

2907.

APPROVAL, ABSTRACT OF TITLE TO LAND OF JOHN F. FREY IN
NILE TOWNSHIP, SCIOTO COUNTY, OHIO.

COLUMBUS, OHIO, February 4, 1931.

HON. I. S. GUTHERY, *Director of Agriculture, Columbus, Ohio.*

DEAR SIR:—There has been submitted for my examination and approval an abstract of title, warranty deed, encumbrance record No. 1125 and certificate of the board of control, relating to the purchase by the state of Ohio of three several tracts of land owned of record by one John F. Frey in Nile Township, Scioto County, Ohio, which tracts of land are described as follows:

“FIRST TRACT: Beginning at a gum tree and stone on the south-east bank of Turkey Creek; thence S. 27 deg. W. 78 poles to a black oak; thence S. 16 deg. E. 26 poles to a stake; thence S. 8 deg. W. 40 poles to a stake; thence S. 32 deg. E. 39 poles to a black oak, corner to Survey No. 15832; thence, with lines and corners thereof, N. 61 deg. W. 61 poles to a black oak on a ridge; thence N. 24 deg. 45' W. 14 poles to a black oak on a ridge; thence N. 51 deg. 30' W. 56.25 poles to two hickories, a white oak and chestnut; thence N. 60 deg. W. 30 poles to a large stone and black oak; thence S. 42 deg. 54' W. 108 poles to a small poplar on the bank of McEltree Fork of Turkey Creek, corner to Survey No. 14995, thence, with one line thereof, N. 20 deg. W. 20 poles to three white oaks, corner to Survey No. 15847, thence, with lines and corners thereof, N. 31 deg. E. 93 poles to three white oaks; thence N. 53 deg. W. 33 poles to a gum and chestnut in side of a hill; thence N. 28 deg. W. 76 poles to a stake in the line of Survey No. 13995, a poplar 11" diam. bears N. 28 deg. W. 17 links; thence, with two lines of said Survey No. 13995, S. 60 deg. E. 60 poles to a poplar and white oak, thence N. 1 deg. E. 37 poles to the bank of Turkey Creek; thence down the Creek, on the southerly side, and with the meanders thereof, to the beginning; CONTAINING one hundred and forty acres, be the same more or less.

Being all of Virginia Military Survey No. 13487 and parts of Surveys Nos. 13496, 14179 and 15458. And being the lands of which Nicholas Frey died siezed and which were conveyed by the Sheriff of Scioto County, Ohio, to John F. Frey, by deed dated February 10, 1930 and of record in Deed Book No. 189, at Page No. 82 of the Scioto County, Ohio, records.

SECOND TRACT:—Situate in Nile Township, Scioto County, Ohio—Being a tract of about eight (8) acres and a part of Survey No. 14179, and being all the land now owned by John F. Frey, in said Survey No. 14179, and lying southwest of Turkey Creek, bounded on the north-east across the middle of Turkey Creek by lands of the state of Ohio, and on the east by lands of P. W. Young, and on the south by the north line of Survey No. 13487, and on the southwest by the northeast line of Survey No. 13995, and being the residue of a 57½ acres tract that was conveyed by either Jane Holt and John Holt, her husband, to John F. Frey, by deed dated Dec. 9, 1901 and recorded in Deed Book No. 72 at Page No. 4 of the Scioto County records, remaining after the following parcels have been heretofore carved out and conveyed by said John

F. Frey, to-wit: First, a parcel of 8.56 acres to P. W. Young, by deed dated July 9, 1919 and of record in Deed Book No. 131 at Page No. 460 of the Scioto County, Ohio, records; Second, all of said 57½ acres tract, excepting said 8.56 acres parcel conveyed to P. W. Young and also excepting all that part of said 57½ acres tract that lies southwest of Turkey Creek; Third, a parcel of .895 that was heretofore carved out and conveyed by said John F. Frey to P. W. Young by deed dated January 29, 1829, and of record in Deed Book No. 187 at Page No. 469 of the Scioto County Records.

THIRD TRACT: First Parcel—Situate in Nile Township, Scioto County, Ohio, and being a part of Lot No. nine of the Subdivision of Survey No. 15847 described as follows: Beginning at a gum and chestnut (the chestnut down), corner to Survey No. 14179; thence, with one line thereof, N. 27 deg. W. 77½ poles to a dogwood in the line of Survey No. 13995; thence, with the line thereof, N. 60 deg. W. 39 poles to a stake and two white walnuts on said line and on the north side of Turkey Creek; thence S. 17 deg. W. 91 poles to a stake on the south side of Lot Number nine of the Subdivision of Survey No. 15847; thence with said line east 90 poles, more or less, to the beginning containing twenty-seven and one-fourth (27¼) acres, and being a part of Lot No. nine of the Subdivision of Survey No. 15847.

Second Parcel—Being the Virginia Military Survey No. 13995, described as follows: Situate in Nile Township, Scioto County, Ohio, beginning at two maples on the bank of Turkey Creek 70 poles south of J. S. Leamons Entry No. 10863; thence N. 12 deg. W. 12 poles to a sugar tree and white walnut; thence N. 75 deg. E. 34 poles to two white oaks; thence S. 61 deg. E. 65 poles to two sugar trees from one root; thence S. 16 poles to a gum and sourwood; thence S. 61 deg. E. 44 poles to two white oaks in the northwest line of Survey No. 13487; thence with said line S. 4 deg. W. 16 poles to a white oak and poplar; thence N. 61 deg. W. 135 poles to the beginning; containing thirty-five (35) acres.

Saving and excepting from said second parcel the following described parcel: Beginning at two maples (both gone) on the bank of Turkey Creek 70 poles south of J. S. Leamons Survey No. 10863; thence N. 12 deg. W. 12 poles to a sugar tree and white walnut (both gone); thence N. 75 deg. E. 34 poles to two white oaks (both gone) a dogwood standing on the northeast side of the turnpike marked in their place; thence S. 61 deg. E. 18 2/3 rods to a sourwood and three white oaks (all small) on a line of Survey No. 13995; thence across the Survey S. 17 deg. W. 45½ rods to a stake and two white walnuts on the southwest line of said Survey and on the north bank of Turkey Creek; thence with said line N. 61 deg. W. 58 rods to the beginning, containing twelve (12) acres.

Said third tract, of two parcels, parts of Surveys 13995 and 15847, being same premises of which George Frey died seized, and which were conveyed by Charles W. Frey and Wilhelmina Frey, as heirs of said George Frey, to John F. Frey, by deed dated February 15, 1930 and of record in Deed Book No. 189 at Page No. 85 of the Scioto County, Ohio, records.

All three tracts above described containing 198.25 acres of land in the Virginia Military District in Ohio and on the waters of Turkey Creek, a branch of the Ohio River, and abutting lands of the state of Ohio."

Upon examination of said abstract of title, the last certification of which is made by the abstractor under date of January 31, 1931, I find that said John F. Frey has a good merchantable title to the above described property, free and clear of all incumbrances except the taxes for the year 1930, which taxes are unpaid and are a lien upon this property. With respect to said taxes for the year 1930, I am advised by the abstractor's certificate that the tax duplicate of said county has not yet been made up and placed in the hands of the treasurer for the collection of taxes, and that the books of the treasurer will not be opened for the collection of taxes until March 1, 1931.

The abstract of title tendered to the state by said John F. Frey has been properly executed and acknowledged by him and by his wife, Louise Frey, and the form of said deed is such that it is sufficient to convey the above described property to the state of Ohio by fee simple title, free and clear of the inchoate dower right of said Louise Frey, and free and clear of all incumbrances whatsoever.

Encumbrance record No. 1125 has been properly executed and approved and the same shows that there is a sufficient balance of unincumbered funds to pay the purchase price of said property, which is the sum of three thousand nine hundred dollars.

It likewise appears that the purchase of the above described property has been approved by the board of control, and that said sum of three thousand nine hundred dollars to pay the purchase price of said property, was released by said board under date of May 5, 1930.

I am herewith returning with my approval, said abstract of title, warranty deed, encumbrance record No. 1125 and certificate of the board of control.

Respectfully,

GILBERT BETMAN,

Attorney General.

2908.

CIGARETTE LICENSE—SELLING AT RETAIL—BUSINESS DISCONTINUED—NO TIME LIMIT FOR FILING CLAIM FOR REFUND—HOW REFUND PAID—PAID BY COUNTY AUDITOR AFTER ANNUAL SETTLEMENT MADE.

SYLLABUS:

1. Under the provisions of section 5896, General Code, when a person discontinues the business of selling cigarettes at retail, there is no time limit for the filing of a claim for refund of a portion of the assessment paid.

2. When a person discontinues the business of selling cigarettes at retail and fails to file a claim for refund until after the county auditor has made his annual settlement with the state, county, township and municipalities as provided by law, a refunder should be made by the county auditor from the general fund, and said fund should be reimbursed by deducting the amount from the proper proceeds in the county treasury credited to the subdivisions sharing in the assessment made, and if there are insufficient funds therein, the amount should be deducted proportionately from the amounts paid said subdivisions at the next tax settlement.