

2343.

APPROVAL, ABSTRACT OF TITLE TO LAND OF B. D. NICOLA, FOR
HAWTHORNDEN FARM, CLEVELAND STATE HOSPITAL, CLEVELAND,
CUYAHOGA COUNTY, OHIO.

COLUMBUS, OHIO, July 11, 1928.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have resubmitted for my examination and opinion an abstract of title pertaining to certain real estate situated in Bedford Township, Cuyahoga County, which the State of Ohio proposes to purchase from B. D. Nicola, for the Hawthornden farm of the Cleveland State Hospital. Under date of July 2, 1928, this department rendered you an opinion on the title to the real estate, as shown by abstract, being Opinion No. 2308, in which certain defects were pointed out. You have now submitted additional information which disposes of most of the objections raised in said opinion.

The oil and gas lease made to John B. Chapman by the executors and trustees of Val Christ, deceased, under date of December 5, 1911, and which was excepted in the warranty clause in the deed form from B. D. Nicola to the State of Ohio, considered at the time the former opinion was rendered, has been eliminated from the warranty clause in a new deed form submitted, and said B. D. Nicola now warrants against said lease. The same is true of the right of way for pipe line purposes granted to The East Ohio Gas Company under date of February 15, 1913.

Evidence has been submitted to the effect that Vincent Christ and Isadore Christ, minors, defendants in a partition suit shown at section 73 of the abstract, and referred to in paragraph numbered 3 in Opinion No. 2308, supra, have, since becoming of age, done certain acts with reference to the real estate set apart to them in said partition proceeding which shows that they have accepted the property set off to them in said proceeding. It is my opinion that they would, therefore, be precluded from asserting any rights as against the property which the state proposes to purchase.

Evidence has also been furnished to the effect that Joseph F. Sawicki and Elizabeth V. Sawicki were husband and wife on March 14, 1914, and that the deed shown at section 77 of the abstract, and referred to in the paragraph numbered 4 of Opinion No. 2308, supra, was a deed from husband to wife. The objection raised in said paragraph numbered 4 has therefore been cured.

In view of the foregoing, it is my opinion that the abstract of title, together with the further evidence furnished, shows a good and merchantable title to the property in question in B. D. Nicola, subject to the following:

1. A mortgage from William J. O'Brien to Elizabeth V. Sawicki and The Cleveland Trust Company, Trustee, dated May 14, 1926, the consideration stated being the sum of ten thousand (\$10,000.00) dollars. In closing the transaction you should see that the mortgage is paid and the cancellation of the same placed on record.

2. Taxes for the year 1928 and any assessments that may have been levied against the property are a lien and should be adjusted at the time of the closing of the transaction.

You have also submitted a new form of warranty deed from Benjamin D. Nicola to the State of Ohio covering the real estate above mentioned, in which Harriet S. Nicola, wife of Benjamin D. Nicola, releases dower. Upon examination of said deed I find that the same is in proper legal form and is properly executed and will, upon delivery, convey to the State of Ohio a fee simple title to the real estate therein described.

No encumbrance estimate has been submitted and I am, therefore, unable to render an opinion on the same.

I am returning the abstract of title, deeds and all other papers submitted in this connection.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2344.

APPROVAL, BONDS OF THE VILLAGE OF CADIZ, HARRISON COUNTY
—\$27,400.00.

COLUMBUS, OHIO, July 12, 1928.

Industrial Commission of Ohio, Columbus, Ohio.

2345.

APPROVAL, AS TO FORM, AGREEMENT BETWEEN THE DIRECTOR OF
HIGHWAYS AND THE PURE OIL COMPANY. (SEE OPINION NO.
1894).

COLUMBUS, OHIO, July 13, 1928.

HON. HARRY J. KIRK, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—Receipt is acknowledged of your communication of June 27, 1928, enclosing for my approval as to form, a contract by and between the Director of Highways of the State of Ohio, and The Pure Oil Company, a corporation.

The contract in question pertains to a certain right of way which The Pure Oil Company is granting to the State of Ohio, for the purpose of improving highway No. 7, Section A, Washington County, Ohio, through the property of said company.

This agreement was previously before this department for my approval, and on March 24, 1928, in Opinion No. 1894, the same was returned to you for the purpose of correcting certain words and punctuation as the same had been noted by pencil upon the agreement submitted.

I have examined the agreement which you now submit and find that you have in all respects corrected the same as suggested in Opinion No. 1894. I therefore approve the same as to form.

Respectfully,
EDWARD C. TURNER,
Attorney General.