

obsolete, nor may it be said that the said sections were unconstitutional if for no other reason than that the Common Pleas Court of Cuyahoga County in the case of *Lawrence vs. Mitchell*, 8 N. P. page 8, specifically held the said sections of the law to be constitutional, which fact the Legislature must be presumed to have known. It appears therefore that the reason for the repeal was because, to the legislative mind, they were unnecessary.

Ample provision is made in the act of the General Assembly, passed in 1929, to revise and re-codify the election laws of Ohio, (113 O. L. 307) for the submission to the electors of issues such as the incorporation of territory under Section 3526, General Code. See Sections 4785-2, 4785-4, 4785-5, 4785-99 and 4785-103, General Code. See also Weinland's *Ellis' Ohio Municipal Code*, 8th Edition p. 53 note.

I am therefore of the opinion, in specific answer to your question, that even though Sections 3527 and 3528 of the General Code were repealed by the 88th General Assembly, it is still possible to incorporate a municipality on petition to the township trustees, in accordance with the proceedings provided for by Section 3526, et seq., of the General Code.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

1441.

APPROVAL, ABSTRACT OF TITLE TO LAND OF VAUGHTERS KRAMER  
COMPANY IN HUNTINGTON TOWNSHIP, ROSS COUNTY.

COLUMBUS, OHIO, January 23, 1930.

HON. CARL E. STEEB, Secretary, Ohio Agricultural Experiment Station, Columbus, Ohio.

DEAR SIR:—This is to acknowledge receipt of your communication of recent date submitting for my examination and approval abstract of title, warranty deed, encumbered estimate No. 5843, Controlling Board release certificate and other files relating to the proposed purchase of a tract of thirty-five acres of land in Huntington Township, Ross County, Ohio, which tract of land is owned of record by The Vaughters Kramer Company, a corporation, and which is more particularly described as follows:

“Beginning at an iron pin in the center of the public road leading from Portsmouth Pike to Stony Creek known as the Sam Simeral Road, one rod from the southeast corner of Dortha Cox, two acre tract of land, thence north fifteen degrees, east six poles to a stone north 50 degrees east 92½ poles to a stake; thence south 64 degrees east 38 poles to a stake, thence south 15 degrees west 96 poles to center of road to northeast corner of a 50 acre tract of land now owned by Hortense Smith, thence following center of road to place of beginning, containing thirty-five (35) acres, more or less, and being part of the same premises conveyed to Floyd A. Cox by H. D. Yates, and also being part of the same premises conveyed to H. D. Yates by Andrew M. Cox and wife, by deed dated July 8, 1927, and recorded in Volume 204, Page 434, of the deed records of Ross County, Ohio, to which said deeds reference is here made.”

An examination of the abstract of title submitted shows that the Vaughters Kramer Company has a good and indefeasible fee simple title to the above described property free and clear of all encumbrances whatsoever. The title to said property as exhibited by said abstract is accordingly hereby approved.

An examination of the warranty deed tendered to the State of Ohio by the Vaughters Kramer Company shows that the same has been executed in the manner required by law, and that the same is in form sufficient to convey said property to the State of Ohio by fee simple title free and clear of all encumbrances, and said deed is hereby approved.

An examination of encumbrance estimate No. 5843 is defective for the reason that the same has not been signed by the Director of Finance as required by statute. Said encumbrance estimate is otherwise properly executed and the same when signed by the Director of Finance in its present form will show that there are sufficient balances in a proper appropriation account to pay the purchase price of the above described property. Said encumbrance estimate is however, disapproved for the reason that the same has not been signed by the Director of Finance.

In the files submitted to me is a copy of the certificate of the Controlling Board showing that the money necessary to pay the purchase price of this property was released by said Board.

I am herewith returning said abstract of title, warranty deed, encumbrance estimate No. 5843, Controlling Board certificate and other files submitted. When the signature of the Director of Finance to said encumbrance estimate is secured, the same should be again brought to my attention so that all of the proceedings relating to the purchase of this property may be approved by me.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

1442.

BOARD OF EDUCATION—RESOLVING TO EMPLOY ARCHITECT TO PREPARE PRELIMINARY SCHOOL HOUSE PLANS WITH CONDITION THAT CONTRACT WILL BE MADE HIM FOR GENERAL SUPERVISION WHEN BONDS APPROVED—NO LIABILITY IF ISSUE FAILS AND DIFFERENT PROJECT UNDERTAKEN LATER.

**SYLLABUS:**

1. *The express power granted to a board of education to build schoolhouses includes the power to employ architects for that purpose.*

2. *The authority of a board of education granted to it by express provision of statute, to submit to the electors of its school district the proposition of issuing bonds for the purpose of constructing a schoolhouse or schoolhouses, impliedly authorizes the board of education to employ an architect or expert builder to prepare preliminary sketches and estimates for the proposed school building or buildings so the board may be advised as to the size of the bond issue to be submitted to the electors.*

3. *A board of education may lawfully employ an architect to prepare sketches, plans and estimates for a proposed school building and, make his compensation therefor payable out of the general fund of the district.*

4. *Persons dealing with a board of education are presumed to have knowledge of the extent of the board's power.*