

18.

APPROVAL, DEED TO MIAMI AND ERIE CANAL LANDS IN THE CITY  
OF CINCINNATI—EMMA HUGHES.

COLUMBUS, OHIO, January 24, 1929.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your communication of even date herewith transmitting for my examination and approval a deed of the State of Ohio to be executed by the Governor conveying to one Emma Hughes Parcel No. 101 of surplus Miami and Erie Canal Lands in the City of Cincinnati relinquished by said city to the State of Ohio under the authority of an act of the General Assembly, passed April 20, 1927 (112 O. L. 210).

An examination of said deed shows that the same is in proper form and is in accordance with the provisions of the act of the General Assembly above referred to. Section 9 of said act requires the sale of this parcel of land to be made subject to the approval of the Governor and Attorney General. The sale of the parcel of land above mentioned is herewith approved, and I have accordingly endorsed my approval upon the deed form submitted which is herewith returned.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

19.

APPROVAL, FINAL RESOLUTION ON ROAD IMPROVEMENT IN  
AUGLAIZE COUNTY.

COLUMBUS, OHIO, January 24, 1929.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*

20.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND OF EMMA J. GRU-  
BAUGH IN HANOVER TOWNSHIP, ASHLAND COUNTY.

COLUMBUS, OHIO, January 25, 1929.

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

DEAR SIR:—This is to acknowledge receipt of your communication of recent date submitting for my examination and approval abstract of title, warranty deed and other files relating to certain real property in Hanover Township, Ashland County, Ohio, which property is more particularly described as follows:

"Being that part of the Northeast quarter of Section Number Seven (7), Township Nineteen (19), Range Sixteen (16), lying East of the Clear Fork river, except Forty (40) acres out of the Northeast corner of said quarter section. Containing Sixty (60) acres of land.

Also, another parcel of land bounded and described as follows: Being known as a part of the Southwest quarter of the Southeast quarter of Section Number Six (6), in Range Sixteen (16), and in Township Nineteen (19), and being on the east side of the Clear Fork River, and beginning at a post on the east side of the Clear Fork River, on the bank of said river; thence East 31 rods to the east line of said quarter section, or to middle of the road; thence South to Section line; thence West to the bank of said Clear Fork River; thence North along the East bank of said Clear Fork River to the place of beginning, containing fifteen (15) acres of land."

Upon examination of the abstract of title submitted, I find that the title of Emma J. Grubaugh, the owner of record of the above described lands, is subject to a number of objections which are here noted as exceptions to said title.

As to the first tract of land above described, it appears that on December 23, 1864, one Margaret Vance being then the owner of the undivided half of the south half of the west half of the southeast quarter of Section 6, Township 19, Range 16, including therein the second tract above described, conveyed her interest in said tract to one John Stoner. Thereafter, on January 10, 1894, Catherine Stull and others, sole heirs-at-law of said John Stoner, then deceased, executed a warranty deed to Mary B. Smith, Emanuel Smith and Sarah Smith, whereby the grantors assumed to convey to said grantees all of the southwest quarter of the southeast quarter of Section 6, Township 19, Range 16, it being therein recited that the lands therein described were the same lands "that was intended to be conveyed by Margaret Vance to John Stoner by deed dated June 27, 1864." Thereafter, the first tract of the caption lands above described passed by mesne conveyance to John Grubaugh who obtained title to the same by deed of conveyance under date of May 3, 1897. The southwest quarter of the southeast quarter of Section 6 is identical with the south half of the west half of the southeast quarter of Section 6. However, there is nothing in the abstract to show how John Stoner ever obtained the other and outstanding undivided interest in said forty acres of land. Margaret Vance only had an undivided one-half interest in said forty acres and she did not assume to convey to John Stoner anything more than the undivided one-half interest which she had.

In this connection, it is observed that there is no subsequent history of the undivided one-half interest of Thomas Sharp in and to the one-half of the southeast quarter of Section 16 which he obtained by the deed of Ellzey Hedges and wife to himself and one William Toms under date of December 28, 1842. Apparently the undivided one-half interest in the forty acres which included the first tract of the above described caption lands which was outstanding at the time of the conveyance of Margaret Vance to John Stoner was the undivided one-half interest of said Thomas Sharp or of some one claiming under or through him. Affidavits should be secured and made part of the abstract setting out such information as may be obtained with respect to said outstanding undivided one-half interest which, as above noted, has not been brought into the record history of the title of said lands.

As to the first tract of caption lands above described, it is noted that the description thereof is quite indefinite. The description of said tract of land can be made sufficiently definite to meet the approval of this department by including in the abstract of title submitted a description of the forty acres out of the northeast corner of Quarter 7, Township 19, Range 16. This description, both for the purposes of the abstract and the deed can, I assume, be obtained from the record of some deed

whereby said forty acres out of the northeast corner of said Quarter Section 7 was conveyed to some grantee in the chain of title to said tract of land.

On July 25, 1912, John R. Grubaugh, being the owner of record of the caption lands above described, executed to the Ohio Fuel Supply Company a lease whereby he granted to said lessee for a term of twenty years, and so long thereafter as oil and gas is produced, all the oil and gas in and under said caption lands. There is nothing in the abstract to show whether any development of said lands for oil and gas was ever undertaken by the lessee; nor is there shown any other facts from which the present legal rights of the Ohio Fuel Supply Company under said lease can be ascertained.

The abstract further shows that between August 31, 1914, and August 15, 1917, said John Grubaugh executed and delivered to the Ohio Fuel Supply Company three separate instruments in writing granting to the Ohio Fuel Supply Company, its successors or assigns, the right to lay pipe lines in and through the above described caption lands.

It appears that on April 1, 1924, the said John Grubaugh died intestate, leaving him surviving his widow, Emma J. Grubaugh, and ten children; and that said Emma J. Grubaugh now holds the title to said lands by quit-claim deeds from her children covering the above tracts of land. It does not appear that any administration was ever granted on the estate of said John R. Grubaugh, and there is nothing in the abstract to show whether the indebtedness of the estate of said John R. Grubaugh has ever been paid.

Any indebtedness of said John R. Grubaugh existing at the time of his death would have the status of a lien upon said lands. *Straman vs. Rechline*, 58 O. S. 443, 458. Full information by way of affidavit should be furnished and made a part of the abstract with respect to this matter.

It further appears that no determination has ever been made with respect to the inheritance tax, if any, that became due and payable upon the succession of the heirs of John R. Grubaugh to his estate. If the caption lands above described constituted practically the whole of the estate of said John R. Grubaugh at the time of his death it is clear that no inheritance taxes accrued against any of his heirs on their succession to said estate. The abstract, however, contains no information on this point, and information in respect to this matter should be furnished and made a part of the abstract.

It appears that the taxes on said lands for the year 1928 amounting to \$15.46 are unpaid and a lien on said lands.

An examination of the warranty deed of Emma J. Grubaugh shows that the same has been properly signed and acknowledged and that the same is in proper form with the exception of the description of the first tract noted in the caption to the abstract of title, which is the second tract set out in said deed. As above noted, this description in the deed should be corrected by inserting therein, and as a part of said description of the tract of land conveyed, a description of said tract of forty acres out of the northeast corner of said Quarter Section 7.

For the reasons above stated, both the abstract of title and warranty deed of said Emma J. Grubaugh are disapproved, and the same, together with the encumbrance estimate and controlling board certificate are herewith returned to you, with the request that you forward said abstract of title and warranty deed to Emma J. Grubaugh with instructions to her to have said abstract of title and deed corrected with respect to the matters above pointed out.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*