

140.

APPROVAL—ABSTRACT OF TITLE TO LAND IN JOHNSON TOWNSHIP, CHAMPAIGN COUNTY, OHIO.

COLUMBUS, OHIO, February 17, 1937.

HON. L. WOODDELL, *Conservation Commissioner, Columbus, Ohio.*

DEAR SIR: This is to acknowledge the receipt of your recent communication with which you submit for my examination and approval an abstract of title, warranty deed, contract encumbrance record No. 20 and other files relating to the proposed purchase in connection with the Kiser Lake improvement of a tract of land described as follows:

“Beginning at the S. W. corner of the N. W. $\frac{1}{4}$ of section No. 16, Johnson Township, Champaign County, Ohio, T. 3 E., R. 12 N., and thence N. 2 deg. 09' W., 988.70 feet to a concrete monument at the N. W. corner of the 30.37 acres of land deeded to Lewis Purk by John T. Snapp, Administrator, Vol. No. 92, Page No. 277, of the Deed Records of the Champaign County Recorder's Office.

Thence S. 38 deg. 53' E., 910.53 feet to a concrete monument;

Thence S. 76 deg. 18' E., 892.12 feet to a concrete monument, which is the S. E. corner of the above mentioned 30.37 acre tract;

Thence S. 87 deg. 14' W., 1402.65 feet to the place of beginning, containing 10.3 acres, more or less. As per new survey by Ohio Department of Conservation.”

Upon examination of the abstract of title submitted to me, which abstract is certified by the abstracter as of February 2, 1937, I find that Lewis Purk has a good merchantable fee simple title to the above described tract of land, subject to the following liens and encumbrances which are here noted as exceptions to the title in and by which said Lewis Purk owns and holds this land:

1. The abstract of title shows that the taxes on the above described parcel of land or on the larger tract of which the same is a part, amounting to the sum of five dollars and thirty-two cents (\$5.32), are unpaid and are a lien upon the property; and in addition to this it appears from the certificate of the abstracter that the taxes on this property or on the larger tract of which the same is a part, due and payable in June, 1934, are unpaid and are a lien upon this property.

2. It appears from the abstract of title submitted to me that Lewis Purk, the present owner of record of the above described tract of land, acquired this property as a part of a larger tract of 30.37 acres by administrator's deed executed and delivered to him by John T. Snapp, as administrator of the Estate of Elizabeth Evans Miller, deceased, under date of February 20, 1911. This deed was executed pursuant to an order of the Probate Court of Champaign County in certain proceedings instituted in that Court by the administrator for the purpose of effecting a sale of the property owned by Elizabeth Evans Miller at the time of her death for the purpose of paying the debts of her estate. The parties defendant in this action were certain children and grandchildren of Elizabeth Evans Miller, heirs of her estate, and one Thomas Miller, her husband, relict, who as such had a dower right and interest in and to the property. Apparently notice of the pendency of this proceeding was given to said Thomas Miller by means of service by publication, it appearing that said Thomas Miller was not then a resident of the State of Ohio and that the place of his residence was unknown. In the sale of the property of Lewis Purk, pursuant to an order made by the court for the sale of this property, the same was sold to him subject to the dower interest of Thomas Miller. As to this, it appears from an affidavit executed by Lewis Purk under date of February 5, 1937, and made a part of the abstract that the residence and domicile of said Thomas Miller were unknown at the time he, Lewis Purk, purchased this land under date of February 20, 1911, and that said Thomas Miller has never since been heard from, although diligent search has been made to locate him. Although, the fact that this property was acquired by Lewis Purk, subject to the dower interest of Thomas Miller, the widower of Elizabeth Evans Miller, may properly be stated as an exception to the title in and by which Lewis Purk now owns and holds this property, I am inclined to the view that inasmuch as apparently the statute of limitations has run against Thomas Miller as to any action which he might now or hereafter institute for the purpose of asserting his dower interest in this property and that this exception to Lewis Purk's title to this property may be safely waived.

I conclude, therefore, that subject only to the exception hereinabove noted with respect to the taxes on this property, the title of Lewis Purk in and to the property in question may be and the same is hereby approved.

Upon examination of the warranty deed tendered by Lewis Purk, I find that the same has been properly executed and acknowledged by him and by his wife, Emma Purk, and that the form of this deed is such that the same is legally sufficient to convey the property here under consideration and therein described to the State of Ohio by fee simple

title free and clear of the inchoate dower interest of Emma Purk, wife of said Lewis Purk, and with a covenant of warranty that the property thereby conveyed is free and clear of all encumbrances whatsoever. The deed conveying this property to the State of Ohio is therefore approved.

Upon examination of contract encumbrance record No. 20, which is submitted as a part of the files relating to the purchase of the above described property, I find that the same has been properly executed and that there is shown thereby an unencumbered balance in the appropriation account to the credit of your Department for the purchase of this property, which is sufficient in amount to pay the purchase price thereof, which price is the sum of nine hundred forty-two dollars and eighty-nine cents (\$942.89). I am accordingly approving said contract encumbrance record as submitted.

It further appears in this connection by recital contained in said contract encumbrance record, as well as from a copy of an appropriate certificate over the signature of the President of the Controlling Board that said Board has approved the purchase of this and other property necessary in connection with the Kiser Lake project.

It likewise appears in this connection that the purchase of the property here in question and of other property in connection with the Kiser Lake project has been provided for by the Conservation Council acting by resolution duly adopted by said Board under date of June 24, 1936, under the authority conferred upon said body by the provisions of Section 472, General Code. Under the provisions of this section, the authority of the Conservation Council to purchase lands for a project of this kind is subject to the approval of the Attorney General. No reason is apparent to me why the purchase of this property for its intended purpose should not be approved by me, and inasmuch as I have legally approved the purchase of other property by the Conservation Council in connection with this same project the purchase of this property is hereby approved as is evidenced by my approval endorsed upon the deed in and by which this property is conveyed to the State of Ohio.

I am herewith returning to you the abstract of title, warranty deed, contract encumbrance record No. 20 and other files which you have submitted to me for approval in connection with the purchase of this property.

Respectfully,

HERBERT S. DUFFY,
Attorney General.