

2. The fact that the rooms in a building owned by the Y. M. C. A., when not occupied by members of said association, are rented to the public to the extent that said rooms are not occupied by members of said association, does not classify said rooms as property leased for a profit so as to subject them to taxation.

3. The fact that a part of a Y. M. C. A. building owned by said association is devoted to the operation of a restaurant owned and managed directly by the association, but to which the public at large is admitted, and which derives a good part of its revenue from the public, does not classify the room or rooms in which said restaurant is so operated and managed as property leased for commercial purposes or for a profit and does not therefore subject said property to taxation.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1743.

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

COLUMBUS, OHIO, February 23, 1928.

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

DEAR SIR:—I have made a careful examination of an abstract of title with respect to certain lands situated in Nile Township, Scioto County, Ohio, and being more particularly described as follows:

“Being part of said Survey No. 15391-15450; beginning at two white oaks from which a jackoak 5 inches in diameter bears S. 88½° W. 26 links to S. W. corner to Survey No. 14157, thence S. 26° W. 116 poles to a pine on top of a ridge; thence along the ridge 70° E. 8 poles to a pine and a white oak; thence N. 43° E. 14 poles to a stone; thence S. 58° E. 11.6 poles to a jackoak and a black walnut; thence S. 51° E. 13½ poles to three pines; thence S. 76° E. 10.7 poles to three pines; N. 86° E. 14 poles to a stake; thence N. 85° 30' W. 214.4 poles to a pine; thence N. 71° 45' E. 11.6 poles to a hickory and jackoak; thence N. 61° E. 18 poles to a jackoak on a point; thence N. 66° 19.7 poles to a white oak; thence S. 79° E. 10 poles to a black oak; thence N. 67° E. 16 poles to a stake; thence N. 61° E. 59 poles to three hickories and a dogwood; easterly corner to Survey No. 14771; thence with one line thereof N. 39° 30' E. 17 poles to three black oaks and a white oak; thence N. 47° E. 30' down the hill 41½ poles to a stone on the line of Survey No. 13481; thence with one line thereof N. 76° W. 44.7 poles to a white oak, corner to Survey No. 13481 and corner to Survey No. 15720; thence with one line thereof N. 89° W. 50½ poles to a black oak and two dogwoods, thence S. 12° E. 30½ poles to a dogwood; thence S. 39° 30' E. 50 poles to a black oak; thence S. 31° E. 13.6 poles to three black oaks and white oaks aforesaid; thence S. 39° W. 17.8 poles to three hickories and a dogwood; thence S. 78° W. 53.3 poles to a large flat gum and four dogwoods; thence N. 10° W. 30 poles to a white oak and

red oak; thence N. 78° W. 53.36 poles to a stake and stone, thence N. 12° 41½ poles to a stake S. E. corner to aforesaid Survey No. 14157; thence with one line thereof S. 83° 30' W. crossing a branch and a road 115 poles to the beginning, containing 123 acres, more or less."

Upon my examination of this abstract I find that Edward Cunningham does not have a merchantable fee simple title to the above described lands and premises.

It seems that a number of deeds appearing in the chain of title to these premises were not witnessed as required by the law of this state. Some of these deeds, however, were executed in the State of Kansas, and others in the State of Missouri. In neither of these states are witnesses required in the execution of deeds, and inasmuch as said deeds were otherwise in proper form and were in all respects good and sufficient deeds under the laws of the state where executed, said deeds under the provisions of Section 4111, Revised Statutes, (now Sec. 8516, G. C.,) were sufficient to convey title to the premises under the laws of this state. However, a more serious objection arises with respect to one of the later deeds in the chain of title of the lands here under investigation. On, and for some time prior to January 9, 1923, these lands were owned by one George W. Singer of Grant County, Indiana. On said date said George W. Singer and his wife executed a deed for said lands to Edward Cunningham, the present record owner of the same. This deed followed a form prescribed and used for the conveyance of lands in the State of Indiana. Apparently, said deed was one which in substance and form was sufficient to convey a fee simple title to lands in said State of Indiana. Said deed, however, did not contain any words of inheritance such as at that time were necessary under the laws of Ohio. Without such words of inheritance said deed above referred to was under the laws of Ohio effective only to convey a life estate in said lands to Edward Cunningham. In this connection it is not clear that Section 8516, General Code, above referred to has reference to any matter in connection with deeds executed in other states on Ohio lands other than those pertaining to the formal execution of such deeds. In this view the defect in the deed from Singer to Cunningham above referred to is not cured by the provisions of Section 8516, General Code. It is not clear to me, therefore, that said Edward Cunningham has anything more than a life estate in the lands here under investigation which are described in the caption of said abstract. Undoubtedly, it was the intention of said George W. Singer to convey a full fee simple title in these lands to Mr. Cunningham; and it is suggested that Mr. Cunningham will probably have no difficulty in procuring from Mr. Singer and wife a quit claim deed conveying to Mr. Cunningham the full fee simple title to these lands.

I am of the opinion, therefore, that you should require Mr. Cunningham to procure such quit claim deed, and when this is done the abstract containing proper references to such deed may be again submitted for the approval of this department. I am enclosing herewith the abstract referred to.

Respectfully,
EDWARD C. TURNER,
Attorney General.