

as to the status of the title to a tract of land situated in the county of Ottawa, village of Port Clinton, Ohio, said tract being a strip of land 420 feet in length by 85 feet in width, which is a part of West Market street, said street having been recently vacated by the village of Port Clinton.

Under the rule laid down in *Traction Co. vs. Parish*, 67 O. S. 181, it would seem that the title to premises under such circumstances upon the vacation of the street would revert to the adjoining lot owners. It is understood that the purpose is to donate said premises to the state for armory purposes.

After an examination, it is my opinion that said abstracts disclose the title to the lots adjoining said street to be as follows:

The north part of Lot No. 7 in Block 5 to be in the name Paul Newman, the south portion of Lot No. 7 of Block 5 to be in the name of Felix Courchaine; Lot No. 8 of Block 5 to be in the name of Edward Bertsch; Lot No. 9 of Block 5 to be in the name of Mary J. Hopfinger; Lots Nos. 10 and 11 in Block 5 to be in the name of Minerva Weirman; Lot No. 1 of Block 6 to be in the name of the New York Central Railroad and Lots Nos. 8, 9, 10 and 11 in Block 6 to be in the name of Clara Lutts Glavin.

A deed has been submitted executed by M. V. Wierman and husband, Edward Bertsch and wife, Clara L. Glavin and husband, Felix H. Courchaine and wife, and Mary Hopfinger, sufficient to convey to the state any interests that they may have in the premises heretofore described. However, you should determine that Mary Hopfinger is an unmarried person before accepting the conveyance, for the reason that if she has a husband living he would have a dower in the premises.

Also a deed has been submitted by Paul Newman, which is sufficient to convey his interests in said premises to the state. However, it is suggested that before this deed is finally accepted, that you determine whether Paul Newman is a married man. If so, his wife should join in said conveyance.

There also has been submitted a quit claim deed executed by the New York Central Railroad Company, quit claiming to the state all of its interest in said premises, excepting a right of way for the maintenance and operation of its railroad over a strip 60 feet wide, more thoroughly described in the deed.

I am returning herewith said abstracts and deeds.

Respectfully,

C. C. CRABBE,

*Attorney General.*

1245.

SEARCH WARRANT—CANNOT BE ISSUED BY MAYOR TO STATE PROHIBITION OFFICER, SHERIFF OR CONSTABLE

*SYLLABUS:*

*A search warrant cannot be issued by a mayor to a state prohibition officer, a sheriff, deputy sheriff or constable.*

COLUMBUS, OHIO, March 6, 1924.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—This will acknowledge receipt of your letter of February 27th, as follows:

"Section 13482 G. C., provides that a justice of the peace, mayor or police judge may issue warrants to search a house or place. Section 13484 G. C., provides that a warrant for search shall be directed to the proper officer, etc. Section 13500 G. C., provides that a warrant to arrest shall be directed by the officer of a municipal corporation to the marshal or other police officer thereof.

"Question: In view of the above sections, has a mayor authority to issue a search warrant to a state prohibition officer, or to a sheriff, deputy sheriff, or constable?"

The provisions of the statutes referred to in your letter are as you have stated. Section 6212-26, General Code, reads as follows:

"In cases arising under laws prohibiting the liquor traffic, said commissioner, deputy and inspectors shall have the same power to serve criminal and other process and papers as is now or may hereafter be conferred by law upon sheriffs, and shall have the same rights as sheriffs to require aid in executing such process. There shall be taxed in the several courts of the state for such commissioner, his deputy and inspectors, in the bill of costs in any case in which they perform any such service, the same fees as sheriffs are entitled to receive, which shall be paid promptly into the state treasury."

This section is the only provision made by law for the service of process from courts by state prohibition inspectors and, as you can see, only gives them the same authority that is given sheriffs, and fixes the fees to be charged for their services to be the same as charged for sheriffs.

This department has heretofore rendered you an opinion, holding that a mayor cannot issue a warrant to a sheriff and the same holding would apply to deputy sheriffs and constables. The search warrant statute, section 13484, says a search warrant shall be issued to the proper officer, and the proper officer of a mayor's court is the marshal or other police officer of the municipality.

The only specific provision of our statutes for the issuing of warrants is section 13500, General Code, which reads as follows:

"The warrant shall be directed to the sheriff or to any constable of the county, or, when it is issued by an officer of a municipal corporation, to the marshal or other police officer thereof and, by a copy of the affidavit inserted therein or annexed and referred to, shall show or recite the substance of the accusation and command such officer forthwith to take the accused and bring him before the magistrate or court issuing such warrant, or other magistrate of the county having cognizance of the case, to be dealt with according to law."

The officer to whom a search warrant is issued is not directed therein to make an arrest, and, there being no provision as to whom a search warrant shall be issued, except that it be issued to the proper officer, we must find who is the officer of the court from which the search warrant is issued, and it is my opinion that the proper officer to whom such a warrant shall be issued from a mayor's court is the marshal or other police officer, and no such warrant can be issued to a state prohibition inspector, sheriff, deputy sheriff or constable.

Respectfully,  
C. C. CRABBE,  
*Attorney General.*