

(4) It appears from the abstract that administration has been granted upon the estate of said George Uhl, but no proceeding in the administration of said estate is shown, and it does not appear that the indebtedness of the estate of said George Uhl has been paid. This should be ascertained before the transaction relating to the purchase of this property by the state is closed.

(5) It appears that the taxes for the last half of the year 1927, amounting to fifty-four dollars and forty-four cents (\$54.44) are unpaid and a lien upon said land. Likewise the taxes for the year 1928, the amount of which is as yet undetermined, are a lien upon said premises.

An examination of the warranty deed of said Ida S. Uhl, Clement Uhl and Edward Uhl, submitted with said abstract of title, shows that the same has been properly executed and acknowledged and that it is in form sufficient to convey to the State of Ohio a fee simple title to said lands free and clear of all encumbrances.

I have likewise examined encumbrance estimate No. 1386 relating to the purchase of said lands and find the same to be properly executed and to show that there are encumbrance balances in the appropriation account sufficient to pay the purchase price of said land, and that the moneys in said appropriation act are applicable to the payment of such purchase price. I note that in said encumbrance estimate there appears a statement over the signature of the Director of Finance that the purchase of said tracts of land has been approved by the controlling board pursuant to the authority of Section 12 of House Bill No. 502.

I am returning to you with the abstract of title, said deed and encumbrance estimate. All of these files should be returned to this department with the corrected abstract.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2236.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND OF EDSON O. KERNS
AND WIFE, IN HOCKING TOWNSHIP, FAIRFIELD COUNTY, OHIO.

COLUMBUS, OHIO, June 16, 1928.

HON. JOHN E. HARPER, *Director, Department of Public Welfare, Columbus, Ohio.*

DEAR SIR:—YOU recently submitted for my examination and opinion an abstract of title and a warranty deed executed by Edson O. Kerns and Christena Kerns, his wife, covering certain lands and premises in Hocking Township, Fairfield County, Ohio, and more particularly described as follows:

FIRST TRACT: Being the south one half of the northeast quarter of Section No. 23, in Township No. 14; of Range No. 19, containing eighty (80) acres more or less; but, excepting therefrom the right-of-way of the Lancaster Traction Company, and excepting also therefrom twenty-seven hundredths (27/100) of an acre out of the northwest corner lying west of the Lancaster and Hamburg Road, conveyed by Jacob Leui to George Snoke, by deed dated March 1st, 1924, and recorded in Deed record No. 154 on page 275 of the Deed records of said county. The premises described in this tract, including the said exceptions were conveyed

to the said Jacob Leui by the assignees of John S. Brasee by deed dated February 18th, 1889, and recorded in deed book No. 63, on page 337 of the Deed records of said Fairfield County, Ohio.

SECOND TRACT: Being a part of the northeast quarter of Section No. 23, in Township No. 14 of Range No. 19, and bounded by beginning at a stone at the northeast corner of said Section No. 23; thence south 20.26 chains to a stone; thence west 9.87 chains to a stone; thence north 20.26 chains to a stone; thence E. 9.87 chains to the place of beginning, containing twenty (20) acres of land, more or less; Also, situate in said county and state and in said Township of Hocking, the following:

Being a part of the northwest quarter of Section No. 24, in Township No. 14, of Range No. 19, and bounded by beginning at a post 20.26 chains south from the northwest corner of said Section No. 24; thence east 3.65 chains to the west line of the right-of-way of the Fairfield Traction Company; thence south westerly, with said right-of-way 6.28 chains to the section line between Sections 23 and 24; thence north with said section line 5.165 chains to the place of beginning containing ninety-four hundredths ($\frac{94}{100}$) of an acre more or less, and being the same premises described in deed of George A. Harman to Jacob Leui dated January 24th, 1903; and recorded in deed book No. 97 on page 447 of the record of Deeds of Fairfield County, Ohio.

THIRD TRACT: Being a part of the southeast quarter of Section No. 23, in Township No. 14, of Range No. 19, and bounded by beginning at a stone 10.11 chains west of the northeast corner of said southeast quarter; thence west 14.46 chains to a stone; thence south 24.80 chains to a stone; thence north 77° east 14.14 chains to a stone; thence north $1\frac{1}{4}^{\circ}$ west with the west line of the Fairfield Traction Company's right-of-way 14.62 chains to the place of beginning of the curve of said Railway; thence with said curve northwardly 7.20 chains to the place of beginning, containing ($31\frac{1}{2}$) thirty-one and one-half acres of land, more or less; and being the same premises conveyed to Jacob Leui by Frank Uhl and wife by deed dated March 20th, 1907, and recorded in Deed record No. 109, on page 231, of the records of Fairfield County, Ohio.

The aggregate amount of land hereby conveyed being one hundred and thirty-one and seventeen hundredths (131.17) acres more or less."

From my examination of the abstract of title submitted I find that said Edson O. Kerns and Christena Kerns, are the owners of said lands and premises but that their title thereto is subject to the following exceptions:

1. The title to said lands is defective in this, that it is not shown by the abstract that any government patent covering the lands in the northeast quarter of Section 23, Township 14, Range 19, has ever been issued and filed for record.

2. At page forty of the abstract there appears a deed from Jacob S. Staley and Catherine Staley, his wife, to John T. Brasee, conveying to John T. Brasee, one undivided thirteenth part of the south half of the northeast quarter of said Section 23, Township 14, Range 19. This deed was one under date of April 12, 1847; but there is nothing whatever in the abstract showing the prior history of said lands or how Jacob Staley and Catherine Staley obtained any interest therein. I infer from some later recital in the abstract that probably the interest conveyed was that of Catherine Staley, which she and brothers and sisters, twelve in number,

obtained through one Jacob Meak. In this connection it appears that said Jacob Meak and one Elias Bixler, were the owners of a registry certificate obtained by them from the registerer of the land office at Chillicothe, Ohio, for the whole of the northeast quarter of Section 23, in Township 14, Range 19.

At pages thirty-eight and thirty-nine of the abstract there is shown a partition indenture entered into by and between Jacob and Sarah Meak and said Elias Bixler. Properly in the connection in which the same is found in the abstract said indenture should show a conveyance by Elias Bixler to Jacob Meak of the south half of the northeast quarter of said Section 23, inasmuch as it otherwise appears in the abstract that said Elias Bixler by indenture deed obtained the north half of said quarter section. However, the indenture deed shown at pages thirty-eight and thirty-nine is, as above noted, a conveyance by Jacob and Sarah Meak to Elias Bixler of the north half of said quarter section and there is nothing in the abstract to show how Jacob Meak obtained title to the south half of said quarter section.

3. The abstract at page one hundred and fourteen shows a deed by Henry B. Peters, assignee, and S. Theodore Shaffer, Trustees of John S. Brasee, which was apparently executed to one Jacob Leui, conveying the south half of the northeast quarter of Section 23. The granting clause of said deed as shown by the abstract conveys said land to one Joseph Uhl. This is probably a mere error on the part of the abstractor. However, this matter should be carefully checked and if necessary the abstract should be corrected with respect to this matter.

4. The description of the first tract of land contained in the land and premises above described is defective in this, that the abstract does not contain any description by metes and bounds of the twenty-seven hundredths ($27/100$) acres of land out of the northwest quarter of the south half of said northeast quarter of Section 23, which was conveyed by Jacob Leui to George Snoke by deed under date of March 1, 1924.

5. At page eighty of the abstract there is shown a patent for the southeast quarter of Section 23, Township 14, Range 19. This patent is under date of November 26, 1813. The abstract shows no further history of the title to said southeast quarter or to any of the lands therein contained until 1842, when there appears a partition deed signed by John T. Brasee and Mary Jane Brasee, his wife, and by James R. Stanbery and Eliza Stanbery, his wife, from which it appears that said Mary Jane Brasee and Eliza Stanbery, are tenants in common of the south half of Section 23. The abstract is obviously defective in not showing the chain of title by which said Mary Jane Brasee and Eliza Stanbery obtained title to said tract of land.

6. The abstract shows that Joseph Uhl being owner of the east half of the southeast quarter of Section 23, Township 14, Range 19, devised the same by his last will and testament to Frank Uhl, subject to the life estate of Justina Uhl.

At page one hundred and twenty-nine of the abstract there is shown a deed of said lands by Frank Uhl and Sally Uhl, to Jacob Leui. There is nothing in the abstract to show however, that at the time Frank Uhl and wife executed this deed to Jacob Leui, the life estate of Justina Uhl had been terminated by her death.

7. Included within the above described lands and premises is a small tract of ninety-four hundredths ($94/100$) of an acre out of the northwest quarter of Section 24, Township 14, Range 19. At page nineteen of the abstract there appears a deed by John A. Arney and Rose A. Arney to one Bartholomew Vagnier, conveying eighty and sixteen hundredths ($80\ 16/100$) acres of land out of the northwest quarter of said Section 24. The date of this deed was January 6, 1874. There

is nothing in the abstract to show the history of the title to this quarter section or to any of the lands therein contained prior to the deed just referred to. The abstract should be corrected by setting out the government patent for said quarter section of land and likewise the subsequent history of the title to the lands in said quarter section down to the time of the Arney deed above referred to.

8. It appears by further information from the abstractor that the above described property is subject to encumbrance arising out of two separate leases executed and delivered by Jacob Leui to the Ohio Fuel Supply Company, while he was the owner of said property. The first of said leases is one under date of April 28, 1917, granting to the Ohio Fuel Supply Company the right to lay, maintain and operate pipe lines in and over said premises, while the other lease which is dated February 27, 1920, grants to said company, its successors and assigns, the right to drill for and to take oil and gas from said premises for a period of twenty years, or as long as oil and gas are found in marketable quantities. How far the operations of the said The Ohio Fuel Supply Company, or its successors and assigns, will interfere with the use of these lands, is a matter which you must decide.

9. The taxes for the last half of the year 1927 due and payable in June, 1928, amounting to one hundred forty and 60/100 dollars (\$140.60) are unpaid and a lien. Likewise the taxes for the year 1928, the amount of which is undetermined, are a lien on said premises.

I have examined the warranty deed executed and acknowledged by Edson O. Kerns and Christena Kerns, his wife, and find the same to be in form sufficient to convey a fee simple title in the above described lands to the State of Ohio.

I have likewise examined Encumbrance Estimate No. 1384 covering the purchase of the above described lands and find that the same has been properly executed and that there is shown sufficient balances in the appropriation act to pay the purchase price of said lands, and that said balances are properly applicable to the payment of said act.

The encumbrance estimate contains a certificate over the signature of the Director of Finance showing that the Controlling Board has approved the purchase of said lands in accordance with the authority vested in it by Section 12 of House Bill No. 502.

I am herewith returning to you said abstract of title, deed and encumbrance estimate. All of these files should be again submitted to this department with the corrected abstract of title.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2237.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND OF HENRY OATNEY
AND WIFE, IN FAIRFIELD COUNTY.

COLUMBUS, OHIO, June 16, 1928.

HON. JOHN E. HARPER, *Director of Public Welfare, Columbus, Ohio.*

DEAR SIR:—You recently submitted to this department for opinion an abstract of title and warranty deed of Henry Oatney and wife covering certain land, the