

suggested that an affidavit should be furnished showing that the grantors in the deed of July 13, 1895, recorded in Vol. 102, page 55, of the Deed Records of Clermont County, were all the heirs of Thomas Peterson; and this affidavit should also cover the marital status of Sylvania Mickle, Rebecca Peterson, Elizabeth Peterson and Martha A. Davis.

4. The taxes for 1927 are a lien but unpaid.

The encumbrance estimate is numbered 1562, dated May 14, 1927, and covers an appropriation from the U. S. Grant Memorial Commission Fund. It has been approved under date of June 15, 1927, by the State Architect and G. F. Schlesinger, Director of Highways and Public Works. It has also been approved by the U. S. Grant Memorial Commission by Allen B. Nichols, Chairman. The Director of Finance under date of September 21, 1927, certifies that there are unencumbered balances legally appropriated, sufficient to pay the sum of \$1,800.00, the purchase price of the property.

I do not find any evidence of the consent and approval by the Controlling Board to expenditures of funds for this purchase.

The deed has been executed by Lawyer W. Clark and Loretta Clark his wife, under date of September 26, 1927, and acknowledged before a Notary Public. It is in proper form and if it is established that Lawyer W. Clark and Loretta Clark have a good title to the premises, it is my opinion that the deed is sufficient to convey said premises to the State of Ohio when properly delivered.

The abstract of title, deed and encumbrance estimate are herewith returned.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1154.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND IN THE VILLAGE OF
POINT PLEASANT, CLERMONT COUNTY, OHIO.

COLUMBUS, OHIO, October 15, 1927.

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

DEAR SIR:—You have submitted an abstract of title, certified under date of September 20, 1927, by N. G. Cover, Abstracter, of Batavia, Ohio, which is accompanied by an encumbrance estimate and a deed, all covering Fraction Lots Nos. 12 and 13 in the Village of Point Pleasant, Clermont County, Ohio, excepting from Lot No. 13 a strip of ground fronting 40 feet on Indian Street in said Village, being on the north side of said Fraction Lot No. 13, which property stands in the name of Jessie Allison.

After an examination of the abstract of title, it is my opinion that Jessie Allison has a good and merchantable title to that portion of Fraction Lot No. 13, which she is selling to the State of Ohio, subject to the lien of unpaid taxes for 1927.

An examination of the abstract of title to Fraction Lot No. 12 discloses the following:

1. The property is a part of a survey in 1788 for Lawrence Butler in Military Warrant No. 199, but there is no patent of record to Lawrence Butler, and in fact there is no patent of record from the Government covering this land.

2. The town of Point Pleasant was platted by Henry Ludlam along about 1815. There happened to be a narrow strip of land situated between the platted inlots and the creek, which was cut up and designated and numbered as fraction lots. The fraction lots along the creek took the same number as the regular lots adjacent to them. It seems from a study of the six submitted abstracts that until later years, the fraction lots were considered by grantors and grantees to have passed with the inlots of the same number.

So far as is disclosed by the abstract, under a strict interpretation of the noted contents of abstracted deeds, Fraction Lot No. 12 was never deeded and transferred by Mr. Ludlam.

On the other hand, Henry Ludlam in 1815 deeded Inlot No. 12 to Thomas Page, who in turn deeded said Lot to John Molyneaux, and who in turn deeded only the south one-half of Inlot No. 12 to Robert Chalfant. The abstract does not disclose that the title to the north one-half of Inlot No. 12 or any part of Fraction Lot No. 12 ever was deeded or transferred in any way by Molyneaux.

Nevertheless, in 1850 William Lakin, by administrator, transferred to William MacWilliams, the south one-half of Inlot No. 12 and "also a part of Fractional Lot of ground opposite in part to the aforesaid one-half Lot and on the south side of Indian Street on the bank of Indian Creek." This is the first mention made in the abstract of Fraction Lot No. 12; and those claiming title in succession from Thomas Page only have title to the south one-half of said Fraction Lot No. 12, that is to say, up to and including the heirs of Samuel N. Galbreath by virtue of the deed of the Cooper heirs, hereinafter referred to, executed and recorded in 1906.

In the partition proceedings, at page 13 et seq., of the abstract, it appears that the sheriff in February, 1854, sold and the Court ordered him to give a deed for the south one-half of Inlot No. 12 to Caroline Thompson. This suit was brought for the partition of the real estate of Wilson L. Thompson, but it nowhere appears in the abstract that Wilson L. Thompson had title to either Inlot No. 12 or Fraction Lot No. 12. Nevertheless, a deed is shown at page 32 of the abstract, by which Caroline M. Thompson Lakin transferred to S. N. Galbreath by deed dated June 12, 1897, the "south one-half fraction of Inlot No. 12."

If Caroline M. Thompson Lakin is identified as the Caroline Thompson mentioned in the partition suit order in 1854, it then appears that Samuel N. Galbreath acquired title to the south half of Fraction Lot No. 12 by two distinct chains of title; but no place in the abstract does it appear that he ever acquired title to the other one-half of Fraction Lot No. 12. Nevertheless, in the affidavit for the transfer and record of real estate inherited from S. N. Galbreath, his heirs swear that he was the owner of Lot No. 12, and pursuant to their claim they deeded Fractional Lot No. 12 in its entirety to Jessie Allison, by deed dated June 16, 1926.

The Abstracter should attempt to trace the ownership of the north half of Fractional Lot No. 12 or supply missing links by quit-claim deeds or affidavits.

3. In 1845, William MacWilliams deeded the south half of Fraction Lot No. 12 to George G. Lindsey. His personal estate was administered in 1859; and in 1865 and 1868 Martha A. Lindsey, Mary Lindsey, Nancy Lindsey and Marcus Lindsey conveyed the one-half of Fractional Lot No. 12 to John and Samuel H. Cooper. There is nothing in the abstract to identify or connect these grantors with the ownership of the property. If they are the heirs of George Lindsey, deceased, an affidavit should be furnished showing that they are the heirs and the only heirs of George Lindsey, and as such have the right to transfer the title.

4. John Cooper acquired the interest of Samuel H. Cooper in 1882 and subsequently died. His will was filed in 1889. By the terms of the will, (which was never properly executed and witnessed) he devised all of his property to his wife Martha

and his daughter Lizzie, to hold and to use the same as long as his wife lived; and at the death of his wife, whatever was left of the estate, one-half should go to Lizzie and the other one-half to his daughter Martha and his son Samuel in equal parts. In 1906, Martha A. Cooper, widow, Samuel H. Cooper and Margaret S. Cooper, his wife, and Martha Armacost, widow, stated in the deed to be the sole heirs-at-law and legatees under the will of John Cooper, deeded all of Fractional Lot No. 12 to S. N. Galbreath. The abstract does not disclose what disposition was made of Lizzie Cooper's interest in this property. This information must be supplied by the Abstracter either from the records or by affidavits.

The title to Fraction Lot No. 12 is so imperfect and the time that has elapsed since these old deeds were made is so long that probably nothing in the way of quit-claim deeds can now be obtained to clear the title, and all that remains to be done is to secure affidavits covering the above mentioned discrepancies and other affidavits covering the adverse occupancy and user of this Fractional Lot No. 12.

5. The 1927 taxes are unpaid and a lien.

The encumbrance estimate is numbered 3409, dated July 16, 1927, approved by H. B. Briggs, State Architect and G. F. Schlesinger, Director of Highways and Public Works, under date of July 20, 1927, and July 22, 1927, respectively, and by the U. S. Grant Memorial Commission by Allen B. Nichols, Chairman. The Director of Finance under date of September 21, 1927, certifies that there are unencumbered balances legally appropriated, sufficient to pay the sum of \$300.00, the purchase price of the property. This encumbrance estimate is in proper form and is approved.

Evidence of the approval and consent of the Controlling Board to the expenditure of funds for this purchase has not been submitted to me.

The deed has been executed by Jessie Anna Allison and Charles M. Allison, her husband, and by them acknowledged before a Notary Public under date of September 21, 1927, and in other respects is in proper form. If the title is shown to be good in Mrs. Allison, this deed will, when properly delivered, convey the premises under consideration to the State of Ohio.

The abstract of title, encumbrance estimate and deed are herewith returned.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1155

DISAPPROVAL, ABSTRACT OF TITLE TO LAND IN THE VILLAGE OF
POINT PLEASANT, CLERMONT COUNTY, OHIO

COLUMBUS, OHIO, October 15, 1927.

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

DEAR SIR:—You have submitted an abstract of title, certified under date of September 20, 1927, by N. G. Cover, Abstracter, of Batavia, Ohio, which is accompanied by an encumbrance estimate, both covering Inlots Nos. 22, 27, and 30 in the Village of Point Pleasant, Clermont County, Ohio, standing in the name of Carl E. Hostetter.