

4523.

APPROVAL, ABSTRACT OF TITLE TO LANDS OF FLORA L. AND
ELIZABETH H. HESS OF FRANKLIN COUNTY, OHIO

COLUMBUS, OHIO, July 26, 1932.

HON. CARL E. STEEB, *Business Manager, Ohio State University, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination and approval abstract of title, warranty deed from Flora L. and Elizabeth H. Hess, and Encumbrance Estimate No. 1512, relating to the purchase of certain lands described as follows:

Being 91.2 acres of land, being a part of quarter Section 3, Township 1, Range 18, United States Military Lands.

First Parcel:

Being all that part of Lots Nos. 2 and 3 (as shown on the plat marked "A") of the Partition of the lands belonging to the Estate of John Moses Hess, deceased, as partitioned by the Court of Common Pleas of Franklin County, Ohio, and recorded in Complete Record No. 32, page 479, Court of Common Pleas, Franklin County, Ohio, which lies west of the Columbus and Delaware Road.

Second Parcel:

Beginning at the northwest corner of the tract set off as dower to the widow of Elijah Fulton, deceased at a sugar tree and walnut tree; thence south 114 poles to the south boundary of the original survey; thence west 117 poles; thence north 73 poles to a post; thence east 29.32 poles to two lynns; thence north 41 poles to a post; thence east 88 poles to the place of beginning, containing 75 acres, more or less, excepting therefrom the following described parcel of land, to-wit:

Beginning at the northwest corner of the above described tract; thence with the east line of said tract 147 feet; thence west parallel with the north line of said tract 147 feet; thence north 147 feet to the north line of said tract; thence east with said line 147 feet to the place of beginning, containing $\frac{1}{2}$ acres, more or less.

Said Grantors, however, reserve to themselves for and during their natural lives and or the natural life of either of them, the use of the present homestead, barns and buildings used as a florist shop located on said premises, and a tract of land immediately surrounding said house, barns and florist shop, not to exceed 5 acres in area, free of any rental or taxes. It being understood, however, that said Grantors will keep said house, barns and florist shop in good repair during their natural lives, and will keep said house, barns and florist shop adequately insured during said period, the insurance payable to Grantee to be used to restore said buildings in the event of their partial or complete destruction.

Upon examination of said abstract, I find that the grantors in such deed have a good and indefeasible fee simple title to such property, free and clear of encumbrances, except a mortgage to the First Citizens Trust Company, dated September 6, 1928, recorded in Vol. 828, p. 141, Franklin County deed records, in the

original principal sum of \$6500.00. Such mortgage is a lien on the parcel shown on page 2 of the abstract as .628 acres. Also a mortgage to the First Citizens Trust Company dated August 30, 1930, recorded in Vol. 859, p. 1, Franklin County deed records, in the original principal sum of \$11,000, which mortgage is a lien upon the same parcel above referred to and other lands. Also mortgage to the Guarantee Title and Trust Company, assigned to the Ohio State Life Insurance Company of Columbus, Ohio, dated February 24, 1930, recorded in Vol. 831, p. 126, Franklin County deed records, which mortgage is in the original principal sum or \$20,000. Also subject to taxes for the last half of the year 1931.

An examination of the warranty deed submitted shows that the same has been properly executed and acknowledged by the grantors and that such deed is as to form sufficient to convey to the State of Ohio a fee simple title to the above described premises free and clear of all encumbrances except the life estate in and to five acres of land described in such deed preserved in favor of the grantors.

An inspection of Encumbrance Estimate No. 1512 shows that it has been properly executed and that there is a sufficient balance in the proper appropriation account to pay the purchase price of this property.

Assuming that the mortgages above referred to are properly cancelled of record or releases are obtained of the land intended to be conveyed from the lien of such mortgages and the taxes for the last half of the year 1931 are paid, I will approve the condition of the title and form of conveyance.

I am herewith returning to you the warranty deed above mentioned, abstract of title, encumbrance estimate and other enclosures.

Respectfully,

GILBERT BETTMAN,

Attorney General.

4524.

DELINQUENT TAXES—COUNTY AUDITOR MAY NOT REMIT PENALTY
—LIABILITY OF COUNTY AUDITOR FOR REMOVAL OF PENALTY
FROM TAX DUPLICATE.

SYLLABUS:

1. *When a county auditor has legally assessed and placed upon the tax duplicate a penalty against an entry of real estate for the reason that the taxes for the preceding half year were not paid at the time of the semi-annual settlement between the county auditor and the county treasurer, the county auditor has no legal authority to remit such penalty so added.*

2. *If after the county auditor has legally placed a penalty on the tax duplicate, he issues an abatement certificate for such penalty and removes it from the duplicate, such abatement certificate is VOID and the county auditor not only has the power, but it is his duty to re-enter such item so removed, on the duplicate, unless after such item has been so removed the legal title to the item of property against which the penalty is taxed has been conveyed to a holder for value, who relied upon the tax duplicate as it existed at the time of his purchase;*