

3885.

ABSTRACT, STATUS OF TITLE TO 40 ACRES IN EAST UNION TOWNSHIP, WAYNE COUNTY, OHIO, (VAN J. BONEWITZ TRACT) TO BE USED AS PART OF SITE FOR ADDITIONAL INSTITUTION FOR FEEBLE MINDED IN NORTHERN OHIO.

COLUMBUS, OHIO, December 11, 1926.

Abstract of Van J. Bonewitz Tract.

HON. JOHN E. HARPER, *Director, Department of Public Welfare, Columbus, Ohio.*

DEAR SIR:—Examination of an abstract, warranty deed and other data submitted for my examination and approval, discloses the following:

The abstract as submitted was prepared by the Wayne County Abstract Company of Wooster, Ohio, and is certified under date of September 13, 1926, and pertains to 40 acres in East Union township, Wayne county, Ohio, to be used as a part of the site for an additional institution for the feeble minded in Northern Ohio, and which real estate is more particularly described by metes and bounds in the caption of the abstract to which this opinion is attached.

There is nothing in the abstract to show that the persons named on page 6 were all and the only heirs of Jacob Bonewitz, deceased, or to show whether or not his widow survived him. However, the affidavit of Van J. Bonewitz submitted herewith shows that said Jacob Bonewitz left no widow and that the persons named were all and his only children and heirs at law.

There is nothing in the abstract to show whether or not the persons named on page 14 were all and the only heirs of Martin V. Bonewitz, deceased, or whether or not said decedent left a widow surviving him. However, affidavit above referred to also shows that the persons therein named were all and the only heirs of said decedent, and that said decedent was never married.

The deed set forth on page 23 does not show whether or not the grantor, Martha C. Richwine, was married. However, said affidavit also shows that the husband of this grantor is now dead, so that his dower rights have been extinguished.

The oil and gas lease given by Van J. Bonewitz, et al. to James K. Crawford shown on page 30 remains uncanceled on the records. However, said affidavit shows that rentals have not been paid on said lease for years, so that the terms thereof have been violated thus rendering the same null and void.

There is also submitted herewith an assignment of the oil and gas lease now held by The East Ohio Gas Company as set forth on page 35 of the abstract, which lease the state in its contract of purchase agreed to assume.

Taxes for the year 1926, amounting to \$20.02 as set forth on page 36 of the abstract are unpaid and a lien. However, Mr. Bonewitz has agreed to pay these. Payment should of course be made a condition of the delivery of the voucher.

In view of the above explanations I am of the opinion that said abstract shows a good and merchantable title to said 40 acres in said Van J. Bonewitz.

A warranty deed from Van. J. Bonewitz and wife, Mary K. Bonewitz is submitted herewith and is in my opinion sufficient to convey the title of said premises to the State of Ohio.

It also appears from a copy of the minutes herewith enclosed that said purchase has been approved by the Controlling Board. A regularly certified encumbrance estimate should accompany this abstract.

The abstract, warranty deed and other data submitted are herewith returned.

Respectfully,
C. C. CRABBE,
Attorney General.

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ABSTRACT, STATUS OF TITLE TO 73.92 ACRES IN EAST UNION TOWNSHIP, (JAMESON AND JOHNSON TRACT) FOR PART OF SITE FOR ADDITIONAL INSTITUTION FOR FEEBLE MINDED IN NORTHERN OHIO.

COLUMBUS, OHIO, December 11, 1926.

Abstract of Title of Jennie D. Jameson, Don H. Jameson and Bessie P. Johnson Tract.

HON. JOHN E. HARPER, *Director of Public Welfare, Columbus, Ohio.*

DEAR SIR:—Examination of an abstract, warranty deed and other data submitted for my examination and approval, discloses the following:

The abstract as submitted was prepared by Benton G. Hay, Attorney, of Wooster, Ohio, and is dated April 28, 1924. A certificate of title prepared by the Wayne County Abstract Company of Wooster, Ohio, showing the condition of said title as of October 7, 1926, is likewise submitted herewith, and pertains to 73.92 acres in East Union township, Wayne county, Ohio, to be used as a part of the site for an additional institution for the feeble minded in Northern Ohio, and which real estate is described by metes and bounds in the caption of the abstract to which this opinion is attached.

There are a number of minor discrepancies in the early history of the title. No mention of coverture is made and dower, if any, is not released in the deed shown on page 3, which, however, was executed 110 years ago so that this may be disregarded. The partition made on page 7 was subject to the dower estates of Tecy Cheyney and Rachel Cheyney, which were never specifically released. However, the affidavit shown on page 29 shows said widows to be dead. There is no deed from Theophilus Philips or to John Stenger for a part of the premises described on pages 12 and 13. However, the description shows that the portion for which the deed is missing is south of the tract included in the caption. As all of these items were prior to 1849, I am of the opinion that they may be disregarded.

On page 35 is an uncancelled oil and gas lease held by The Inter State Oil Company. However, the affidavit of Jennie D. Jameson and Don H. Jameson submitted herewith to the effect that no rentals have been paid them thereon and that no claim or demand has been made on them by virtue of said lease, shows the conditions thereof to have been violated by the lessee thus rendering said lease null and void.

There is also submitted herewith an assignment of the oil and gas lease now held by The Logan Gas Company and shown on page 42 of the abstract, which lease the state in its contract of purchase agreed to assume.

On page 44 is an uncancelled mortgage held by The Federal Land Bank of Louisville, Kentucky, which the vendors in their contract of sale to the state have agreed to pay, and the payment of which should be made a condition of the delivery of the voucher.