

2323.

APPROVAL, ABSTRACT OF TITLE TO LAND OF T. J. SANDERS AND WIFE, IN JEFFERSON TOWNSHIP, ADAMS COUNTY, OHIO.

COLUMBUS, OHIO, July 6, 1928.

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

DEAR SIR:—You recently submitted for my examination and opinion a corrected abstract of title and a warranty deed of one T. J. Sanders and wife, covering certain lands in Green and Jefferson Townships, Adams County, Ohio, and more particularly described in Opinion No. 2134 of this department, directed to you under date of May 19, 1928.

My examination of the corrected abstract shows that the defects in the original abstract noted in the former opinion have been corrected by further information which has been made a part of said abstract. The only serious objection raised to the title to these lands in and by said opinion was with respect to the failure of the abstract as originally submitted to set out the proceedings of the Common Pleas Court of Adams County showing the authority of the Sheriff of Adams County to convey the lands here in question to one Sam E. Davidson by a Sheriff's Deed in the ordinary form. This deed which was one under date of June 6, 1903, purported to convey to said Davidson these lands which at the time stood in the name of Frederick Dinkelaker and Henry Dinkelaker. There has been submitted as a part of the corrected abstract of title a certificate signed by the Common Pleas Judge of said county showing that on the 25th day of February, 1910, the Court House in said county was totally destroyed by a fire which likewise destroyed all of the records of the Common Pleas Court of said county. In this situation Sections 12349 and 15091-1, General Code, are applicable. Under the provisions of Section 12349, General Code, the Sheriff's Deed is prima facie evidence of the regularity of the judicial proceedings pursuant to which the same was executed, and under the provisions of Section 15091-1, General Code, the title of the lands conveyed by said deed is cured against any defects that may have existed in said proceedings. *Walker vs. Scott*, 7 Ohio App. 335.

The other defects in the original abstract of title having likewise been cured by further information which has been made a part of the corrected abstract, said corrected abstract of title and the warranty deed of T. J. Sanders and Gertrude Sanders, his wife, conveying said land to the State of Ohio, are hereby approved, subject to the exception hereby noted that the taxes on said lands for the last half of the year 1927 and for the year 1928 are unpaid and a lien.

I am herewith returning to you said abstract of title, warranty deed and copy of Opinion No. 2134 of this department above referred to.

Respectfully,

EDWARD C. TURNER,

Attorney General.

2324.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND OF OLIVER C. WICKERHAM AND WIFE, IN NILE TOWNSHIP, SCIOTO COUNTY, OHIO.

COLUMBUS, OHIO, July 6, 1928.

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

DEAR SIR:—You recently submitted for examination and opinion an abstract of

title and a warranty deed of Oliver C. Wickerham and wife covering certain lands in Nile Township, Scioto County, Ohio, and more particularly described in said deed as follows:

Beginning at a white oak, southerly corner to A. D. Kendricks Survey No. 15445; south 20 degrees east 20 poles from the south west corner of C. Overturf's Survey No. 13491; thence south 360 poles to a stake and white oak; thence east 225 poles to a stake; thence north 360 poles to a stake; thence west 225 poles to the place of beginning containing Five Hundred Acres (500 Acres), more or less, and being the west part of Discovery No. 210 made by Samuel Kendricks, and reported to the Board of Trustees of the Ohio State University

Excepting, however, One Hundred (100 A.) Acres off of the north end of the above described tract sold by E. R. Chase to Susan C. Ferguson, by deed recorded in volume 57, page 153 Record of deeds of Scioto Co., Ohio. Also, excepting Fifty (50) Acres sold by said E. R. Chase and wife to Levina Wagner by deed recorded in volume 57, page 497, Scioto County, Ohio, Record of Deeds.

It is apparent from the language of said warranty deed that the lands which said Oliver C. Wickerham and wife propose to convey to the State of Ohio by said deed, as an instrument of conveyance, are that part of a tract of land of five hundred acres or more originally owned by the Ohio State University left after the conveyance therefrom by one E. R. Chase, a subsequent owner of said tract, of two parcels of land, which conveyances are referred to in the above quoted description of the lands which are proposed to be conveyed to the State of Ohio by the deed of Oliver C. Wickerham and wife.

It appears from the abstract that on June 25, 1891, said E. R. Chase became the owner of said five hundred acre tract, by deed of conveyance from David E. Webb and Henry H. Cuppett, who had obtained the same by deed of conveyance from the Ohio State University. Thereafter, Chase sold and conveyed out of said five hundred acre tract two separate parcels of land. The first parcel of land conveyed by him was a conveyance to one Susan Ferguson of one hundred acres off the south end of said five hundred acre tract. This conveyance was under date of September 11, 1894. Thereafter, on April 29, 1895, said E. R. Chase sold and conveyed out of said five hundred acre tract a parcel of fifty acres of land to one Lavina Wagner. This fifty acre tract of land is described by metes and bounds in the deed conveying the same. However, the one hundred acre tract above referred to is not described by metes and bounds in the deed conveying the same to Susan Ferguson, but is described as "Being one hundred (100) acres of land off of the south end of the following described five hundred (500) acres of land purchased by E. R. Chase of David Webb and wife and Henry H. Cuppett and wife"; and then follows a description of said five hundred acre tract.

By reference to the deed of Oliver C. Wickerham and wife to the State of Ohio, it will be noted from the description of the property therein contained that it is thereby proposed to convey to the State of Ohio all of said original five hundred acre tract other than said parcel of fifty acres sold by E. R. Chase and wife to Lavina Wagner and other than one hundred acres of land off of the *north* end of said five hundred acre tract, which is recited as having been sold by said E. R. Chase to Susan Ferguson. As above noted, however, the conveyance by said E. R. Chase to Susan Ferguson was one hundred acres off of the south end of said five hundred acre tract. It appears, therefore, that said Oliver C. Wickerham is not the owner of record of all of the land which he proposes to convey to the State of Ohio, although it appears from the ab-

tract that by mesne conveyance he is the owner of record of all that part of said five hundred acre tract which was left in said E. R. Chase after the conveyance of said one hundred acre and fifty acre parcels of land above referred to.

In this connection it may be noted that from the description of said fifty acre parcel of land sold by said E. R. Chase from said five hundred acre tract, it appears that E. R. Chase was then under the impression that the one hundred acre tract sold by him to Susan Ferguson was one hundred acres off of the north end of said five hundred acre tract. However, said deed to Susan Ferguson described the one hundred acre parcel of land sold to her as being off the south end of said five hundred acre tract; and in the absence of further information showing that said Oliver C. Wickerham has the legal title to all of the land which he proposes to convey to the State of Ohio this abstract and deed must be disapproved.

In addition to the above there is one other defect in the abstract of title which may perhaps be corrected by further information. It appears that the estate and interest of said E. R. Chase in and to the lands of said five hundred acre tract left after the conveyance by him of the smaller parcels above referred to was sold and conveyed by the sheriff of Scioto County to one Nate T. Rickey. Apparently this conveyance was pursuant to an order of the court in some proceedings against E. R. Chase, but said proceedings are not abstracted and the authority of the sheriff to make said deed of conveyance to Nate T. Rickey does not appear.

By reason of the objections above noted the abstract of title submitted to me is hereby disapproved, and I am returning herewith said abstract and deed above referred to as well as encumbrance estimate No. 3395 and tax receipts for the year 1927, which should be made a part of the abstract.

Respectfully,

EDWARD C. TURNER,
Attorney General.

2325.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND OF EDWARD CUNNINGHAM AND WIFE, IN NILE TOWNSHIP, SCIOTO COUNTY, OHIO.

COLUMBUS, OHIO, July 7, 1928.

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

DEAR SIR:—You recently submitted for my examination and opinion an abstract of title certified by the abstracter under date of June 15, 1928, and a warranty deed of Edward Cunningham and wife, covering certain lands in Nile Township, Scioto County, Ohio, and more particularly described as follows:

“Being Lot Number Fifteen (15), O. S. U. Lands, to-wit: Beginning at a stone marked ‘D’, Southwest corner of Lot No. 12 and in the East line of Lot No. 14; thence with one line of said Lot No. 14, South 235 poles to a stone in the East side of Pheasant Hollow, Northwest corner of Survey No. 15,879; thence with the line of said Survey East 310 poles to a beech in the head of the middle fork of Pond Run and on the East line of Survey No. 15,834 and 15,878; thence with one line of said Survey N. 235 poles to a stone marked ‘E’ and three hickories, corner to the aforesaid Lot No. 12; thence with one line thereof West 310 poles to the beginning. Containing 455 acres, be the same more or less, and being the same premises conveyed by Joseph W. Smith and wife to Arthur St. John Newberry by deed