

is nothing in the abstract to show the history of the title to this quarter section or to any of the lands therein contained prior to the deed just referred to. The abstract should be corrected by setting out the government patent for said quarter section of land and likewise the subsequent history of the title to the lands in said quarter section down to the time of the Arney deed above referred to.

8. It appears by further information from the abstractor that the above described property is subject to encumbrance arising out of two separate leases executed and delivered by Jacob Leui to the Ohio Fuel Supply Company, while he was the owner of said property. The first of said leases is one under date of April 28, 1917, granting to the Ohio Fuel Supply Company the right to lay, maintain and operate pipe lines in and over said premises, while the other lease which is dated February 27, 1920, grants to said company, its successors and assigns, the right to drill for and to take oil and gas from said premises for a period of twenty years, or as long as oil and gas are found in marketable quantities. How far the operations of the said The Ohio Fuel Supply Company, or its successors and assigns, will interfere with the use of these lands, is a matter which you must decide.

9. The taxes for the last half of the year 1927 due and payable in June, 1928, amounting to one hundred forty and 60/100 dollars (\$140.60) are unpaid and a lien. Likewise the taxes for the year 1928, the amount of which is undetermined, are a lien on said premises.

I have examined the warranty deed executed and acknowledged by Edson O. Kerns and Christena Kerns, his wife, and find the same to be in form sufficient to convey a fee simple title in the above described lands to the State of Ohio.

I have likewise examined Encumbrance Estimate No. 1384 covering the purchase of the above described lands and find that the same has been properly executed and that there is shown sufficient balances in the appropriation act to pay the purchase price of said lands, and that said balances are properly applicable to the payment of said act.

The encumbrance estimate contains a certificate over the signature of the Director of Finance showing that the Controlling Board has approved the purchase of said lands in accordance with the authority vested in it by Section 12 of House Bill No. 502.

I am herewith returning to you said abstract of title, deed and encumbrance estimate. All of these files should be again submitted to this department with the corrected abstract of title.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2237.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND OF HENRY OATNEY
AND WIFE, IN FAIRFIELD COUNTY.

COLUMBUS, OHIO, June 16, 1928.

HON. JOHN E. HARPER, *Director of Public Welfare, Columbus, Ohio.*

DEAR SIR:—You recently submitted to this department for opinion an abstract of title and warranty deed of Henry Oatney and wife covering certain land, the

same being a part of the northeast quarter of Section 26, Township 14 and Range 19, in Fairfield County, being more particularly described as follows:

"Beginning at a stone at the northeast corner of said Section 26, thence south, along the east line of said section, twenty-nine chains and eighteen links (29.18 ch.) to a point on said section line; thence west nine chains and eighty-three links, (9.83 ch.) to a point; thence S. 89° 2' W. five chains and four links, (5.04 ch.) to an iron pin in the center of the road on the west side of the parcel hereby conveyed; thence along the center line of said road N. 22° 14' W. fourteen chains and sixty-four links (14.64 ch.) to a point in the center line of said road; thence N. 38° 35' W. seventeen chains and thirty links (17.30 ch.) along the said center line to a point in said road; thence N. 32° 27' W. two chains and sixty links (2.60 ch.) along said center line to a point on the north line of said Section 26; thence east along said north section line thirty-two chains and ninety-one links (32.91 ch.) to the place of beginning containing 66.58 acres more or less. Excepting from the above a right-of-way fifty (50) feet wide heretofore conveyed to the Fairfield Traction Company, containing 2.20 acres, leaving in this parcel 64.38 acres more or less but subject to all legal highways."

An examination of the abstract of title submitted shows that said Henry Oatney is the owner of the above described lands and premises and that his title to the same is subject to the following exceptions:

1. It does not appear that any government patent covering the north-east quarter of said Section 26, Township 14, Range 19, has ever been issued and filed for record.

2. At page 154 of the abstract it appears that under date of November 18, 1857, one Joseph Uhl, Sr., being then the owner of the above described land, conveyed the same by deed to Joseph Uhl, Jr., said premises being charged with the lien of certain payments in the sum of \$166.66 to each of the five daughters of the grantor therein named. It appears further that later four of these daughters who were presumably sisters of Joseph Uhl, Jr., discharged said lands of the leases with respect to their respective claims by the execution of quit claim deeds to said Joseph Uhl, Jr. It does not appear however how the lien of one of said daughters, to-wit, Magdalena Uhl, was disposed of. On account of the great lapse of time since this transaction this objection is one of minor importance, but if the Fairfield County records afford the necessary information to clear this matter up, it should be done.

After Joseph Uhl, Jr., obtained the quit claim deed to these lands from his four sisters above referred to, no history with respect to the title of said lands is shown in the abstract until the year 1923, when a petition was filed by one Mary Uhl as guardian of Charles A. Uhl, an insane person, to sell the undivided one-third interest of said Charles A. Uhl in said lands. In said petition it was stated that said Charles A. Uhl, Catherine Uhl and Mary Uhl, owned said lands and premises, but there is nothing in the abstract to show how the title came to them. Presumably, these three persons were children and heirs of the Joseph Uhl, Jr., above referred to. Said petition further shows that said Charles A. Uhl, besides his sisters, Catherine Uhl and Mary Uhl, had at the time, three brothers, George Uhl, Frank Uhl and Joseph Uhl. The abstract showing the history of the title to these lands does not advise us why Charles Uhl and his two sisters took title to these lands, to the exclusion of the three brothers above mentioned. I note that these three brothers were made parties defendant to the action of Mary Uhl as guardian of Charles A. Uhl, to sell the interest of Charles Uhl in said lands. However, such further information should be secured and made a part of the abstract as will explain the matters above referred to.

3. At page 175 of the abstract, there is shown a mortgage deed executed by Henry Oatney and Clara Oatney, his wife, to Mary Uhl and Catherine Uhl, in the sum of \$3400. The abstract recites that this mortgage is not cancelled of record. This mortgage to the amount unpaid thereon is of course a lien on the premises.

4. The abstract is defective in not stating the amount of taxes that are a lien on the premises and the same should be corrected so as to furnish full and accurate information on this point.

I have examined the warranty deed tendered by Henry Oatney and Clara Oatney, his wife, with respect to the above described lands, and find that the same has been properly executed and acknowledged and is in form sufficient to convey a fee simple title in said lands to the State of Ohio.

I have examined encumbrance estimate No. 1385, covering the purchase of these lands, and find the same to be in proper form and properly signed. This encumbrance estimate shows that there are sufficient unencumbered balances in the appropriation account to pay the purchase price of said lands, and that said balances are properly applicable to the payment of said account.

I note in said encumbrance estimate a statement over the signature of the Director of Finance, that the Controlling Board has approved the purchase of these lands, in accordance with the authority vested in said board by Section 12 of House Bill No. 502.

I am herewith returning to you said abstract of title, deed and encumbrance estimate. All of these files should be again submitted to this department with the abstract, when corrected to meet the above objections.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2238.

CLASSIFIED SERVICE—EXPERTS—TECHNICAL ASSISTANTS—DESIGNATION OF BY INDUSTRIAL COMMISSION—BINDING ON CIVIL SERVICE COMMISSION—EXCEPTIONS.

SYLLABUS:

Where the Industrial Commission, pursuant to Section 1465-89a, General Code, at the time of employing a Referee and Supervisor of Publication and Printing, respectively, designated the same as experts or technical assistants, such designation is final and must be followed by The State Civil Service Commission, unless it appears that in making such designation there was gross abuse of discretion or fraud.

COLUMBUS, OHIO, June 18, 1928.

The State Civil Service Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—This will acknowledge receipt of your recent communication, which reads as follows:

“We are enclosing herewith copies of our letter of April 10, 1928, to the chairman of the Industrial Commission of Ohio, and their reply under date of May 21, 1928, enclosing copies of corrected resolutions on the minutes of the Industrial Commission, all of which refer to two specific positions under that Commission and Opinion No. 1933 of the Attorney General of Ohio.