

partment which was addressed to the secretary of state. It was therein held that school busses which were publicly owned and used exclusively for a public purpose were not such vehicles as required their owner to pay a charge under the law for their registration. Opinions of the Attorney General for 1920, Vol. I, page 121. The statute is very clear in its provisions for the exempting of "publicly owned and operated motor vehicles used exclusively for public purposes" from the payment of any charges for the registration of such vehicles under the motor vehicle license tax law.

However, the ruling of the attorney general above referred to has no bearing on the question of the payment of the gasoline excise tax as provided for in Sections 5526, et seq., of the General Code.

It will be noted that provision is made in the gasoline excise tax law for the imposing of a tax on the sale or use of each gallon of motor vehicle fuel sold or used by any dealer within the state of Ohio. The imposition and collection of this tax is subject to certain specific exemptions (Section 5527, General Code) and provision is made for the refunder of the tax when the motor vehicle fuel is used for some purpose other than the propulsion of motor vehicles operated or intended to be operated in whole or in part upon the highways of the state (Section 5534, General Code), but none of these provisions for refunder would operate to affect the tax on gasoline used for the operation of motor vehicles owned by boards of education, simply because they were owned by the board of education, if they were operated or intended to be operated in whole or in part upon the highways of the state.

This entire question was considered in an opinion of this department addressed to the Bureau of Inspection and Supervision of Public Offices, under date of March 4, 1925, and found in Opinions of the Attorney General for 1925 at page 261, with which opinion I am in full accord. While that opinion does not specifically consider the applicability of the law as it relates to motor vehicles owned and operated by the board of education, its principles relate and apply to all political subdivisions of the state.

In answer to your question, it is my opinion that boards of education are not exempted from payment of the gasoline excise tax, (Sections 5526, et seq., of the General Code) for gasoline consumed in cars owned by their respective school districts and operated by such boards of education, or their agents, for legitimate school purposes in whole or in part upon the public highways.

Respectfully,

EDWARD C. TURNER,  
*Attorney General.*

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DISAPPROVAL, ABSTRACT OF TITLE TO LAND IN HANOVER TOWNSHIP, COLUMBIANA COUNTY, OHIO.

COLUMBUS, OHIO, April 20, 1927.

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

DEAR SIR:—I have examined the abstract of title purporting to cover Tract No. 11, Guilford Lake Park, consisting of 23.73 acres, more or less, owned by Lucina A. Gardner and others, and located in the Northeast quarter of section 2, Hanover township, Columbiana county, Ohio.

The abstract was prepared by McMillan & Kelso, abstracters, Lisbon, Ohio, April 24, 1926, and was continued by said abstracters to November 3, 1926. The abstract as submitted pertains to the following premises located in the Northeast

quarter of section 2, Hanover township, Columbiana county, Ohio, and more particularly described as follows:

"Beginning at a stone in the western boundary line of said quarter section 3 chains and 45 links south of the northwest corner of said quarter section; thence east 9 chains and 25 links to a corner; thence south 7 chains and 84 links to a corner; thence east 24 chains and 46 links to a corner on Eden Ireys line; thence south 18 chains and 74 links to a corner in the road; thence west 28 chains and 75 links to a corner of grave yard lot; thence north 3 chains and 46 links less 30 feet; thence west 10 feet; thence north 30 feet; thence west 5 chains and 50 links to a corner in the road; thence north 24 chains and 4 links to the place of beginning containing 70 acres more or less.

Situated in the county of Columbiana, in the state of Ohio and in the township of Hanover, to wit, being a part of the northeast quarter of section 2 in Hanover township in said county, beginning at the northwest corner of said quarter; thence east 33 chains and 61 links to a corner of the land owned by Christopher Allen; thence south 11 chains and 9 links; thence west 24 chains and 36 links; thence north 7 chains and 84 links; thence west 9 chains and 25 links; thence north 3 chains and 25 links to the place of beginning, containing 30 acres of land."

My examination of the above abstract discloses the following:

1. The abstract contains no record of a government patent although there is attached to the abstract a certificate of the Auditor of State stating that the S.  $\frac{1}{2}$ , the N. E. quarter and the E.  $\frac{1}{2}$  of the N. W. quarter of section 2, Town. 15, range 4, Columbiana county, Ohio, containing 593.33 acres, were patented to James Galbraith, August 8, 1803.

2. The title from the time of the patent until the acquisition of the land by the Sandy and Beaver Canal Company on March 7, 1836, is regular, but from that time to the deed of Lyman Potter, trustee, to John Clarke, on July 1, 1856, the record as shown by the abstract is not at all clear.

3. At item 29, page 31 of the abstract appears a deed from John Clark to Christopher Allen, dated July 1, 1856, covering 7 acres of land located in the N. W. quarter of the N. E. quarter of section 2. However, this deed is not signed by the grantors or by any witnesses. The wife does not join throughout the instrument and does not release dower. On the same date (July 1, 1856), as shown by item 34, page 37 of the abstract, said John Clark and wife transferred a tract of 20 acres apparently adjoining the 7 acre tract above referred to on the east to Christopher Allen, but the grantors do not acknowledge the instrument and the wife neither joined throughout the instrument nor released dower. In view of the long period of time that has elapsed since the above transactions, the above defects may be waived provided it can be shown that Christopher Allen and his successors in title had open, notorious and uninterrupted possession of the premises adverse to any claims of John Clark or those claiming under him since that time.

4. The abstract shows Lucina Gardner to have a life estate in this property by virtue of devises by her father Daniel Campf, and her mother Lydia Campf. There is no settlement, or in fact any procedure noted in respect to the Lydia Campf estate. While Mrs. Campf died in 1880, and probably all debts, if any, against her estate have become outlawed, still there is no assurance that such is the fact, and the abstract should show the administration of her estate, or an affidavit should be secured to show that all of her debts are paid.

5. By the terms of the wills above mentioned, at Lucina Gardner's death, she having no living children, the land descends as intestate property of her parents. Lu-

cina had a brother Benjamin F. Campf, who died in 1823 leaving five children named Martha A. Sanor, Harry, Margaret, D. F. and S. U. Campf, who are, according to an affidavit, the only heirs at law of Daniel and Lydia Campf, deceased.

6. The 1925 taxes are paid, but the 1926 taxes and assessments, the amount of which is not shown, are not paid and are a lien.

The abtracter's certificate shows that no examination was made in the U. S. courts, and that examination was made "in the name of record owners only and only for the period during which each one respectively held such title."

The encumbrance estimate bears date of December 22, 1926, and bears the certification of the Director of Finance under date of December 23, 1926.

No deed is submitted with the papers, although a blank form of Ohio warranty deed containing a description of the premises proposed to be conveyed was transmitted. Since this deed has not been prepared and executed, this department cannot pass upon the same.

I am returning to you the file relating to Tract 11, including the abstract of title, encumbrance estimate and other papers. When the corrections and additions indicated have been made I will make such further examination as may be necessary.

Respectfully,

EDWARD C. TURNER,  
*Attorney General.*

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DISAPPROVAL, ABSTRACT OF TITLE TO LAND IN HANOVER TOWNSHIP, COLUMBIANA COUNTY, OHIO.

COLUMBUS, OHIO, April 20, 1927.

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

DEAR SIR:—I have examined the abstract of title purporting to cover tract No. 10, Guilford Lake Park, consisting of 5.22 acres, more or less, owned by Dawson Irey and located in the northeast quarter of section 2, township 15, range 4, Hanover township, Columbiana county, Ohio.

The abstract was prepared by McMillan & Kelso, abstracters, Lisbon, Ohio, under date of May 11, 1926, and was continued to November 3, 1926, by the same abstracters.

The abstract as submitted pertains to the following premises, to wit:

"Situated in the township of Hanover, county of Columbiana and state of Ohio, and known as being part of the northeast quarter of section No. 2, in township No. 15, range No. 4, and bounded as follows, to wit:

Beginning at the north-east corner of said section, then with the section line south  $1\frac{1}{2}^{\circ}$  east 103 perches, and  $\frac{8}{10}$  of a perch to a post; then south  $77^{\circ}$ , west 35 perches and  $\frac{6}{10}$  to a post; thence north  $1\frac{1}{2}^{\circ}$ , west 111 perches and  $\frac{8}{10}$  to a post on the north boundary of said section; thence with the section line north  $88\frac{1}{2}^{\circ}$ , east 35 perches to the place of beginning, containing 23 acres and 93 perches, be the same more or less, but subject to all legal highways."

My examination of the above abstract discloses the following:

1. The abstract contains no record of the government patent, although there is attached to the abstract a certificate of the Auditor of State that "the S.  $\frac{1}{2}$ , N. E.  $\frac{1}{4}$