

An examination of the warranty deed of Grace Galloway and George Galloway conveying this property to the State of Ohio shows that the same has been properly executed and acknowledged and is in form sufficient to convey to the State of Ohio the fee simple title in said tract of land free and clear of all encumbrances.

Encumbrance estimate No. 4364 submitted with said abstract and deed shows that the same has been properly executed and the same shows that there are sufficient balances in the proper funds to pay the purchase price of this land. There has likewise been submitted to me a copy of a certificate, over the signature of the Secretary of the Controlling Board, showing that the board has approved the purchase of the land here under investigation for the price therein named.

I am herewith returning to you the said abstract of title, warranty deed, encumbrance estimate and controlling board certificate.

Respectfully,
EDWARD C. TURNER,
Attorney General.

3025.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND OF GEORGE H. WOOD,
IN CLINTON TOWNSHIP, FRANKLIN COUNTY, OHIO.

COLUMBUS, OHIO, December 15, 1928.

HON. CARL E. STEEB, *Secretary, Board of Trustees, Ohio State University, Columbus, Ohio.*

DEAR SIR:—There has been submitted to me a corrected abstract of title certified by the abstracter under date of December 6, 1928, relating to certain real property in Clinton Township, Franklin County, Ohio, and more particularly described as follows:

“Being in Range 18, Township 1, Quarter Section 3, United States Military Lands. Beginning at a stone of the southeast corner known as northwest corner of D. Hess’ land, also northeast corner of J. Slyh land on the west margin of a county road; thence west on the north line of J. Slyh’s land to the sectional line; thence north on the township line about 39 rods and 11 links; thence east parallel with first line to the east margin to a stone of the aforesaid road; thence south about 39 rods and 11 links to the place of beginning. Being the west part of land deeded by Ransom Coe to Daniel Easterday the 25th day of May, 1854, being 44 acres or land.

Also the following described piece of land, beginning at the northeast corner of the above described 44 acres conveyed by Daniel Easterday March 3, 1871, to Alvin Coe; thence west on the north line of said 44 acres to Clinton and Perry Township line; thence north on said line about one rod; thence east parallel with first line to the east margin of the aforesaid county road; thence south about one rod to the place of beginning, containing one acre the same being conveyed by Almond Coe to Alvin Coe January 10, 1874.”

The additional information set out in the corrected abstract cures a number of the exceptions noted in a former informal opinion addressed to you with respect to the State of the title to this property. From the corrected abstract of title submitted, I find that George H. Wood owns and holds the title to the remainder in fee of said lands, subject to the outstanding life estate of his father, Joseph M. Wood, and subject further to the right of D. H. Welling, the Trustee appointed by the court in the entailment proceedings to sell said property on order of the court at public sale or at private sale for a price not less than the sum of \$40,000 and to thereby extinguish the estates of both the owner of the life estate and of the remainder in fee in said property.

In addition to the foregoing, I note the following encumbrances on said lands :

1. Under date of September 15, 1905, Clementine Wood then the owner of said lands by a written instrument duly executed, acknowledged and filed of record, granted to the Ohio Fuel Supply Company, its successors and assigns the right to lay a pipe line in and through said lands. Apparently this instrument had the effect of granting said company a perpetual easement for said purpose. Under the conditions of this instrument the company was required to bury its pipe line not less than twenty-four inches below the surface of the ground so as not to interfere with the cultivation of said land.

2. Under date of July 3, 1906, said Clementine Wood by a written instrument duly executed, acknowledged and filed of record granted to the Ohio Telephone and Telegraph Company the right, privilege and authority to construct, operate and maintain lines of telephone and telegraph including the necessary poles, wires and fixtures upon and over said lands, and upon and along the roads and highways adjoining said property, together with the right to cut all trees interfering with the construction and maintenance of said lines.

3. Under date of August 3, 1923, Joseph M. Wood, as executor of the estate of Clementine Wood filed an action in the common pleas court of Franklin County, Ohio, against Robert P. Duncan as executor of the estate of Clara M. Duncan. On October 2, 1925, this action was dismissed by the court at plaintiff's costs, which costs, amounting to \$10.25 are unpaid. Said costs are a charge against the estate of said Clementine Wood.

4. The taxes for the years 1925, 1926 and 1927 are unpaid. These taxes, together with penalties thereon amount to \$405.00. The taxes for the year 1928 amount to \$135.37. All of the taxes here mentioned are a lien.

5. The abstract shows that there is an unpaid balance of \$60.23 on a special assessment laid for the improvement of the Hess road. The sixth, seventh and eighth installments of said assessment, together with interest and penalty thereon amounting in the aggregate to \$54.78 are due and payable in December, 1928.

In case an offer is made by you for the purchase of said lands at private sale at a price not less than \$40,000 and such offer is accepted by said D. H. Welling as Trustee appointed by the court in the entailment proceedings above referred to said D. H. Welling will be required to report such private sale of the property to the court. If such report and the private sale of the property thereby returned is approved and confirmed by the court, the court will thereupon order said trustee to execute to the State of Ohio a deed for the property. When this is done, the abstract further corrected so as to show the report of the trustee and the order of the court upon the same, should be presented to this department, together with the trustee's deed and an encumbrance estimate, for my official opinion.

I am herewith forwarding to you corrected abstract of title submitted.

Respectfully,
EDWARD C. TURNER,
Attorney General.