

1464.

ABSTRACT, STATUS OF TITLE, 52½ ACRES OF LAND SITUATED IN  
FRANKLIN TOWNSHIP, ROSS COUNTY, OHIO.

COLUMBUS, OHIO, May 14, 1924.

HON. EDMUND SECREST, *State Forester, Ohio Agricultural Experiment Station,  
Wooster, Ohio.*

Dear Sir:

An examination of the deed and abstract of title submitted to this department by you discloses the following:

The abstract under consideration was prepared by Wade J. Beyerly, Abstracter, under date of April 18, 1924. The abstract as submitted pertains to the following premises, to-wit, 52½ acres of land situated in Franklin Township, Ross County, Ohio, and being a part of Survey No. 15056, and bounded and described more particularly as follows:

Beginning at a stone, the N. E. Corner of a tract of land conveyed to Chas. A. Lancaster and wife, by William R. Lancaster and wife by deed dated August 2, 1920;

Thence south 9 degrees, west 134 poles to a stone;  
thence north 46 degrees west 13 poles to 3 C. Oak and Bl. Oak;  
thence south 88 degrees west 32½ poles to a chestnut oak;  
thence north 40 degrees west 41 poles to 2 bl. oaks;  
thence south 78 degrees west 21½ poles to a chestnut oak;  
thence north 7 degrees east 60 poles;  
thence north 33 degrees east 28 poles.  
thence south 74 degrees east 71 poles;  
thence south 82 degrees east 15½ poles to the beginning.

Containing 56½ acres more or less, excepting therefrom the following two tracts:—

First: Beginning in the middle of Snake Hollow Road on the line between Fred C. Schlegel and Charles A. Lancaster, from which beginning point a 12 inch white oak stump (with Coppice) bears north 6 degrees east 13 feet; thence south 6 degrees west on line (old call being south 9 degrees west) 20 rods; thence north 74 degrees west 36 rods to 3 one-inch sassafras trees; thence north 6 degrees east 16⅔ rods across the road at 16 rods, to a 3 inch white oak in the line of Charles A. Lancaster; thence along the road south 74 degrees east 20⅔ rods to a stone near south side of road; thence east 15½ rods to the place of beginning, containing 4 acres more or less.

And also one-half an acre lying north of the road.

Upon examination of said abstract, I am of the opinion that same shows a good and merchantable title to said premises in Fred C. Schlegel. Your attention is directed to errors in the description of the premises. In quoting the description of the premises in this opinion, I have corrected the direction in the fifth call as set out in the abstract. The fifth call reads as follows:

“Thence *north* 78 degrees west 21½ poles to a chestnut oak.”

This should read:

“Thence *south* 78 degrees west 21½ poles to a chestnut oak.”

You will observe from an examination of the plat and description, as set out in section 15 of said abstract, that the call above referred to would necessarily have to read "south 78 degrees" in order that the description might fully enclose any parcel of land. Therefore, I am quite sure that the description as copied on the title page of the abstract is in error in the fifth call. This is also true of the description in the deed, which must necessarily be corrected before the deed is finally accepted. The same error obtains in section 25 of the abstract and has been corrected by pencil notation.

According to the certificate of the abstracter, the premises under consideration are free and clear of any and all liens and encumbrances. The abstracter has also submitted with the abstract receipted tax bills to and including the taxes due and payable in June, 1924.

It is further suggested that a proper delivery of the deed submitted, after the corrections I have suggested have been made, and same has been properly executed, will be sufficient to convey the title of said premises to the State of Ohio.

Attention is also directed to the necessity of the proper certificate of the Director of Finance, to the effect that there are unencumbered balances legally appropriated, sufficient to cover the purchase price before the purchase can be consummated.

The abstract, deed and receipted tax bills submitted by you are herewith returned.

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

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1465.

TITLE TO PUBLIC GROUNDS WITHIN MUNICIPALITY IS VESTED IN FEE IN MUNICIPALITY—WHETHER LANGUAGE USED IN DEDICATION OF A PARK TO VILLAGE OF WAUSEON PROHIBITS USE OF PREMISES FOR MEMORIAL BUILDING DISCUSSED.

COLUMBUS, OHIO, May 14, 1924.

**SYLLABUS:**

1. *Under Section 3585, General Code, the title to public grounds within a municipality is vested in fee in the municipality, for the public use.*
2. *A municipality cannot abandon the right to use a public park duly dedicated to the public, but may permit a use of the same, in a manner not inconsistent with the purpose of the dedication.*
3. *Whether or not the language used in the dedication of a park to the village of Wauseon prohibits the use of such premises for a Memorial Building discussed.*

HON. DAVIS B. JOHNSON, *Prosecuting Attorney, Wauseon, Ohio.*

Dear Sir:—

You have requested my opinion as follows:

"In June, 1865, John H. Sargent and E. L. Barber platted and sold out Lot "D" of the original plat to the village of Wauseon, Ohio. In this plat, a park was dedicated in the following language: