

made by the superintendent of the institution shall be forwarded to the auditor of the county *from which the person came*, who shall draw his warrant for the amount of the account. It is evident from this wording of the statute that it is meant to apply to all the inmates of such benevolent institutions, no matter how they came to be there. When this account is made for each such inmate, and forwarded to the auditor of the proper county it becomes the auditor's duty to draw his warrant against the proper appropriation for the amount of the account, if there is an appropriation therefor, and proper certificate has been made as provided for by Section 5660 of the General Code, providing further that the inmate came from that county.

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

112.

DISAPPROVAL, ABSTRACT OF TITLE TO 9.77 ACRES OF LAND BELONGING TO ANDRIES KUYPER, IN COLUMBIANA COUNTY, OHIO.

COLUMBUS, OHIO, February 28, 1927.

HON. GEORGE F. SCHLESINGER, *Director of Highways and Public Works, Columbus, Ohio.*

DEAR SIR:—An examination of the abstract of title and encumbrance estimate submitted by you to this department, discloses the following:

The abstract under consideration was prepared by McMillon and Kelso, Abstracters, Lisbon, Ohio, under date of April 24, 1926. The abstract as submitted pertains to the following premises, to wit, 9.77 acres in the northeast quarter of Section 2, Township 15, Range 4, Columbiana county, Ohio, and being more particularly described as follows:

Beginning on the north and south line between Sections No. 1 and 2, at a post set 2641.98 feet north of the southeast corner of said Section No. 2, which point is also the southeast corner of said grantors land; thence S. 89 deg. 42' W. along the south line of said grantors land 561.00 feet to a post set at the southwest corner of said grantors land; thence N. 0 deg. 58' W. along the west line of said grantors land 729.30 feet to a post at the northeast corner of land now owned by Garrett C. Camp; thence N. 0 deg. 10' E. along the easterly line of lands now owned by Lucinas A. Gardner 62.40 feet to a stake in the center of the easterly and westerly road running through said Section No. 2, thence N. 77 deg. 40' E. along the center line of said road 336.80 feet to a stake; thence S. 15 deg. 23' E. 168.80 feet to a stake; thence S. 50 deg. 13' E. 260.35 feet to a stone in the east line of said Section No. 2, which line is also the east line of said grantor's land; thence south along said section line 530.10 feet to the place of beginning and containing 9.77 acres of land be the same more or less.

Upon examination of said abstract, I am of the opinion that same shows a good and merchantable title to said premises in Andries Kuyper, subject to the following:

1. There is no government patent shown, but attached to said abstract is a

certificate by the auditor of state to the effect that the south half of Section 2, Township 15, Range 4, Columbiana county, Ohio, was patented to James Galbraith, August 8, 1803. From the map submitted with this abstract it appears that a part of the above described tract lies in the north half of said section, and a copy of the patent or a certificate for this half should be obtained.

2. In 1808, 54 $\frac{3}{4}$  acres of land, of which the above described property is a part, was conveyed to Thomas Farmer, whose estate was administered in the Probate Court, beginning in 1819 and extending to August, 1829. The abstract shows that in 1821 the administrators of this estate filed a "petition to make deed" in the Court of Common Pleas in the case of "Administrators of Thomas Farmer, deceased, vs. Job McCarty." On August, 1821, the administrators conveyed the land to Job McCarty by deed, which contains no description of the land other than to refer to it as 31 acres agreed to be sold by Thomas Farmer during his life to Job McCarty, said lands adjoining the lands of Littleberry Crew and John Farmer.

3. Job McCarty and wife in 1824 sold 12 acres and 18 perches of the land to John Lancaster, excepting the right to use the waters of the stream running through said lands for mill works, which right the grantor reserved to himself, his heirs and assigns "yet not so as to occupy or incumber any part of said land" with the same. It does not appear any place in the abstract where this right has been transferred or foreclosed.

4. In April, 1854, Lee Pennock and Matilda B. Pennock, his wife, conveyed 12 acres, 18 perches to Dawson Irely. The abstract states that there was "no dower clause," and that the wife did not join throughout the instrument. The abstract does show a separate examination of wife. In view of the lapse of time, I am of the opinion that this constitutes no defect in the title.

5. On October 7, 1918, Andries Kuyper and Marytje Kuyper, his wife, executed a mortgage on this land to Julian Irely to secure the payment of \$600.00. The due dates of the notes are not stated, and the abstract does not show that this mortgage has been released.

6. The certificate of the abstracters shows that the taxes due and payable in December, 1926, are a lien on the land. This certificate also shows that no examination has been made of the files or records of any United States court or any officer thereof concerning the title under consideration, and that examination was made in the name of the record owners only, and only for the period during which each one respectively held said title.

The encumbrance estimate submitted with said abstract is numbered 3980 and is dated December 22, 1926. It is in proper form and was regularly certified by Wilbur E. Baker, Director of Finance, under date of December 23, 1926.

Inasmuch as the deed as submitted with the abstract is not a deed but only a blank deed form with a description of the land copied therein, no examination can be made until the same is properly prepared and executed and submitted to this department.

The abstract of title, encumbrance estimate, and blank deed form are returned herewith.

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