

1880

OPINIONS

1066.

APPROVAL, BONDS OF THE VILLAGE OF BROOKLYN HEIGHTS, CUYA-
HOGA COUNTY, OHIO, \$8,500.00.

COLUMBUS, OHIO, September 28, 1927.

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

1067.

APPROVAL, BONDS OF MT. VERNON CITY SCHOOL DISTRICT, KNOX
COUNTY, OHIO, \$31,000.00.

COLUMBUS, OHIO, September 28, 1927.

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

1068.

APPROVAL, BONDS OF NORWALK CITY SCHOOL DISTRICT, HURON
COUNTY, OHIO, \$14,000.00.

COLUMBUS, OHIO, September 28, 1927.

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

1069.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND IN NILE TOWNSHIP,
SCIOTO COUNTY, OHIO.

COLUMBUS, OHIO, September 28, 1927.

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

DEAR SIR:—You have submitted for my examination and opinion abstract of title, warranty deed, encumbrance certificate, action of the controlling board and

other papers pertaining to a proposed purchase of a tract of eight hundred (800) acres, more or less, in Scioto County, Ohio, which it is proposed to purchase from J. Wesley Turner.

The abstract was prepared by Joseph W. Mitchell, abstractor, of Portsmouth, Ohio, and bears his certification under date of August 24, 1927.

The real estate covered by the abstract, and which the state proposes to purchase, is situated in Nile Township, Scioto County, Ohio, and being a part of survey number 15880 in the Virginia Military Tract, said real estate being more particularly described as follows:

Beginning at a point in the W. line of said survey 72 poles N. of a white oak, a corner to said survey and 408 poles S. of the N. W. corner of said survey; thence N. $2\frac{1}{2}$ deg. E. 408 poles to a chestnut oak east side of low gap which bears N. $81\frac{1}{2}$ deg. E. 6 poles from a pine on top of the ridge; thence S. $87\frac{1}{2}$ deg. E. 314 poles to a stone on the creek bank; thence S. $2\frac{1}{2}$ deg. W. 408 poles with survey No. 15879 to a point in the east line of said survey No. 15880; thence in a westerly direction 314 poles, more or less, in a line parallel with the N. line of said survey to the place of beginning, containing 800 acres, more or less, of said survey No. 15880.

Upon examination of the abstract, it is my opinion that the same shows a good and merchantable title to said real estate in J. Wesley Turner, subject to taxes for the year 1927, which the abstract shows to be unpaid and which are a lien.

While, as stated above, I am of the opinion that J. Wesley Turner has a good and merchantable title in and to the real estate which the state proposes to purchase, I desire to direct your attention to the following:

Reference to the plat or map appearing on the caption page of the abstract, and also appearing on page 59 of the abstract, shows that a portion of an irregular tract of land, designated survey number 14158, extends into, and lies within, the boundaries of survey number 15880, and particularly within that portion of survey number 15880 which it is proposed to purchase from J. Wesley Turner. Survey number 14158 was entered on December 29, 1834, and the abstract does not show that the portion lying within the boundaries of the tract which the state proposes to purchase (about five acres) was ever conveyed to J. Wesley Turner or his predecessors in title. The abstract shows that survey number 14158 stands in the name of A. L. Alley.

Reference to said title page and page 59 of the abstract also shows that a portion of another irregular tract of land, designated on page 59 as survey number 14598, extends into, and lies within, the boundaries of the tract which the state proposes to purchase. This survey was entered on August 27, 1841, and the abstract shows title to the same to be in Mary Francis. The portion of said survey which extends into survey number 15880 comprises approximately fifteen (15) acres.

Surveys numbers 14158 and 14598 are joined in such a way as to cut off the northeast corner of the tract which the state proposes to purchase from J. Wesley Turner from the rest of said tract.

While there is nothing among the papers to indicate that J. Wesley Turner intends to convey, or that the state proposes to buy, the portions of surveys numbers 14158 and 14598 which extend into, and lie within, the boundaries of survey number 15880, I believe you should be advised of the situation.

I have examined the warranty deed from J. Wesley Turner and Charity J. Turner to The State of Ohio and find that the same purports to convey the real estate above described to "The State of Ohio, heirs and assigns forever." The same

language appears in the habendum and warranty clauses. I would suggest that said deed be redrafted and re-executed to convey to "The State of Ohio, its successors and assigns," similar changes being made in the habendum and warranty clauses. It might also be well in redrafting said deed to except from the premises described the portions of surveys numbers 14158 and 14598 which extend into, and lie within, the boundaries of survey number 15880.

The encumbrance estimate bears the certification of the director of finance under date of June 1, 1927, and appears to be in proper legal form.

I am returning herewith abstract of title, warranty deed, encumbrance estimate and other papers submitted in this connection.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1070.

APPROVAL, BONDS OF FRANKLIN TOWNSHIP RURAL SCHOOL DISTRICT, MONROE COUNTY, \$16,000.00.

COLUMBUS, OHIO, September 28, 1927.

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

1071.

APPROVAL, FINAL RESOLUTION ON ROAD IMPROVEMENT IN JEFFERSON COUNTY, OHIO.

COLUMBUS, OHIO, September 28, 1927.

HON. GEORGE F. SCHLESINGER, *Director, Department of Highways and Public Works, Columbus, Ohio.*

1072.

SPECIAL COUNSEL—EMPLOYMENT AND ASSIGNMENT TO HIGHWAY DEPARTMENT.

SYLLABUS:

Employment of a special counsel by the attorney general and his assignment to the department of highways and public works cannot be made so as to authorize