

1038.

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

COLUMBUS, OHIO, September 22, 1927.

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

DEAR SIR:—You have resubmitted for my opinion a form of deed and an abstract of title last certified by R. G. Porter of Steubenville, Ohio, under date of September 9, 1927, covering land situate in Ross Township, Jefferson County, Ohio, said land consisting of two tracts, one containing 6 and 15/16 acres, more or less, and the other containing 80 acres, more or less, bounded and described as follows:

FIRST TRACT: Being part of the north half of the southeast quarter section of Section 19, Township 11, and Range 3.

Beginning for the same at the southeast corner of the said north half of the southeast quarter section of Section 19, Township 11, Range 3 and running W. 40½ perches; thence north 6° east 2 perches; thence north 17° east 3 perches; thence north 72½° east 15 perches; thence north 24° east 16 perches; thence north 1° east 6 perches; thence north 13° east 10 perches; thence north 2° west 4 perches; thence north 27° east 8 perches; thence south 67 perches to the place of beginning, containing six and 15/16 acres, more or less.

Being the same land conveyed to H. J. Gooderl by J. R. Shane and Bessie Shane by deed dated July 13, 1899, and recorded in Deed Record 77, page 445 of the Recorder's office of said county.

Also the same premises conveyed by R. C. Wilson, et al., to Albert Wilson by deed dated March 4, 1902, and recorded in Deed Record 84, page 173 of the Recorder's Office of said county.

SECOND TRACT: Situated in the County of Jefferson, State of Ohio, and in the Township of Ross, and being the south half of the southeast quarter of Section 19, Township 11 and Range 3, beginning at a post at the southeast corner of said section and running thence west on the township line 160 perches to a post; thence north 80 perches to a post; thence east 160 perches to a post; thence south 80 perches to the place of beginning, containing eighty acres (80), more or less.

Being the same premises conveyed by R. S. Burchfield, et al., to Albert Wilson by deed dated November 23, 1898, and recorded in deed record 76, page 595 of the Recorder's office of said county.

Also being the same premises conveyed by Roy L. McClave, et al., to John H. Wilson, et al., by deed dated August 12, 1920, and recorded in Deed Record 127, page 92 of the records of said county.

Upon examination of the resubmitted abstract, I am of the opinion that the same shows a good and merchantable title to the second tract containing 80 acres, more or less, in Clyde E. and John H. Wilson, subject to the following encumbrances:

1. The June instalment of the 1926 tax, amounting to \$22.21 is unpaid and a lien.
2. The 1927 taxes, amount yet undetermined, are a lien.

3. An assessment for the construction of the Richmond-Pravo road in the sum of \$133.92, payable in twelve instalments of \$11.16 each, the next instalment being payable in December, 1927, is a lien.

I am further of the opinion that in its present form the abstract does not show a good and merchantable title to the first tract containing 6 and 15/16 acres in Clyde E. and John H. Wilson, for the following reasons:

1. Aside from the fact that the abstract does not trace the title from Isaac Shane, who acquired it in 1816, for many years, it now shows at page 35a a will of James H. Shane, of Ross Township, which was probated in March, 1888. The abstract further shows that the final account in his estate has been passed. The manner in which James H. Shane acquired title to the property under investigation is not shown by the abstract. However, it is to be noted that by the terms of said will, James H. Shane devised the farm on which he resided in Ross Township, Jefferson County, Ohio, to his son, John R. Shane, and his grandson, J. Stanley Shane. No other instrument affecting this title is noted until the deed executed by John R. Shane and Bessie Shane on July 13, 1899, referred to in my former letter, when the 6 and 15/16 acres were transferred to H. J. Gooderl, from which grantee the title to this tract passes in regular succession to Clyde E. and John H. Wilson.

There is nothing in the abstract disclosing how Bessie Shane acquired any interest in this parcel of land. An affidavit executed by Clyde E. Wilson, one of the persons attempting to sell this land to the State of Ohio, says that she was the sister, and the only heir and next of kin of J. Stanley Shane, who died prior to July 13, 1899; and that Bessie Shane was at that time unmarried. Neither the affidavit nor the abstract discloses whether she inherited this property by descent or took it by devise.

2. The abstract contains no information respecting J. Stanley Shane's marriage; and I am of the opinion that there should be some evidence to show whether or not he was married, because during her life the wife would have a dower interest in his estate.

3. The affidavit of Clyde E. Wilson at page 56 discloses that John R. Shane is a married man, whose wife is still living with him at Miami, Florida. The wife does not join in the deed to H. J. Gooderl, and her dower interest in this parcel of land must be divested before the title is clear in the Wilsons.

4. The same taxes and assessments are liens on Tract No. 1 as well as on Tract No. 2.

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

The deed has been corrected and executed under date of August 27, 1927, by John H. Wilson and Elizabeth L. Wilson, his wife, and Clyde E. Wilson and Mary C. Wilson, his wife, and by them acknowledged before a Notary Public. It is in all respects in proper form and will, if the objections to the title to Tract No. 1 are cleared, pass a good title to the State of Ohio to both tracts.

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

Respectfully,
EDWARD C. TURNER,
Attorney General.