

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 Orie 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

Borrow Pits survey; thence southwesterly 440 feet to a point that is 50 feet northwesterly from station 69+00.5 feet; thence southwesterly by a 38° curve to the right 200 feet to a point 50 feet northerly from station 71+33.5; thence southwesterly 297.7 feet to a point that is 50 feet northerly from station 74+34.3; thence southwesterly 460.6 feet to the west line of said section No. 23; thence south 50° 20' west 59 feet to the place of beginning, containing 2¼ acres of land, more or less.

Upon examination of the abstract of title submitted, I find some defects of record in the early history of the title of the west half of section 23, township 17, range 18, which includes the particular tract of land here under investigation. However, on account of the great length of time which has elapsed since said defects appeared in the record of the title, I do not now deem the same to be of substantial importance.

I am, therefore, of the opinion that said Orie T. England has a good, merchantable, fee simple title to the above described tract of land, free and clear of all encumbrances except the undetermined taxes for the year 1930, the first installment of which is due and payable in December, 1930.

Upon examination of the warranty deed tendered by said Orie T. England, who is an unmarried person, I find that the same has been properly executed and acknowledged by him, and that as to form said deed is sufficient to convey the above described property to the State of Ohio by fee simple title, free and clear of all encumbrances whatsoever.

Upon examination of encumbrance estimate No. 1121, I find that the same has been properly executed and approved, and that there is a sufficient amount in the proper appropriation account to pay the purchase price of the above described property, which purchase price is the sum of \$400.00. It likewise appears, by a copy of a certificate of the board of control that the money necessary to pay the purchase price of this property has been released by said board.

I am herewith returning with my approval said abstract of title, warranty deed, encumbrance estimate No. 1121 and controlling board certificate.

Respectfully,

GILBERT BETTMAN,
Attorney General.

2100.

WATER RENT—ON PROPERTY SOLD TO SATISFY MORTGAGE—RIGHTS OF MUNICIPALITY DISCUSSED.

SYLLABUS:

1. *A lien for water rent arising after the recording of a bona fide mortgage may not take precedence over said mortgage upon distribution of the proceeds from a sale of the premises to satisfy such mortgage. However, under such circumstances, a municipality may still pursue the party contracting for said service in pursuance of the rules of the water works division.*
2. *In the event that a foreclosure proceeding is instituted and a city receives no notice of such sale, and is not a party to the suit, such lien would not be discharged and would follow the land into the hands of the purchaser.*
3. *Whether or not the owner of such land at the time when the water rents accrue may be held personally liable for the payment of such water rents is a question of fact*