

such soldier, sailor or marine, or any army nurse who did service at any time in the army of the United States, who *dies*, not having the means to defray the necessary funeral expenses. * * **

Your letter also states that the burial was made in Michigan. The letter does not state whether or not the proposed place of burial was known by the committee before it entered into the contract. The language of our statute says such burial may be made in any cemetery or burial ground within the state, other than those used exclusively for the burial of paupers and criminals.

It is believed that the burial place is only incidental to the main question and that it is directory in the statute only. The fact remains that this committee, according to your letter, upon due investigation, entered into a contract for the burial of this soldier. It is presumed that all the necessary jurisdictional questions were determined to be present before the contract was entered into.

This department has heretofore been called upon to construe section 2950, General Code. In volume II, Annual Report of the Attorney General 1911-1912, page 1471, it was said:

“The statute certainly is one to be construed liberally in favor of the soldiers.”

Again, in the Opinions of the Attorney General, 1919, volume I, page 495, the second branch of the syllabus reads as follows:

“When such committee has so contracted for such burial, in conformity with the provisions of the above sections, and in the absence of fraud or collusion, the county commissioners are not authorized to review the action of said committee or modify their contract so made.”

Again, in 1921, Opinions of the Attorney General, at page 48, in a case where the burial committee had not taken the necessary preliminary steps and entered into a contract, this department held that this fact was jurisdictional to the consideration of the bill by the county commissioners.

It is therefore my opinion that according to the facts presented in your letter, the bill should be allowed and ordered paid.

Respectfully,
EDWARD C. TURNER,
Attorney General.

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DISAPPROVAL, ABSTRACT OF TITLE, CERTAIN LAND IN HOCKING COUNTY FOR USE OF OHIO AGRICULTURAL EXPERIMENT STATION.

COLUMBUS, OHIO, March 22, 1927.

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

DEAR SIR:—Pursuant to your request, addressed to my predecessor, I have examined the abstract of title to certain real estate in Hocking county, which the state proposes to purchase for the use of the Ohio Agricultural Experiment Station. This property is described in the caption of the abstract as follows:

"Being the south east quarter of the south east quarter of section 33, township 12, range 18, in Laurel township, Hocking county, Ohio, containing 42 acres.

Also the north east quarter of the north east quarter of section 4, township 11, range 18, in Benton township, Hocking county, Ohio, containing 37 acres.

Also fractional lot No. 4, in section 3, township 11, range 18, Hocking county, Ohio, containing 11½ acres, more or less."

I have made an examination of the abstract which purports to set out the various links in the chain of title from the time these lands were granted by the United States to the first individual owners, and is supplemented with the affidavit of Harry Conkle, in which he states he is sixty-eight years of age, and has resided in the vicinity of these lands during all his lifetime, and he has been acquainted with the various owners for more than forty years, during which time Emery O. Bainter and his predecessor in title have had the exclusive, open, notorious, adverse and continuous possession of said premises under the claim of ownership, and during that time their claims have not been questioned. Not having the means of knowing the credibility of this affiant we must assume he is competent and credible.

My examination of this abstract discloses a number of irregularities in the early transfers, but taking everything into consideration including the affidavit of Harry Conkle, I am of the belief that there exists in Bainter a good merchantable title, free and clear of all encumbrances except taxes for 1926, and oil and gas rights as reserved by William Wine for a term of twenty years from March 19, 1912, and the rights of way for two pipe lines held by the Logan Natural Gas & Fuel Company, and the Ohio Fuel Supply Company, and that the said Emery Bainter has power to convey this property in fee simple.

I have also examined the deed submitted with the abstracts, but cannot approve it in its present form.

Section 1172 of the General Code of Ohio provides as follows:

"The title of all lands for the use of experiment stations shall be conveyed in fee simple to the state."

This deed submitted recites in its granting clause that the property is granted, sold and conveyed "to the state of Ohio for the use of the Agricultural Station, Division of Forestry," and in my opinion, this does not convey title in fee simple. This clause should read—"to the state of Ohio."

When this deed is rewritten and re-executed, I would approve the title and deed. I am returning herewith the deed and abstract submitted.

Respectfully,

EDWARD C. TURNER,

Attorney General.