

Being the west half of the northwest quarter of Section No. 18, in Township No. 10, and Range No. 3, in said county, and containing 84.61 acres of land, more or less.

Being the same property conveyed by Salvatore Coniglio et al., to M. Longo, et al., by deed dated January 6, 1925, and recorded in Deed Record No. 137, page 499, records of Jefferson County, Ohio.

Upon examination of the resubmitted abstract, I am of the opinion that the same shows a good and merchantable title to both of said tracts in Mike Longo, subject to the following encumbrances:

1. The June, 1927, installment of the 1926 tax, amounting to \$39.65 is unpaid and a lien.
2. The 1927 taxes, amount yet undetermined are a lien.
3. An assessment for the construction of the Richmond- Pravo Road, amounting to \$152.80, payable in twelve installments of \$13.65 each, is a lien.

The abstract does not yet show any examination in the United States Court, and the examination of the judgment indexes in the clerk's and sheriff's offices for judgment liens only goes back as far as 1910.

The deed has been executed by Mike Longo and his wife, Lucia Longo, under date of August 26, 1927, and acknowledged before a notary public. This deed when delivered, will pass good title to the State of Ohio.

The abstract of title and deed are herewith returned to you.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

1024.

APPROVAL, ABSTRACT OF TITLE TO LAND IN SALEM TOWNSHIP,  
JEFFERSON COUNTY, OHIO.

COLUMBUS, OHIO, September 21, 1927.

HON. CHARLES V. TRUAX, *Director, Department of Agriculture, Columbus, Ohio.*

DEAR SIR:—You have resubmitted for my opinion a form of deed and an abstract of title last certified by R. G. Porter of Steubenville, Ohio, under date of September 9, 1927, covering land situate in Salem Township, Jefferson County, Ohio, said land consisting of 158½ acres, more or less, bounded and described as follows:

“Being the northwest quarter of Section twenty-three (23), Township 10, and Range 3, containing one hundred fifty-eight and one-half (158½) acres, more or less, excepting and reserving to the grantors herein, their heirs and assigns, all the coal under the above described premises lying without the boundaries of the square block containing 66½ acres of coal reserved and described in the deed of William A. Johnston and Mary A. Johnston, his wife, to the grantors herein, Linnie J. Shull, dated March 21, 1913, and recorded in Volume 105, page 584, of the Records of Deeds in the office of the county recorder of said county, together with the right to mine and remove the same by means of approaches from other lands, also the right to transport coal from other lands through the entries thereof. All

coal under the above described premises is now reserved and excepted, together with the rights and privileges in connection therewith above mentioned.

Also conveying to grantee herein the following Right of Way, the right to use in common the ingress and egress from the township road, twenty feet in width over the south part of the southeast quarter of Section 30 and along the line of the northwest quarter of Section 29, and into the southwest quarter of Section 24 a sufficient distance to enter the Northwest quarter of Section 23 with the right to fence the same, but said right of way is to be used in common with said grantors. William A. Johnston and Mary M. Johnston, former grantors, being a part of the same premises deeded by Wm. A. Johnston, et al., to Linnie J. Shull as shown by deed Record 105 and page 584 of the Records of Jefferson County, Ohio, several tracts being conveyed in said deed, this being one of them. Grantor excepts and reserves herefrom the small three cornered tract of land in the southeast corner of said quarter section and east of the township road know as the Kuester's Lane, containing 1.91 acres, more or less, said tract having been conveyed as above stated."

Upon examination of the resubmitted abstract, I am of the opinion that the same shows a good and merchantable title to said tract in Linnie J. Shull, subject to the following encumbrances:

1. Linnie Shull obtained the property from William A. Johnston in 1913, and in the deed the grantor excepted and reserved out of the 158½ acres, the coal lying under the 66½ acres, which was located in the northeast corner of the northwest quarter of Section 23, (the 158½ acres comprising the northwest quarter of Section 23) the 66½ acres to be measured in said northwest corner so that it would be a square block, with the right to mine and remove the same by means of approaches from other lands.

The right to mine and remove this coal by means of approaches from other lands confers on William A. Johnston, his heirs and assigns, the right to use necessary surface land for the purpose of mining and removing this coal; and this might at some time constitute a serious interference with the use of the land by the State of Ohio, and some satisfactory arrangement should be made with reference thereto before the purchase is completed.

2. The June, 1927, instalment of the 1926 taxes, amounting to \$17.85 is a lien.

3. The 1927 taxes, amount yet undetermined, are a lien.

4. An assessment for the construction of the Canton Road, I. C. H. No. 75, Section K, amounting to \$125.22, payable in fourteen instalments of \$9.23 each, the next instalment being payable in December, 1927, is a lien.

The abstract does not show any examination in the United States Court, and the examination of the judgment indexes in the clerk's and sheriff's offices for judgment liens only goes back as far as 1910.

The deed for the northwest quarter of Section 23, containing 158½ acres, more or less, has been executed by Linnie J. Shull and Robert Shull, her husband, under date of June 6, 1927, and acknowledged before a Notary Public in the County of Los Angeles, State of California. The deed contains the following reservations:

1. It reserves all the coal under the above described premises lying without the boundaries of the square block of 66½ acres, reserved and described in the deed of William A. Johnston and wife to Linnie J. Shull, executed in March, 1913, above noted and discussed. Mrs. Shull in her deed, in addition to the reservation of the coal, also reserves the right to mine and remove the same by means of approaches from other lands, and the right to transport coal from other lands through the entries of the land she is conveying. As above advised in connection with the Johnston reservation, the right reserved by Mrs. Shull to use the land for the pur-

pose of mining and removing the coal might at some time constitute a serious interference with the use of the surface by the State of Ohio.

I suggest that you negotiate another contract with Mrs. Shull, whereby the rights of William A. Johnston in the 66½ acre tract, and of Mrs. Shull in the remainder of the quarter section be limited to mining and removing the coal by means of underground operations and entries, so that the surface would not be disturbed, unless in certain specified spots, which should be determined and set forth in the deed.

To accomplish this purpose insofar as Mr. Johnston is concerned, he could deed to the State of Ohio whatever rights he may have to use the surface in mining and transporting coal, and confine his operations in that respect to underground workings and approaches from other lands.

2. Mrs. Shull's deed notes that the land is free and clear from all encumbrances, except taxes and assessments, which were a lawful lien on the premises on June 6, 1927, the June, 1927, instalment of which Mrs. Shull assumed and agreed to pay, but that the State of Ohio should assume and agree to pay all taxes and instalments of assessments thereafter due and payable.

This reservation and burden on the State of Ohio does not appear in any of the other deeds, so I specifically call it to your attention as it may not conform to the terms of the contract which you negotiated with her.

Otherwise, the deed is in proper form and will, when delivered, pass good title to the State of Ohio to the land in question, subject to the reservations just noted.

The abstract of title and form of deed are herewith returned to you.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

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1025.

APPROVAL, ABSTRACT OF TITLE TO LAND IN SALEM TOWNSHIP,  
JEFFERSON COUNTY, OHIO.

COLUMBUS, OHIO, September 21, 1927.

HON. CHARLES V. TRUAX, *Director, Department of Agriculture, Columbus, Ohio.*

DEAR SIR:—You have resubmitted for my opinion a form of deed and an abstract of title last certified by R. G. Porter of Steubenville, Ohio, under date of September 9, 1927, covering land situate in Salem Township, Jefferson County, Ohio, said land consisting of one tract of 34 acres, bounded and described as follows:

“Being part of the southwest quarter of Section 18, Township 10 and Range three, of Salem Township, Jefferson County, Ohio, and described as follows:

Beginning at the northwest corner of said quarter section, thence east 2020 feet; thence south 1119 feet; thence north 57° west 900 feet; thence north 85° west 775 feet; thence south 74° west 519 feet to section line; thence with section line north 770 feet to the beginning. Containing 34 acres, more or less.

This being part of 129 acres of land sold by the Sheriff of Jefferson County, to John S. Umensetter, et al., as recorded in Deed Book No. 79, page 663, of the Records of Jefferson County, Ohio.”