

2105.

APPROVAL, ABSTRACT OF TITLE TO LAND OF WM. A. JOHNSTON,
SALEM TOWNSHIP, JEFFERSON COUNTY, OHIO.

COLUMBUS, OHIO, May 15, 1928.

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

DEAR SIR:—In Opinion No. 1034 directed to you under date of September 21, 1927, this department had under consideration an abstract of title and a warranty deed of one Wm. A. Johnston covering a certain tract of 32 $\frac{3}{10}$ acres of land in Salem Township, Jefferson County, Ohio, which is more particularly described in the former deed of this department above referred to. In said opinion it was found that Wm. A. Johnston had a good and merchantable title to said tract of land, subject to certain taxes and assessment liens therein noted.

The deed tendered by said Wm. A. Johnston to the State of Ohio was disapproved for the reason that the same contained a reservation of the coal underlying the lands conveyed with the right in said Wm. A. Johnston to mine and remove the same in a manner which in the opinion of this department might constitute a serious interference with the use and enjoyment of the surface of the land by the State of Ohio. This objection has been obviated by a new deed which said Wm. A. Johnston and Mary Johnston his wife have executed and tendered to the State of Ohio which deed conveys said tract of land to the State of Ohio without any reservations whatever and free and clear of all encumbrances.

In said former opinion the taxes and assessments of said lands were noted as follows:

The last half of the 1926 taxes, payable in June, 1927, amounting to \$23.05 is unpaid and a lien.

The taxes for 1927, amount as yet undetermined are a lien.

An assessment for the construction of the Canton Road, I. C. H. No. 75, Section K, amounting to \$70.00 payable in fourteen installments of \$5.00 each, the last installment being payable in December, 1927, is a lien.

It is altogether probable that some of the above noted taxes and the installment of said assessments above referred to have been paid since the former opinion of this department on the title to these lands. It should be noted however, that in the meantime the taxes for the year 1928, the amount of which is undetermined have become a lien on the premises. The title to said lands and the deed of Wm. A. Johnston and wife tendered to the State of Ohio are hereby approved, subject to such adjustment as may be made by and between your department and the grantors with respect to the taxes and assessments upon said lands.

Neither at the time this title was under investigation at the time of said former opinion of this department nor upon the resubmission was any encumbrance estimate or certificate of the Board of Control submitted to this department. This approval of said title and deed is subject to the action upon your part securing said encumbrance estimate and Controlling Board's certificate for the approval of this department.

I herewith enclose the abstract of title above noted of the new deed of Wm. A. Johnston and wife above referred to and the deed submitted on the occasion of the former opinion to your department.

Respectfully,
EDWARD C. TURNER,
Attorney General.