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

COLUMBUS, OHIO, January 30, 1929.

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

DEAR SIR:—This is to acknowledge receipt of your recent communication, submitting to this department for examination and opinion an abstract of title and a warranty deed covering certain tracts of land in Benton Township, Pike County, Ohio, and more particularly described as follows :

## FIRST TRACT :

Beginning at a stake 30 poles east of the southwest corner of H. Mitchell's land ; thence with his line and the line of Chas. Rodgers land east 153 poles passing Rodgers southeast corner at 123 poles to an elm and sugar tree northwest corner to Andrew Rodgers survey No. 12899 ; thence with Rodgers line south 12 east, 104 poles to a stake in said line ; thence west 173 poles to a stake ; thence north 100 poles to the place of beginning, containing 100 acres of land, be the same more or less, it being part of survey No. 16161 and 16164 in the name of E. P. Kendrick, and conveyed to Jacob Crites.

## SECOND TRACT :

Also the following described real estate adjoining, situate in the same township, county and state aforesaid and bounded and described as follows : Beginning at a stone in the said Samuel Griffith's line ; thence south 24 poles to a stone ; thence west 72 poles to a stone ; thence north  $19\frac{1}{2}$  poles to a stone in said Griffith's line thence with his line east to the place of beginning, containing ten acres, be the same more or less.

Upon examination of the abstract of title submitted to me, I find that Forest E. Roberts is the owner of record of the above described tracts of land, but that his title thereto on the abstract submitted is subject to the following objections here noted as exceptions to his title.

The original source of the title of the first tract of land above described was and is a survey of land calling for  $120\frac{3}{5}$  acres made and entered for one Eleazor P. Kendrick under date of May 10, 1850. All of the lands in the first tract above described are within this survey which is in survey numbers 16161 and 16164. The lands in said survey, including those in the first tract above described, were and are in the Virginia Military District ; and the abstract of title submitted is open to objection for the reason that the same fails to show that said original survey made for Eleazor P. Kendrick was ever returned to the land office for patent or that any patent was ever issued thereon. In the case of *Coan vs. Flagg*, 123 U. S. 117, it was held that "it was essential to the vesting of any interest under an entry and survey within the Virginia Military Land District, made prior to January 1, 1852, that the survey should be returned to the Commissioner of the General Land Office at Washington, on or before that date, and that the failure to do so discharged the land from any claim founded on such location and survey, and extinguished all right, title and estate previously acquired thereby." See also to the same point the cases of *Fussell vs. Gregg*, 113 U. S. 550 and *Board of Trustees vs. Cuppett*, 52 O. S. 567.

If, as a matter of fact, no return was ever made on said survey, or if the same

was not returned before January 1, 1852, the title to the lands in said survey passed to the State of Ohio under the Act of Congress of February 18, 1871, and the Act of the Legislature passed March 26, 1872, accepting the same; and by said Act of the Legislature of Ohio, the title to said lands vested in the Ohio Agricultural and Mechanical College, the name of which has since been changed to that of the Ohio State University.

I do not deem it necessary to express, at this time, any final opinion upon the question arising out of the fact that the abstract fails to show that any return was made on the entry and survey above referred to, for the reason that it is altogether possible that such entry and survey was returned to the Land Office prior to January 1, 1852, and a patent thereon issued. As to this, it is suggested that the abstract be returned to said Forest E. Roberts with instructions to ascertain whether or not a patent on said entry and survey was ever issued. If this fact cannot be ascertained from the appropriate records of Pike County, it may be by inquiry of the Government Land Office at Washington.

The first conveyance in the chain of title to the second tract of land above described is one from Andrew L. Speekman and wife to one Samuel Griffith, under date of January 6, 1883. The abstract does not show how Andrew L. Speekman and his wife or either of them obtained title to said ten acre tract. The abstract of title submitted should be supplemented by such information as the abstractor may be able to obtain with respect to the previous history of the title to this tract.

The abstract shows that under date of February 12, 1915, L. Dudley and J. H. Grogg, being then the owners of record of both tracts of caption lands above described, conveyed the same by warranty deed to one John E. Roller. It further appears that under date of May 24, 1928, the "John E. Roller Estate", as grantee, conveyed said lands to Forest E. Roberts. This deed should be sufficiently abstracted so as to show the name and capacity of the person who signed said deed and the authority whereby he assumed to execute and deliver the same to said Forest E. Roberts.

The abstract further shows that the taxes for the first half of the year 1928 have been paid, but that the taxes for the last half of said year, the amount of which is not abstracted, are unpaid and a lien on said lands.

I am herewith returning to you said abstract of title, warranty deed, encumbrance estimate and Controlling Board certification. When abstract of title is corrected to meet the objections above noted, the same, together with the files above mentioned, should again be forwarded to this department for examination and approval.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

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DISAPPROVAL, ABSTRACT OF TITLE TO LAND OF J. WESLEY TURNER,  
IN HANOVER TOWNSHIP, ASHLAND COUNTY, OHIO.

COLUMBUS, OHIO, January 30, 1929.

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

DEAR SIR:—This is to acknowledge receipt of your communication of recent date, enclosing abstract of title and a warranty deed covering a certain tract of eighty acres