

1456.

## APPROVAL, ABSTRACT OF TITLE TO LAND OF KATHERINE H. SCHLECHTY IN FORT JEFFERSON, DARKE COUNTY, OHIO.

COLUMBUS, OHIO, January 27, 1930.

HON. HARRY D. SILVER, *Director of Finance, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of a communication from you submitting for my examination and approval a corrected abstract of title and two certain warranty deeds relating to a certain parcel of land held of record by one Katherine H. Schlechty, which are to be acquired by the State of Ohio through the Greenville Historical Society for the use of the Ohio State Archaeological and Historical Society under authority of House Bill No. 143 passed by the 88th General Assembly under date of April 5, 1929.

The parcels of land here in question are lots Nos. 44, 45, 46 and 47 on the plat of the town of Fort Jefferson, Ohio, laid out and dedicated by Hezekiah Viets under date of September 23rd, 1818, and a certain tract of 142/1000 acres, more particularly described in Opinion No. 1120 directed to you under date of October 29th, 1929.

In the former opinion of this office above referred to, the title of said Katherine H. Schlechty was approved as to lots Nos. 46 and 47 of the plat of the town of Fort Jefferson, Ohio, and as to the 142/1000 acre tract above referred to. In said former opinion, the title of said Katherine H. Schlechty to Lots Nos. 44 and 45 in said plat was disapproved for the reason that the only record title shown in the abstract was that which she possessed by reason of her ownership of a tax title certificate held by her since the year 1908. The only record title conferred upon said Katherine H. Schlechty by reason of her ownership and possession of said tax title certificate was an equitable title; and in as much as the abstract did not sufficiently show a legal title in said Katherine H. Schlechty by adverse possession, her title to this tract of land was disapproved.

In the corrected abstract there is set out a number of additional affidavits indicating the character of the possession of this land by Katherine H. Schlechty and by previous owners and holders of said tax title certificate. Without entering into a detailed discussion of these affidavits I am inclined to the view that they sufficiently show such open and exclusive adverse possession of these lots by Katherine H. Schlechty and her predecessors in interest as to confer a good and merchantable fee simple title in Katherine H. Schlechty in and to said Lots Nos. 44 and 45 of the plat of the town of Fort Jefferson above referred to.

I am therefore of the opinion that said Katherine H. Schlechty has a good and merchantable fee simple title to all of the lots and parcels of land above referred to in this opinion and in said former Opinion No. 1120, subject only to the taxes on said several lots and parcels of land for the year 1929.

In the files submitted to me with said corrected abstract I find a warranty deed in proper form executed by said Katherine H. Schlechty and Virgil Schlechty, her husband, conveying the above described property to the trustees of the Greenville Historical Society, and likewise a warranty deed executed by the Greenville Historical Society conveyed this property to the State of Ohio. These deeds are in proper form with the exception that the notary taking the acknowledgment of the president and secretary of the Greenville Historical Society to said deed has neglected to affix the seal of his office to said certificate. This objection to the deed should, of course, be corrected.

Said abstract of title and deeds are herewith returned, together with other opinions, and all the files relating to the other lots and parcels of land in connection with the Fort Jefferson project.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

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1457.

APPROVAL, ABSTRACT OF TITLE TO LAND OF GREENVILLE HISTORICAL SOCIETY IN NEAVE TOWNSHIP, DARKE COUNTY.

COLUMBUS, OHIO, January 27, 1930.

HON. HARRY D. SILVER, *Director of Finance, Columbus, Ohio.*

DEAR SIR:—There has been submitted for my consideration and approval a corrected abstract of title and warranty deeds relating to a certain tract of land in Neave Township, Darke County, Ohio, which is owned of record by the Greenville Historical Society, and which parcel of land covering 3.349 acres, more or less, is more particularly described in Opinion No. 1119 of this office directed to you under date of October 29th 1929.

In the former opinion of this office above referred to, the title of the Greenville Historical Society in and to said tract of land was disapproved for the reasons therein pointed out. A very considerable amount of additional information is set out in said abstract of title and made a part thereof. Upon consideration of the abstract of title relating to this tract of land as amplified by the additions and corrections therein made, I am of the opinion that the Greenville Historical Society has a good and merchantable fee simple title to the tract of land above referred to, subject only to the taxes for the year 1929, the amount of which is not set out in said abstract.

I have examined the warranty deed executed by the Greenville Historical Society covering the tract of land here in question and find that the same has been properly executed and that it is in form sufficient to convey to the State of Ohio a fee simple title to said tract of land, free and clear of all incumbrances.

No encumbrance estimate has been submitted to me with respect to the proposed purchase and acquisition of the tract of land here in question or with respect to any of the other lots and parcels of land to be acquired by the State as a part of the Fort Jefferson project. Before the transaction relating to the purchase of any of said lots or parcels of land in connection with this project is closed such encumbrance estimates should be prepared and submitted to this office for approval.

With the abstract of title covering the tract of land here in question and the other lots and parcels, I am returning the deeds covering the particular tract of land under investigation in this opinion.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*