

With respect to the matter of perfecting the registered mail service on a non-resident defendant, the court said in the body of the opinion:

"Defendant claims that the sections require that the process from the Clark county court should have been issued to the sheriff of Clark county, Ohio, who in turn, had the legal right to deputize the sheriff of Franklin County, Ohio, if he so desired, to serve the secretary of state; that it was the duty of the sheriff of Clark county, Ohio, to have perfected the registered mail service on the non-resident defendant, and that the return of service upon both the secretary of state and the defendant should have been made by the sheriff of Clark county.

The court is of the opinion that the views as expressed by counsel for defendant are correct; that there are not three ways for serving process as claimed by plaintiff, but only two, to-wit, first, that the summons should be directed to the sheriff or officer of the county of the forum, who may go to Franklin county to serve the secretary of state, and who should make the registered mail service and return; or, second, it should be directed to the sheriff or officer of the county of the forum, who may, if he (the sheriff or officer) sees fit, deputize in a lawful manner the sheriff of Franklin county to serve the secretary of state. In either of these events the officer of the forum should make the return, both as to the service upon the secretary of state and as to the 'registered mail return receipt.' "

In view of the foregoing, please be advised that the opinion rendered in 1934 hereinabove mentioned is so modified.

Respectfully,
 JOHN W. BRICKER,
Attorney General.

4231.

DISAPPROVAL, PETITION CONTAINING A MEASURE TO BE REFERRED
 AND A SUMMARY OF THE SAME UNDER SECTION 4785-175, G. C.

COLUMBUS, OHIO, May 6, 1935.

MR. FRANK M. WILCOX, *Attorney-at-Law*, 504 Lorain County Bank Building, Elyria, Ohio.

DEAR SIR:—You have submitted for my examination a written petition signed by one hundred qualified electors of the state containing a measure to be referred and a summary of the same under section 4785-175, General Code. It is proposed to submit a law by initiative petition which reads as follows:

"LAW PROPOSED BY INITIATIVE PETITION FIRST TO BE SUBMITTED TO THE GENERAL ASSEMBLY

Be it enacted by the people of the State of Ohio:—

Section 1.—It shall be unlawful for any firm, corporation, copartnership or association, either foreign or domestic, to establish, open, maintain or operate

any branch or affiliated store within this state without having obtained a license to do so from the secretary of state of the State of Ohio, as hereinafter provided.

Section 2.—The term 'branch or affiliated store' as used in this act shall mean and include any store or stores, or any mercantile establishment or establishments in excess of one which are owned, operated, maintained or controlled by the same person, firm, corporation, copartnership or association, either domestic or foreign, in which goods, wares or merchandise of any kind are sold or offered for sale.

Section 3.—Any person, firm, corporation, association or copartnership desiring to operate, maintain, open, or establish any stores in excess of one in this state shall apply to the secretary of state for a license so to do. The application for a license shall be made on a form which shall be prescribed and furnished by the secretary of state, and shall set forth the name of the owner, manager, trustee, lessee, receiver or other person desiring such license; the name of such store; the location, including street number of such store; and such other facts as the secretary of state may require. An application shall be made for each such store in excess of one which such applicant desires to operate, maintain, open or establish, but the respective stores for which the applicant desires to secure licenses may all be listed on one such application blank. Each such application shall be accompanied by a filing fee of fifty cents and by the license fee as prescribed in Section 6 of this act.

Section 4.—As soon as practicable after the receipt of any such application the secretary of state shall carefully examine the same to ascertain whether it is in proper form and contains the necessary and requisite information. If upon examination the secretary of state shall find that such application is not in proper form and does not contain the necessary and requisite information he shall return the same to the applicant for correction. If the application is found to be satisfactory and the license fees herein prescribed have been paid, the secretary of state shall issue to the applicant a license for each branch or affiliated store for which an application for a license shall have been made. Each licensee shall display the license so issued in a conspicuous place in the store for which such license is issued.

Section 5.—All licenses so issued shall expire on the 31st day of December following the date upon which they are issued. On or before the first day of January of each year, every person, firm, copartnership or association having a license shall apply to the secretary of state for a renewal thereof for the year next ensuing. All applications for renewal licenses shall be made on forms which shall be prescribed and furnished by the secretary of state. No license shall lapse prior to the 15th day of January of the year next following the year for which such license was issued, and if an application is not made for and a renewal license issued on or before the 15th day of January, next ensuing, the former license shall lapse and become null and void and the secretary of state shall thereupon notify such delinquent license holder thereof by registered mail. Each such application for a renewal license shall be accompanied by a filing fee of fifty cents, and by the license fee as prescribed in Section 6 of this act.

Section 6.—Every person, firm, corporation, copartnership or association, either foreign or domestic, who establishes, opens, maintains or operates within this state under the same general management or control two or more stores where goods, wares or merchandise of any kind are sold, or offered for

sale, shall be deemed a branch or affiliated store operator, and for such stores established, maintained or operated in excess of one shall pay the license fees hereinafter prescribed for the privilege of establishing, opening, maintaining or operating each such store or mercantile establishment in excess of one. The license fee herein prescribed shall, except as herein provided be paid annually, and shall be in addition to the filing fee prescribed in Section 3, and in addition to all other taxes now in effect.

\$5.00	for the first place of business.
\$10.00	for the second place of business.
\$20.00	for the third place of business.
\$40.00	for the fourth place of business.
\$80.00	for the fifth place of business.
\$160.00	for the sixth place of business.
\$320.00	for the seventh place of business.
\$640.00	for the eighth place of business.
\$1280.00	for the ninth place of business.
\$2500.00	for the tenth place of business.

And \$2500 for each succeeding place of business within the confines of the State of Ohio.

Section 7.—Every license issued prior to the 15th day of July of the year in which such license shall expire shall be charged for at the full rate and every license issued on or after the 15th day of July of the year in which the same shall expire shall be charged for at one-half of the full rate.

Section 8.—No branch or affiliated store license shall be assignable or transferable.

Section 9.—The provisions of this act shall be construed to apply to every person, firm, corporation, copartnership or association, either domestic or foreign, which is controlled or held with others by a majority stock ownership or ultimately controlled or directed by one management or association of ultimate management.

Section 10.—Any and all expenses incurred by the secretary of state in the administration of this act shall be paid out of the funds accruing from the fees imposed by and collected under the provisions of this act. All money collected under the provisions of this act shall be paid into the state treasury, monthly, by the secretary of state, and credited to the general fund, and appropriated from the general fund for the following purposes:

(a) Payment of the necessary expenses incurred in the administration of the act.

(b) The balance to be added and shall constitute a part of the general fund for the elementary schools.

Section 11.—Any firm, corporation, copartnership or association who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars nor more than five hundred dollars, or imprisoned in the county jail not more than three months, or both, and each and every day that such violation shall continue shall constitute a separate and distinct offense.

Section 12.—If any section, provision or clause of this act shall be declared invalid, such invalidity shall not be construed to affect the portions of the act not so held invalid."

The summary reads as follows:

"The purpose of this Petition is to secure legislation whereby all branch or affiliated stores shall be taxed in proportion to the number of stores operated by any one organization within the limits of the State of Ohio, beginning with \$5.00 annual tax for the first place of business and in doubling the rate for each successive place of business to the tenth place of business, whose tax shall be \$2500.00; and thereafter the tax shall be \$2500.00 per store, which amount shall be the basis of taxation for all stores belonging to such organization operated within the State of Ohio regardless of the number of store units. And each such branch or affiliated store shall be licensed before it shall be lawful for it to operate. Any such license issued prior to July 15th of any year shall be subject to the payment of the tax for the full calendar year. Any such license issued on and after July 15th shall be subject to the payment of one-half the tax for the calendar year."

It will be seen that the summary states that the proposed law provides for an annual tax, whereas the proposed law provides for a license fee. Nowhere in the proposed law is the charge to be imposed termed a tax, although the license fee in question would perhaps amount to a tax rather than a license fee. I suggest that the language used in the proposed law be used in the summary. There is no reference in the summary to any provisions contained in section 8, 10 and 11. I suggest therefore that the summary include a synopsis of the provisions of these sections.

For the above reason, I am unable at this time to find that the summary is a fair and truthful statement of the proposed law.

Respectfully,
JOHN W. BRICKER,
Attorney General.

4232.

APPROVAL, ABSTRACT OF TITLE TO LAND IN HANOVER TOWNSHIP,
ASHLAND COUNTY, OHIO—CORA BOOKMAN.

COLUMBUS, OHIO, May 6, 1935.

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

DEAR SIR:—You have submitted for my examination and approval, an abstract of title of a tract of land owned by one Cora Bookman, in Hanover Township, Ashland County, Ohio. This tract of land is in the northeast quarter of the southwest quarter of Section 16, Township 19, Range 16, in said county and civil township, and is more particularly described by metes and bounds as follows:

"Beginning at the point where the middle section line which divides the SW and SE quarters of Section 16 crosses the center line of State Highway No. 97, said point being 45.05 feet S 88° 53' E of Station 86 88.34 on said Highway; thence, N 88° 53' W 904.41 feet along the center line of said Highway;