

You also ask my opinion as to how the matter of the Ten Thousand Dollar (\$10,000.00) mortgage above referred to should be handled in the completion of the transaction. I would suggest that when the date for closing the transaction had been determined, information should be obtained from the mortgagees as to the balance due on the mortgage as of that date. A warrant should then be issued in favor of the mortgagees, and upon delivery of said warrant to the mortgagees the canceled mortgage should be obtained and the cancellation immediately placed on record.

In connection with the right of way above referred to, while the same is an encumbrance on the property, I note among the papers submitted a letter from the Superintendent of the Cleveland State Hospital to the effect that the existence of said right of way will not interfere with the use of the property by the State.

I am returning herewith the abstract of title, deed and all other papers submitted in this connection.

Respectfully,

EDWARD C. TURNER,
Attorney General.

2393.

APPROVAL, ABSTRACT OF TITLE TO LAND OF W. S. SHAFFER, IN
GILEAD TOWNSHIP, MORROW COUNTY, OHIO.

COLUMBUS, OHIO, July 26, 1928.

HON. CHAS. V. TRUAX, *Director of Agriculture, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of an abstract of title of certain lands in Gilead Township, Morrow County, Ohio, being a part of the Northeast Quarter (N. E. $\frac{1}{4}$) and the Northwest Quarter (N. W. $\frac{1}{4}$) of Section One (1), Township Thirteen (13), Range Twenty-one (21), and a part of the Northwest Quarter (N. W. $\frac{1}{4}$) of Section Six (6), Township Seventeen (17) and Range Twenty (20), described as follows, to-wit:

“Commencing at a point in the center of the Mt. Gilead and Mt. Vernon State Road at a cross mark in the cement 590 feet east of the center of the cement bridge and at the Southwest corner of a tract of land formerly owned by Rachel Duncan. Thence easterly along the center of said road South $75^{\circ} 30'$ East 278.3 feet; thence South $58^{\circ} 15'$ East along the center of said road 209.4 feet; thence South $55^{\circ} 30'$ East along the center of said road 293 feet to a corner with a cross mark in the cement; thence North $0^{\circ} 30'$ East 268 feet; thence along the south line of the old mill race at high water mark North $77^{\circ} 30'$ East 154.2 feet; thence South $78^{\circ} 30'$ East 218.5 feet; thence North $73^{\circ} 30'$ East 353.1 feet; thence North $56^{\circ} 30'$ East 251.2 feet; thence South $89^{\circ} 45'$ East 163.5 feet; thence South 47° East 105.9 feet to the south end of the old Mill Dam. Thence along the high water mark at approximately the following lines, to-wit: South $47^{\circ} 30'$ East 163 feet, thence South 80° East 495.2 feet; thence North 32° East 187.3 feet; thence East 204.4 feet; thence South 83° East 578.1 feet; thence South $64^{\circ} 30'$ East 322.2 feet to the east line of said Section One (1) at a corner. Thence South along said section line 2° West 945 feet to the center of the Mt. Gilead and Mt. Vernon road. Thence South 87° East along the center of said road 182.3 feet; thence North 2° East parallel with the section line 2386 feet to a corner, being the

north line of said Section Six (6), Township Seventeen (17) and Range Twenty (20); thence North 87° West 182.3 feet to the Northwest corner of said Section Six (6); thence North 87° West along the north section line of Section One (1) 3551.7 feet across Whetstone Creek to an old corner post; thence South 8° East 300 feet to a point in the center of said Creek; thence South following the center line of said Creek 494 feet to the mouth of Sam's Creek and to an iron pin on the south bank of same; thence South 8° West 663.8 feet to the place of beginning and containing 125 acres of land more or less according to a survey made March 3 and 4, 1927, described in the Plat Records Volume 5 at page 112 of the Morrow County Plat Records.

A careful examination of the abstract of title submitted shows that W. S. Shaffer has a good and merchantable fee simple title to the above described lands and premises, subject only to the following exceptions:

1. On March 6, 1919, said W. H. Shaffer and Ellen Shaffer, his wife, executed a mortgage on a tract of land, including the premises above described, to Edward Jones, Henry H. Mosher, Wm. H. Shreve, Sylvester J. Santie and Elizabeth M. Jenkins, Trustees of the Friends Foreign Missionary Society of Ohio. This mortgage, which was one in and for the sum of Forty-four hundred (\$4,400.00) dollars, is, to the amount still unpaid thereon, a lien on the lands and premises above described.

2. As above noted, the lands here in question are situated in part in the Northeast Quarter (N. E. $\frac{1}{4}$) and the Northwest Quarter (N. W. $\frac{1}{4}$) of Section One (1), Township Thirteen (13), Range Twenty-one (21), and in part in the Northwest Quarter of Section Six (6), Township Seventeen (17), Range Twenty (20). Of the lands and premises of W. S. Shaffer above described, about ten acres thereof is located in the Northwest Quarter (N. W. $\frac{1}{4}$) of Section Six (6), Township Seventeen (17), Range Twenty (20). On February 13, 1891, there was conveyed by the sheriff of Morrow County, Ohio, to one Leslie Chase two certain tracts of land, aggregating about forty-eight (48) acres, in the Northwest Quarter (N. W. $\frac{1}{4}$) of Section Six (6) above mentioned, which included the ten acres above referred to, which is now a part of the lands which said W. S. Shaffer proposes to convey to the State of Ohio.

On March 3, 1891, said Leslie Chase conveyed said tracts comprising said forty-eight acres to one Lavina McGee. At the time Leslie Chase conveyed said lands to Lavina McGee, no wife joined with him in the execution of said deed, and there is nothing in the abstract to show whether at said time, or at the time said Leslie Chase received the conveyance of said lands from the sheriff of Morrow County, Ohio, he was a married or a single man. If said Leslie Chase was a married man at the time he received the conveyance of these lands from the sheriff, or if he was married after these lands were conveyed to him and before he conveyed the same to Lavina McGee, such wife, if living, would have a dower interest in all of said lands, including the ten acres which Mr. Shaffer proposes to convey to the State of Ohio. In such event, said wife would probably be at this time about sixty years of age, and even though her dower rights had become consummated by the death of her husband, her dower interest in said ten acres of land would not exceed in value the sum of One hundred (\$100.00) dollars.

3. The abstract shows that the taxes for the last half of the year 1927, and the undetermined taxes for the year 1928, are unpaid and a lien on said lands. Said abstract of title was certified by the abstractor under date of February 4, 1928, and it is possible, of course, that the taxes for the last half of the year 1927 have been paid since said abstract was certified.

With said abstract there is submitted what purports to be a copy of the deed to be delivered by W. S. Shaffer conveying said lands to the State of Ohio. In this connection it will be noted that the original deed executed by said W. S. Shaffer was submitted to

this department under date of July 18, 1928, and that the same was returned to you the same date, together with Opinion No. 2370 of this department.

An examination of encumbrance estimate No. 3929 relating to the purchase of these lands has been examined and I find the same to be properly executed and to show sufficient balances in a proper appropriation account sufficient to pay the purchase price of said lands.

There has likewise been submitted to me a copy of a certificate, over the signature of the Secretary of the controlling Board, showing that under date of May 21, 1928, said board approved the purchase of the lands herein in question as 123 acres, more or less. Inasmuch as the purchase price of the above described lands, consisting of 125 acres of land, does not exceed the purchase price of the lands, the purchase of which was approved by the Controlling Board, I am inclined to the view that the action of said Controlling Board may be interpreted and construed so as to authorize the purchase of the lands here in question.

I am herewith returning to you said abstract of title, copy of deed, encumbrance estimate, Controlling Board certificate and Opinion No. 2370 of this department, addressed to you, under date of July 18, 1928.

Respectfully,

EDWARD C. TURNER,
Attorney General.

2394.

APPROVAL, FINAL RESOLUTIONS ON ROAD IMPROVEMENTS IN HAMILTON, JEFFERSON, RICHLAND, ERIE, WOOD AND GUERNSEY COUNTIES.

COLUMBUS, OHIO, July 27, 1928.

HON. HARRY J. KIRK, *Director of Highways, Columbus, Ohio.*

2395.

APPROVAL, FORM 2-B, TO BE USED IN COOPERATION OF HIGHWAY DEPARTMENT WITH MUNICIPALITIES IN CONSTRUCTING BRIDGES.

COLUMBUS, OHIO, July 27, 1928.

HON. HARRY J. KIRK, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—Receipt is acknowledged of your communication of recent date as follows:

“I am attaching hereto ‘Form 2-B—to be used by County Commissioners proposing to cooperate with the Department of Highways in the construction or reconstruction of bridges and viaducts within municipal corporations,’ on which I would like to have your approval.”

I have carefully examined the attached form designated as “Form 2-B”, which is to be used by the county commissioners proposing to cooperate with the department