

233.

APPROVAL, ABSTRACT OF TITLE TO LAND OF MELL C. GABRIEL IN
THE CITY OF TROY, MIAMI COUNTY.

COLUMBUS, OHIO, March 23, 1929.

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

DEAR SIR:—This is to acknowledge your communication of recent date, submitting for my examination and approval abstract of title, deed form, encumbrance estimate No. 3189 and controlling board certificate relating to a tract of one and one-half acres of land, situated in the city of Troy, Miami County, Ohio, now owned of record by one Mell C. Gabriel. The tract of land here in question is more particularly described as follows:

Beginning at an iron pin on the east side of Union Street in the city of Troy, which is 34 feet north of the south corporation line of said city; thence north with the east line of Union Street six hundred (600) feet to an iron pin—thence east thirty-nine (39) feet to an iron pin; thence in southeasterly direction to an iron which is thirty-four (34) feet north of the south corporation line of said city of Troy; thence west parallel with said corporation line one hundred and seventy-nine (179) feet to an iron pin to the place of beginning, containing 1.50 acres.

Upon examination of the abstract of title submitted, I find that said Mell C. Gabriel has a good and merchantable fee simple title to the above described tract of land, free and clear of all encumbrances with possibly the exception of the taxes for the year 1928. The abstracters in their certificate to said abstract state that the amount of taxes due on said premises for the year 1928 and due and payable December 20, 1928 and June 30, 1929, were not reported at the time of said certificate as the tax duplicate was not then completed. Said taxes if unpaid are, of course, a lien on the premises.

In this connection it is suggested that inasmuch as some months have elapsed since the date of the certificate of this abstract, to wit, November 1, 1928, a check be made in the records of Miami County for mortgages and other liens and encumbrances on the lands of said Mell C. Gabriel, including the premises here under investigation, that may have been placed thereon since the date of the certificate of this abstract.

I have examined the deed form submitted, and find the same correct as to form with the exception that the words "Department of Highways should be stricken from the granting clause. With this correction and the insertion therein of the consideration to be paid to said Mell C. Gabriel for this property, said deed when properly executed and acknowledged will be in form sufficient to convey to the State of Ohio a fee simple title to the tract of land therein described, free and clear of all encumbrances whatsoever.

An examination of encumbrance estimate No. 3189 shows that an appropriation of \$600 to pay the purchase price of this property was made by the Legislature; that no payments have been made from said appropriation and that said appropriation is now intact to the extent of the full amount thereof, and that the same is available for the purpose of paying the purchase price of this property.

An examination of the certificate of the Controlling Board over the signatures of the secretary shows that under date of March 1, 1929, said Controlling Board approved the purchase of the property here in question.

When the warranty deed for these premises is executed and acknowledged by

Mell C. Gabriel, the grantor, the same should be submitted to this department for approval.

I am herewith returning to you said abstract of title, deed form, encumbrance estimate and controlling board certificate.

Respectfully,
GILBERT BETTMAN,
Attorney General.

234.

APPROVAL, FINAL RESOLUTIONS ON ROAD IMPROVEMENTS IN BELMONT COUNTY.

COLUMBUS, OHIO, March 23, 1929.

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

235.

APPROVAL, BONDS OF CLARIDON TOWNSHIP, MARION COUNTY—
\$11,096.86.

COLUMBUS, OHIO, March 23, 1929.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

236.

HOUSE BILL NO. 383—AMENDING SECTION 499-9, GENERAL CODE—
PUBLIC UTILITIES—BILL CONSTITUTIONAL.

SYLLABUS:

House Bill No. 383, if enacted into law, would not be unconstitutional.

COLUMBUS, OHIO, March 25, 1929.

HON. GILBERT MORGAN, *Chairman, Reference Committee, House of Representatives, Columbus, Ohio.*

DEAR SIR:—I acknowledge receipt of your letter of recent date, asking my opinion as to the constitutionality of House Bill No. 383—Mr. Jackson—to amend Section 499-9, General Code, in view of the decision of the court in the case of *McCardle vs. Indianapolis Water Co.*, 272 U. S. 400. If the bill be enacted into law, Section 499-9, General Code, will read as follows: