

1736.

APPROVAL—ABSTRACT OF TITLE AND WARRANTY DEED,
CERTAIN TRACTS OF LAND, GIFT TO STATE OF OHIO,
HUNTINGTON AND WELLINGTON TOWNSHIPS, LO-
RAIN COUNTY, OHIO—BOARD OF CONTROL OF THE
OHIO AGRICULTURAL EXPERIMENT STATION—REVER-
TER CLAUSE—FORFEITURE.

COLUMBUS, OHIO, January 8, 1938.

HON. CARL E. STEEB, *Secretary, Board of Control, Ohio Agricultural
Experiment Station, Ohio State University, 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 and warranty deed relating to certain tracts of land which are owned of record by Guy B. Findlay in Huntington and Wellington Townships, Lorain County, Ohio, and which he is conveying to this State as a gift or donation for the purposes stated in the warranty deed above referred to and subject to the conditions and reservations therein contained.

The tracts or parcels of land here in question are set out and described in the caption of the abstract of title and in said warranty deed as follows:

PARCEL No. 1. Situated in the Township of Huntington, County of Lorain and State of Ohio, and known as being part of original Huntington Township Tract No. 7, and bounded and described as follows: Beginning on the center line of the Ashland-Oberlin Road, so called, at its point of interesection with the northerly line of said Tract No. 7; thence easterly along the northerly line of said Tract No. 7 to the Northeasterly corner thereof; thence southerly along the easterly line of said Tract No. 7 to the northeasterly corner of land conveyed to Darius P. Wells, by deed dated February 2, 1882, and recorded in Vol. 50, Page 611 of Lorain County Deed Records; thence westerly along the northerly line of land so conveyed to Darius P. Wells about 1156.27 feet to the southeasterly corner of land conveyed to M. A. Baker and Fannie Baker by Deed dated June 28, 1923, and recorded in Vol. 192, Page 481 of Lorain County Deed Records; thence northerly along the easterly line of land so conveyed to M. A. Baker and Fannie E. Baker, as aforesaid, about 2233 feet to the northeasterly corner thereof; thence westerly

along the northerly line of land so conveyed to M. A. Baker and Fannie E. Baker, about 3438.07 feet to the center line of said Ashland-Oberlin Road; thence northerly along said center line about 1140.45 feet to the place of beginning and containing about 179.991 acres, be the same more or less, but subject to all legal highways.

PARCEL No. 2. Situated in the Township of Wellington, County of Lorain and State of Ohio, and known as being part of original Wellington Township Lots Nos. 24 and 25 and bounded and described as follows: Beginning on the center line of the Ashland-Oberlin Road, so called, at its point of intersection with the southerly line of said original Lot No. 23; thence northeasterly along said center line of the Ashland-Oberlin Road about 485.03 feet to the southwesterly corner of land conveyed to Frank L. Carey and Georgia Anna Carey by deed dated October 31, 1923, and recorded in Vol. 195, Page 110 of Lorain County Deed Records; thence easterly along the southerly line of land so conveyed to Frank L. Carey and Georgia Anna Carey, about 3319.88 feet to the easterly line of said original lot No. 24; thence southerly along said easterly line about 450.82 feet to the southeasterly corner of said original Lot No. 24; thence westerly along the southerly line of said Original Lots Nos. 24 and 25 about 3432.37 feet to the place of beginning and containing about 35.788 acres, be the same more or less, but subject to all legal highways.

PARCEL No. 3. Situated in the Township of Huntington, County of Lorain and State of Ohio, and known as being part of original Huntington Township Lot No. 3, Tract No. 17 and bounded and described as follows: Beginning on the center line of Hawley Road, so called, at its point of intersection with the northerly line of said original Lot No. 3; thence southerly along said center line about 2408.30 feet to the southerly line of said original Lot No. 3; thence westerly along said southerly line about 2205.78 feet to the southwesterly corner of said original Lot No. 3; thence northerly along the westerly line of said original Lot No. 3 to the northwesterly corner thereof; thence easterly along the northerly line of said original Lot No. 3 to the place of beginning, and containing about 123.3 acres, be the same more or less, but subject to all legal highways. Being the same lands conveyed to these grantors by G. B. Warner in a deed dated October 10, 1937, and as surveyed by Warden & Laundon on March 7, 1923.

Upon examination of the abstract of title submitted to me, the last continuation of which is certified by the abstractor under date of October 25, 1937, I find that Guy B. Findley has a good and indefeasible fee simple title to the above described parcels of land and that he owns and holds the same free and clear of all encumbrances except an oil and gas lease, hereinafter referred to, and the taxes on the property for the year 1937, the amount of which is not stated in the abstract, but which are a lien in such amount as may have been determined since the certification of the abstract or which may be hereafter determined. The oil and gas lease above referred to, which is an encumbrance upon this property and upon the title by which said Guy B. Findley owns and holds the same, was one executed under date of August 19, 1932, by G. B. Warner, Fred M. Warner and Sidney S. Warner, then the owner of the above described lands as tenants in common, to The Ohio Fuel Gas Company. By this oil and gas lease instrument, there was granted to the above named lessee therein all of the oil and gas in and under the above described lands, together with the exclusive right to drill for, produce and market such oil and gas as might be found on said premises. This lease is for a term of ten years from November 9, 1932, and so much longer thereafter as oil or gas is produced in paying quantities on the premises. This lease has not been canceled of record and the same is an encumbrance upon the property.

With respect to the taxes on this property for the year 1937, you state in your communication to me that the same are to be paid out of the funds of the Division of Forestry of the Ohio Agricultural Experiment Station. And inasmuch as Guy B. Findley and Jennie C. Findley, the grantors in the warranty deed above referred to conveying this property to the State of Ohio, reserve to themselves so long as either or both of them may live, all the oil and gas under and within said lands and the right to lease the same for the production thereof, and the State of Ohio, acting through your department, is accepting the conveyance of this property subject to this reservation, this encumbrance requires no further consideration other than that directed to the question of the authority of the Board of Control of the Ohio Agricultural Experiment Station to accept as a gift or donation a conveyance of lands subject to a reservation of this kind.

Upon examination of the warranty deed executed by Guy B. Findley and Jennie C. Findley, as grantors, conveying the above described lands to the State of Ohio, I find that the same has been executed and acknowledged by said grantors as provided by law and that the form of this deed is such that the same is legally sufficient to convey the above described lands to the State of Ohio by fee simple title, except as to the oil and gas therein contained, which, as above noted, is reserved

by said grantors for and during the lives of the grantors or either of them.

With respect to the purpose of this conveyance and the conditions attached to the same, this deed contains the following provisions:

“THE BOARD OF CONTROL OF THE OHIO AGRICULTURAL EXPERIMENT STATION, or a succeeding similar body, so long as it may exist, shall have the management of said lands. This deed is made as a gift, and is given and accepted upon the express condition and for the sole consideration that said lands shall forever be used exclusively as a State Forest, for the production of timber and for experiments with forestry projects. Should said lands or a substantial part thereof cease to be so used, they shall then revert to the grantors, their heirs or assigns.”

Looking to the statutory provisions touching the question of the authority of the Board of Control of the Ohio Agricultural Experiment Station to accept in the name of the State of Ohio as a gift or donation this deed of conveyance, subject to the conditions and reservations above referred to, it is noted that in and by Section 1173-2, General Code, the Board of Control of the Ohio Agricultural Experiment Station is authorized to purchase and accept gifts, donations or contributions of land suitable for forestry or park purposes; and by Section 1177-10d, General Code, such Board of Control is authorized to purchase or acquire by gift and hold in the name of the State of Ohio, farm woods or forest tracts representative of the various forest types of the State best suited for purposes of research and demonstration in practical forestry methods. With respect to the question here presented, these statutory provisions should be read in connection with the more general provisions of Section 18, General Code. This section provides, among other things, that the State may receive by gift lands or other properties and hold and apply the same according to the terms and conditions of the gift, which gift may be in fee simple or of any lesser estate and may be subject to any reasonable reservation.

In view of the statutory provisions above noted, I am quite clearly of the opinion that the Board of Control of the Ohio Agricultural Experiment Station is authorized to accept this deed of conveyance for and in the name of the State of Ohio, subject to the conditions and reservations contained in this deed. In this connection, it is noted that not only has this deed been executed and acknowledged by the grantors above named in the manner provided by law, but the property therein described has been transferred on the books of the County Auditor and

the deed has been filed for record with the County Recorder. This imports not only the execution of the deed by the grantors therein named, but the delivery thereof and, to some extent, the acceptance of the deed by the State, through some person or persons acting on its behalf. Nevertheless, it is suggested that if the Board of Control has not already done so, it should adopt a formal resolution accepting this deed of conveyance subject to the conditions and reservations therein contained, and forward a copy of such resolution to Hon. Guy B. Findley at Elyria, Ohio. I am herewith returning with my approval the abstract of title and warranty deed hereinabove referred to.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

1737.

AGE AND SCHOOLING CERTIFICATE — WHERE MINOR WORKS ABOUT PARENTS' FARM—UNDER SECTION 7765 G. C. SUCH WORK DOES NOT REQUIRE SUCH CERTIFICATE—TYPE OF WORK THAT REQUIRES SUCH CERTIFICATE—WHEN MINOR MAY BE EXCUSED FROM SCHOOL ATTENDANCE.

SYLLABUS:

1. *Work about the parents' farm by a minor of compulsory school age, in the absence of any facts showing that in the performance of said work on the farm the minor son will be employed by, or in the employment of, the parents, is not such work or employment that requires an "age and schooling certificate" as provided for in Section 7765 General Code.*

2. *The superintendent of schools cannot refuse to issue an age and schooling certificate, if in accordance with the provisions of Section 7766, General Code, satisfactory proof is presented to him that the child is over sixteen years of age, has satisfactorily passed a test for the completion of the work of the seventh grade, and the contemplated employment is not prohibited by any law regulating employment of children, and that all requirements set forth in Section 7766-1, General Code, have been complied with, providing however, that the employment or work for which the age and schooling certificate is requested is such work or employment that requires an age and schooling certificate.*

An application by a father for an age and schooling certificate for