

1034.

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

COLUMBUS, OHIO, September 21, 1927.

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

DEAR SIR:—You have resubmitted for my opinion a warranty 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 Salem Township, Jefferson County, Ohio, consisting of 32.3 acres, bounded and described as follows:

“Being a part of the southwest quarter of Section 24, Township 10, and Range 3, beginning at a point in S. section line of Section 24, 268 feet east of S. W. corner of said section; thence N. 2° E. 700 feet; thence S. 67° E. 100 feet; thence N. 87° E. 700 feet; thence N. 84° E. 350 feet; thence S. 87½° 280 feet to Morrison’s line; thence S. 13° E. 270 feet; thence S. 59° E. 1056 feet to the S. E. corner of quarter section; thence with Section line N. 88° W. 2222 feet to the place of beginning. Containing 32.3 acres, more or less.

Excepting and reserving therefrom to the grantors herein, their heirs and assigns, all the coal and coal value, if any, underlying the above 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 through said coal or coal veins, if any, hereby reserved, coal from adjoining, contiguous or other lands.

Being a portion of the land conveyed consisting of 81.5 acres, conveyed by Maria D. Wells, et al., to William A. Johnston, by deed dated November 22, 1912, and recorded in deed record No. 104, Page 581, records of Jefferson County, Ohio.”

Upon examination of the resubmitted abstract, I am of the opinion that the same shows a good and merchantable title to said tract in William A. Johnston, subject to the following encumbrances:

1. The last half of the 1926 taxes, payable in June, 1927, amounting to \$23.05, is unpaid and a lien.
2. The taxes for 1927, amount yet undetermined are a lien.
3. An assessment for the construction of the Canton Road, I. C. H. No. 75, Section K, amounting to \$70.00, payable in fourteen instalments of \$5.00 each, the last instalment being payable in December, 1927, is a lien.

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 submitted apparently is the same form covered in Opinion No. 709, rendered to you under date of July 9, 1927. It has been executed by William A. Johnston and Mary M. Johnston, his wife, under date of August 29, 1927, and acknowledged before a Notary Public. As before advised, this deed excepts and reserves to the grantors, their heirs and assigns, the coal underlying the premises and with it the right to drill or test for the coal and the right to mine and remove the same by means of approaches from other lands. The trouble with this reservation of a right

to drill and test the coal and the right to mine and remove the same is, that it is not definitely limited to mining operations and the removal of the coal by means of underground approaches. This reservation gives the grantors the right to use surface land, if necessary, for mining operations; and thus might constitute a serious interference with the use and enjoyment of the surface land by the State of Ohio.

Otherwise, the form of the deed and execution thereof is approved; and will, when delivered, convey good title to the 32.3 acres subject to the coal rights reservation, to the State of Ohio.

I can not approve the deed as now drawn and executed. The abstract of title and form of deed are herewith returned to you.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

1035.

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

COLUMBUS, OHIO, September 21, 1927.

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

DEAR SIR:—You have resubmitted for my opinion a warranty 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 one tract containing 74 acres, bounded and described as follows:

“Being a part of the Southwest quarter of Section 13, Township 11, Range 3, beginning at the S. W. corner of said section; thence with section line N. 2150 feet; thence N.  $62\frac{1}{2}^{\circ}$  E. 364 feet; thence S.  $4^{\circ}$  W. 754 feet; thence S.  $61\frac{1}{2}^{\circ}$  E. 580 feet; thence S.  $20\frac{1}{2}^{\circ}$  W. 300 feet; thence S.  $77\frac{1}{2}^{\circ}$  E. 379 feet; thence N.  $84\frac{1}{2}^{\circ}$  E. 719 feet; thence N.  $65\frac{1}{2}^{\circ}$  E. 840 feet to the Shane Town Road; thence with road as follows, S. 221 feet; S.  $22^{\circ}$  W. 300 feet; S.  $2^{\circ}$  E. 250 feet; S.  $24^{\circ}$  E. 286 feet; S.  $7^{\circ}$  W. 366 feet to the section line; thence with the section line W. 2500 feet to the beginning. Containing 74 acres.

Being a part of the premises conveyed by Benjamin F. Dye, et al., to Marcellus S. Dye, et al., shown in Deed Record No. 94, Page 69, of the records of Jefferson County, Ohio.

That Mary E. Dye and Eva M. Dye are one and the same persons and her true name is Mary E. Dye.”

Upon examination of the resubmitted abstract, I am of the opinion that the same shows a good and merchantable title to the land in Marcellus S. Dye and Eva M. Dye, his wife, subject to the following encumbrances:

1. The Bergholz Telephone Company easement described in the paragraph numbered 5, Opinion No. 893, rendered under date of August 18, 1927, still exists.
2. The June instalment of the 1926 tax, amounting to \$14.25, is unpaid and a lien.
3. The 1927 taxes, amount undetermined are also unpaid and a lien.