

2033.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND OF ANNA L. DURHAM,
IN THE VILLAGE OF NEWTOWN, HAMILTON, COUNTY, OHIO.

COLUMBUS, OHIO, April 28, 1928.

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

DEAR SIR:—There has been submitted to me for my examination and opinion an abstract of title and deed of one Anna L. Durham, covering certain real estate situated in the Village of Newtown, Hamilton County, Ohio, and more particularly described as follows:

“The following described real estate part of lot 6 and 7 of Jas. Taylors of inlots 9 and 10, and part of lot 8 of Hames Taulors of Massie Survey No. 2276, Anderson Township, and being in the Village of Newtown, Hamilton County, Ohio, and recorded in Deed Book No. 1178, Page No. 25, Hamilton County, Ohio, records; being all that part of said lots lying south of what is known as the Township ditch, extending through said lots and described as follows, viz.: Beginning at the southeast corner of lot No. 8 of Jas. Taylors subdivision of Massie Survey No. 2276; thence N. 2° 27' E. 180 feet; thence S. 77° 42, W. 204 feet; thence S. 2° 20' W. 140.30 feet; thence N. 88° 52' E. 197.50 feet to the place of beginning, containing 73/100 acres.”

Upon examination of the abstract submitted I find that I am unable to approve the same or to find that said Anna L. Durham has a good and merchantable fee simple title to said premises. The early history of the title to the premises here under investigation is very defective in this, that the description of the property conveyed by said early deeds, as abstracted, is so meager and indefinite that there is no way of telling whether the lands thereby conveyed embrace the property here under investigation or not.

Assuming, however, that Thomas Brown at the time of his death in 1805 owned lands embracing the premises here under investigation, there is a complete break in the chain of title so far as this abstract is concerned, extending over a period of sixty years or more.

Also assuming that Joseph Whitaker and the other creditors named with him in the deed to Isaac Deal under date of September 23, 1868, had title to lands, including the premises here in question, it is noted that the same thereafter passed to one DeWitt Clinton Steel by deed from Isaac Deal under date of March 10, 1873. Thereafter, on a date not stated in the abstract, it appears that these lands were conveyed to one James Garbally by deed of the Sheriff of Hamilton County, Ohio. The abstract is defective with respect to this deed in this, to-wit: it does not show enough of the proceedings in the Common Pleas Court foreclosure suit to show that any order for the sale of this property was directed to the sheriff and the jurisdiction of the court to make such order, if one was made.

The Sheriff's deed as abstracted, is likewise defective in this, that it does not appear that the same was witnessed in the manner required by law.

Thereafter the title to these premises passed by mesne conveyances to Anna L. Durham, the present owner of the same.

Aside from the defects above mentioned with respect to the early history of the title to the premises under investigation it is quite probable that the abstract can be corrected with respect to the defects above pointed out, at which time the same can be again submitted to this department for examination.

I have examined the deed for these premises which has been signed by Anna L Durham and E. S. Durham, her husband, and the same seems to be defective in its description of the property conveyed in this: After the words "Jas. Taylors" and before the word "of" in the first and second lines of the description the word "sub-division" should be inserted. After the words "James Taylors" and between the words "of Massie Survey" the word "division" or "subdivision" as the case may be, should be inserted.

The encumbrance estimate with respect to the purchase of this property is in proper form and shows that there are unencumbered balances in the appropriation account sufficient to pay the purchase price of the same. Said appropriation likewise contains a statement over the signature of the Director of Finance showing that the purchase of this property was approved by the Board of Control under date of October 23, 1927.

I am herewith returning said deed and encumbrance estimate. I am retaining the abstract for the purpose of investigating the title of other parcels of real estate which the State of Ohio proposes to purchase for the use of your department.

Respectfully,

EDWARD C. TURNER,
Attorney General.

2034.

APPROVAL, ABSTRACT OF TITLE TO LAND OF ALVIN F. CYFERS,
NILE TOWNSHIP, SCIOTO COUNTY, OHIO.

COLUMBUS, OHIO, April 28, 1928.

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

DEAR SIR:—There has been submitted to me for my examination and approval an abstract of title and a warranty deed executed by Alvin F. Cyfers and wife, covering certain real estate situated in Nile Township, Scioto County, Ohio, and more particularly described as follows:

"Beginning at a stone at the North corner of Survey No. 15475; South-east corner of Survey No. 15880; and a Westerly corner of Survey No. 15879; thence N. $2\frac{1}{2}$ deg. E. 141 rods to a stone on the line between Surveys No. 15879 and 15880, and on top of the dividing ridge between the waters of Upper Twin Creek and Pond Run; thence S. $58\frac{1}{2}$ deg. E. $32\frac{1}{2}$ rods to a stone; thence S. $2\frac{1}{2}$ deg. W. 141 rods to a stone on the North line of Survey No. 15475; thence with said line, N. $58\frac{1}{2}$ deg. W. $32\frac{1}{2}$ rods to the beginning, containing 25 acres, more or less, and being a part of Survey No. 15879."

My examination of the abstract of title submitted shows that the sole and only legal source of title of Alvin F. Cyfers and his predecessors in title to the above described premises is the deed executed by the Board of Trustees of the Ohio State University to Simon Labold under date of June 21, 1904, conveying to said Simon Labold, the acreage included within Survey No. 15879, of which the above described lands and premises are a part. The title of the Ohio State University to said lands resulted from the fact that the original survey and entry of Mary I. Payne and David F. Heaton in and on said Survey No. 15879, together with the patent thereafter issued in their names was wholly void for the reason that no proper return of said entry was made prior to January 1, 1852, as prescribed by the Act of Congress of