

It is clear from the foregoing that the Commission, in determining valuation, should not rely on reproduction cost alone or on original cost or on the amount of capital actually expended, but must take all these items, together with others, into its consideration in determining the fair value of the property of the utility dedicated to the public service at any given time. Any method provided for determining the valuation, the operation of which would not result in confiscation, would be constitutional in the light of the clear wording of the sections and decisions cited above.

While the proposed amendment requires that the inventory disclose, insofar as possible, the original cost and the capital expenditure, yet the section, considered in the light of the other provisions of law relative to the fixing of just and reasonable rates and charges, does not, in any way, attempt to determine what, if any, weight shall be given to these factors by the Commission in reaching its conclusion. As I have before stated, the authorities are uniform that these factors may, in proper cases, be material and the mere requirement that the Commission have before it, for the purposes of its deliberations, evidence bearing upon these factors, is not in any way a violation of any constitutional provision, nor is it at variance with any of the expressions of the Supreme Court in the McCardle case. The Commission still has the power and the duty to reach in each case a proper valuation for rate-making purposes, and, in so doing, must, of course, give proper consideration to all factors material thereto. Whether or not the conclusion of the Commission, in arriving at valuation, is such as to result in confiscation is a question of fact to be determined by the circumstances of each particular case, but, assuming that confiscation were proven in some instance, the validity of the finding of the Commission would be involved and not the validity of the statute here under consideration.

In view of what has been said, I am of the opinion that House Bill No. 383, if enacted into law, would not be unconstitutional.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

237.

APPROVAL, ABSTRACT OF TITLE TO LAND OF LEONARD SILER, IN  
MERCER COUNTY, OHIO.

COLUMBUS, OHIO, March 25, 1929.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—You have submitted an abstract certified to by Homer J. Hinders, abstracter of Celina, Ohio, under date of October 3, 1928, and request my opinion as to the status of title of the following described premises as disclosed by the abstract:

“Situate in the county of Mercer, in the State of Ohio, in the township of Jefferson and bounded and described as follows, to wit: Lots number (82) eighty-two and eighty-three (83) in the Hawkins allotment west of the village of Celina as shown on a recorded plat of said allotment, made by Martin Lutz, civil engineer, and recorded in plat book number (2) two at page (70) seventy.”

The same premises were under consideration in an opinion of my predecessor, No. 2700, rendered to your department under date of October 11, 1928, and the title thereto, as disclosed by the abstract, was disapproved for the reasons therein set forth, which need not be repeated herein. It now appears that the objections therein mentioned have been sufficiently corrected by certain changes in the abstract and by supplements attached thereto.

After a careful examination of said abstract as corrected, together with the supplements attached thereto, I am of the opinion that said instruments disclose a sufficient title in said premises in the name of Leonard Siler, free from encumbrances.

There has also been submitted a form of deed which is believed to be sufficient to properly convey said premises to the State when it has been properly executed, delivered and accepted.

You also submit encumbrance estimate No. 3194, which contains certificate of the Director of Finance to the effect that there are unencumbered balances, legally appropriated, sufficient to pay for the purchase price.

You also submit evidence indicating that the Controlling Board, on March 1, 1929, approved the purchase of said premises.

You have further submitted a tax receipt indicating that the taxes for the year 1928 have been paid.

Enclosed herewith you will find said abstract, form of deed, encumbrance estimate, certificate of the secretary of the Controlling Board, and other data submitted in this connection.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

238.

APPROVAL, ABSTRACT OF TITLE TO LAND OF EDJEL C. LUTZ, IN THE CITY OF URBANA, CHAMPAIGN COUNTY.

COLUMBUS, OHIO, March 25, 1929.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your recent communication, submitting for my examination and approval abstract of title, deed form, encumbrance estimate No. 3193, and Controlling Board certificate relating to a tract of land in the city of Urbana, Champaign County, Ohio, and now owned of record by one Edjel C. Lutz. Said tract of land is more particularly described as follows:

Situate in the northeast quarter of Section 29, Township 5, Range 11, in the city of Urbana, Champaign County, Ohio, and more particularly described as follows:

Beginning at a point in the center of Edgewood Avenue, distant three hundred ninety-six and thirty-three hundredths (396.33) feet southwardly from the intersection of the center lines of Edgewood Avenue and Miami Street. Thence south 87°-10' east, four hundred sixty-two (462.00) feet to a point in the east line of lot 4 of Dagger's Addition as recorded in Plat Book D, page 77, records of Champaign County. Thence with the east line of said lot 4, south 1°-35' west, one hundred sixty-seven and sixty-four hundredths (167.64) feet to the southeast corner of said lot 4. Thence with the south