

3765.

APPROVAL, ABSTRACT OF TITLE TO LAND OF WILSON F. SMITH,
DECEASED, IN SCIOTO TOWNSHIP, ROSS COUNTY, OHIO.

COLUMBUS, OHIO, November 16, 1931.

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

DEAR SIR:—On April 15, 1931, Opinion No. 3154 was directed to you, analyzing the status of the title of a thirty-five acre tract of land in Scioto Township, Ross County, Ohio, proposed to be purchased from Delbert Spears, administrator of the estate of Wilson F. Smith, deceased, and indicating a number of deficiencies therein.

It was pointed out that, although, at a certain time, one Kinsley Sherman was shown to be the owner of the land, the abstract did not show that he ever disposed of it; that the next transaction was a conveyance by one George F. Murdock, as sole executor of the last will of Jane H. Sherman, to George D. Sherman; but that the manner in which Jane H. Sherman became owner was not shown. Subsequently, I was informed that the manner in which Jane H. Sherman derived title was to be found in an abstract of the title of a seven hundred acre tract sold to the state by Charles M. Lott, in 1922. Reference to this other abstract, filed in the State Auditor's office, sufficiently clears up the hiatus between Kinsley Sherman and Jane H. Sherman.

In the former opinion, attention was also called to the fact that Delbert Spears, administrator of Wilson F. Smith, brought an action to obtain the right to sell the real estate in question, in order to pay decedent's debts, naming as defendants, the nineteen persons who were the only next of kin of the intestate, among them being *Mrs. George Crawford* and *Ott Smith*; that the record did not show that Mrs. George Crawford and Ott Smith had been served with process or that they had voluntarily entered appearance; but that the record did show that one *Florence Schnetzer* and one *H. A. Smith* had waived summons, entered appearance and consented to the sale. An affidavit, subsequently attached as page 46 of the abstract, verifies the fact that Mrs. George Crawford and Florence Schnetzer are in fact one and the same person, she having intermarried with one Schnetzer, and that H. A. Smith and Ott Smith are one and the same person, he being commonly known as Ott Smith. Hence, the irregularities mentioned are removed.

Encumbrance estimate No. 813 shows that there remains in the proper appropriation account a sufficient balance to pay the purchase price. Authority has been granted by the Controlling Board to make the purchase, and the Probate Court of Fayette County has approved the sale.

The taxes for 1930 have been paid, but the taxes for 1931 are now, of course, a lien upon the property.

The proposed administrator's deed executed by Delbert Spears is in proper form and conveys a fee simple title to the State of Ohio.

I am herewith enclosing all of the papers submitted to me, namely, the abstract, administrator's deed, copy of real estate option, encumbrance estimate No. 813, authority of the State Controlling Board, Approval of the Probate Court and tax receipts for 1930.

Respectfully,
GILBERT BETTMAN,
Attorney General.