

321.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND IN CRAWFORD COUNTY,
OHIO.

COLUMBUS, OHIO, April 13, 1927.

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

DEAR SIR:—Examination of an abstract of title and certified copy of a warranty deed and two encumbrance estimates submitted by you to this department for examination and approval discloses the following:

The abstract was prepared and certified by Charles F. Matthews under date of February 3, 1927, and pertains to a tract of land located in Section 31, township 2 south, range 17 east, Crawford county, Ohio.

The description appearing on the caption page of the abstract is as follows:

“Being all that part of the north east quarter and that part of the south east quarter of Section 31, township 2 S., range 17 E. of land in Crawford county that lies south of the Plymouth road and north of the Sandusky river in said east half quarter of said Section 31, township 2 S., range 17 E., and contains more or less acres of land.”

The above description is faulty in so far as it describes the land as located in the *east* half quarter of Section 31, whereas the land which it is proposed to purchase, and as described in the deed, is located in the *west* half of said quarter.

The property which the state proposes to purchase is described in the deed as follows:

“Beginning at a point in the center line of the Plymouth Road at the northeast corner of the Quaintance Tract as shown of record in Deed Book 91, Page 272, thence with the center line of said road south fifty-eight degrees west four hundred and forty-three and one-tenths feet to a point, thence on a line parallel to the east line and three hundred and sixty-five feet at right angles thereto, south two degrees and thirty-two minutes, west one thousand one hundred and twenty-five feet to a stake; thence south twenty-two degrees and fifty-nine minutes, east two hundred and eighty-seven feet to a point in the center line of the Sandusky River, passing a stake on bank thereof at two hundred and fifty-seven feet; thence with the meanders of said river upstream to a point in the center thereof where the east line of Quaintance tract intersects said stream; thence with said east line north two degrees and thirty-two minutes, east one thousand three hundred sixty-one and four-tenths feet to the place of beginning and containing twelve and six-hundredths acres more or less.”

It is my opinion that the abstract as submitted fails to show a good and merchantable title in Joseph B. Quaintance to the real estate which the state proposes to buy for the following reasons:

1. On May 31, 1852, one John Crall acquired title to the N. E. $\frac{1}{4}$ (quarter) of section 31, containing 160 acres, excepting therefrom a school lot in the N. E. corner thereof, and the N. $\frac{1}{2}$ of the W. $\frac{1}{2}$ of the S. E. quarter of section 31, containing 40 acres, except 1 $\frac{1}{2}$ acres south of the Sandusky river. On November 14, 1881, Elizabeth Crall conveyed to Elias Crall by warranty deed a tract of land containing 5 acres located in the south part of the N. E. quarter of said north part of the S. E. quarter of section 31. There is nothing in the abstract to show how Elizabeth Crall obtained title to said 5 acres.

2. On January 5, 1882, Elias Crall and wife conveyed to E. M. Moore all of the west half of the N. E. quarter of section 31 which lies north of the center line of the Plymouth road, and a part of the N. E. quarter and of the S. E. quarter described as containing 80 acres. The abstract does not disclose how Elias Crall acquired any title to said real estate, except the questionable title to the 5 acres which Elizabeth Crall conveyed to him in 1881, as above pointed out.

3. On February 7, 1905, W. C. McCullough as executor of the estate of E. M. Moore, transferred to Frank Haman a tract of 5 acres located in the S. E. quarter and N. E. quarter of section 31, and also a tract of 83.33 acres located in the S. E. quarter of said section. On the same day said Frank Haman conveyed the same property to J. B. Quaintance. The abstract does not contain any reference to the administration of the estate of E. M. Moore or to his will, nor does it show the appointment of W. C. McCullough as executor, or by what authority he purported transfer the property to Frank Haman.

4. In the certified copy of the deed which has been submitted the grantor's name appears as Joseph B. Quaintance. On the caption page of the abstract the abstracter has stated the name of the owner to be Joseph B. Quaintance, and on the abstracter's certificate the name of Joseph B. Quaintance also appears as the owner of the property. However, in the deed referred to in 3 above from Frank Haman, the grantee's name as abstracted appears as J. B. Quaintance, both in the granting clause and in the body of the deed generally. If this is a typographical error it should be corrected, or satisfactory evidence should be submitted to show that J. B. Quaintance and Joseph B. Quaintance are one and the same person.

5. The abstracter's certificate indicates that there are no mortgages, mechanics' liens or other liens or any taxes or assessments encumbering the title, although it is not clear whether or not examination was made in the Federal courts.

The original deed was not submitted, but there was submitted a copy of a deed which J. B. Quaintance certifies as being a correct copy of the original, which is being held for delivery upon payment of the consideration. The copy of the deed shows the original to be in proper form to convey fee simple title to the state of Ohio, but I cannot recommend the acceptance of said deed until it can be shown satisfactorily that Joseph B. Quaintance has a good and merchantable title in and to the real estate.

The encumbrance estimates are in proper form and bear the certificate of the Director of Finance that there are unencumbered balances legally appropriated sufficient to pay for the real estate.

For the reasons above stated I am disapproving the title, and am returning herewith the papers submitted, with the suggestion that the abstract be returned to the abstracter for further attention in the particulars above mentioned.

Respectfully,

EDWARD C. TURNER,

Attorney General.