

February 20, 1850. *Coan vs. Flagg*, 38 O. S. 156, 123 U. S. 117; *Board of Trustees vs. Cuppett*, 52 O. S. 567; said entry and survey and the patent issued thereon being void the title to the lands included therein passed to the State of Ohio as unsurveyed and unsold land, and thereafter by Act of the Legislature passed from the State of Ohio to the Ohio Agricultural and Mechanical College, the predecessor in name of the Ohio State University.

As abstracted, said deed of the Board of Trustees of the Ohio State University to Simon Labold, the original predecessor in title of Alvin F. Cyfers to the lands here under investigation, is defective for the reason that it does not appear that said deed was witnessed in the manner required by law. If, as a matter of fact, this deed was not witnessed, its only effect was to convey an equitable title in the lands described in the said deed and this would be the only title held by Alvin F. Cyfers to the above described premises. If, as a matter of fact this deed was properly witnessed, the abstract should be corrected to show said fact. If, on the other hand by some inadvertence the deed was not witnessed, said Alvin F. Cyfers should be required to obtain a quit claim deed to the premises from the Board of Trustees of Ohio State University.

I find no other defects in the title to said lands here under investigation, nor any encumbrances thereon except the taxes for the last half of the year 1927, the amount of which is not stated in the abstract, and the undetermined taxes for the year 1928.

The warranty deed submitted to me has been properly signed, executed and acknowledged by said Alvin F. Cyfers and Minnie Cyfers, his wife, and is in form sufficient to convey to the State of Ohio a fee simple title to the above described lands and premises, free and clear of all encumbrances.

Encumbrance estimate No. 3387, with respect to the purchase of said lands, is in proper form and shows that there are sufficient balances in the appropriation account to pay the purchase price of said lands. However, said encumbrance estimate has not been signed by the Director of Finance and of course can not be accepted by this Department until said signature is procured.

With said encumbrance estimate there was submitted a copy of a certificate over the signature of the Secretary of the Controlling Board, showing that said Controlling Board had approved the purchase of said lands.

I am herewith returning to you said abstract of title, deed, encumbrance estimate and the Controlling Board's certificate.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2035.

APPROVAL, ABSTRACT OF TITLE TO LAND OF ARTHUR SHINKLE, IN
THE CITY OF OXFORD, BUTLER COUNTY, OHIO.

COLUMBUS, OHIO, April 28, 1928.

HON. W. P. ROUDEBUSH, *Secretary, Board of Trustees, Miami University, Oxford, Ohio.*

DEAR SIR:—There has been submitted for my opinion an abstract of title and a deed covering the following described real estate, to-wit:

“Being one acre of land, more or less, of the south side of out-lot numbered eleven (11) as the same is numbered and designated on the plat of the village of Oxford, Butler County, Ohio, and being the south one-fourth

(1) of said out-lot, except a rectangular tract taken out of the southeast corner thereof fronting fifty-two and eighty-one hundredths (52.81) feet on Maple Street and extending back westwardly along the south line of said lot two hundred feet (200)."

As noted in the abstract, the above described real estate is a part of the land set apart by the United States for the support of an academy or university in the act establishing the Northwest Territory. In the act of the Legislature establishing Miami University, the university was authorized to lease the lands set apart for its support by ninety-nine year leases, renewable forever, subject to the payment of a ground rent, depending upon the purchase price of the lots or lands purchased.

It appears that on May 19, 1916, Out-lot No. 11, embracing the premises here under investigation, was sold to one Hezekiah Shaw by a ninety-nine year lease, renewable forever. There is nothing in the abstract to show that this lease, upon the expiration of the original term thereof, was renewed and for this and other reasons pointed out in recent opinions of this department, touching the title of other lands in like situation purchased by Miami University through the president and board of trustees thereof, a question arises with respect to the legal title of Arthur Shinkle to said above described premises. However, there is no question but what said Arthur Shinkle has an equitable estate in said premises which is subject to sale and which can and will be conveyed by the deed above referred to.

There are no liens or encumbrances on said premises other than taxes hereinafter noted, and I am of the opinion that upon delivery and acceptance of a deed for said premises, Miami University will have a complete legal title to said premises for the uses and purposes of said institution.

Said abstract of title is, therefore, herewith approved, as is the deed which has been properly executed and acknowledged by Arthur Shinkle, the owner of record of said premises, and by Callie W. Shinkle, his wife.

The abstract shows that the taxes for the last half of the year 1927, amounting to \$39.00, are unpaid and a lien. The taxes for the year 1928, the amount of which is undetermined, are likewise a lien upon said premises.

I have examined the encumbrance estimate with respect to the purchase of the premises, which has been submitted to me, and find same to be properly executed and to show that there are in the appropriation account sufficient balances to pay the purchase price of the property above described. No approval of the Controlling Board was necessary with respect to the purchase of this property and no proceedings with respect to the action of said Controlling Board has been certified to this department.

I am herewith returning said abstract of title and deed and encumbrance estimate with this opinion.

Respectfully,

EDWARD C. TURNER,

Attorney General.

2036.

APPROVAL, ABSTRACT OF TITLE TO LAND OF GEORGE R. BURDSAL, IN
THE VILLAGE OF NEWTOWN, HAMILTON COUNTY, OHIO.

COLUMBUS, OHIO, April 30, 1928.

HON. CHARLES V. TRUAX, *Director of Agriculture, Columbus, Ohio.*

DEAR SIR:—There has been submitted to this department for an opinion an