

stated, which question I do not deem within my province to discuss on the present occasion.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

3508.

APPROVAL, ABSTRACT OF TITLE TO THREE TRACTS—DISAPPROVAL, TITLE TO ONE TRACT OF LAND OF DENNIS ALLGIER IN UNION TOWNSHIP, SCIOTO COUNTY, OHIO.

COLUMBUS, OHIO, August 14, 1931.

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

DEAR SIR:—This is to acknowledge the receipt of a communication from your office submitting for my examination and approval an abstract of title, warranty deed, encumbrance estimate No. 818 and authorization of the board of control relating to the proposed purchase of four certain tracts of land in Union Township, Scioto County, Ohio, which tracts of land are owned and held of record by one Dennis Allgier and are more particularly described as follows:

“FIRST TRACT: Situate on the left hand fork of Pond Creek and beginning at a stone in the line of Edwin Knapp’s line and Henry M. Swords line; thence south from a stone in the bed of the creek 88 poles to a chestnut tree and stake. Thence east 28 poles to a black oak and one pine bush. Thence north 88 poles to a stone. Thence west 28 poles to the beginning near the Township Road. Containing 15 acres more or less, and being parts of Surveys Nos. 15830 and 13915.

SECOND TRACT: Beginning at a stone corner of John W. Swords land; thence west with William McClain’s line 33 poles to a stone; thence south 75 poles more or less to a gum tree on top of Buck Lick Ridge; thence east with Andrew J. Kirkendall’s line 33 poles more or less to a stone in John W. Sword’s line; thence north with said line 75 poles more or less to the beginning, containing 12 acres more or less.

THIRD TRACT: Being part of Survey Nos. 15830 and 15836 bounded as follows: Beginning on the top of Buck Lick Ridge and running south 37½ poles to a stone on the James O’Harah line; thence east 75 poles more or less to John W. Sword’s line; thence north 25 poles more or less to the top of Buck Lick Ridge; thence 75 poles more or less along the top of Buck Lick Ridge to the place of beginning containing 15 acres more or less.

FOURTH TRACT: Being two acres of land in Survey No. 14900, sold to D. Allgier on December 20, 1911, by the Auditor of Scioto County, Ohio at forfeited land sale.”

Upon examination of said abstract of title, I find a number of irregularities in the early history of the title to each of the first three tracts above described. However, on account of the great lapse of time since said irregularities occurred in the chain of title to these particular parcels of land, I feel that any exceptions predicated upon such irregularities may be safely waived. In this view,

I am of the opinion that said Dennis Allgier has a good merchantable title to the first three tracts of land above described, subject only to the lien of the taxes on said tracts of land for the years 1930 and 1931, the amount of which, though undoubtedly small, is not disclosed by the abstract.

The abstract shows that said Dennis Allgier does not have any legal title at all to the fourth tract of land above referred to, the same being two acres of land in Survey No. 14900. The only interest which Mr. Allgier has to this small parcel of land is that which accrued to him by reason of his purchase of the property at delinquent tax sale on December 20, 1911, which purchase is evidenced by a tax title certificate issued to him by the county auditor under said date. Under this tax title certificate and the provisions of section 5719, General Code, in force at the time said certificate was issued, Mr. Allgier was entitled to an auditor's deed for this property after the lapse of two years from the time he purchased said property at delinquent tax sale. Mr. Allgier should have turned in said tax title certificate and received a deed from the county auditor for the property after the lapse of said two year period and before the repeal of said section 5719, General Code, by the legislature in the enactment of the delinquent land tax law of 1917. In this connection, it may be observed that inasmuch as the purchase of this property by Mr. Allgier at delinquent land tax sale and the issuance to him of a delinquent land tax certificate which gave him the right to a deed for this property after the lapse of two years constituted a pending proceeding within the meaning, intent and purpose of section 26 of the General Code, the repeal of section 5719 of the General Code in the enactment of the delinquent land tax law of 1917 did not affect his right to obtain such delinquent land tax deed from the county auditor; and if Mr. Allgier should now see fit to make application for such deed the county auditor would be authorized to execute and deliver the same to him.

In the present situation, however, I am not able to prove Mr. Allgier's title to this tract of land, and for this reason his title to this tract, the same being tract No. 4 above referred to, is disapproved.

I have examined the warranty deed tendered by Dennis Allgier, an unmarried widower, and find that the same has been properly executed; and, that the terms and provisions of said deed are such that the same are effective to convey to the state of Ohio a fee simple title to the first three tracts of land above described.

The fourth tract of land above referred to is likewise set out and described in said deed in the words and figures above noted, and said deed upon delivery would probably be effective to convey to the state of Ohio whatever equity Mr. Allgier has in this tract of land, the title to which I have disapproved for the reasons above stated.

Upon examination of encumbrance estimate No. 818, I find that the same has been properly executed and approved and that the same shows a sufficient unincumbered balance in the proper appropriation account to pay the purchase price for the tracts of land above described, which purchase price is the sum of \$264.00. Included in the amount of this encumbrance estimate is, of course, the proportionate purchase price of the two acre tract of land, the title to which is disapproved.

It further appears that the money necessary to pay the purchase price of said tracts of land was properly released for said purpose by a resolution of the board of control, the purchase of said land being approved at a price of \$6.00 per acre, and it being assumed that there was an aggregate acreage of 44 acres in the four tracts of land.

I am herewith returning said abstract of title, warranty deed, encumbrance estimate No. 818, controlling board certificate and other files relating to the proposed purchase of the property above described.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

3509.

APPROVAL, PETITION FOR AMENDMENT TO SENATE BILL NO. 342.

COLUMBUS, OHIO, August 15, 1931.

A. W. GEISSINGER, ESQ., *17 South High Street, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination a written petition signed by 100 qualified electors of this state, containing a measure to be referred and a summary of the same, under the provisions of Section 4785-175, General Code, as amended by the 89th General Assembly. This section provides in part as follows:

“Whoever seeks to propose a law or constitutional amendment by initiative petition or to file a referendum petition against any law, section, or item in any law, shall by a written petition signed by one hundred qualified electors submit such proposed law, constitutional amendment or measure to be referred, and a summary of same to the attorney general for examination. If in the opinion of the attorney general the summary is a fair and truthful statement of the proposed law, constitutional amendment or measure to be referred, he shall so certify. \* \* \*”

The measure to be referred which is attached to the aforesaid petition of one hundred electors, is Amended Senate Bill No. 342, passed by the legislature June 25, 1931, and filed in the office of the Secretary of State, Columbus, Ohio, July 16, 1931. The summary of this measure reads as follows:

“The Act here sought to be referred to the people abolishes Certificates of Title to motor vehicles, as provided for in said earlier Act passed April 10, 1931, and substantially re-enacts the old law providing for passage of title to motor vehicle by Bill of Sale, in the same form as it existed prior to the passage of said Act, passed April 10, 1931. The Act here sought to be referred to the people provides for definitions of terms, applications for registration of motor vehicles, blank forms to be furnished, the information required to be set out therein, presentation of Bills of Sale or Sworn Statements of Ownership, the allowance of a 15c fee in addition to the license tax, the transmission thereof to the County Auditor, making it unlawful to dispose of motor vehicles (new or used) except as provided in the Act, providing what Bills of Sale shall contain and how they shall be executed, requiring the purchaser to obtain the same, requiring one copy of same to be filed with the Clerk of Courts, providing for a ‘Sworn Statement’ in certain cases, making misrepresentation in a Bill of Sale or assignment unlawful, making operation without having Bill of Sale or copy filed with the Clerk of Courts unlawful, providing for cases of lost or stolen Bills of Sale or Sworn Statements, stipulating the duties of the Clerk of Courts and providing penalties for violation of the law.”