

of the municipality were acting under the provisions of the statute which clearly authorize such procedure. In fact, said rules and regulations make the treasurer of the city the custodian of such funds. Under such circumstances, of course, such fund must be administered by the trustees of the police relief fund irrespective of how the same may be constituted as a matter of law, for the reason that Section 4625 contemplates such board administering the same. While, as hereinbefore indicated, there is nothing to prevent police officers from establishing a fund that is wholly independent of any statutory fund provided for, it is believed that any such action must clearly disclose that it is the intent of such officers to so establish such an independent fund. In other words, in all probability a fund in which it would not be clearly disclosed that action was being taken independent of the statute would be presumed to be in accordance with the provisions of the statute.

Based upon the foregoing, and in specific answer to your inquiry, it is my opinion that:

1. Members of a city police department may create a fund other than the police relief fund into which contributions by members of the department and donations by private parties are placed. However, the funds required by statute to be placed to the credit of the police relief fund may not be placed and used in connection with the said private fund.

2. The members of a police department may make such rules and regulations for the management and distribution of said private relief fund as they choose. Such a fund has no relation whatever to the police relief fund provided by statute.

Respectfully,

GILBERT BETTMAN,

*Attorney General.*

1781.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND OF W. F. SEYMOUR  
IN WASHINGTON TOWNSHIP, SCIOTO COUNTY.

COLUMBUS, OHIO, April 15, 1930.

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

DEAR SIR:—You have submitted for my examination and approval an abstract of title, warranty deed, encumbrance estimate, and other files, relating to the proposed purchase of three tracts of land owned of record by one W. F. Seymour in Washington Township, Scioto County, Ohio. The first of these tracts is three hundred and thirty-five acres in Survey No. 15353-15383, more particularly described by metes and bounds in the warranty deed tendered to the State of Ohio. The other two tracts, which are likewise more particularly described in said warranty deed, are one hundred and forty-five acres and fifty acres, respectively, in Survey No. 15578, Virginia Military Land.

Upon examination of the abstract of title submitted I find a number of objections which prevent my approval of the title to the several tracts of land here in question, which objections are noted as exceptions to said title.

1. Although there are a number of defects in the early history of the title to the lands here under investigation it seems fairly clear, if we assume the validity of the original surveys above mentioned, that George Davis owned the lands here in question as well as other lands in said surveys at the time of his death, which was apparently about the year 1895. It appears further that title to the said several tracts of land or parts thereof passed out of the ownership of the heirs of said George Davis

through a sale of the same by the administrator of the estate of said George Davis pursuant to an order of the Probate Court of Scioto County, Ohio. The proceedings in the Probate Court of said county are not abstracted and said abstract is for this reason defective. These proceedings should have been sufficiently abstracted to show that the lands here under investigation were involved in said proceedings, that the court had jurisdiction and authority to make the order of sale and that the heirs and other parties in interest were made parties defendant and served with summons in the case, or that jurisdiction over the persons of such defendants was otherwise obtained. Assuming, however, that the court had jurisdiction over the subject matter of said action and over the persons of the parties to said action, the deeds from the administrator of the estate of George Davis to Francis Seymour, through whom said W. F. Seymour claims the record title to these lands, do not show that said Francis Seymour thereby became vested with the title to the several tracts of land here under investigation. The first of said administrator's deeds purports to convey to said Francis Seymour four hundred acres in Survey No. 15353-15383 except several tracts of land theretofore conveyed by as many separate deeds presumably executed by said George Davis in his lifetime to the several grantees named in the abstract. These several tracts of land theretofore conveyed by George Davis out of said four hundred acre tract aggregate in amount two hundred fifty-three and one-half acres. It is quite obvious that after deducting from said four hundred acres originally owned by George Davis in said survey the acreage contained in the several deeds thereafter executed by him there did not remain in George Davis at the time of his death the tract of three hundred and thirty-five acres of which W. F. Seymour is now the record owner, and the title to which he claims through said Francis Seymour.

2. It appears from the abstract that on December 3, 1901, said Francis Seymour, assuming to be the owner of tract of three hundred and eighty-two acres in Survey No. 15353-15383, conveyed the same by quit claim deed to W. F. Seymour and J. L. Hinze, Jr. Thereafter on January 17, 1903, said J. L. Hinze, Jr., conveyed his undivided one-half interest in said tract of land to John Hinze, Sr. There is not set out in said abstract any deed which affirmatively shows that said John Hinze ever executed a deed by which he conveyed to W. F. Seymour or to any other person his undivided one-half interest in said three hundred and eighty-two acre tract of land. The abstract does show a deed by John L. Hinze and wife to W. F. Seymour under date of September 12, 1903. The abstract does not set out the description of the land conveyed by said deed other than the notation "same as last entry". The last entry in said abstract before the notation above quoted is a description of fifty acres of land out of Survey No. 15578, conveyed by Francis Seymour to W. F. Seymour under date of January 9, 1904. It is altogether probable that the deed executed by John L. Hinze to W. F. Seymour under date of September 12, 1903, was a conveyance of his undivided interest in the three hundred and eighty-two acre tract above mentioned. However, the abstract does not show that to be the fact.

3. There is nothing in the abstract to show the description of the land in Survey No. 15578, which became vested in said Francis Seymour by deed from the administrator of the estate of said George Davis. The abstract shows that under date of December 23, 1896, the said administrator executed to Francis Seymour a deed in which, as abstracted, the property thereby conveyed was described as "three hundred acres in Survey 15578". There is nothing whatever in the abstract to show a further description of the property thereby conveyed, or that the same included the second and third tracts of land here under investigation or any part of the same.

In the consideration of the objections to the title to the several tracts of land here under investigation it is noted that there is set out in the abstract two deeds executed by the board of trustees of the Ohio State University to W. F. Seymour under dates of December 12, 1914, and January 5, 1915, respectively. By the first of said deeds there was conveyed to W. F. Seymour, by metes and bounds, a tract of

three hundred and eighty-nine acres which included the three hundred and thirty-five acre tract first above mentioned as one of the tracts of land here under investigation. By the second of said deeds there was conveyed to said W. F. Seymour the fifty acre tract, which is the above described third tract here under investigation, and also a tract of one hundred and seventy acres which included the second tract of one hundred and forty-five acres above referred to.

Presumably these deeds from the Ohio State University were taken by W. F. Seymour on the theory that the original surveys containing these lands and the patents issued thereon were invalid, and that by reason of congressional and state legislation relating to unsurveyed lands in the Virginia Military District the title to the lands in said original surveys became vested in the Ohio Agricultural and Mechanical College, the predecessor in name of the Ohio State University. As to this it is to be observed that the surveys which respectively included the tracts of land here in question were returned and that patents were issued thereon on November 1, 1849, which was more than two years prior to January 1, 1852, by which date, under act of congress, said surveys were required to be returned for patent. See *Coan vs. Flagg*, 38 O. S., 156; *Coan vs. Flagg*, 123 U. S., 117. The only other objection to said original surveys that could be suggested, touching the question of their validity, would be that depending upon the fact whether the acreage included in said surveys were so excessive as compared with the acreage called for in the warrants on which said surveys were made as to render said surveys fraudulent and void against the government of the United States. See *Coan vs. Flagg*, supra.

Upon the information contained in the abstract of title submitted I cannot say as a matter of law that said original surveys were fraudulent and void for the reason above suggested and that, therefore, the deeds executed by the Ohio State University to W. F. Seymour were the original source of title of said W. F. Seymour to the tracts of land here in question.

In this situation the defects in the chain of title to the several tracts of land above noted must be considered to be material defects, and the title of said W. F. Seymour to the property here under investigation is for these reasons disapproved.

I am returning to you with this opinion said abstract of title, warranty deed, encumbrance estimate No. 5840, and other files relating to the proposed purchase of said property.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

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1782.

JUSTICE OF THE PEACE—RIGHT TO ISSUE SEARCH WARRANTS  
THROUGHOUT HIS COUNTY.

*SYLLABUS:*

*A justice of the peace has jurisdiction to issue search warrants under the Crabbe Act co-extensive with the county, and such jurisdiction is not affected by the terms of Section 13422-3 of the new Code of Criminal Procedure.*

COLUMBUS, OHIO, April 15, 1930.

HON. RUPERT BEETHAM, *Prohibition Commissioner, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your letter of recent date which is as follows: