

| No. | Name | County. | Township. | Acres |
|------|-----------------------------|--------------|--------------|-------|
| 1124 | Evan O. Roberts, et al..... | Jackson..... | Coal..... | 120 |
| 1125 | George Shoaf..... | Madison..... | Oak Run..... | 740 |

I have examined said Leases, find them correct as to form, and I am therefore returning the same with my approval endorsed thereon.

Respectfully,
 EDWARD C. TURNER,
Attorney General.

2149.

APPROVAL, ABSTRACT OF TITLE TO LAND OF EDWARD CUNNINGHAM
 AND WIFE, IN NILE TOWNSHIP, SCIOTO COUNTY, OHIO.

COLUMBUS, OHIO, May 23, 1928.

HON. CARL E. STEEB, *Secretary, Ohio Agricultural Experiment Station, Columbus, Ohio.*

DEAR SIR:—In Opinion No. 1945 of this department under date of April 7, 1928, I had under consideration an abstract of title and a warranty deed executed by Edward Cunningham and wife covering two certain tracts aggregating one hundred sixty acres of land situated in Nile Township, Scioto County, Ohio, and more particularly described in the opinion of this department above referred to.

In said opinion I found that Edward Cunningham had a good and merchantable fee simple title to said lands subject to certain exceptions therein noted. The objections which were the subject to the exceptions noted in said opinion, other than exception No. 3 as therein noted, have been obviated by further information furnished and made a part of the abstract.

In said exception No. 3 in the former opinion it was noted that in the deed from William Yeager conveying the premises in question to one Grover Moore, the grantor reserved a right of way across said premises so conveyed. It was therein noted that a similar reservation was made in the deed executed by Orin Moore and wife to Pearl I. Cook, May 24, 1921, and that a like reservation was made in the deed from Pearl I. Cook and wife to Edward Cunningham under date of April 10, 1928.

It was further noted that the proposed deed from Edward Cunningham and wife to the State of Ohio also reserved such right of way.

The objection raised by these reservations has been obviated to some extent by a quit claim deed executed by Pearl I. Cook, William Yeager and Edward Cunningham to the State of Ohio expressly remising and releasing to the State of Ohio all their right, title and interest in and to said right of way.

The interest of Orin Moore in and to said right of way reserved in and by his deed of said premises to Pearl I. Cook, if any such interest he now has, is still outstanding. As to this it is altogether possible that said Orin Moore does not now possess any dominant estate or interest in any lands in the vicinity of the lands here in question such as would support his right of way across these lands or make the same of any value to him. However, the corrected abstract submitted to me contains no information as to this matter.

The corrected abstract shows that the taxes on said premises for the last half of the year 1927 have been paid and that the only taxes that are a lien on said premises

are the taxes for the year 1928, the amount of which is as yet undetermined. And subject to the exceptions above noted, the title of Edward Cunningham in and to said lands, and the corrected abstract of title thereof are hereby approved.

I am herewith returning to you the corrected abstract and the quit claim deed executed by Pearl I. Cook, William Yeager and Edward Cunningham above referred to.

Respectfully,

EDWARD C. TURNER,
Attorney General.

2150.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND OF FOREST E. ROBERTS,
IN BENTON TOWNSHIP, PIKE COUNTY, OHIO.

COLUMBUS, OHIO, May 23, 1928.

HON. CARL E. STEEB, *Secretary, Ohio Agricultural Experiment Station, Columbus, Ohio.*

DEAR SIR:—In Opinion No. 1941 under date of April 6, 1928, this department had under consideration an abstract of title and a warranty deed executed by Forest E. Roberts, covering certain property situated in Benton Township, Pike County, Ohio, and more particularly described in said opinion above referred to. A corrected abstract of title relating to these lands has been submitted to me, in which a correction has been made of some of the objections to the title noted in said opinion. One of the objections however to the title noted in said opinion has not been corrected by the additional information furnished; and this objection is one of so serious a nature that I am unable to approve the title of said Forest E. Roberts, to the lands here in question on the corrected abstract submitted.

On and prior to January 20, 1903, A. J. Miller was the owner of record of the lands here in question by fee simple title. On said date these lands were sold at a delinquent tax sale to one Charles H. Wiltsie. Apparently, a tax title certificate was issued to said Charles H. Wiltsie, and said lands were transferred on the tax duplicate to the name of Charles H. Wiltsie. Later, on December 10, 1904, it appears that the tax title certificate on these lands was transferred by said Charles H. Wiltsie to C. E. Still and Warren Hamilton, and the property was transferred to their names on the auditor's duplicate. Later, said Warren Hamilton died intestate, leaving as his only heirs and next of kin, Arthur Hamilton a son, and Mae DeWitt Hamilton, his widow. Whatever right, title or interest Forest E. Roberts has in said lands he obtained by deed therefor executed by said C. E. Still and wife, and by said Arthur Hamilton and Mae DeWitt Hamilton. However, it does not appear that any deed was ever executed by the Auditor of Pike County for said lands pursuant to the sale of the same at delinquent tax sale either to said Charles H. Wiltsie the purchaser, or to said C. E. Still and Warren Hamilton who took the tax title certificate by assignment from Charles H. Wiltsie.

The sale of this land at delinquent tax sale to said Charles H. Wiltsie did not vest in him the title to the property so sold. As the holder of the tax title certificate, said Charles H. Wiltsie acquired the right to be invested with the title to such lands at the expiration of two years from the sale, if the same were not redeemed. This right said Charles H. Wiltsie transferred to C. E. Still and Warren Hamilton by the transfer of the tax title certificate. Neither said Charles H. Wiltsie nor the assignees of the tax title certificate, C. E. Still and Warren Hamilton could obtain legal title to said lands otherwise than by a deed from the county auditor. As before noted, it does not appear that any such deed was ever executed either to said Charles H. Wiltsie or to said C. E.