

township shall, under this section, be the same as when a cemetery is the exclusive property of a single township. These duties, as hereinabove indicated, are clearly defined in Sections 3449 and 3453, *supra*. Your attention is further directed to Section 3454, providing for the penalty for the failure to perform the duties imposed upon trustees under Section 3453, *supra*.

In the event the trustees of one of the townships operating and maintaining a joint cemetery under the provisions of Section 3456, *supra*, should refuse to contribute their proportionate share of funds received from the sale of lots therein for the purpose of improving and embellishing such grounds, or in the event such trustees should refuse to levy a tax for maintaining and keeping such grounds in good repair, I am of the view that an action in mandamus may be maintained to compel the appropriation of such funds as provided in Section 3449, *supra*, or to compel such trustees to levy a tax for the purposes set forth in Section 3453, *supra*. I am further of the view that, under authority of the case of *Wilson vs. Trustees of No. 16*, 8 Ohio, 175, wherein it was held that "Suits by quasi corporations, such as township trustees, are to be brought in the name of the corporation", such proceedings in mandamus may be brought in the name of one or more of such townships.

Specifically answering your question, I am of the opinion that in the event two or more townships are operating a joint cemetery under the provisions of Section 3456, General Code, proceeds held by any one of such townships arising from the sale of cemetery lots therein, shall be used by such township for the purpose of paying its proportionate share of improving and embellishing such grounds.

I am further of the opinion that the trustees of each of such townships shall contribute their proportionate share of the cost of maintaining and keeping in good repair such grounds by taxation, and that the above duties may be enjoined by a proceeding in mandamus brought by any one or more of such townships against the township trustees of any such township failing to perform such duties.

Respectfully,

GILBERT BETTMAN,
Attorney General.

813.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND OF JOHN HUBBARD IN
THE CITY OF COLUMBUS, FRANKLIN COUNTY, OHIO.

COLUMBUS, OHIO, August 29, 1929.

HON. CARL E. STEEB, *Business Manager, Ohio State University, Columbus, Ohio.*

DEAR SIR:—There have been submitted for my examination and approval, an abstract of title, warranty deed form and encumbrance estimate No. 5627, relating to the proposed purchase by the State of Ohio, of a certain parcel of land in the city of Columbus, Franklin County, Ohio, and more particularly described as being lot No. 12, of Critchfield & Warden subdivision of the south half of the north half of lot No. 278, of R. P. Woodruff's Agricultural College Addition as the same is numbered and delineated upon the recorded plat thereof of record in plat book No. 4, pages 234 and 235, Recorder's office, Franklin County, Ohio.

An examination of the abstract of title submitted shows that under date of June 30, 1911, one John Hubbard obtained a fee simple title to the above described premises, free and clear of all encumbrances by and through a deed executed to him by Albert E. Sartain, as sheriff of Franklin County, pursuant to an order of the Common Pleas Court of Franklin County in certain foreclosure proceedings there pending. Thereafter, on April 20, 1917, said John Hubbard entered into a certain land contract in

writing with one George W. Hardiman, by which it was contracted and agreed that said John Hubbard was to sell said premises to said George W. Hardiman for the sum of \$1,500.00, payable \$5.00 in cash at the time of the contract, and \$2.00 a month.

It does not appear that any deed was ever executed, conveying this property to said George W. Hardiman.

Thereafter, on April 10, 1929, the said John Hubbard still being the owner of record of the above described premises, David P. Anderson, as treasurer of Franklin County, commenced his action in the Common Pleas Court of Franklin County against said John Hubbard and wife, and against said George W. Hardiman, to sell the above described premises as upon execution for the recovery of delinquent taxes, penalties and interest, and to foreclose the interest of said John Hubbard and wife and of said George Hardiman in and to said premises. Such proper proceedings were thereafter had in said cause and on June 18, 1929, an order was made and entered by said court directing the sheriff to sell said property as on execution and to make return of said sale to the court.

I am advised by information aside from said abstract, that the property here in question was sold by the sheriff, pursuant to the said order of court to one Ray B. Levering. It does not appear, from the abstract or other information at hand, whether said sale to Levering has been confirmed by the court or not. It does appear, however, that no deed has as yet been executed and delivered by the sheriff to said Ray B. Levering.

In this situation, it is suggested that in order that the State may obtain the title to this property, as was contemplated at the time said Ray B. Levering bid in the property at sheriff's sale, that said Ray B. Levering execute a deed for this property under ----- date, and deposit the same without delivery in the office of the Auditor of State, that thereupon a warrant should be issued, payable to the order of said Ray B. Levering, which warrant at the time of delivery should be especially endorsed over to Harry T. Paul, sheriff of Franklin County, and to him delivered. An entry should then be made and filed in the Court of Common Pleas of Franklin County, confirming the sheriff's sale of this property to said Ray B. Levering and ordering the execution of a sheriff's deed, conveying the property in question to said Ray B. Levering. Said court proceedings and sheriff's deed should then be made a part of the abstract, and after this is done, and said abstract of title is approved by this department, Levering's deed should be then tendered by said Ray B. Levering, and accepted by you.

With the abstract of title above referred to, there has been submitted to me a form of a deed to be signed and otherwise executed by said Ray B. Levering, conveying this property to the State of Ohio, for the stated consideration of \$100.00. This deed is in proper form, and when properly executed, will be effective to convey to the State of Ohio, a fee simple title to the above described property, free and clear of all encumbrances, save said taxes and assessments due and payable on and after December, 1929.

Encumbrance estimate No. 5627 has been properly signed, and shows that there are sufficient balances in the proper appropriation account to pay the purchase price of the above described property.

All of the above described files, however, should be again submitted to this department when the corrected abstract of title is submitted showing the additional proceedings above suggested.

I am herewith returning to you said abstract of title, deed form and encumbrance estimate.

Respectfully,
GILBERT BETTMAN,
Attorney General.