

3209.

## APPROVAL, ABSTRACT OF TITLE TO LAND OF HORACE W. CAMPBELL IN THE CITY OF COLUMBUS, FRANKLIN COUNTY, OHIO.

COLUMBUS, OHIO, May 9, 1931.

*The State Office Building Commission, Columbus, Ohio.*

GENTLEMEN:—There has been submitted for my examination and approval an abstract of title, several deeds and encumbrance estimate No. 669, relating to the proposed purchase by the State of Ohio of an undivided one-half interest in a parcel of land situated in the city of Columbus, Franklin County, Ohio, the same being thirty-one and one-half feet east and west by ninety feet north and south out of the northeast corner of inlot number one hundred and twenty-six in said city, which undivided one-half interest was formerly owned and held in fee simple by one Horace W. Campbell, now deceased, and is now owned and held by the Huntington National Bank of Columbus, as trustee, under the last will and testament of said Horace W. Campbell, the Broad-Front Realty Company and by the owners and holders of term leases under said Broad-Front Realty Company, which owns and holds a ninety-nine year lease, renewable forever, upon said interest in the premises above described.

The title to the above described premises was considered by me in Opinion No. 3178, and directed to you under date of April 24, 1931, in connection with the purchase by the State of Ohio of the undivided one-half interest of Henry E. Musselman in said premises and of the interest of the Broad-Front Realty Company accruing to it under a ninety-nine year lease, renewable forever, originally executed by said Henry E. Musselman and held by assignment by said Broad-Front Realty Company.

In said opinion I found that Henry E. Musselman and the Huntington National Bank, as trustee, each owned and held an undivided one-half interest in and to the fee simple title to said premises, subject to two outstanding leases for ninety-nine years each, renewable forever, executed by said Henry E. Musselman and the said Huntington National Bank of Columbus, respectively, to one Harry Gilbert under date of May 19, 1926, covering their respective undivided one-half interests in said property, which perpetual leasehold interests and the leases demising the same, were those owned and held by the Broad-Front Realty Company by assignment from said Harry Gilbert.

In said opinion I further found that the titles by which said premises were then owned and held, as above stated, were further subject to certain liens and other encumbrances noted in said opinion as exceptions numbers 1 to 13 inclusive.

Since the rendition of the former opinion of this office above referred to, the State of Ohio has acquired the interest of Henry E. Musselman in and to the premises here in question, and likewise the interest which the Broad-Front Realty Company owned and held in said premises by reason of the lease for ninety-nine years, renewable forever, originally executed by said Henry E. Musselman, as above indicated, and thereafter assigned to said Broad-Front Realty Company.

It is quite obvious that all the objections noted serially in said opinion as exceptions to the titles by which said premises as a whole were then owned and held, are applicable to the undivided one-half interest in this property which the State of Ohio now proposes to purchase and acquire from the Huntington National Bank of Columbus and the Broad-Front Realty Company, with the excep-

tion of that designated as No. 6 in said opinion, which referred to a mortgage executed by said Henry E. Musselman and wife to the Huntington National Bank under date of February 20, 1931. This exception noted in the former opinion obviously had no relation to the interests in said property which you now seek to purchase and acquire from the Huntington National Bank of Columbus and the Broad-Front Realty Company, and which were formerly owned and held by said Horace W. Campbell, deceased. All of the other objections noted as exceptions in said former opinion affect the title to the particular interest here in question, although as to one of said objections, to wit, that noted as exception No. 5 in said opinion, it may be observed that the mechanic's lien of the Doddington Company, which was the subject of said exception, has probably been lost by reason of the failure of the Doddington Company to enforce the same by action under the provisions of section 8321, General Code.

With respect to the titles of the Huntington National Bank of Columbus, as trustee, and of the Broad-Front Realty Company, covering the undivided one-half interest in said premises which you now desire to purchase, it may be noted that a number of the encumbrances in said former opinion, and here noted as objections, are predicated on term leases filed for record and appearing in the abstract of title examined by me. It is proper to note that if any other person or persons are in actual possession of the premises here under investigation, or of any part of the same, under a claim of right and in such manner as to inform you that the occupant is asserting dominion over the property under some claim of right or authority, you, or any other person or persons purchasing said premises or interest therein, will be chargeable with notice of any right or title which said occupant may have in said premises or any part thereof, whatever such right or title may prove to be.

As a part of the files relating to the purchase of the undivided interest here under consideration in the property above described, there has been submitted to me three deeds. The first of these instruments is a Trustee's Deed executed by the Huntington National Bank of Columbus, as trustee under the last will and testament of Horace W. Campbell, deceased. This deed has been properly executed and acknowledged by the Huntington National Bank of Columbus, as trustee, in accordance with the resolution of the board of directors of said corporation, and also by one Thomas H. Clark, Attorney, of this city, who, under the terms of the last will and testament of said Horace W. Campbell, was required to approve the sale and conveyance of this interest in said property before the same could be made. The form of said deed is such as to convey to the State of Ohio a fee simple title in this property formerly owned and held by Horace W. Campbell, subject, however, to the perpetual leasehold interest now owned and held by the Broad-Front Realty Company in said undivided one-half interest, and subject, further, to the rights of persons claiming by, through or under said lessee or his assigns; and also excepting the rights of all persons in possession of said premises or any part thereof, and subject to all taxes and assessments which are now a lien on said premises.

The second of said deeds is a Quit-Claim Deed executed by the Broad-Front Realty Company. This deed has been properly executed and acknowledged in conformity with a resolution of the board of directors of said corporation authorizing its execution; and the form of said deed is such that it is effective to convey and release to the State of Ohio all right, title and interest which said Broad-Front Realty Company has in the particular estate in this property here under consideration.

The third deed submitted to me is a Quit-Claim Deed executed by one Nellie W. Campbell the widow of said Horace W. Campbell, deceased. This deed has likewise been properly executed and acknowledged and the same as to form is effective to convey and release to the State of Ohio any interest which said Nellie W. Campbell may have in the particular estate in said premises here under consideration by reason of the fact that she is the beneficiary of the trust created by the last will and testament of said Horace W. Campbell, deceased, and by reason of the fact that she did not formally elect to take under the last will and testament of her deceased husband. Said deeds and each and all of the same are hereby approved.

Encumbrance Estimate No. 669, which has likewise been submitted to me in connection with the proposed purchase of the interests here in question, has been properly executed and the same shows that there is an unincumbered balance in the appropriation account sufficient in amount to pay the purchase price of the property and interest here in question, which purchase price is the sum of \$54,822.67. Said encumbrance estimate is likewise approved by me.

I am herewith enclosing said abstract of title, the deed of the Huntington National Bank of Columbus, trustee, the deed of said Nellie W. Campbell, and encumbrance estimate No. 669, above referred to.

As above indicated, I have examined the deed executed by the Broad-Front Realty Company, conveying and releasing its interest in this property. I am advised, however, that this deed is now in the possession of the Broad-Front Realty Company or its attorney and that the same will be delivered to the State of Ohio, through you, when the transaction relating to the purchase of the estate and interests in the above described property is closed.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

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3210.

BOARD OF EDUCATION—RURAL SCHOOL DISTRICT—POWER TO PAY  
TUITION OF ELEMENTARY SCHOOL PUPILS, WHO HAVE FAILED  
TO RECEIVE CERTIFICATE OF PROMOTION, IN NEARBY VIL-  
LAGE HIGH SCHOOL.

*SYLLABUS:*

*Where a pupil residing in a school district which does not maintain a high school, fails to receive a certificate of promotion to a high school after taking the courses in the elementary schools, but is permitted with the acquiescence of the county superintendent of schools and all the school authorities, to attend a high school in another district and there make up the courses of study in which he had failed in the elementary schools, the board of education of the district of his residence may, but is not required to pay his tuition in the school which he attends.*

COLUMBUS, OHIO, May 11, 1931.

HON. JESSE K. BRUMBAUGH, *Prosecuting Attorney, Greenville, Ohio.*