

propriation duly made therefor would create no legal claim against the state. But a succeeding legislature would have the power to reimburse the committee.

Respectfully,
EDWARD C. TURNER,
Attorney General.

659.

APPROVAL, ABSTRACT OF TITLE TO LAND KNOWN AS SCHOENBRUN TRACT, GOSHEN TOWNSHIP, TUSCARAWAS COUNTY, OHIO.

COLUMBUS, OHIO, June 24, 1927.

The Ohio Archeological and Historical Society, Ohio State University, Columbus, Ohio.

GENTLEMEN:—The abstract of title, deed, encumbrance estimate and other papers relating to the proposed purchase of land situate in the township of Goshen, county of Tuscarawas and state of Ohio, and being a part of Lot No. 82 of J. C. Adair and C. A. Leech's subdivision of a part of Lots Nos. 7, 8, and 9 of the Schoenbrun Tract have been resubmitted for my examination and approval.

In an opinion of this department, being Opinion No. 162, dated March 1, 1927, it was held that the abstract showed a good and merchantable title to the premises in H. P. Copeland, Martha M. McDivitt and James McDivitt, trustees of the estate of John McDivitt, deceased, subject to the following exceptions:

"1. In Section 26 of the abstract, it appears that Francis M. Wills, on January 10, 1896, granted an interest in the land to The Central District & Printing Telegraph Company for the purpose of permitting said Company to construct, operate and maintain its lines over and along property owned by Mr. Wills, including the necessary poles and fixtures along the roads, streets or highways adjoining the property, together with the right to set the necessary guy and brace poles and attach to trees the necessary wires. This lease encumbrance has never been released.

2. In Section 28 in the deed from Francis M. Wills and wife to John McDivitt under date of March 28, 1907, the deed was made subject to the conditions for the benefit of the grantors, and their heirs and assigns, being the owners of other lands fronting on the public road, on which said lot abuts, that no building shall be erected or maintained on said premises nearer than 50' to said public road.

3. The taxes for 1926 are a lien and unpaid."

Your attention is directed to the letter, which is submitted with the abstract, from Rev. Joseph E. Weinland to Mr. C. B. Galbreath, Secretary of the Ohio State Archeological and Historical Society, under date of June 14, 1927, in which it is said:

"1. The grant of interest to the Central District & Printing Telegraph Company interferes in no respect with the property for which this deed is given. It applies to a portion of property not included in the limits described therein.

2. The same answer may be made to the second question raised in the opinion of the attorney general. The condition relative to buildings fronting on the public road do not apply to the land described in the deed but to another portion of the farm of which this is a part.

3. The exception relative to taxes is well understood by the parties acquiring the land. The work of the county auditor is not complete. The taxes will be paid as soon as he can determine the amount."

While without a plat it is impossible to determine the exact location of the tract of land which the state proposes to purchase with reference to the building restriction contained in the deed from Francis M. Wills and wife to John McDivitt under date of March 28, 1907, I am informed by the county auditor of Tuscarawas county that this tract is located about 400 or 500 feet from the public road and that the building restriction contained in said deed does not apply to said tract.

In view of the information contained in the letter from Rev. Weinland and that obtained from the county auditor, I am of the opinion that the objections enumerated in the second paragraph, with the exception of the taxes for 1926 and 1927, may be disregarded.

Having heretofore, in Opinion No. 162, supra, found that the abstract showed a good and merchantable title to the premises in H. P. Copeland, Martha McDivitt and James McDivitt, trustees of the estate of John McDivitt, deceased, subject to exceptions enumerated in said opinion, and being of the opinion that the objections as to the right of way granted to The Central District & Printing Telegraph Company and as to the building restrictions in the deed from Francis M. Wills to John McDivitt as shown by Sections 26 and 28 respectively of the abstract, may be disregarded, I see no reason why the state should not complete the proposed purchase upon payment or other disposition of the 1926 and 1927 taxes.

I am returning herewith abstract of title, deed, encumbrance estimate and other papers.

Respectfully,
EDWARD C. TURNER,
Attorney General.

660.

TOWNSHIP TRUSTEES—PURCHASE OF TRACTOR—MUST BE ADVERTISED IF OVER \$500.00.

SYLLABUS:

1. *Under the provisions of Section 7201, General Code, township trustees may purchase a tractor or other equipment for use in constructing, maintaining and repairing roads upon the terms prescribed in such section, namely, not less than one-third of the purchase price in cash, not more than one-third at any time within one year and not more than one-third at any time within two years from the date of purchase.*

2. *By the express terms of Section 3373, General Code, all purchases of machinery by township trustees for use in constructing, maintaining, and repairing roads must, where the amount involves five hundred dollars, be made from the lowest responsible bidder after advertisement, as prescribed by such section.*