem
MARK BOURNE, Lenoir

Bryson City, N. C.

A-Purchaser
Norwood Lbr Co.
No. 172

March 19, 1929

Mr. Verne Rhoades
Asheville, N. C.

My dear Mr. Rhoades:

Stella McCoy, daughter of M. M. McCoy, has employed
Mr. S. W. Black as attorney to represent them in regard
to the mineral interest outstanding in the Norwood Lumber
Company tract.

Mr. Black informed Mr. Wiggins today that M. M. McCoy
had never been served with a summons in the condemnation
proceeding brought by the Park Commission against the Nor-
wood Lumber Company. I do not know what has been done in
this proceeding, but thought this information might be valu-
able to you in case the Norwood Lumber Company is not success-
ful in purchasing the mineral interest in this tract from the
McCoys.

M. M. McCoy lives in Macon County, Burnintontown Creek.

Very truly yours,

Worth McKinney

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

March 20, 1929.

Mr. Will W. Wiggins,
Bryson City, N. C.

Dear Mr. Wiggins:

Referring to your telephone call as to Mrs. McCoy's matter;

We have held conference, and decided we cannot meet her view; therefore, have issued alias summons for her in the case pending.

Hastily yours,

SFC:S

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

A-Purchase
Norwood Lumber Co.
#172.

March 20, 1929.

Sheriff of Macon County,
Franklin, N. C.

Dear Sir:

Please find enclosed Alias Summons, copy of Motion and Order in case of State of North Carolina, Petitioner, versus Norwood Lumber Company, Heirs of J. R. Siler, Mrs. M. M. McCoy, et al., Respondents.

Please serve the summons and a copy of the motion, petition and order of the Court on Mrs. M. M. McCoy as soon as possible. Your return is written in blank on the back of the summons. You will notice that the summons is a special typewritten summons. You will please date the receipt of the summons and date the service of the summons, and return the papers in the enclosed envelope to the North Carolina Park Commission, at Asheville, N. C.

Please find enclosed check of S. F. Chapman for \$1.50, your fee for service of summons.

Thanking you in advance for your prompt attention,
I am

Yours very truly,

NORTH CAROLINA PARK COMMISSION

By

SFC:S

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

March 21, 1929.

Siler Meadows Mining & Lumber Co.,
134 Hillside Road,
Watertown, Mass.

ATTENTION: Mr. Walter W. Field, President.
Gentlemen:

With reference to your letter of March 16:

The surveys have been completed on the Hazel Creek watershed. The title attorneys have not yet taken up work on Hazel Creek. The surveyors did not have any information sufficient to warrant them to survey any interior holdings for your company on Hazel Creek, and, as stated, the title attorneys have not yet reported on this territory.

Being without information as to what land you claim on Hazel Creek, it is impossible for us to project any idea of value. If, however, you will give this office some information enabling us to locate the land you claim, we will be glad to have same appraised. Of course, ultimately, when the title attorneys get to work on the Hazel Creek side, this office will be advised of any lands you have in that territory, provided the record at Bryson City discloses it. In the meantime, you might facilitate the matter by giving us a statement of your holding and we will immediately consider it.

We assume that you are advertent to what has transpired on the Forney Creek side.

Yours truly,

Verne Rhoades,
Executive Secretary.

VR:S

4/8/29

BURTA CAR LINA,
BUNCOMBE COUNTY.

IN THE SUPERIOR COURT
BEFORE THE CLERK.

STATE OF NORTH CAROLINA,

Petitioner,

-vs-

JUDGMENT.

BURWOOD LUMBER COMPANY,
HEIRS OF J. R. BILEY, MCF.
M. M. MCCOY, SILVER MEADOWS
MINING AND LUMBER COMPANY,
GEORGE FRANK AND MARY FRANK,
HEIRS OF JOHN A. WOODY and
HEIRS OF P. R. WELCH,

Respondents.

This cause now coming on to be heard before the undersigned Clerk of the Superior Court of Buncombe County, North Carolina, and it appearing to the Court, and the Court finding as facts:

1. That summons in this proceeding was duly issued on the 13th day of November, 1928, and thereafter served on the 17th day of November, 1928, on defendant, Burwood Lumber Company, and on the 3rd day of December, 1928, on the Silver Meadows Mining and Lumber Company.

2. That notice of the pendency of this action, in accordance with the provisions of Section 19, Chapter 48, Public Laws of North Carolina, Session 1927, was duly published in the Bryson City Times, a newspaper published in Swain County, North Carolina, wherein the land sought to be condemned lies, and proof of the publication of such notice duly filed in this Court on January 26th, 1929.

3. And it further appearing to the Court that on the 4th day of March, 1929, an order was entered herein appointing H. W. Bennett, H. T. Grant and W. T. Angline commissioners to appraise and assess the compensation which ought justly to be made by the petitioner to every of the parties owning or interested in the land so sought to be condemned.

4. And it further appearing to the Court that said commissioners, on March 7th, 1929, filed their report in this Court, and thereto and thereby reported that the respondents were entitled, as compensation for the lands sought to be condemned, to the sum following:

"The lands owned by the Norwood Lumber Company in fee simple at the price or sum of \$6.00 per acre.

The lands owned by the Norwood Lumber Company known as the "Siler Meadows Mining & Lumber Company lands," but subject to the reservation of the mining interest therein, at the price or sum of \$4.00 per acre.

For the mining interest in the aforementioned Siler Meadows Mining & Lumber Company lands containing approximately nine-hundred-twelve (912) acres, at the price or sum of \$0.10 per acre.

The mineral interest in a small portion of the lands of the Norwood Lumber Company reserved to George Frame and wife, Mary Frame, at the aggregate sum of \$10.00, said amount to be deducted from the total valuation of the lands owned by the Norwood Lumber Company as hereinbefore appraised and assessed."

5. And it appearing to the Court, and the Court finding as an ~~fact~~ fact, that due process of service has been made on each of the ~~that process is not properly served~~ respondents named in the caption hereof, and it further appearing to the Court that the Norwood Lumber Company has agreed to accept the compensation money fixed by the report of the Commissioners:

IT IS NOW HEREBY ORDERED by the Court that all and singular the premises described in the petition as the property of the Norwood Lumber Company, and likewise fully described in its deed to petitioner, State of North Carolina, dated March 28, 1929, and forthwith intended to be recorded, be and they hereby are condemned ~~to~~ in fee to the use of the petitioner and all persons who have been made parties to this proceeding shall be and they are hereby divested and barred of all right, estate and interest in the said premises and every part thereof. There is expressly excepted from the petition the land referred to in the order herein, dated January 26, 1929, and likewise fully described in a deed from Norwood Lumber Company to Tellmanee Power Company, dated March 15, 1929, and forthwith intended to be recorded, ^{which reference} is hereby made for purposes of full and complete description.

IT IS FURTHER ORDERED AND ADJUDGED by the Court, upon the payment into the Court of the sum of \$45.00, the Biler Meadows Mining & Lumber Company shall be divested and barred of all right, estate and interest in the lands described in the petition, the interest of such company being hereby condemned to the use of the petitioner.

IT IS FURTHER ORDERED AND ADJUDGED that, upon the payment into the Court of the sum of \$10.00, the respondents, George Frame and wife, Mary Frame, shall be divested and barred of all right, estate and interest in the lands described in the petition, the interest of said respondents being hereby condemned to the use of the petitioner.

IT IS FURTHER ORDERED AND ADJUDGED that the cost of this proceeding be paid by the petitioner.

IT IS FURTHER ORDERED AND ADJUDGED that the entire record herein be entered upon the Special Proceedings Docket of this Court and recorded at length, and a certified copy thereof transmitted to the Clerk of the Superior Court of Swain County, North Carolina, to be likewise recorded at length in his office.

By the signature of its attorney, Norwood Lumber Company acknowledges the receipt of the condemnation money awarded herein.

For the purpose of receiving the answer, if any, and passing upon the rights, if any, of Mrs. H. H. McCoy, this cause is retained.

This 2nd day of April, 1929.

(SIGNED) J. B. Cain

Clerk of the Superior Court of Buncombe County, North Carolina.

(SIGNED) Mark Squires
Chairman, representing North Carolina Park Commission.

(SIGNED) L. R. Varner
Assistant Attorney General of North Carolina, assigned to North Carolina Park Commission.

(SIGNED) Carter & Carter
Of Counsel for Park Commission.

(SIGNED) Anderson & Howell
Attorneys for Norwood Lumber Co.

Asheville, N. C.

April 16, 1929.

Mr. W. N. Sloan,
Bryson City, N. C.

Dear Mr. Sloan:

I would feel obliged if you would locate on the map on Forney's Creek and the map on Hazel Creek the grants and numbers on which Miss McCoy gets a mineral interest or claims to have a mineral interest.

This suggestion is made upon the basis of your having the information in your office and that no field work is necessary.

When you have sketched in pencil on the map the probable location of Miss McCoy's claim, I see no objection to letting Miss McCoy have a map with your pencil sketch thereon, and would be pleased to have you send to this office a duplicate of what you give to Miss McCoy.

Of course, if you do not have sufficient blue prints in your office to comply with this suggestion, you are at liberty to point out on your office record for Miss McCoy the probable location, and would thank you to advise me what you do in the premises.

Yours very truly,

Verne Rhoades,
Executive Secretary.

VR:R

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

December 30, 1929.

Central Bank & Trust Company,
Asheville, N. C.

Gentlemen:

Whereas, by escrow agreement there was deposited with you \$1,363.00 by the North Carolina Park Commission, to be paid to the Norwood Lumber Company, or their attorneys, after the payment of the appraised value of the one-half undivided mineral interest of H. H. McCoy in 922 acres of land on Forneys Creek, Swain County, North Carolina, and whereas, the appraisement has been made and final judgment signed, and the amount of the appraised value was \$350.00, we authorize you to make payment to J. B. Cain, Clerk Superior Court of Buncombe County, North Carolina, of the sum of \$350.00, and the balance of said amount to be paid to the Norwood Lumber Company, or Anderson & Howell, their attorneys.

Yours very truly,

NORTH CAROLINA PARK COMMISSION

By

NORWOOD LUMBER COMPANY

By

Attorneys.

NORTH CAROLINA PARK COMMISSION
CREATED BY THE STATE OF NORTH CAROLINA
TO ESTABLISH A NATIONAL PARK IN
THE GREAT SMOKY MOUNTAINS

EUGENE C. BROOKS, RALEIGH
D. M. BURR, MOUNTAIN
JOHN G. DAWSON, RALEIGH
PLATO D. EBBES, ASHEVILLE
R. T. FOUNTAIN, ROCKY MOUNT

MARK SQUIRES, CHAIRMAN, LENOIR
EUGENE C. BROOKS, SECRETARY, RALEIGH
VERNE RHOADES, EXECUTIVE SECRETARY, ASHEVILLE

J. A. HARDISON, WAKEFIELD
STUART W. CRAMER, JR., CRAWFORD
J. ELMER LONG, DURHAM
HARRY L. NETTLES, BILTMORE
E. S. PARKER, JR., WAKEFIELD
MARK SQUIRES, LENOIR

Asheville, N. C.
January 6, 1930.

North Carolina Park Commission,
Asheville, N. C.

In re: CONDEMNATION CASE
Gentlemen: State vs. Norwood Lbr. Co.
et al.

This is to give written recognition
to our parole agreement that collection by the
respondents of the sum of money held in escrow
by the Central Bank & Trust Company involves no
impairment of the contract heretofore entered
into between yourselves and my clients, govern-
ing our liability in respect of the acquisition
of the M. M. McCoy mineral interests.

Yours very truly,

NORWOOD LUMBER COMPANY

By *John B. Anderson*
Attorneys.

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

January 13, 1930.

Mr. John B. Anderson,
c/o Anderson & Howell,
Asheville, N. C.

Dear Sir:

We enclose herewith receipt acknowledging checks from Norwood Lumber Company and Joseph Keys, \$900.00 and \$750.00 respectively, in payment of their subscription to the Park Purchase Fund.

Also enclosed is the letter Judge Carter dictated with reference to our contract in the M. M. McCoy mineral interests. We will thank you to sign the letter and return to us.

Yours very truly,

NORTH CAROLINA PARK COMMISSION.

H
ES.

606 City Building,
P. O. Box 1232,
Asheville, N. C.

December 29, 1930.

Miss Stella McCoy,
Franklin, N. C.

State vs. Norwood Lumber Company, et al.

Dear Miss McCoy:

Mr. Rhoades has turned over to me for reply your recent letter to him in regard to the condemnation proceeding for the Forney Creek lands. I notice that you claim that at the time this proceeding was conducted you had a deed from your mother for the mineral interests claimed by her and that you were not made a party to this condemnation proceeding.

In reply to your contention, I will state that the records show that your deed was recorded in Swain County on April 15, 1929, and this was nearly six months after the condemnation proceeding was begun and after notice thereof had been served upon your mother, who at that time was shown by the records to be the true owner of the lands.

This proceeding is conducted under Chapter 33, of the Consolidated Statutes of North Carolina, and Section 1730 of the Consolidated Statutes contained in said chapter provides, "When any proceeding of appraisal shall have been commenced, no change of ownership by voluntary conveyance or transfer of the real estate or other subject matter of the appraisal or any interest therein shall in any manner affect such proceeding, but the same shall be carried on and perfected as if no transfer or conveyance had been made or attempted to be made."

This condemnation proceeding affecting the lands to which you refer was begun in October, 1928, so that it will be apparent that under this provision of the law, your mother was a proper party and no deed made by her and registered thereafter could change the situation.

Further, as you will recall, you appeared by attorney in the case, and I think actually went with the appraisers to view the property, and later appeared in court by attorney.

Page 2.
Miss Stella McCoy.
Dec. 29, 1950.

Under these circumstances and under decisions of the courts, the only effect of this deed would be to allow you to make yourself a party and to participate in the compensation which the Court allowed as compensation for this mineral interest, but the fact that you may have had an unregistered deed at the time the proceeding was begun, even though it may have been registered later, does not affect the title which the State acquired by this condemnation.

Very truly yours,

Zebulon Weaver,
Of Counsel.

Dear Mr Rhodes.

Acknowledging
the receipt of your letter
of Dec 2 inst.

To state a few facts
to you about my
mineral interest in
the Norwood Lumber Co
on Forney's Creek.

I am the proper
owner of that mineral
interest, and not
Mrs M. M. McCay.
The title was in me
several months before
any pack proceeding

13th day
July 1928 - 1928

my Deed was on record before before my Jury went out on this property.

The Condemnation proceedings and suit was carried on with Mrs. M. M. McCoy,

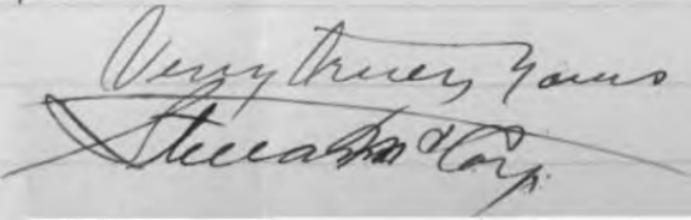
and the Smokey Mountain Park Authorities and there was amount placed in The Cumbcomb Co. Clerks office to her credit.

Now I will not consent to any such unfair and unjust dealings, I never was

served or notified of the
Condemnation proceedings
or any other proceedings
by the Smoky Mountain
Park Authorities,

and I am asking you
~~to~~ re-open the Unit,

I am referring this
matter to my Attorney,
Mr. W. L. McCoy of Franklin,
to take up this matter with
you.

Very truly yours

Stearns Corp.

STATE OF NORTH CAROLINA,)
COUNTY OF BUNCOMBE.)

STATE)
vs) CONDEMNATION PROCEEDINGS
NORWOOD LUMBER COMPANY et al)

Appearance:

For the State: Judge Carter and
John B. Anderson, Esq.

For the Defendant: Thos. S. Rollins, Esq.

Prepared by:
Emanuel Stenographic Service,
509 Jackson Bldg.,
Asheville, N. C.

INDEX

For the State

W. N. Sloan.....	1
Granville I. Calhoun.....	4
John C. Calhoun.....	26

For the Defendant

Chris Laney.....	30
Zeb Laney.....	31
Judson Hall.....	35
John Wright.....	36

STATE OF NORTH CAROLINA,)
BUNCOMBE COUNTY,)

STATE OF NORTH CAROLINA)

vs)

NORWOOD LUMBER COMPANY, ET AL)

CONDAMNATION PROCEEDINGS.

This cause coming on to be heard this 10th day of October, 1929, before James H. Crisp, J. E. Gauble and T. L. Maney, Commissioners, the following proceedings were had.

Appearances:

For the State: Judge Carter and
John B. Anderson, Esq.

For the Defendant: Thos. S. Rollins, Esq.

W. N. SLOAN, a witness for the State, duly sworn, testified as follows:

DIRECT EXAMINATION BY JUDGE CARTER.

Q You are a civil engineer and land surveyor?

A Yes sir, I'm a registered civil engineer in the state.

Q Do you know the lands of the Siler Meadows Mining & Timber Company which includes the mineral interest which we are dealing with here?

A Yes sir. I know the boundaries.

Q Have you made a computation of the acreage of that land on Forney Creek?

A Yes sir.

Q What does it amount to in the aggregate?

A 955 acres.

Q That includes all of the grants in which Mrs. McCoy claims a mineral interest?

A Yes sir, that includes all of the J. R. Siler grants within the boundaries of the Norwood Lumber Company tract.

Q Do you know how the mineral interest in that land was held as between the Siler Meadows Company and Mrs. McCoy?

A Yes sir. I've seen the records in the case and they show that Mrs. McCoy owned one-half of the mineral interest in the Siler Meadows Mining & Timber Company.

Q In other words, the tract of 955 acres you spoke of is so much of the Norwood lands as affected by that mineral interest?

A Yes.

GROSS EXAMINATION FOR THE DEFENDANTS
BY MR. ROLLINS.

Q Did you make a survey of that Siler grants in which Mrs. McCoy has a half mineral interest?

A I didn't make a complete boundary survey of each grant, no.

Q Where do you live?

A At Franklin.

Q Are you in the employ of the Park Commission?

A Yes sir.

Q As what?

A In charge of their surveys of land.

Q And from your calculations the total acreage then of the Siler grant on Forney's Creek is 955 acres?

A Yes sir.

It is stated before the Commissioners by counsel for Mrs. McCoy that this acreage as stated by the witness is correct as he is informed and he accepts that computation for this hearing.

GRANVILLE I. CALHOUN, a witness for the State,
duly sworn, testified as follows:

DIRECT EXAMINATION BY JUDGE CARTER.

Q Mr. Calhoun, where do you live?

A Proctor, Swain County, North Carolina.

Q Do you know these lands affected by Mrs. McCoy's
mineral interest, the Siler grants of the Norwood Lumber Company,
lying on the watershed of Forney's Creek?

A Yes, I know them.

Q How long have you known those lands?

A About 25 or 30 years.

Q Mr. Calhoun, what experience have you had in mineral
operations, both mining and in prospecting for minerals?

A I have been working at it quite a bit of the time for
the last thirty years.

Q Please state what, if anything, you had to do with
prospecting for minerals, particularly for copper, for Mr. Adams
of the Adams Westfelt Mines.

A I begun work for him in 1899 and I have done work for
him, more or less, all along on up till two or three years ago
is the last actual work I done for that company in the way of
prospecting or working in the mines. I am still under the
employ of them as an agent. Have been for thirty years.

Q Well, now, were you associated with Mr. Adams throughout
the whole period of his connection with that operation?

A Yes sir.

Q And have you had any connection with the company that's taken over the Adams interests there?

A Yes. That's the Carpenton Westfelt.

Q What have you done for them?

A Well, I have just looked after their property and I done some prospecting. George and Fred Cobb are the principal owners.

Q Mr. Calhoun, there is a mining operation going on on the Adams property by the Cobbs now, I believe, is there not?

A Yes, their property, and they are making a lease or something. I don't know the nature of it.

Q The property is being worked?

A Yes.

Q You know the location?

A Yes.

Q How far is it from there to the lands we are dealing with now; I mean to say, the air line distance, as near as you can get it?

A About 12 or 14 miles.

Q And as to the elevation, the comparative altitude of this mining operation and of these lands we are dealing with now?

A About 3000 feet difference in the elevation.

Q In other words, these lands are back of the tops of the mountain?

A Yes sir.

Q And the others toward the mouth of the creek?

A Yes.

Q Have you ever prospected the Siler lands for minerals and if so when and for whom?

A I prospected that in 1904 is my recollection. About 25 years ago I worked it about nine months, I think, the best I recollect. It might not be exactly that.

Q Your explorations, your prospecting there covered a period of eight or nine months?

A Yes sir.

Q What help did you have?

A A number of men, anywhere from 12 to 18 men I worked there. I think eighteen is about the most I ever had at any one time.

Q How many of those men who worked with you in that prospecting are here as witnesses in this case? I wish you would name them please.

A Five, I believe. John Wright, Zeb Laney, Chris Laney, Judson Hall and Brother Calhoun that's here.

Q What did you discover on that land in the nature of indications of mineral?

A Well, we found some out-cropping that went through the Siler Meadows and from Hazle Creek up through there and there was a little show and showed a little trace of copper.

Q Describe how much showed as to the thickness of any vein or veins you may have seen.

A. It was only actually showed. Really had some copper veins only 3 or 4 inches wide across the Meadows and we went and followed down on the Forney Creek side some six, not 600 feet below the level.

Q. Perpendicular?

A. Yes, which would be about 900 feet possibly down the slope. That's not actual measurement, that's estimated.

Q. What did you find as to the dip or direction of the veins there by way of indicating whether any larger deposits might be there, be available from the Forney Creek side or whether they would go to some other direction?

A. The strike of this out-crop is about north 60 east of there. It goes that way clear through the country and dips to the south, southeast and goes through this meadow and drops down and goes over to the Tennessee side a distance of, probably goes a half mile.

Q. As to the Hazle Creek, what indications as to that?

A. Goes on the Hazle Creek, comes out the Hazle Creek coming out of this dip, goes back to the Tennessee side and the greater portion of it is in the Hazle Creek side.

Q. Where in your opinion, by the slight indications that you saw there, that vein 3 or 4 inches thick, would the most of the mineral indicated by that be found?

A. By the Hazle Creek and in Tennessee.

Q. Now, Mr. Calhoun, are you particularly informed about

the methods of developing the copper deposits, as to what is necessary in the way of smelters and that sort of thing for the utilization of copper ores and as to the cost of such developments?

A I couldn't say that I was particularly, about the smelter part of it. I know you have got to have quite a lot of tonnage for anything of that kind. It has got to be accessible and run a percent high enough to pay for the enormous cost of putting in smelters. It costs millions of dollars.

Q State in the operation of the Adams mine whether they have installed smelters or whether they transport their ores by rails.

A They haven't transported but four carloads out of it. That's all that's ever been out of there. There's no railroad up there. They are boring it with drills now to ascertain whether there is quantity enough to justify putting in a railroad or putting in smelters as an aid. They have been working on it off and on ever since 1899, not continuously because they had a lawsuit for a number of years and had to shut down, but since that have been working quite a lot.

Q But they haven't found sufficient even yet to put smelters down there?

A Not yet. They say they have got to find more tonnage than they have in sight to justify putting in smelters.

Q. What progress are they making on this Adams operation?
A. Not making any at all now. They did ship four car-loads, but they hauled that in trucks down to the railroad and they can't do that without enormous cost.

Q. Is there a railroad on Forney's Creek, any lumber or road that would be serviceable in transporting ore and minerals?

A. There is no railroad up Forney's Creek. There was a lumber up it at one time, but that's been done away with and the rails took out.

Q. Mr. Calhoun, in the course of your thirty years or thereabouts of prospecting for minerals and the experience that you have had, are you able to form an opinion satisfactory to yourself as to the reasonable, fair market value of the mineral rights on such lands as these Siler lands, the lands we are speaking of here?

A. I think I would - satisfactory to myself.

Q. Well, with your knowledge and experience of such matters and your particular acquaintance with these lands, please state what, in your opinion, would be the reasonable fair market value of the undivided one-half mineral interest in the 955 acre tract of land we are dealing with here.

A. It hasn't got any market value now because there's nothing there to market.

Q. Please state whether or not you saw anything that would indicate a market value at any time on that land. I mean

to say that would indicate a present market value.

A Well, there is nothing that would give you any great value at the time, unless there was more work and an enormous amount of money spent. As it stands it's got no market value, the mineral.

CROSS EXAMINATION FOR THE DEFENDANTS
BY MR. ROLLINS.

Q Mr. Calhoun, you never attended any college or university or took any course in mines or minerals, did you?

A Not in any school, no.

Q And you don't profess to be a mining expert?

A No sir, not an expert.

Q You never owned or operated any mines in your life, did you?

A No sir, only what I done for Mr. Adams in the way of work there and prospecting that ore.

Q You are a merchant and a farmer, I believe, by trade or profession. Is that so?

A Not much farmer.

Q Are you much merchant?

A I have been in and out of that.

Q What do you profess to be - farmer, merchant?

A Trader, put it that way.

Q Mr. Calhoun, you do know that this same vein about which

Westfelt Adams had this litigation extends over on the Siler grants, doesn't it?

A I think it does.

Q You do know, furthermore, don't you, that Mr. Adams prospected and made a tunnel 25 feet deep over on the McCoy lands known as the Siler lands?

A I made that.

Q I will ask you if you didn't get ore out of that tunnel which assayed 1.82 percent.

A I don't know what it assayed, but I know it was enough to know -

Q (Interrupting) Who made the assay?

A I think Ricketts & Banks. It was carried away and took to New York and it was my understanding that -

Q (Interrupting) You do know that this same vein that goes from the Westfelt Adams mine goes on into Tennessee, doesn't it?

A I think it does.

Q And you do know they are opening up the mines right across the Tennessee lines now?

A I don't know that.

Q You mean they are not opening them?

A I don't know anything about that. Haven't heard anything of it.

Q You do know that at the present time that people have

bought out the mineral interest of the Adamses and Westfeldts and are operating that mine now, aren't they?

A No.

Q What are they doing?

A They are prospecting, drilling and testing.

Q Do you know whether the Cobbs have a lease or whether they purchased the mineral interest in the vein on the Adams land?

A I don't know. I understand - I have a letter from them saying they had it leased. They had given a lease.

Q Had given a lease or had taken a lease for the Westfelt Adams?

A The agent of Westfelt Adams told me that they had contracted a lease to these people to test that, these Ducktown people.

Q The Cobbs?

A Cobbs and Westfelt are all one concern.

Q You know they are spending considerable money prospecting for copper on this particular vein?

A Yes. Been at it commencing 1899 and continuing all the way to the present, still at it.

Q I suppose that these mineral experts and these owners of these lands on this one vein extending from the Hazle Creek side on through Westfelt Adams, spent \$200,000 or \$300,000 prospecting on it?

A I don't think that much, but quite a lot of money. The

Adams people spent around \$100,000 as near as I can get at it.

Q. You don't know what the Westfelts spent, if anything?
A. About \$20,000 or \$25,000.

Q. Now this Westfalt Adams mine, on an airline is about seven or eight miles from this lady's land?

A. About 12 miles.

Q. You mean in an airline straight through the air?
A. Yes.

Q. You say that you built this tunnel over on her land prospecting for Mr. Adams?

A. Yes.

Q. You did get some right valuable copper ore out of that mine, didn't you?

A. We got a little bit. I reckon it had a little copper in it, ore containing 1 and -

Q. (Interrupting) 1.82 wasn't it?

A. Something like that.

Q. They are working ore in Tennessee in excess of 1.75 or up to 2.25?

A. Yes.

Q. And don't you know further that Mr. Adams was preparing to dig further by the encouragement received in making this 25 foot tunnel at the time he got in litigation with Westfelt and therefore stopped?

A. It was after the litigation.

Q But that litigation consumed practically all his time and he didn't go further with this mine?

A No, he didn't. He said to me he stopped the work up there. He said, "This is rather disappointing. I spent quite a bit of money here and until I know more about what we are going to do down there and if I ever put in a smelter at Proctor and work that mine down there I might come back here" -

Q And develop this mine?

A "And prospect this further and see what we can find."

Q That if he put in a smelter at Proctor he would come back here, and see what he could find, and that opinion is based upon the ore already taken out?

A Yes.

Q Have you got a copy of that assay of the ore that you took out?

A No, I haven't.

Q But you do know that it is 1.82, that's what you heard.

A Yes sir.

Q You don't know what percent of copper justifies the operation of a copper mine, do you?

A It depends on its location, the quantity and tonnage.

Q I say that always depends upon several elements.

A The lower the percentage is the greater the tonnage you have got to handle, and the railroad you have got to have close to it, and you have got to have smelters. You can't

operate copper ore for the copper on 1.75 or 2 percent. You can't operate 2 per cent ore unless you could work it with hundreds of thousands of tons a day and you have got to have other minerals combined with it to get by-products out of it. The Ducktown people handle it for the sulphur and acid.

Q. Since you mention it, you do know the Ducktown people are operating for copper that contains less than 1.75 of copper?

A. They do it for the sulphur and iron and other minerals and use the copper as a by-product.

Q. You do know that there's never been as much money spent on Mrs. McCoy's land as on Westfelt Adams land?

A. No sir.

Q. And if you spent as much on her land as on theirs prospecting, you don't know what would be found?

A. I don't know. The only way to do it would be by spending the money.

Q. Did you send any of that to Mr. Bryson, state geologist, to have it examined lately?

A. No sir.

Q. Did you ever prospect at more than one place on the Siler lands now owned by Mrs. McCoy?

A. Yes sir.

Q. And you found evidence of copper at more than one place?

A. Found it at the top of this mountain where it goes over and down where I cut this tunnel.

Q Now you found it at the top of the mountain where it goes over into Tennessee?

A Where it comes across from Hazle Creek.

Q Was that on her land, on the Siler grants?

A Yes, it would be there.

Q Then you also found the copper on the same vein where you made the tunnel? Where was the tunnel?

A 10 or 14 miles from the top. 600 feet down.

Q In tracing that vein of copper, do you mean to tell the Court that it run 600 feet down?

A 600 feet below the level of the top.

Q You don't mean to say that the ore you found was 600 feet down in the ground?

A But that 600 feet down the mountain would indicate what you would find 600 feet under the mountain.

Q How was that?

A This washout, would cut a washout.

Q You found evidences of copper at the top of the mountain 600 feet higher than in the tunnel, but that in the tunnel was not 600 feet in the ground?

A It would be from the top of the mountain.

Q But the vein ran along down under the surface, didn't it?

A I don't know how far under it.

Q When you went into the tunnel you didn't go 600 feet in the ground?

A We were 600 feet below the level of the top.

Q How far is this Siler land, the closest part, to a railroad?

A About 10 miles.

Q Is that the Southern?

A Yes.

Q At what point?

A Forney Creek Station.

Q And there is a public road from Forney's Creek to this property, isn't there?

A I don't know whether there is one through the property or not. There is one through Forney's Creek a piece. It doesn't go all the way.

Q It runs practically to the land or by the land?

A It goes up Forney's Creek about four or five miles. I don't know exactly the distance.

Q Were you with the commissioners the other day when they went up there?

A No sir.

Q Do I understand you to say there is or is not a public road to this land?

A There's one up that land some five miles. I don't know whether they would call it a public road or not.

Q How far do you live from this land?

A 16 miles.

Q You live, as I understand, at Proctor?

A Yes sir.

Q You do know that these people are spending an immense amount in prospecting for copper at the old Westfeld Adams mine?

A Yes sir.

Q How many people?

A About six or eight.

Q They have been prospecting there for months?

A Yes sir, quite a bit.

Q And you say that your understanding is that they only sent out four cars?

A I know that is all that ever went out.

Q Where did that go to?

A To Ducktown.

Q Do you know what it assayed?

A Only by report.

Q What was that?

A A fraction over 4 per cent.

Q And that's considered a very large copper percentage?

A 4 per cent is a good copper ore.

REDIRECT EXAMINATION FOR THE STATE
BY JUDGE CARTER.

Q Mr. Calhoun, Mr. Rollins has asked you about what might result from further digging on further excavations. I want you to say what you were able to observe as to the depth

of that copper lead you found there which enables you to form an opinion satisfactory to yourself as to whether any larger deposits that might be found from those veins would be found in a place where they could be advantageously developed from any point on this 955 acres. What I am wanting to find out is whether the depth of those copper leads there indicated that any deposits on those lands could be better developed from this side or better developed from the Hazle Creek or Tennessee side.

A That would depend on where you wanted to go with it or what you wanted to do, whether you had furnaces or whether you had smelters. If you had smelters down on the Hazle Creek side anywhere and wanted to go, you couldn't work it from that side.

Q Did you or not find any indication of any such amount of copper as could be profitably transported from that place to the railroad and shipped?

A No sir, it would take more of it and higher grade.

Q I believe it is conceded here that Mrs. McCoy's interest is an undivided one-half interest, the other half being the Siler Meadows Mining & Timber Company until that corporation's interest was extinguished by proceedings similar to this, was it not?

A Yes.

Q And I want you to state what you had to do with that corporation and whether you are a stockholder in it and all about that so the commissioners can understand. I want it for the

purpose of corroborating your testimony. I want you to tell what interest you had in the Siler Meadows Mining & Timber Company and what you consider that interest worth.

A I went and looked up the heirs of this land to find out and see who owned this Siler lands, the lands that the Norwood Lumber Company didn't have before they had commenced buying up lands in there, and I went and found out who I thought owned it at the time and talked to Mr. Adams at the time and told him that I thought he ought to buy it, that it was worth that money what they offered to sell it for.

Q What had they offered?

A \$4.00 an acre.

Q That was in fee simple?

A Fee simple, timber and all, took everything, and when I was making that report I thought it was for all of it. I didn't know there was any outstanding interest in it at all and I recommended to him to buy it at \$4.00 an acre and he considered it and did buy it and then he formed this here corporation and for my services in that they gave me stock in this mining claim when they were fixing to prospect.

Q How much stock?

A A thousand shares.

Q In the Siler Meadows Mining & Timber Company?

A At \$5.00 a share. That made \$5000 in the Siler Meadows Mineral Company they formed, not in the land, and I have that yet.

I don't consider it worth anything, haven't in years.

Q. Do you or not know whether the Siler Meadows Mining & Timber Company, after being notified of the appraisement of their interest by the commissioner in the form of proceedings, they paid no attention to it on the grounds that they considered it of no value at all?

OBJECTION BY DEFENDANTS.

Q. So you didn't take any interest in that statement at all?

A. No.

Q. The corporation in which you owned a thousand shares never took the trouble to file an answer or valuation?

A. Not that I know of.

Q. You know that proceeding to condemn that interest was advertised in the local papers out there? You saw that advertisement?

A. Yes sir. I don't know that I particularly read it, but I knew of it.

Q. And you paid no attention to it?

A. I talked the matter over with Mr. Hooker. Asked him if they were going to do anything about it and he said no.

Q. And having your thousand shares you didn't pay any attention to the notice?

A. No.

REROSS EXAMINATION FOR THE DEFENDANTS
BY MR. ROLLINS.

Q. What was the total capital stock of that corporation known as the Siler Meadows Mining & Timber Company?

A. I'm not sure that I could tell you. I believe it was a million dollars.

Q. And you took a thousand shares of stock in the valuation of a million dollars? That's right, isn't it?

A. Yes, they gave it to me.

Q. They gave it to you for your services and they formed a company and valued the mineral, one-half of the mineral interest on the land, at a million dollars and gave you a thousand shares for your services?

A. Yes sir, that was when they were prospecting.

Q. And how many years ago was that?

A. 25 years ago, about that.

Q. Was that condemned in this proceeding, the other half of the mineral interest was condemned in this proceeding?

A. All of it, I suppose.

Q. We couldn't condemn this lady's land. That's what we are condemning now.

A. I thought they owned it all then. That's what I understood.

Q. And you all didn't contest that in the complaint of the Park Commission?

A. No sir.

Q. And you didn't come here to testify in that case, in the case where they condemned the Siler Meadows Mining & Timber Company's interest in this 955 acres of land?

A. They asked me to come and testify in the case.

Q. Who came after you?

A. My brother came for me, John asked me to come and testify for them.

Q. Did you come?

A. I'm here.

Q. When they condemned the interest of the Siler Meadows Mining & Timber Company were you a witness in that?

A. No.

Q. Who owned the majority of the stock in that company?

A. The Cobbs, I suppose, Adams and Adams' partners, George Cobb and Fred Cobb. I don't know now that's it, but that's my understanding. In fact, I don't know much about that part of it. I quit work and didn't do anything any more. I understood it was not any account.

Q. They never prospected deep enough to find out whether there was mineral in there or not?

A. Right smart.

Q. How much do you think was spent prospecting on Mrs. McCoy's land? You said you did prospecting for Adams.

A. Somewhere about \$5000 or \$6000.

Q. And that was all that was ever spent?

A. I don't know the figures. I'm just guessing.

REDIRECT EXAMINATION BY JUDGE CARTER.

Q Now Mr. Calhoun, this Siler Meadows Mining & Timber Company was organized with the capitalization of a million dollars before they did the prospecting?

A About the time they were getting ready to commence.

OBJECTION BY DEFENDANTS.

Q Was that done before the thing was prospected or after?

A It was right when we started in. They first took an option and went ahead with this organization and I was doing some of the prospecting while they were starting it.

Q And they gave you a thousand shares?

A Yes sir.

Q After you did the prospecting they didn't think enough of it to make any claim in that other proceeding and you didn't think enough of it to make any claim?

A The reason they quit was they said they didn't consider it worth following up and wouldn't spend any more money on it at all unless at some future time if they got smelters in down there they might continue to search some more and see what they could find.

Q Mr. Calhoun, when was it you got that thousand shares? How long ago?

A About 25 years ago.

Q About 25 years ago. Have you still got that stock?

A Still got it.

Q Did you list it for taxes last year?

A No.

Q List it for taxes. Before that?

A Non-taxable it says and I never have listed it for anything because I didn't figure I was going to get anything out of it.

Q Who is the representative of that corporation in North Carolina?

A Joe Hooker.

Q And he's the one you spoke to about it?

A Yes.

Q And you know that he didn't make any claim in that other case?

A No sir.

JOHN C. CALHOUN, a witness for the State, duly sworn, testified as follows:

DIRECT EXAMINATION BY JUDGE CARTER.

Q. Now Mr. Calhoun, your brother Granville Calhoun, has just testified. What do you know about this land?

A. Well, I was over and helped do all the work at the time he was there, about nine months.

Q. Was that the beginning of your experience in prospecting for minerals?

A. No sir, I worked all the time for the Adams mining business down there.

Q. How long have you been taking an interest in mineral prospects?

A. Ever since the Adams part commenced down there I have been more or less interested in it and since I have had some lands I have tried to sell.

Q. Mr. Calhoun, have you taken any notice of what's been done on the Adams Westfelt operation and have you been familiar with all that's been done with reference to prospecting for minerals or developing of mineral products since Adams became interested there?

A. Yes sir, I have been there with all the Adams work. You might say all of them. I might have lost a week or two sometime up until the last part of the work, after the D. C. & I. Company, but up to that I have been there practically all the time.

Q You worked in that mine, did you?

A Yes. I sharpened the steel bar it and was in there every day.

Q Mr. Calhoun, with your experience which you have testified to, your particular examination of this 955 acres of lands of Siler grants, have you an opinion satisfactory to yourself as to the value of the mineral rights on that land?

A Well, I can satisfy myself.

Q Well, what in your opinion is the present reasonable and market value of an undivided one-half interest in the mineral rights on that 955 acres of land?

A From what we found there, what I see and know about minerals, I wouldn't consider it worth anything. We didn't find anything that would justify any value that I could see.

CROSS EXAMINATION FOR THE DEFENDANTS
BY MR. ROLLINS.

Q Mr. Calhoun, you never took any course in mines or minerals or attended any college or university?

A No.

Q And you don't profess to be a specialist in minerals?

A Not a bit.

Q You are a farmer, I believe, by trade.

A Farm a little, trade some.

Q Trade in what?

A Cattle and lands.

Q You never operated a mine?

A No sir, only what work I've done there -

Q (Interrupting) You do know that a great deal of money was spent and a great many people prospected in that locality for copper, don't you?

A Yes sir.

Q You know this large copper vein extends from Hazle Creek across this land into Tennessee, don't you?

A You can find the outcropping practically all the way.

Q You know that there's not been near as much money spent on prospecting Mrs. McCoy's land as on the Adams land?

A No.

Q And you know \$100,000 has been spent on the Adams Westfelt land?

A Yes.

Q And you don't know what would develop if that much was spent on Mrs. McCoy's land?

A No.

REDIRECT EXAMINATION BY JUDGE CARTER.

Q Did you see anything on this 955 acres that would warrant a man of any business prudence at all having \$100,000 or any other large sum of money spending it on that land?

A I couldn't say as to that because you might pick up some sucker who would spend a lot of money where there was nothing.

Q

But he would have to be a sucker?

A

I know I wouldn't do it.

CHRIS LANEY, a witness for the defendants, duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ROLLINS.

Q. You never took any course in mines or minerals?

A. No.

Q. You don't know anything about whether rocks contain minerals or not?

A. Well, I've not had no experience.

Q. Did you ever work on the land owned by Mrs. McCoy?

A. Yes sir.

Q. How long?

A. About nine months.

Q. You mean you worked on the land nine months where there was no mineral?

A. About nine months, with Siler Meadows.

Q. You found some copper, didn't you?

A. A little bit.

Q. Found enough to keep you working nine months?

A. Just prospecting at the Siler Meadows. They didn't work altogether on that side.

Q. On that side? You were over on Hazle Creek side then, weren't you?

A. Some.

Q. Who was in charge of the prospecting?

A. Mr. Calhoun, Granville.

Q You don't know what quantities of copper ore was on that land, do you?

A No. NO CROSS EXAMINATION.

ZEB LANKEY, a witness for the defendants, duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ROLLINS.

Q Did you work on these Siler lands that Mrs. McCoy now owns?

A Yes sir.

Q How long?

A About nine months?

Q Most of that you were working on the Hazle Creek?

A I worked - let me tell you. We just prospected. Maybe you don't understand prospecting like we do. We work one day at one place and if we don't find nothing change to another place.

Q How many places did you prospect on Mrs. McCoy's land?

A In the one place where we cut the tunnel.

Q And did you work there nine months?

A No, told you a while ago that we worked on Hazle Creek.

Q How long on this land where you cut the tunnel?

A Couldn't tell you, but understand now we were working

in different places and it was all in about nine months, the work we done on Siler Meadows.

Q But you said part on the Hazle Creek side. You said you only prospected one place on the McGoy land. How long were you engaged in cutting the tunnel?

A I couldn't tell you.

Q A month, three months, six months?

A Nine months on the Siler Meadows land.

Q Part of that is on the Hazle Creek and part-

A (Interrupting) We prospected a little on the Hazle Creek side, but the majority of the work was done -

Q But you must have found enough copper to keep you there nine months?

A No, we were hunting copper.

Q But you found copper, didn't you, enough to keep you there nine months?

A We found a little streak, 3 or 4 inches wide. They said it was copper.

Q You mean in thickness?

A No, just a little streak.

Q How long or wide or deep? Was the strata 2 feet wide or -

A I said about 3 inches wide, just a little streak.

Q Was it 3 inches square? I don't understand what you mean. If you have a vein going through a mountain or if you struck a vein, you wouldn't go to the end of it?

A You strike a little copper right here maybe 3 inches, just a little streak.

Q Which way down in the ground, three inches wide?

A Maybe it will jump a little further and be the same in another place.

Q I don't quite understand. What I am trying to find out is when you struck a vein is the thing just three feet down as you go down in it or three inches wide?

A You know exactly what that means.

Q No I don't. Explain it.

A Mr. Calhoun told you a while ago it struck a little place about three or four inches wide.

Q Does that mean across the top of the surface?

A Just a little streak running that way.

Q I don't quite understand.

MR. ANDERSON: He means horizontal.

A Just a little streak along.

CROSS EXAMINATION BY JUDGE CARTER.

Q You told Mr. Rollins about one prospecting on this land. You mean one tunnel?

A Yes.

Q You don't mean to say you didn't examine the surface of this tract?

A No. We worked where Mr. Calhoun told us to work.

Q And this was the only place you actually cut a tunnel to try to find it?

A Yes.

Q Did you ever find any more than 3 or 4 inches?

A We never did.

Q In your opinion is the mineral right on the land of any value at all?

A I wouldn't think it was.

JUDSON HALL, a witness for the defendants, duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ROLLINS.

Q. Mr. Hall, did you work on the McCoy lands known as the Siler grants when Mr. Calhoun had charge of it for Mr. Adams?

A. About three months.

Q. Did you find any copper there?

A. A little bit.

Q. Well, you found enough to encourage you to work three months, didn't you?

A. I was just working as a hand.

Q. You never cut but one tunnel on there, did you?

A. That's the only place I worked.

Q. You never cut tunnels anywhere else?

A. No.

Q. You never worked another place?

A. No.

CROSS EXAMINATION BY JUDGE CARTER.

Q. Did you see anything there to indicate any valuable mineral?

A. No sir.

Q. What do you think is the fair market value of the mineral on that land?

A. Wouldn't be worth anything to me.

JOHN WRIGHT, a witness for the defendants, duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ROLLINS.

Q John, did you work on the Siler land in which Mrs. McCoy owns one-half interest?

A Yes.

Q How long?

A I don't remember just how long.

Q One month or two or three months?

A Something like that.

Q Did you work digging this tunnel?

A In the tunnel?

Q Yes.

A Yes sir.

Q Did you find any copper there?

A We found some little evidence of copper. They said it was copper.

Q You don't know whether it was copper or not?

A I only know what they said about it.

Q They found enough to dig there for about eight or nine months in all?

A They kept working there that long.

Q You didn't work at anyother place?

A Not on that land.

Q And you didn't examine anyother place on that land to

see if there was copper on anyother place?

A. No.

CROSS EXAMINATION BY JUDGE CARTER.

Q. State in your opinion what the value of the mineral interest is on that site.

A. Well, I wouldn't say that it would be worth anything.

REDIRECT EXAMINATION BY MR. ROLLINS.

Q. And you say that the mineral interest in that Westfelt Adams mine wasn't worth anything either, wouldn't you?

A. Well no sir, I wouldn't.

Q. What would you say that's worth?

A. If it wasn't worth anything they wouldn't be working at it.

Q. What in your opinion is the Adams mineral interest worth?

A. I don't know what it would be worth.

Q. If they had spent as much on Mrs. McCoy's land prospecting as on Adams Westfelt they might have found as much copper?

A. Yes sir.

RECROSS EXAMINATION BY JUDGE CARTER.

Q. Which would be easier, to get the mineral from the Adams land or from the McCoy lands?

A It would be easier to get the mineral from Adams land.

State introduces in evidence this case and summons with return of service on the Siler Meadows Mining & Timber Company by delivering copy to J. J. Hooker who was their representative and offers the entire proceedings there including the judgment.

Defendant Mrs. McCoy, objects.

JUDGE CARTER: I am introducing for purpose of showing service on Hooker. I am not including the judgment.

No objection if judgment is not included.

State introduces the entire record for purpose of showing service on Hooker and also showing that Siler Meadows Mining & Timber Company did not answer.

Defendant objects to this on the ground that it is incompetent and immaterial.

PETITIONER RESTS.

DEFENDANT RESTS.

This parcel should be added to the Stovall boundary. BEGINNING on a chestnut oak stump, with witnesses, the N. E. corner of Grant No. 22 and runs N. 63-25 E. crossing White Oak Branch 29.91 chains to a hickory with old corner marks on a spur ridge. Thence with the calls of grant No. 7098 as follows:

"S. 44 W. 100 poles to a black gum, thence, N. 69 W. 40 poles to the Beginning, containing 11.54 acres."

S 69 E 40 poles to a black gum, then N 63 E 100

The following parcel or lot of land should be added to the Norwood boundary:

The following parcel of land, being a part of Grant No. 82, shown by the survey and plat as belonging to the Stovall (now Coffey) tract, should be included in the Norwood Lumber Company's boundary, towit: ("Beginning on a buckeye stump on the bank of White Oak branch at or near the west line of Grant No. 82 aforesaid and runs east 72 poles to a small spanish oak on top of ridge; thence down the ridge north 53 west 21 poles to a black oak; thence north 8 west 27 poles to a buckeye on the north bank of white oak branch; thence down white oak branch with its meanders to the Beginning, containing 7.1 acres."

*thence 58 E - 27 poles to buckeye
" 58 E - 21 poles to black oak
" 27 poles to buckeye*

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

Mr. Walter W. Jenkins,
Mr. John C. Calhoun,
Bryson City, N. C.

Gentlemen:

The purpose of addressing you jointly is, that if you both get the letters in time, I ask you to act jointly. If either one or the other gets the letter in time, I ask you to act singly on the subject herein.

The commissioners will be appointed on Monday who are to view the Norwood Lumber Company's property on Forney Creek. The three commissioners, accompanied by Mr. Anderson, attorney for the Norwood Lumber Company, and by myself, will come to Bryson City, to the Freeman Hotel, on Monday night.

It is the purpose on Tuesday to get them on to the Norwood Lumber Company's land as expeditiously as possible, and the commissioners only want to spend one day on said land.

I have been thinking that if the weather continues good, the party could go by automobile to the mouth of Big Huggins Creek, and that from there on it would be a walking proposition. With this plan in view, I would be pleased for either one or both of you to arrange for taxi service from Bryson City to the mouth of Big Huggins. While I am coming to Bryson City with the commissioners, it is not my purpose to try to go on the land. In place of my going, I will want either one or the other of you to go in the interests of the Park Commission.

In the event the weather is bad and it should be actually raining on Tuesday, it is safe to say that no trip will be attempted. If, however, we should have rain again between now and next Tuesday so that an automobile cannot get up on Forney Creek, then and in that event it is desired that horses to accommodate the party be secured and had in readiness at the mouth of Forney Creek where the state road crosses the creek.

You know what it is we have to do and that it is the desire to get the commissioners on to and over the property as comfortably as possible, and I leave it to you to make the necessary arrangements in the premises.

Naturally, I will be anxious to know weather conditions and what method you conclude will have to be adopted. I learn after

calling each of you on telephone today that you are certainly ex-
pected in Bryson City on Sunday. I will be at my residence, tele-
phone No. 6134, Asheville, all day Sunday, and I would feel obliged
to have whichever one of you gets this letter first to call me at my
residence number and have the charges reversed, collectible at this
end.

Your prompt attention to this will be much appreciated.

Yours truly,

S. F. CHAPMAN.

Franklin, N.C.
Dec. 12, 1930

Mr. Wm. H. Hodges, Esq.

Greenville, N.C.

Dear Sir:

Yours Dec 3rd 1930.

You will observe from the probate of my deed transferring the 922 acres of the Farney Creek lands covering the mineral interest and mining privileges to me was made executed and delivered prior to any proceedings taken in this connection and consequently at that time there was no right title or interest to the said lands or any part thereof in Mrs. M. M. Meloy but my title there to was then complete.

Under your condemnation proceedings against Mrs. M. M. Meloy you secured such title as she then had which was none, and I shall insist that you can't take my property.

(Over)

without due process of
law and this you have no-
wise done

You will observe from the
premises that I have not had
my day in Court, and am not
in any way disengaged of my rights
in this property

I trust you will exercise your
right of eminent domain
in this connection if you
desire my property.

Respectfully.

Mrs) Stees Meloy

606 City Building,
P. O. Box 1232,
Asheville, N. C.

December 15, 1930.

Miss Stella McCoy,
Box 35,
Route 3,
Franklin, N. C.

Dear Madam:

With reference to your letter of recent date, I am advised by the attorney who handles the title matters for the North Carolina Park Commission that your mineral interests in 922 acres on the head of Forney Creek were acquired by due process of law.

If you have any further correspondence regarding this matter, please communicate with our Title Attorney, Hon. Zebulon Weaver, Asheville, N. C.

Very sincerely yours,

Verne Rhoades,
Executive Secretary.

606 City Building,
P. O. Box 1232,
Asheville, N. C.

December 8, 1930.

Miss Stella McCoy,
Franklin, N. C.

Dear Madam:

Your letter without date is received.

Condemnation petition for the Forney Creek lands, including the 922 acres in which you had a mineral interest, was brought on the 13th of November, 1928.

On that date the records in Swain County showed that the mineral interest referred to above was vested in Mrs. M. M. McCoy. Consequently Mrs. M. M. McCoy was made defendant in the case.

Any consequent transfer between Mrs. M. M. McCoy and yourself would not affect the title as shown in the condemnation proceedings.

Very truly yours,

Verne Rhoades,
Executive Secretary

VR:H

606 City Building,
P. O. Box 1232,
Asheville, N. C.

December 2, 1930.

Miss Stella McCoy,
Franklin, N. C.

My dear Madam:

Your letter of November 29th is received.

This office wrote Mr. McCoy of Franklin some time ago, giving him the substance of your claim.

You are advised that the Forney Creek land matter was settled insofar as the North Carolina Park Commission is concerned several months ago. There is a deposit in the office of the Clerk of the Court of Buncombe County to your credit, and I think there is a small deposit in the office of the Clerk of Swain County to your credit. I do not remember just what these amounts are, but I think it is about \$150.00 in the Buncombe County Court and about \$50.00 in the Swain County Court.

You will have to apply to the above-mentioned clerks for your money. Title to your interests passed to the state several months ago. You still have some interest, I believe, in a part of the Smoky Mountain lands on the head of Hazel Creek; just how much acreage is represented by your claim, I do not know. This case has already been placed in condemnation and I believe commissioners to appraise the valuation will be appointed very shortly.

Very truly yours,

Verne Rhoades,
Executive Secretary

VR:H

Franklin N.C. Nov 29th 1930.

Mr. Verne Rhoades, Esq. Sec.,
Asheville N.C.

Dear Sir:-

Matter on Minerals in lands in Park Area.

May I have your attention to the interests I own in the Forney's Creek lands including about 913 acres to the end that adjustment and settlement may be made therefor.

Our Title the Siler chain of deeds date for ~~is~~ back in the 18th century and we should have your proper and prompt attention,

Sincerely,

Stella McCoy
(Miss) Stella McCoy.

Franklin
Nov 29th 1930
150
40

Verne Rhoades
on my behalf

606 City Building;
P. O. Box 1232,
Asheville, N. C.

November 17, 1930.

Mr. William L. McCoy,
Franklin, N. C.

Dear Mr. McCoy:

Answering your letter of the 14th in regard to the mineral interests of Miss Stella McCoy, on Forney Creek, this special interest was condemned in Buncombe County Court and an award was made, which if we recollect correctly, was \$150.00. The money has been deposited in the office of the Clerk of the Court. This case was not appealed and the judgment is final.

There was another case lower down on Forney Creek, of which there was a judgment of \$50.00 in Swain County Court. This award was not appealed and the money was deposited in the Clerk's office in Swain County.

There is still another case pending in Swain County on about 600 acres on Hazel Creek, at or near the Silers-Meadows. Summons has been issued in this case in Swain County, and doubtless has been served. The case is returnable on the 29th of November.

We are always glad to give you any information we can and trust this is satisfactory.

Yours truly,

W. H. Woodbury
Purchasing Agent.

WW:H

WILLIAM L. MCCOY
ATTORNEY AT LAW
FRANKLIN, N. C.

11-14th 1930.

Verne Rhoades, Exc Sec.,
N.C. Park Commission,
Asheville N.C.

Dear Sir; - Minerals on the Forney's Creek Condemnation.

Miss Stella McCoy asks me to give attention to certain interests she has in some land in the Forney's Creek Swain County States properties.

This matter has been under way for some time but I am not posted as to present status of her interests which come several thousand of acres land in Swain County, that is all minerals mines quarries and priveleges.

So far she has not been asked to assert her rights and I will be glad to have your advice.

Respectfully,

W. L. McCoy
Wm. L. McCoy.

Mc RGR

STATE OF NORTH CAROLINA,)
COUNTY OF BUNCOMBE.)

Verne Rhoades, being first duly sworn,
deposes and says: That he is Executive Secretary of the
North Carolina Park Commission; that on the 25th day of
March, 1929, he purchased of from the Norwood Lumber Company
the tract of land on the waters of Forney Creek, in Swain
County, North Carolina, for the sum of \$85,385.00; that
the same was paid in cash.

(SIGNED) VERNE RHOADES

Sworn to and subscribed before me
this 14th day of October, 1930.

(SIGNED) H. K. SANDERS

Notary Public,
Buncombe County, North Carolina.

(SEAL)

My commission expires: January 12, 1931.

ANALYSIS OF TITLE

The lands embraced in this Abstract are located on the watershed of Forney's Creek in Swain County, North Carolina, and are bounded on the North by the North Carolina-Tennessee State Line, on the East by Forney's Ridge (sometimes called Nichols Ridge) and on the South largely by Pilot Ridge and on the West by the Welch Ridge. The Southern boundary is somewhat irregular for the reason that some old tracts are surveyed out of the tract now under consideration. These tracts or boundaries will be the subject of other Abstracts.

1. The first instrument in this title is a Grant from the State of North Carolina to R. V. Welch, W. W. Battle and J. R. Love, dated December 8th, 1859 and duly registered in Swain County. This Grant purports to cover 50,000 acres of land and runs with the North Carolina-Tennessee State Line on the North and with the Macon and Jackson County Line on the West and extends as far as the mouth of Forney's Creek so as to include all the boundary of land covered by this Abstract. This Grant mentions several exceptions, some of which are within the watershed of Forney's Creek, and will be considered hereafter. This Grant was issued upon Entry No. 105, which is recorded in Entry Book "B" page 26 for Jackson County and is dated April 26, 1853. This Grant is also registered in Jackson County, Book "O" pages 52 et seq. Page 46 of Abstract.

2. The next instrument shown in the Abstract is an Agreement between R. V. Welch and J. B. Allison, by the terms of which each are to have an equal interest in all lands and minerals acquired by them either jointly or separately in Jackson, Macon and Cherokee Counties. However, the instrument is improperly executed as to R. V. Welch and for that reason the same does not impair the title in our opinion. Page 48 of Abstract.

3. On April 18th, 1862, Emeline Battle, Administratrix of W. W. Battle, deceased, acting under a Decree of the Court of Pleas and Quarter Sessions entered at the September Term 1860, executed a deed for the undivided interest of W. W. Battle, deceased, in said Grant No. 587 to B. F. Hawkins. The order of sale was confirmed at the March Session of said Court 1862. So far we have been unable to locate the proceedings authorizing the Administratrix to execute this deed. We have set out the description contained in this deed in full in the Abstract for the reason that there are several discrepancies therein as compared with the description in the Grant itself. However, we think these discrepancies are immaterial and certainly do not affect the locus in quo. This deed is duly recorded in Jackson County in Book 3 at page 500. Page 49 of Abstract.

4. On April 18th, 1862, B. F. Hawkins conveyed to Emeline Battle an undivided 1/3 interest in Grant No. 587 aforesaid. The description is the same as in the next preceding deed and contains the same exceptions. This deed is likewise registered in Jackson County. Page 51 of Abstract.

5. On February 18, 1871, Emeline Battle conveyed to Robert G. A. Love the interest acquired by her by the preceding deed, that is, all the interest of W. W. Battle in Grant No. 587. This deed also describes said Grant by course and distance and is identical therewith. The same exceptions are noted as are noted in the Grant. This deed appears to have been registered in Jackson County without any order of registration by the Clerk of Jackson County. If this is a defect, it is cured by the succeeding deed. Page 52 of Abstract.

6. On May the 9th, 1881, J. A. Frank, Sheriff of Swain County, executed his deed to Margaret E. Milliard and others, heirs at law of R. G. A. Love (except S. L. Love) for all the interest of S. L. Love in Grant No. 587 aforesaid. The deed

recites that certain writs of execution issued from the Superior Court of Haywood County in favor of Rankin Fullum and others against S. L. Love and that by virtue of such executions he sold S. L. Love's interest in the lands aforesaid. Page 53 of Abstract.

7. In Book "M" page 630 of Deeds for Swain County, we find a judgment recorded entitled "Mary Rhinehart et al vs. S. L. Love et al". The effect of this judgment is to order the heirs at law of W. W. Battle, deceased, (except Sallie Culberson) to make and deliver a quit-claim deed to the defendants for the lands described in the complaint. We think that the next two deeds shown in this Abstract were made pursuant to this judgment. The original papers in the cause cannot be found and therefore we are unable to state just who were parties to the suit or what lands were described in the complaint. These papers were probably destroyed at the time the Court House of Swain County was burned. Page 54 of Abstract.

8. On July 27th, 1885, Mary A. Rhinehart and others, children and heirs of W. W. Battle, deceased, executed a quit-claim deed to Samuel L. Love and others, heirs at law of R. G. A. Love, for all their interest in Grant No. 587 aforesaid. This deed was not signed by Sallie H. Culberson and her husband, G. H. Culberson, although their names appear in the body of the deed. Page 55 of Abstract.

9. On January 22nd, 1886, Sallie H. Culberson and her husband, G. H. Culberson executed a quit-claim deed to the heirs at law of R. G. A. Love, deceased, for her interest in Grant No. 587. This deed is duly executed and registered in Swain County. The deed recites that Sallie R. Culberson was one of the heirs of W. W. Battle, deceased. Page 56 of Abstract.

10. On December 20th, 1885, W. L. Hilliard and wife, M. E. Hilliard, J. A. Brenner and wife, M. J. Brenner, W. W. Stringfield and wife, M. M. Stringfield, M. H. Love and wife, M. R. Love, S. L. Love and wife, Margaret Love, W. H. Thomas, Jr., J. R. Thomas and Sallie L. Thomas, children of Sarah J. B. Thomas, deceased, heirs at law of J. R. Love, deceased, and R. G. A. Love, deceased, and Eliza Thomas, wife of W. H. Thomas, Jr.; R. V. Welch and wife, M. O. Welch and W. L. Hilliard, Guardian in Lunacy of W. H. Thomas, Sr., executed and delivered to Mr. Clarke Whittier a warranty deed for the lands embraced in said Grant No. 587 aforesaid. The deed purports to convey the same lands as are embraced in said Grant but by a different description, which description is set out in full in the deed. From the particular description, there are excepted certain tracts or parcels of land, seventy-eight (78) in number, which parcels or tracts are likewise described by course and distance. These exceptions will be considered hereafter. This deed appears to be properly executed, except that it does not appear that it was acknowledged by W. L. Hilliard, who purports to act as Guardian of W. H. Thomas, Sr. This defect appears to us to be immaterial for the reason that W. H. Thomas, Sr. had only a right by Curtesy, in the lands of his wife, Sarah J. B. Thomas, which right ceased upon the death of W. H. Thomas, Sr. Page 57 of Abstract.

11. On the 20th day of December 1885, W. L. Hilliard and others executed a quit-claim deed to Clarke Whittier for all their right, title and interest in all the exceptions mentioned in the next preceding deed for which the said grantors or any of them had executed Bonds for title prior to the date of the said deed. The deed recites that said Bonds for title had been sold and transferred to Clarke Whittier by the several grantors. This deed is duly registered in Swain County. It does not appear from the deed itself for want of the exceptions mentioned in the foregoing deed Bonds for title have

been executed. In this deed, there appears to be no acknowledgement on the part of W. L. Hilliard and R. V. Welch and M. C. Welch. Page 84 of Abstract.

12. On the 11st day of April, 1886, Dr. Clarke Whittier executed his last Will and Testament, which was duly probated and is of record in the Clerk's Office in Swain County. On April 19th, 1887, he executed a Codicil to his Will and this Codicil is likewise duly probated and recorded in the Clerk's Office of Swain County. By the terms of the Will, he gave his property in North Carolina to the children of B. B. Whittier and his wife. In the Codicil to this Will relative to the North Carolina property, he conferred full power upon his Executors to sell, exchange and make titles to his North Carolina properties. Annie McKenzie Whittier and W. W. Whittier were nominated as Executors for said Will and they qualified as such and entered upon the execution of their duties. Page 87 of Abstract.

13. Thereafter, towit, on February 8th, 1899, after notice to show cause, an order was entered by the Clerk of the Superior Court of Swain County removing the Executors named in the Will of the said Clarke Whittier and appointing in their stead E. Everett, Administrator C. T. A. Everett was directed to execute a Bond in the sum of \$51,000.00. Page 89 of Abstract.

14. On August 2nd, 1890, E. Everett, Administrator C. T. A., executed his deed to Matt Atkinson, G. E. Graham and J. M. Thrash for Grant No. 587 aforesaid. This deed contains the same description as in the deed from W. L. Hilliard and others to Clarke Whittier. By it, Matt Atkinson acquired an undivided 1/2 interest in said tract, G. E. Graham an undivided 1/4 interest and John M. Thrash an undivided 1/4 interest. The deed also contains full recitals as to the authority of E. Everett, Administrator, to execute the same. Page 91 of Abstract.

15. On February 1st, 1892, G. E. Graham and wife, Susan J. Graham executed to Mary S. Ray, a warranty deed for an undivided 3/16 interest in and to Grant No. 587 and being described therein as in deed from W. L. Hilliard and others to Clarke Whittier, aforesaid. This deed is duly executed and recorded in Swain County. The warranty against encumbrances excepts a deed of trust to E. Everett, Administrator. Page 92 of Abstract.

16. On August 16th, 1894, Matt Atkinson, G. E. Graham and John M. Thrash execute to E. Everett, individually and as Administrator C. T. A. of Clarke Whittier, a deed of release, releasing the grantees from all liability on account of the covenants and warranties in the deed of August 2nd, 1890, recorded in Book 12, page 104 aforesaid, as respects those tracts on Fomby's Creek and Joel Crisp ridge known as the Foster Grants. Page 93 of Abstract.

17. On January 24th, 1895, G. E. Graham and wife, Susan J. Graham, Matt Atkinson and wife, Harriet N. Atkinson, J. M. Thrash and wife, Sarah J. Thrash execute to Brodie L. Dukes a general warranty deed for an undivided 1/4 interest in Grant No. 587 aforesaid. This deed is duly executed and registered in Swain County. In the covenant against encumbrances the mortgage to E. Everett is excepted. Page 94 of Abstract.

18. On August 30th, 1893, Matt Atkinson and wife, Harriett N. Atkinson, being the owner of an undivided 1/2 interest in Grant No. 587 aforesaid, conveyed to Charles B. Atkinson and Edward B. Atkinson an undivided 3/8 interest therein, by deed duly executed and recorded in Swain County. Page 95 of Abstract.

19. On December 12th, 1893, Brodie L. Duke and wife, Minnie W. Duke executed to V. Ballard and John F. Wiley, Trustees, a deed in trust for certain lands and personal property therein fully described and including therein the tract of land in Swain County which he purchased from C. E. Graham and others. This deed in trust was made to secure certain of his creditors therein listed and contains full power to sell and convey on the part of the Trustees. This deed is duly executed and registered in Swain County. Page 96 of Abstract.

20. On March 25, 1894, Edward B. Atkinson, being the owner of an undivided 3/16 interest in Grant No. 587, with the Joiner of his wife, Annie J. Atkinson, executed to Charles B. Atkinson a deed conveying all his interest therein. This deed is duly executed and registered in Swain County. Page 97 of Abstract.

21. We are showing in this Abstract an Option from C. B. Atkinson and others to William M. Cooke Jr. for the purchase of 80,000 acres of land known as the "Whittier Lands". This Option was for a period of 60 days only and the rights thereunder were never exercised by the grantee. Page 98 of Abstract.

22. On July 25th, 1894, V. Ballard and John F. Wiley, Trustees named in the deed of trust recorded in Book 15 page 126 aforesaid, executed to Charles B. Atkinson a deed of conveyance for all the interest of B. L. Duke in and to Grant No. 587 and which he acquired from C. E. Graham and others by deed recorded in Book 14, page 286. This deed is duly executed and registered in Swain County. Page 99 of Abstract.

23. On August 3rd, 1894, C. B. Atkinson, J. M. Thrash and wife, S. J. Thrash, J. E. Ray and wife, Mary S. Ray, Matt Atkinson and wife, Harriett N. Atkinson, E. B. Atkinson and wife, Annie J. Atkinson, J. H. Finney and wife, Mildred L. Finney, C. E. Graham and wife, Susan J. Graham, executed to the Foreign Hardwood Log Company a quit-claim deed for all the interest of the Grantors in and to 5760 acres of land, representing the nine (9) Foster Grants in the waters of Forney's Creek and also all their right in and to Grant No. 587. This deed is duly executed and registered in Swain County. Page 100 of Abstract.

24. On August 3rd, 1894, C. B. Atkinson, J. H. Thrash and wife, S. J. Thrash, J. E. Ray and wife, Mary S. Ray, executed to the Foreign Hardwood Log Company a warranty deed for the lands embraced within Grant No. 587. The description contains the same seventy-eight (78) exceptions as were mentioned in the preceding deeds. In addition to the foregoing exceptions the nine (9) Foster Grants heretofore referred to are also excepted. This deed is duly executed and recorded in Swain County, North Carolina. Page 101 of Abstract.

25. On August 9th, 1894, C. B. Atkinson conveys to the Foreign Hardwood Log Company an undivided 3/8 interest in and to Grant No. 587 aforesaid, described as in deed from W. L. Hilliard and others to Dr. Clarke Whittier. This deed is made subject to a deed of trust to J. W. FRY, trustee; two deeds of trust

to C. S. Jordan, Trustee, and W. W. Jones, Trustee, to secure the amounts due C. S. Graham; deed of trust to J. E. Ray and a judgment in favor of the Western Carolina Bank against Matt Atkinson and C. S. Graham. The grantee in this deed assumes the indebtedness above mentioned. The Foster Grants aforesaid, embracing 5760 acres are excepted from the covenants and warranties. This deed is duly executed and registered in Swain County. Page 102 of Abstract.

25. On February 1st, 1895, the Foreign Hardwood Log Company executed to the Tuckasegee Timber Company a quit-claim deed, conveying Grant No. 587 by the same mates and bonds and with the same exceptions as are set forth in deed of W. L. Hilliard and others to Dr. Clarke Whittier. This deed also excepts the nine (9) Foster Grants, giving the book and page of the registration of each Grant. However, after making the exceptions aforesaid, the grantors then proceed to convey all their interest in the nine (9) Foster Grants aforesaid and also all their interest in Grant No. 587 aforesaid, without making any exceptions or reservations therefrom.

The acknowledgement of this deed is somewhat irregular but we think that, under decisions of our Court and the several curative acts, the execution is good. Page 106 of Abstract.

27. On February 27, 1896, the Tuckasegee Timber Company executed to the Whittier Lumber Company a special warranty deed for Grant No. 587, excepting, however, the seventy-eight (78) tracts mentioned in the deed of W. L. Hilliard and others to Clarke Whittier and also excepting the nine (9) J. T. Foster Grants. After making these exceptions, the grantor undertakes to convey all its interest in the nine (9) Foster Grants and all its interest in Grant No. 587, without exception or reservation. This conveyance is made subject to a Mortgage from the Tuckasegee Timber Company to the Continental Trust Company. This deed is duly executed and registered in Swain County. Page 108 of Abstract.

28. On February 29th, 1896, the Whittier Lumber Company executed to the State Trust Company a deed of trust to secure an indebtedness of \$210,000.00 on the lands included in Grant No. 587, subject to the seventy-eight (78) exceptions mentioned in the deed of W. L. Hilliard and others to Clarke Whittier. The deed also excepts the nine (9) Foster Grants. After making these exceptions, the grantor then conveys all its interest in the nine (9) Foster Grants and in the Grant No. 587 without exception or reservation. This deed is signed by the Whittier Lumber Company by its President and also by two of its directors. The corporate seal is affixed to the instrument. Acknowledgement is shown in full in the Abstract and while somewhat unusual, nevertheless, we believe it to be good under our decisions and statutes. This deed of trust is a link in the title as it was afterwards foreclosed by proceedings in the United States District Court for the Western District of North Carolina. Page 110 of Abstract.

29. On September 5th, 1906, George Spears Reynolds, Special Master, executed to the Harris-Woodbury Lumber Company his deed for Grant No. 587, subject to the seventy-eight (78) exceptions heretofore mentioned and also excepting the nine (9) Foster Grants aforesaid. After making such exceptions, the grantor then proceeds to convey all the right, claim and interest of the Whittier Lumber Company, which it held at the date of the mortgage aforesaid in the nine (9) Foster Grants aforesaid and in Grant No. 587 without exception or reservation to the said Harris-Woodbury Lumber Company. This deed has been copied in full in the Abstract and contains full recitals as to the authority of George Spears Reynolds.

Special Master. Page 111 of Abstract.

30. On the same date, to wit: on September 5th, 1906, the Whittier Lumber Company executed to Harris-Woodbury Lumber Company a quit-claim deed for all it's interest in the lands described in the Mortgage aforesaid, to the State Trust Company. In this deed, it is recited that the name of the State Trust Company was subsequently changed to Morton Trust Company. There is also a recital in regard to a suit of the Morton Trust Company against the Whittier Lumber Company instituted in the District Court of North Carolina for the Western District. Page 132 of Abstract.

31. On January 8th, 1910, the Harris-Woodbury Lumber Company executed to the Norwood Lumber Company a general warranty deed, conveying to it all the several grants or parts of grants following in so far as the same or any part thereof may lie or be situate within the basin or watershed of Fornay's creek, viz:- Grant No. 587 to W. W. Battle and others; Grants Nos. 132 and 135 to J. T. Foster; Grants Nos. 14, 15, 16, 17 and 18 to J. L. Moore; Grants Nos. 133, 134 and 152 and 150 to J. T. Foster and a tract of Forty Four acres, more or less, known as the "Gole or Hoover" tract. There is excepted and reserved from the operation of the deed, any part or parts of said Grants which lies east of the crest of the main top of Joel Crisp ridge, the same being the divide between the waters of Fornay's creek and Holands creek and also being the most easterly line of the above described boundary. The deed also excepts the seventy-eight (78) exceptions mentioned and numbered in the deed from George Spears Reynolds, Special Master aforesaid, in so far as said exceptions lie within the watershed of Fornay's creek. The deed also contains certain exceptions from covenants and warranties therein, which will be seen by reference to the pages of the Abstract containing this deed. This deed is duly executed and registered in Swain County, North Carolina. Page 133 of Abstract.

32. On pages 138 to 151 inclusive, will be found certain deeds of trust and mortgages executed by various persons or corporations on the lands described in this Abstract, all of which have been satisfied of record. Pages 138 to 151 of Abstract.