

965.

APPROVAL, ABSTRACT OF TITLE TO LAND IN WEST UNION, ADAMS COUNTY, OHIO.

COLUMBUS, OHIO, September 7, 1927.

HON. GEORGE F. SCHLESINGER, *Director of Highways and Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted, for my examination and opinion, an abstract of title, warranty deed, encumbrance certificate and other papers pertaining to a proposed purchase of real estate in West Union, Ohio, to be used for the erection of a highway storage shed in Adams County. The abstract was prepared by Horace G. Pettit, Abstracter, West Union, Ohio, and covers the following described real estate situated in the Township of Tiffin, County of Adams and State of Ohio, to-wit:

“*Lot No. 1:* Beginning at the S. E. corner of said lot adjoining an alley; thence north 20 poles; thence west 8 poles; thence south 20 poles; thence east 8 poles to the beginning, containing one (1) acre, part of Survey No. 1947.

Lot No. 2: Beginning at the southwest corner of Lot No. 1; thence north 20 poles; thence west 8 poles; thence south 20 poles; thence east 8 poles to the beginning, containing one (1) acre, part of Survey No. 1947.

Said real estate is now carried on the tax duplicate as two (2) acres of land in West Union Corporation, Adams County, Ohio.”

The information contained in the abstract is very meagre, nothing being shown pertaining to said property prior to May 1, 1867. This deficiency is explained, however, by a certificate by the abstracter to the effect that the court house of the county was destroyed by fire on February 25, 1910, and that the tax duplicates of the county prior to 1893 and the transfer records of the county prior to 1853 were destroyed by fire. The abstract also contains certain affidavits to the effect that Jessie S. Bartlett and H. E. Gaffin, and those under whom they claim title, have been in open, notorious, peaceable, undisputed and adverse possession of said premises for fifty (50) years, and that there are no adverse claims to their title to the knowledge of the affiants. The abstracter has also furnished a photostatic copy of the original patent showing that the land included in Survey No. 1947 was patented to Joseph Darlington on January 12, 1807.

From an examination of the above, I am of the opinion that H. E. Gaffin and Jessie S. Bartlett have a good and merchantable title in and to the premises above described, subject to the taxes for the year 1927, which are a lien, and subject to the dower estate of Henry B. Gaffin, widower of Lillie B. Gaffin, deceased.

The encumbrance certificate, bearing No. 1566, was certified by the Director of Finance on July 20, 1927, and appears to be in proper legal form.

The deed submitted names the “State of Ohio, Division of Highways” as grantee. In my opinion whenever a conveyance of land is made to the State of Ohio, for any purpose, the same should convey a fee simple title to the state, without reference to the department for whose use the conveyance is made, or the purpose for which the land is to be used, unless a statute provides or permits otherwise. I also wish to direct your attention to the fact that there is no “Division of Highways” in the State of Ohio. I would suggest, therefore, that the deed be returned to the grantors and a new deed prepared conveying the real estate to the “State of Ohio,” without any further reference to any department.

Finding that Jessie S. Bartlett and H. E. Gaffin have a good and merchantable title in and to said premises, except as above set out, and finding said encumbrance certificate in proper form, I hereby approve the same and return the same to you herewith, together with all other papers submitted in this connection. The deed above referred to is also returned herewith for correction, in accordance with the suggestions made above.

Respectfully,
EDWARD C. TURNER,
Attorney General.

966.

APPROPRIATIONS—APPLICATION OF SECTION 8 OF HOUSE BILL NO
502, 87TH GENERAL ASSEMBLY—WILBERFORCE UNIVERSITY.

SYLLABUS:

Section 8 of House Bill No. 502, passed by the 87th General Assembly, applies only where an appropriation is made to pay the salaries of a specified or fixed number of employes, whose salaries are not fixed by law, and has no application to the appropriation made to the Combined Normal and Industrial Department of Wilberforce University, for the purpose of paying the salaries of the directors, instructors and other employes hired by the board of trustees of such institution.

COLUMBUS, OHIO, September 8, 1927.

HON. WILBUR E. BAKER, *Secretary Controlling Board, Columbus, Ohio.*

DEAR SIR:—I acknowledge receipt of your letter of August 30, 1927, in which you request my opinion in the following language:

“At the meeting of the Controlling Board on the above date it was resolved to ask the Attorney General for an opinion on the following:

Does Section 8 of H. B. No. 502 apply to the C. N. & I. Department of the Wilberforce University?”

House Bill No. 502, passed by the 87th General Assembly, in the act making general appropriations for the period July 1, 1927, to December 31, 1928. Section 8 thereof, to which you refer, provides as follows:

“Each department, board or commission for which an appropriation is made in this act and for the salaries of a specified number of employes where salaries are not fixed by law, shall, not less than ten days prior to the date on which such appropriation becomes effective apportion such appropriation account and file the same with the president of the controlling board. Said board may change such apportionment and shall certify such apportionment with any modifications it may make to the auditor of state, with the approval of the board endorsed thereon.”

Such a section and in the exact language has been included in the general appropriation acts of the different General Assemblies for the past several years.