

Upon examination of the submitted abstract, I am of the opinion that the same shows a good and merchantable title to said 32.3 acres in William A. Johnston, subject to the following.

1. The affidavit of W. A. Johnston on page 12 of the abstract, concerning real estate inherited discloses that one Alexander Johnston, a devisee of the property under consideration, died leaving as his heirs at law, the following: Marie B. Johnston Wells, Rachel Johnston Runyon, Ida J. Johnston Nixon, Edith M. Johnston Boyd, Linnie Johnston Shull and William A. Johnston, children of the deceased and Lavina Johnston, his wife. The transfer of the interests of all of these heirs are accounted for, except that of Edith M. Johnston Boyd. Further information should be furnished as to the interest of this heir.

2. Taxes in the sum of \$23.05, specified by the abstracter as being payable in 1927. It is supposed that these are the June instalment of the 1926 tax.

3. The taxes for 1927, payable in December, 1927, and June, 1928, are now a lien, amount yet undetermined.

4. The abstracter notes a road assessment of \$5.00, payable in 1927, with fifteen payments to be made, the first one being payable in 1927. The abstracter should show the full amount of this assessment and not alone the instalment of 1927.

The abstract does not show that any examination has been made in the United States Court and that an examination of the judgment indexes in the Clerk's and Sheriff's offices for judgment liens only goes back as far as 1910.

The form of deed submitted has not been executed, witnessed or acknowledged.

I also note that after the description of the land to be conveyed, a paragraph excepts and reserves therefrom to the grantors, their heirs and assigns, all the coal and coal veins, if any, underlying the described premises; together with the right to drill or test for the same and the right to mine and remove the same by means of approaches from other lands and also the right to haul or convey from adjoining, contiguous or other lands. This reservation interferes with the free use of the surface land and may seriously interfere with the use of the surface by the State.

Otherwise, the form of the deed is correct and when properly executed, witnessed and acknowledged will transfer a good title to the land under consideration, save with the exception and reservation last above noted and the interest of Edith M. Johnston Boyd, first above noted.

The abstract of title and the form of deed are herewith returned to you.

Respectfully,
EDWARD C. TURNER,
Attorney General.

710.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND IN SALEM TOWNSHIP,
JEFFERSON COUNTY.

COLUMBUS, OHIO, July 9, 1927.

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

DEAR SIR:—You have submitted for my opinion a form of deed and the abstract of title prepared by R. G. Porter of Steubenville, Ohio, up to June 1, 1927, on the following premises owned by William P. Waggoner, situate in the Township of Salem, County of Jefferson and State of Ohio, and bounded and described as follows:

"Being a part of the N. half of Section 18 in Township 10, Range 3 in the Steubenville Land Office District. Beginning for the same at the N. E. corner of a tract of land sold by John Gilkison to John W. Scott; thence N. $4\frac{1}{2}^{\circ}$ W. 28.9 perches to a small Red Oak at a corner between lands formerly owned by Blue and Wilson; thence N. 22° W. 8.5 perches with the road; thence N. 89° W. 7 perches with the road; thence N. 61° W. 7.2 perches with the road; thence N. 10° W. 17.1 perches with the road; thence N. 13° W. 14 perches with the road; thence with 1° E. 7.6 perches with the road; thence N. 37° W. 15 perches with the road; thence N. 16° W. 15 perches with the road; thence N. 12° W. 15.4 perches with the road; thence N. 5° E. 915 perches with the road to a White Oak on the Township line; thence W. along said Township line to the corner of land owned formerly by Thomas Swan; thence S. with said Swan's line to the Town Fork of Yellow Creek; thence along the Creek with the line described in the Deed from Gilkison to Scott to the place of beginning. Containing $86\frac{1}{2}$ acres, more or less. Together with all and singular the rights, members, hereditaments and appurtenances to the same belonging or in any wise incident or appertaining.

Also the following real estate, situate in the Township of Salem, Section 18, Township 10, Range 3, County of Jefferson and State of Ohio, and bounded and described as follows: Beginning for the same at a stone planted on the W. line of the lands of John Wilson 72 rods from the N. W. corner of said lands S., the said corner being also the N. W. corner of Salem Township the said stone planted at the E. side of the road so as not to be interfered with by traveling on said road as the line of said land lies in the road's center, thence from this stone 28 rods following the center of the said road S. to a stone planted to a white oak tree, thence N. 22 rods on a straight line to the place of beginning. Containing one-half acres more or less. Said tract bought by said Waggoner to obtain title and control of a certain spring on the above described land."

Upon examination of the submitted abstract, I am of the opinion that the same shows a good and merchantable title to said land in William P. Waggoner, subject to the following:

1. A lease by W. P. Waggoner to The Bergholz Telephone Company, executed October 30, 1922, by which the Grantor granted unto the Company, its successors and assigns, all of the poles and lines and all other telephone equipment constructed on the lands described and also the right to erect poles, stretch wires and maintain its lines on the streets and highways adjoining or on the lands owned by the Grantor, with the right to re-enter said premises at any time and to rebuild said line on said premises or repair the same; together with the right to trim any trees along the roads or highways of the grantor or upon the said lands, necessary to keep the wires clear eighteen inches and the right to set the necessary guy or brace poles and attach to trees the necessary guy wires.

2. The June instalment of 1926 taxes, amounting to \$24.41.

3. The 1927 taxes, amount yet undetermined, are unpaid so far as the abstract shows and are also a lien.

4. The Richmond-Pravo Road assessment, payable in thirteen instalments, amount due \$13.19. Apparently this is only the first instalment, payable in 1927. The amount of the entire assessment should be ascertained and provision made therefor.

The abstract shows that no examination has been made in the United States Court and that an examination of the judgment indexes in the Clerk's and Sheriff's offices for judgment liens only goes back so far as 1910.

The form of deed submitted has not been executed, witnessed and acknowledged, and the description in so far as it takes its beginning point and courses by lands transferred by and to other persons, roads and trees is objectionable and these points and courses should be redetermined by an engineer. Until the proper description has been given, and the deed executed, I am compelled to withhold my approval of the form of this deed.

The abstract of title and form of deed are herewith returned to you.

Respectfully,
EDWARD C. TURNER,
Attorney-General.

711.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND IN SALEM TOWNSHIP,
JEFFERSON COUNTY.

COLUMBUS, OHIO, July 9, 1927.

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

DEAR SIR:—You have submitted for my opinion a form of deed and the abstract of title prepared by R. G. Porter of Steubenville, Ohio, up to June 1, 1927, on the following premises owned by John Kuester, situate in the Township of Salem, County of Jefferson and State of Ohio, and bounded and described as follows:

“Being part of the Northeast Quarter of Section 23, Township 10, and Range 3, beginning at the N. W. corner of said quarter section; thence E. 1190 feet; thence S. 11° E. 638 feet; thence S. 40° W. 1850 feet to W. line of said section; thence N. 2217 feet to the beginning. Containing 34 acres, more or less.”

Upon examination of the submitted abstract, I am of the opinion that the same shows a good and merchantable title to said 34 acres in John Kuester, subject to the following:

1. The abstract traces the title to the land to Isaac Shane, who acquired the property in 1861. The next transaction concerning the property was a transfer of the same by Abraham Crabb and Mary Crabb, his wife, to W. H. Crabb under date of June 20, 1882. Subsequently, the abstract shows the title was transferred in regular order from W. H. Crabb down to John Kuester's title on April 7, 1922.

The abstracter says that a careful search of the records in Jefferson County fails to show how the property got from Isaac Shane to Abraham Crabb, and that the records fail to disclose any administration of the estate of Isaac Shane. The abstracter should be required to get definite information, by affidavits or otherwise, respecting the devolution of the property from Isaac Shane to Abraham Crabb.

2. A mortgage by John Kuester to National Exchange Bank of Steubenville under date of April 7, 1922, recorded in M. R. 87, page 378, to secure the payment of the grantor's note for \$5,000.00, payable four months after date, with interest at six per cent per annum.