

"Any municipality proceeding to acquire, construct, own, lease or operate a public utility, or to contract with any person or company therefor, shall act by ordinance and no such ordinance shall take effect until after thirty days from its passage. If within said thirty days a petition signed by ten per centum of the electors of the municipality shall be filed with the executive authority thereof demanding a referendum on such ordinance it shall not take effect until submitted to the electors and approved by a majority of those voting thereon. The submission of any such question shall be governed by all the provisions of section 8 of this article as to the submission of the question of choosing a charter commission."

These sections are dispositive of your inquiry. It should be noted that the submission of such ordinance shall be in accordance with Section 8 of Article XVIII of the Constitution, and not in accordance with Section 4227-2 of the General Code. See also the case of *Power Co. vs. Steubenville*, 99 O. S. 421, the first and fourth branches of the syllabus being:

"The council of a municipality has authority to fix the price that an electric light company may charge the city or its inhabitant for electric current for light and power purposes.

* * * * *

A contract entered into between a public utility and a municipality of this state, whereby the public utility agrees to supply its product or service to the municipality or its inhabitants for a period of ten years, at a rate, price, charge, toll or rental specified in such contract, is expressly authorized by Section 4, Article XVIII of the Constitution of Ohio, and is valid and binding upon the parties thereto, unless disapproved by a majority of the electors voting thereon, at a referendum election held under the provisions of Section 5, Article XVIII of the Constitution of this state."

In view of the foregoing, it is my opinion that a municipality has authority to contract with others for street lighting under Section 4, Article XVIII of the Ohio Constitution; and such contract should be authorized by ordinance, which ordinance is subject to referendum as provided in Section 5, Article XVIII of the Constitution.

Respectfully,

GILBERT BETTMAN,

Attorney General.

1367.

APPROVAL, ABSTRACT OF TITLE TO LAND OF LESTER P. BLOSSER
IN RARDEN AND BRUSH CREEK TOWNSHIPS, SCIOTO COUNTY.

COLUMBUS, OHIO, January 6, 1930.

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

DEAR SIR:—You have submitted for my examination an abstract of title, warranty deed and encumbrance estimate relating to the proposed purchase of five certain tracts of land situated in Brush Creek and Rarden Townships, Scioto County, Ohio, and more particularly described as follows:

"Tract 1. Situated in the township of Brush Creek, county of Scioto and State of Ohio, and known as part of Survey No. 10654, and part of Land Lot No. 80, lying on Rarden Creek in Brush Creek Township, bounded and described as follows:

Beginning at a stone in the original west line and in the line of Lot No. 109; thence south $69\frac{1}{2}^{\circ}$ E. 118 poles, crossing the creek at 20 poles to a stone on top of a ridge; thence north 15° E. 118 poles to a stone in the line of Survey No. 15640; thence with two lines of same south 67° W. 11 poles to a stone by a small hickory; thence north 76° W. 28 poles to a stake in the northwest corner of said Survey No. 10654 and southwest corner of No. 15640; thence with three lines of the College Lands south 23° W. 32 poles to a stake; thence south 45° W. 55 poles to a stone corner to Lot No. 109; thence with same south 17° W. 30 poles to the beginning. Containing 50 acres.

Tract 2. Situate in the waters of Rarden, of Rarden Township, county of Scioto, and State of Ohio:

Beginning at a stone corner to No. 10654; thence north 45° E. 51 poles to a stone in said line from which a hickory bears south 47° E. 2 links; thence north 75° W. 88 poles to a stone from which a white oak 20 inches in diameter bears E. 20 links; thence south 15° W. 88 poles to a stone from which a dogwood bears north 15° E. 5 links; thence south 75° E. 62 poles to a stone in the line of Survey No. 10654, from which a red bud bears south 58° E. 4 links; thence with one line of said survey No. 10654 north 18° E. 44 poles to the beginning. Containing 40 acres, being a preemption claim No. 109.

Tract 3. Situate in the county of Scioto, in the State of Ohio, and bounded and described as follows, to-wit:

Beginning at a stone in line of Silas Blosser and J. L. McKinley; thence north 15° E. 51 poles to a stone in Silas Blosser's line and corner to T. W. Smith and J. L. McKinley; thence north 75° E. 24 poles to a stone in Smith's and J. L. McKinley line; thence south 29° west 47 poles to a chestnut; thence south 48° W. 18 poles to the beginning. Containing four (4) acres and 38 poles, more or less, and being part of Lot No. 80 O. A. and M. C. Land.

Tract 4. Situate in the county of Scioto, in the State of Ohio, and in the township of Rarden, and bounded and described as follows:

Beginning at a stone, white oak and ash on a branch near Jasper Workman's and corner to Preemption Claim No. 109, and Lots No. 91 and 92; thence north 20° W. 34 poles to a stone near a branch; thence north 3° E. 28 poles and 17 links to a stone, sourwood, white oak, and two chestnuts on a hillside; thence north 8° W. 23 poles and 19 links to a stone in the north line of the survey; thence with said north line east 156 poles to a stone in line of Survey No. 15640; thence with said line south 12° W. 65 poles to a poplar and black oak; southwest corner to No. 15640, and northwest corner to No. 10654; thence with line of same, south 45° W. $17\frac{1}{2}$ poles to a stone and hickory in said line and northeast corner of Preemption Claim No. 109; thence with line thereof north 75° W. 91 poles to the beginning. Containing 73 acres, more or less, being part of Lot No. 91 of Ohio University Lands.

Tract 5. Situated in the county of Scioto and State of Ohio, and described as follows:

Being the whole of the O. A. M. C. Lot No. 92, containing 42 acres, and being situated on the Rarden Fork of Brush Creek, in Brush Creek Township."

An examination of the abstract of title submitted shows that said Lester P.

Blosser has a good and indefeasible fee simple title to the above described tracts of land free and clear of all encumbrances except the taxes for the year 1929, which are unpaid and a lien. Some adjustment with respect to these taxes should be made before the matter relating to the transaction of this property is closed. In this connection it is noted that the warranty deed tendered by said Lester P. Blosser warrants and defends the above described property against all claim or claims of all persons whomsoever, "except all taxes and assessments hereafter falling due." This deed was executed by Lester P. Blosser on October 5, 1929, and indicates that there might be some understanding by and between your department and the grantor with respect to this matter.

An examination of the warranty deed tendered by said Lester P. Blosser shows that the same has been signed, and otherwise properly executed and acknowledged by him. The deed recites that he is unmarried and for this reason the deed is executed by him alone.

Encumbrance estimate No. 5838 which has been tendered as a part of the rules relating to the proposed purchase of this property shows that there are sufficient balances in the proper appropriation account to pay the purchase price of this property. Said encumbrance estimate further recites that the money for the purchase of this property has been duly released for the purpose by the controlling board.

I am therefore returning with my approval, said abstract of title and other files above mentioned, relating to the purchase of the above described property.

Respectfully,

GILBERT BETTMAN,

Attorney General.

1368.

DELINQUENT TAXES—FORECLOSURE PROCEEDINGS—WHAT TAXES ABATED.

SYLLABUS:

In foreclosure proceedings under the provisions of Sections 5718 and 5719, General Code, only the taxes which were included in the delinquent land tax certificate are abated, and the taxes and assessments accruing subsequently to the delivery of said certificate are not abated in said foreclosure proceedings, but remain a lien upon the land, unless the same are paid from the proceeds of the sale.

Opinion No. 1814, rendered March 5, 1928, approved and followed.

COLUMBUS, OHIO, January 6, 1930.

HON. HOWARD M. NAZOR, *Prosecuting Attorney, Jefferson, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent communication which reads:

"Under date of March 5, 1928, Opinion No. 1814, the Attorney General held that 'in foreclosure proceedings under the proceedings under the provisions of Sections 5718 and 5719, General Code, only the taxes which were included in the delinquent land tax certificates are abated, and the taxes and assessments accruing subsequently to the delivery of said certificate are not abated in said foreclosure proceedings, but remain a lien upon the land, unless the same are paid from the proceeds of the sale.'"

In connection with this matter, I discovered Section 5692 of the General