

I have examined the deed for these premises which has been signed by Anna L Durham and E. S. Durham, her husband, and the same seems to be defective in its description of the property conveyed in this: After the words "Jas. Taylors" and before the word "of" in the first and second lines of the description the word "sub-division" should be inserted. After the words "James Taylors" and between the words "of Massie Survey" the word "division" or "subdivision" as the case may be, should be inserted.

The encumbrance estimate with respect to the purchase of this property is in proper form and shows that there are unencumbered balances in the appropriation account sufficient to pay the purchase price of the same. Said appropriation likewise contains a statement over the signature of the Director of Finance showing that the purchase of this property was approved by the Board of Control under date of October 23, 1927.

I am herewith returning said deed and encumbrance estimate. I am retaining the abstract for the purpose of investigating the title of other parcels of real estate which the State of Ohio proposes to purchase for the use of your department.

Respectfully,

EDWARD C. TURNER,
Attorney General.

2034.

APPROVAL, ABSTRACT OF TITLE TO LAND OF ALVIN F. CYFERS,
NILE TOWNSHIP, SCIOTO COUNTY, OHIO.

COLUMBUS, OHIO, April 28, 1928.

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

DEAR SIR:—There has been submitted to me for my examination and approval an abstract of title and a warranty deed executed by Alvin F. Cyfers and wife, covering certain real estate situated in Nile Township, Scioto County, Ohio, and more particularly described as follows:

"Beginning at a stone at the North corner of Survey No. 15475; South-east corner of Survey No. 15880; and a Westerly corner of Survey No. 15879; thence N. $2\frac{1}{2}$ deg. E. 141 rods to a stone on the line between Surveys No. 15879 and 15880, and on top of the dividing ridge between the waters of Upper Twin Creek and Pond Run; thence S. $58\frac{1}{2}$ deg. E. $32\frac{1}{2}$ rods to a stone; thence S. $2\frac{1}{2}$ deg. W. 141 rods to a stone on the North line of Survey No. 15475; thence with said line, N. $58\frac{1}{2}$ deg. W. $32\frac{1}{2}$ rods to the beginning, containing 25 acres, more or less, and being a part of Survey No. 15879."

My examination of the abstract of title submitted shows that the sole and only legal source of title of Alvin F. Cyfers and his predecessors in title to the above described premises is the deed executed by the Board of Trustees of the Ohio State University to Simon Labold under date of June 21, 1904, conveying to said Simon Labold, the acreage included within Survey No. 15879, of which the above described lands and premises are a part. The title of the Ohio State University to said lands resulted from the fact that the original survey and entry of Mary I. Payne and David F. Heaton in and on said Survey No. 15879, together with the patent thereafter issued in their names was wholly void for the reason that no proper return of said entry was made prior to January 1, 1852, as prescribed by the Act of Congress of

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