

2993.

APPROVAL, ABSTRACT OF TITLE TO LAND OF MARY J. HUTTON IN
BENTON TOWNSHIP, HOCKING COUNTY.

COLUMBUS, OHIO, December 7, 1928.

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

DEAR SIR:—You have submitted an abstract certified by Eugene Wright, Attorney at Law, Logan, Ohio, under date of November 5, 1928, which, according to the caption, purports to cover the following described premises situated in the county of Hocking, Township of Benton, and being more particularly described as:

"First Tract:

The northwest quarter of the southwest quarter of Section 14, Township 11, Range 18, containing forty (40) acres.

Second Tract:

Also Fractional Lot No. Five (5) in Section 15, Township 11, Range 18, containing two (2) acres."

You request my opinion upon the status of the title of the lands under consideration, as disclosed by said abstract. An examination of the abstract discloses a complete break in the chain of title. In 1846 it appears that the second tract above described was conveyed to John T. Wiggins, and during the same year the first tract above described was conveyed to George S. Hann. It next appears in the abstract that John Flowers and wife gave a mortgage upon both of the premises described. It then appears that the premises were sold under a petition to sell real estate to pay the debts of the estate of William Coen. There is nothing in the abstract to indicate how the title got out of the names of George Hann or William Flowers, if the latter ever had the title. However, the chain of title seems to be regular since the lands were purchased from the estate of William Coen by John Magoon in 1868. There is also set forth an affidavit establishing adverse possession to the said premises in the present owner, Mary J. Hutton and her predecessors in title for more than twenty-four years.

It is therefore believed that the objection above noted is not to be regarded as of a serious nature and may be waived under the circumstances. It is my opinion that said abstract discloses a good and merchantable title to the premises above described to be in the name of Mary J. Hutton, free from encumbrances excepting the taxes for the year 1928 which are undetermined, unpaid and a lien. It may be pointed out, however, that said abstract shows that no examination has been made of the files and records of any of the United States courts.

You have also submitted the warranty deed of Mary J. Hutton, conveying said premises to the State of Ohio, which is believed to have been executed in proper form and will when delivered be sufficient to convey said premises to the State.

You have further submitted encumbrance estimate No. 4708, wherein the Director of Finance duly certifies that there are unencumbered balances legally appropriated sufficient to cover the purchase price of said land. You further enclose a copy of the minutes of the Controlling Board which indicates the approval of the purchase of the lands in question. Said abstract, deed and encumbrance estimate are being returned herewith.

Respectfully,
EDWARD C. TURNER,
Attorney General.