

cina had a brother Benjamin F. Campf, who died in 1823 leaving five children named Martha A. Sanor, Harry, Margaret, D. F. and S. U. Campf, who are, according to an affidavit, the only heirs at law of Daniel and Lydia Campf, deceased.

6. The 1925 taxes are paid, but the 1926 taxes and assessments, the amount of which is not shown, are not paid and are a lien.

The abtracter's certificate shows that no examination was made in the U. S. courts, and that examination was made "in the name of record owners only and only for the period during which each one respectively held such title."

The encumbrance estimate bears date of December 22, 1926, and bears the certification of the Director of Finance under date of December 23, 1926.

No deed is submitted with the papers, although a blank form of Ohio warranty deed containing a description of the premises proposed to be conveyed was transmitted. Since this deed has not been prepared and executed, this department cannot pass upon the same.

I am returning to you the file relating to Tract 11, including the abstract of title, encumbrance estimate and other papers. When the corrections and additions indicated have been made I will make such further examination as may be necessary.

Respectfully,

EDWARD C. TURNER,
Attorney General.

355.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND IN HANOVER TOWNSHIP, COLUMBIANA COUNTY, OHIO.

COLUMBUS, OHIO, April 20, 1927.

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

DEAR SIR:—I have examined the abstract of title purporting to cover tract No. 10, Guilford Lake Park, consisting of 5.22 acres, more or less, owned by Dawson Irey and located in the northeast quarter of section 2, township 15, range 4, Hanover township, Columbiana county, Ohio.

The abstract was prepared by McMillan & Kelso, abstracters, Lisbon, Ohio, under date of May 11, 1926, and was continued to November 3, 1926, by the same abstracters.

The abstract as submitted pertains to the following premises, to wit:

"Situated in the township of Hanover, county of Columbiana and state of Ohio, and known as being part of the northeast quarter of section No. 2, in township No. 15, range No. 4, and bounded as follows, to wit:

Beginning at the north-east corner of said section, then with the section line south $1\frac{1}{2}^{\circ}$ east 103 perches, and $\frac{8}{10}$ of a perch to a post; then south 77° , west 35 perches and $\frac{6}{10}$ to a post; thence north $1\frac{1}{2}^{\circ}$, west 111 perches and $\frac{8}{10}$ to a post on the north boundary of said section; thence with the section line north $88\frac{1}{2}^{\circ}$, east 35 perches to the place of beginning, containing 23 acres and 93 perches, be the same more or less, but subject to all legal highways."

My examination of the above abstract discloses the following:

1. The abstract contains no record of the government patent, although there is attached to the abstract a certificate of the Auditor of State that "the S. $\frac{1}{2}$, N. E. $\frac{1}{4}$

and E. $\frac{1}{2}$ of the N. W. quarter of section 2, Town 15, range 4, Columbiana county, Ohio", were patented to James Galbraith, August 8, 1803.

2. As shown by Item No. 5, page 6 of the abstract, Francis Blythe and Maria T. Blythe conveyed to Dawson Ireby by warranty deed dated May 19, 1855, a portion of a tract of 23 acres, 93 perches, the part conveyed by said deed being so much of said tract as was covered by the reservoir of the Sandy and Beaver canal, and being $3\frac{3}{4}$ acres, more or less, the balance of said property having been previously conveyed by the Blythes to John Rakestraw. The $3\frac{3}{4}$ acres above mentioned were excepted from a tract of 93 acres, 93 perches conveyed to John Rakestraw on September 1, 1850 (Item 7, page 8), and are also excepted in a deed by John Rakestraw and wife to Eden Ireby, dated November 6, 1854 (Item 9, page 10).

From the first mentioned date (May 19, 1855), all trace of the $3\frac{3}{4}$ acres conveyed to Dawson Ireby is lost, and as an examination of the maps and other data indicates that said $3\frac{3}{4}$ acres are a part of the 5.22 acres which the state proposes to purchase, it is important that the abstract be continued as to said $3\frac{3}{4}$ acre tract.

3. Item 10, page 11 of the abstract shows a mortgage from Eden Ireby to John Kerns, dated April 11, 1857, due April 11, 1858. The above item contains the following notation: "Marginal entry written in pencil—Satisfied by Decree of Common Pleas Court in case of Kerns vs. Ireby, A Docket 18 on page 73". The next item of the abstract, Item 11, page 12, shows a deed from Eden Y. Ireby to Julian Ireby, dated November 30, 1894. There is an affidavit attached to the abstract to the effect that Eden and Eden Y. Ireby are one and the same person and that Eden Y. Ireby was in open and notorious possession of said $3\frac{3}{4}$ acres of reservoir land for more than thirty years prior to the sale of the same. In view of the reference to the case of Kerns vs. Ireby and the hiatus of some thirty-seven years between 1857 to 1894, further search should be made to show the proceedings in said case, and there should also be a showing as to whether or not Eden Y. Ireby was a married man on November 30, 1894.

4. The 1925 taxes are paid but the 1926 taxes, the amount of which is not shown are not paid and are a lien.

5. The abstracter's certificate shows that no examination was made in the United States courts, and that examination was "made in the name of record owners only and only for the period during which each one respectively held said title."

6. I find no encumbrance estimate among the papers relating to the 5.22 acres which the state proposes to purchase, and am therefore unable to pass upon the same.

7. No deed is submitted with the papers although a blank form of Ohio warranty deed containing a description of the premises proposed to be conveyed was transmitted. Since this deed has not been prepared and executed this department cannot pass upon the same.

I am returning the file relating to Tract No. 5, including the abstract of title and other papers. When the corrections and additions indicated shall have been made, I will make such further examination as may be necessary.

Respectfully,

EDWARD C. TURNER,
Attorney General.