

2097.

DELINQUENT TAXES—SHERIFF'S SALE OF LAND—OPINION NO. 1746,
1930 AND OPINION NO. 1814, 1928 NOT IN CONFLICT.

SYLLABUS:

There is no conflict in Opinion No. 1746, issued under date of April 8, 1930, and opinion found in Opinions of the Attorney General for the year 1928, page 597.

COLUMBUS, OHIO, July 16, 1930.

HON. MARION F. GRAVEN, *Prosecuting Attorney, Wooster, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent communication which reads:

"In the syllabus of Opinion No. 1746 dated 4-8-1930, regarding delinquent tax sales the following was stated:

'In such proceeding it is the duty of the sheriff to sell said lands to the highest bidder even though the amount of the bid is less than the amount of the tax and the penalty.'

This relates to Sections 5712, etc., of the General Code of Ohio.

In Attorney General's Opinion No. 1814 for the year 1928 it was held substantially that all the taxes which are included in the delinquent land tax certificates are abated.

I am informed that in Cuyahoga County, citing as a basis for their procedure this opinion, that they accept no bids unless the amount of the certified delinquent tax is the bid. This seems to be in conflict with the procedure as outlined in Opinion No. 1746.

We have been selling the property as suggested in your Opinion No. 1746 and for that reason I would like to know if our procedure is correct or whether we should adopt the procedure reputed to Cuyahoga County.

It will not be necessary for you to write an extended opinion in this matter, just a letter as I am more interested in your interpretation of the two opinions as to whether or not they are incompatible."

My Opinion No. 1746, to which you refer, among other things, specifically held that in foreclosure suits for the non-payment of taxes the highest bid should be accepted notwithstanding the amount bid was not sufficient to satisfy the taxes due or certified as delinquent. In other words, it was indicated the tax liens or other liens would follow the funds the same as in a sale upon execution.

In the opinion of my predecessor to which you refer and which is found in Opinions of the Attorney General, 1928, page 597, it was held as disclosed by the syllabus that:

"In foreclosure proceedings under the provisions of Sections 5718 and 5719, General Code, only the taxes which were included in the delinquent land tax certificate are abated, and the taxes and assessments accruing subsequently to the delivery of said certificate are not abated in said foreclosure proceedings but remain a lien upon the land, unless the same are paid from the proceeds of the sale."

An analysis of the two opinions, it is believed, discloses there is no conflict therein. The latter opinion simply undertakes to point out the taxes that are abated by such procedure and holds that those accruing subsequent to the delivery of the delinquent tax certificate are not abated by the proceedings and nowhere does it undertake to

discuss the question as to whether the full amount of the tax should be bid before the premises may be sold.

In specific answer to your inquiries it is my opinion that there is no conflict in the two opinions to which you refer and that the procedure outlined in my Opinion No. 1746, which you advise you are following, is correct.

Respectfully,
 GILBERT BETTMAN,
Attorney General.

2098.

APPROVAL, BONDS OF MIDDLE POINT VILLAGE SCHOOL DISTRICT,
 VAN WERT COUNTY, OHIO—\$2,300.00.

COLUMBUS, OHIO, July 16, 1930.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

2099.

APPROVAL, ABSTRACT OF TITLE TO LAND OWNED BY ORIE T.
 ENGLAND IN WALNUT TOWNSHIP, FAIRFIELD COUNTY, OHIO.

COLUMBUS, OHIO, July 16, 1930.

HON. PERRY L. GREEN, *Director of Agriculture, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination and approval an abstract of title, warranty deed, encumbrance estimate No. 1121 and other files relating to a certain tract of land owned of record by one Orië T. England in Walnut Township, Fairfield County, Ohio, the same being located in the west half of section 23, township 17, range 18, and being more particularly described as follows:

Beginning at a point of intersection of the westerly line of said Section No. 23, and the line of the Borrow Pits along the north bank of Buckeye Lake as located by H. E. Whitlock under the direction of the Superintendent of Public Works in 1915, and running thence northeasterly with the lines of said Borrow Pits the following courses and distances: from the point of beginning, running thence N. 83° 36' east 134.6 feet to a station 77+75.5; thence north 75° 03' east 79.2 feet to station 76+96.3; thence north 81° 24' east 262 feet to station 74+34.3; thence north 74° 05' east 191.8 feet to station 72+42.5; thence north 74° 29' east 218 feet to station 70+24.5; thence north 38° 18' east 351.7 feet to station 66+72.8; thence north 34° 03' east 216.5 feet to station 64+56.3; thence northeasterly 452 feet more or less to a point in the east line of said west half of the northwest quarter of said section No. 23, that is 342 feet south of station 56+98.6 of the said Borrow Pits survey; thence northerly with the east line of the said west half of the northwest quarter of section No. 23, 82 feet; thence southwesterly 250 feet, more or less, to a point that is 50 feet northwesterly from station 64+56.3 of the said