

president of the Emergency Board showing that at a meeting of the Emergency Board held under date of May 17, 1932, said Board made an allowance of the sum of five thousand dollars (\$5,000.00) out of the appropriation made to the Emergency Board by House Bill No. 624.

I am herewith returning with my approval, except as above noted, said abstract of title, warranty deeds, encumbrance record No. 1796 and certificate of the Emergency Board above referred to.

Respectfully,
GILBERT BETTMAN,
Attorney General.

4618.

APPROVAL, CONDITIONALLY, ABSTRACT OF TITLE TO LAND IN
HOPEWELL TOWNSHIP, MUSKINGUM COUNTY, OHIO.

COLUMBUS, OHIO, September 17, 1932.

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

DEAR SIR:—This is to acknowledge the receipt of your recent communication submitting for my examination and approval an abstract of title, warranty deed, encumbrance record No. 1797 and a certificate of the Emergency Board relating to the proposed purchase of three certain parcels of land in Hopewell Township, Muskingum County, Ohio, which parcels of land are more particularly described as follows:

“Being in Section twenty (20), township one (1) of Range Nine (9), United States Military lands, and described as follows:

First Parcel: Beginning at the northwest corner of said sections; thence east on the north line of said section eighty-nine (89) rods; thence south ninety (90) rods; thence east to the east line of the northwest quarter of said section; thence south on said quarter section line to the center of said section a distance of seventeen (17) chains and fifty-six and one-fourth ($56\frac{1}{4}$) links; thence west along the south line of said quarter section thirty-nine (39) chains and eighty-six (86) links to the west line of said section; thence north along the west line of said section to the place of beginning, containing one hundred and twenty and ten hundredths (120.10) acres, more or less.

Second Parcel: Beginning at the center of said section; thence west along the line between the northwest and southwest quarters of said section thirty-nine (39) chains and eighty-six (86) links to the west line of said section; thence south along the west line of said section seven (7) chains and twenty (20) links; thence south eighty and one-half ($80\frac{1}{2}$) degrees east thirty (30) chains and twenty-five (25) links; thence north eight (8) chains and thirty-five (35) links; thence south eighty-one (81) degrees east ten (10) chains to the quarter section line; thence north along the quarter section line five (5) chains and sixty-three (63) links, more or less, to the place of beginning, and containing thirty-three and forty-four hundredths (33.44) acres, more or less.

Third Parcel: Beginning at the southeast corner of the second parcel herein described; thence south along the west line of lands now or formerly owned by Andrew Smith, to the center of the road; a distance of thirteen (13) chains and sixty-five (65) links, more or less; thence westerly along the center of said road seventy-five (75) links, more or less; thence north and parallel with the east line of said parcel to the south line of said second parcel; thence easterly seventy-five (75) links; more or less, to the place of beginning, containing one (1) acre, more or less."

Upon examination of the abstract of title submitted, which abstract was certified by the abstracter under date of August 10, 1932, I find that as of said date the property above described was and is owned in fee simple by Bessie F. Hutt Walser and Violet M. Hutt Norman as tenants, subject to the life estate of and interest of Ninnie E. Hutt, widow of William E. Hutt, deceased.

I likewise find that this property is owned and held by the above named persons free and clear of all encumbrances except the following:

The abstract shows that on a certain date not stated therein, William Hutt, who then owned the property here under investigation, executed a mortgage on this property to the Federal Land Bank of Louisville, to secure a note or other like obligation and writing in the sum of \$2,000. This mortgage is found of record in Volume 166, Page 391 of the Mortgage Records of Muskingum County, Ohio; and inasmuch as there is nothing in the abstract to show that this mortgage has been cancelled, I am required to note the same as an encumbrance upon this property to the extent of the amount of money unpaid upon the obligation secured by the mortgage and the interest due thereon. In this connection, it may be observed that, although the abstract of title does not show the date of this mortgage, it appears that William E. Hutt did not obtain title to this property until the year 1919, and for this reason there is no possibility that if this mortgage obligation remains unpaid, the same has been barred by any statute of limitations or repose. I am accordingly required to note this mortgage as an exception to the title. Needless to say, you should see that this mortgage is paid off before the transaction relating to the purchase of this property by the State of Ohio is completed.

In addition to the mortgage lien above noted, I find that a number of oil and gas leases were executed by said William E. Hutt and by his predecessors in title to this property, which oil and gas leases are on the face of the record as disclosed by the abstract, encumbrances upon this property.

On February 24, 1911, one George H. Brown, then the owner of the property here under investigation, executed an oil and gas lease to the Ohio Fuel Supply Company, by which lease there was granted to said company the right to take oil and gas from this land for a period of twenty years and for as much time thereafter as oil and gas on said land might be produced. This lease, which was recorded in Volume 11, Page 576, of the lease records of said county, has not been released of record and the same is an encumbrance upon the property.

On August 24, 1917, George H. Brown executed another oil and gas lease on this property to the Carter Oil Company. This lease, which was recorded in Volume 17, Page 420 of the Lease Records of the county, was for a stated term of ten years from the date thereof and as much longer as oil or gas might be produced in paying quantities on the lands. This lease has not been released of record and for this reason the same must be noted as an encumbrance upon the property.

In addition to the encumbrances upon this property created by the oil and

gas leases above referred to, I note that on February 20, 1924, William E. Hutt then the owner of this property, executed a certain instrument in writing by which there was granted to the Carter Oil Company, its successors and assigns, a right of way for all pipe lines, telegraph and telephone lines that said company might desire to construct in and upon this property.

There is nothing in the abstract to show what, if anything, has been done by the respective lessees above named, under these lease instruments or whether any rights taken by these lessees have been lost by abandonment. These are questions which can only be determined by inquiry and investigation. It likewise may be observed in this connection that the question whether the rights given to said lessees or any operations conducted by them in the exercise of these rights, will interfere with the use which the Ohio Agricultural Experiment Station intends to make of these lands, is a matter which this department will have to determine for itself.

In addition to the exceptions above noted, it appears that the undetermined taxes for the year 1932 are a lien upon this property.

Upon examination of the warranty deed, tendered by Ninnie E. Hutt, Bessie F. Hutt Walser and Violet M. Hutt Norman, I find that this deed has been properly executed and acknowledged by these grantors and by the respective husbands of the last two grantors above named. I likewise find that the form of this deed is such that it is sufficient to convey this property to the State of Ohio by full fee simple title free and clear of the dower interests of the husbands of Bessie F. Hutt Walser and Violet M. Hutt Norman, and free and clear of all encumbrances except taxes for the year 1932 and thereafter.

Encumbrance record No. 1797, which has been submitted as a part of the file relating to the purchase of this property, has been properly executed, and the same shows a sufficient balance in the proper appropriation account to pay the purchase price of this property, which purchase price is the sum of \$5,000.

It is likewise shown by the certificate of the Emergency Board, above referred to, that said sum of \$5,000 to pay the purchase price of this property was allowed by said board for this purchase out of the appropriation made to the Emergency Board under House Bill No. 624.

Subject to the exceptions above noted, said abstract of title is approved, and the same, together with the warranty deed, encumbrance record No. 1797 and certificate of the Emergency Board, is herewith returned.

Respectfully,

GILBERT BETTMAN,
Attorney General.