

cuted by you as superintendent of public works and as director of said department, by the terms of which there is leased and demised to The S. L. Wilgus Company, a corporation, the right and privilege of inserting into the level of Indian Lake at a point to be designated or approved by you, a four inch pipe, through which, by pumping operations, said lessee is permitted to take from said lake water for delivery to a filtration plant which said lessee is using in connection with a swimming pool owned and operated by it.

Said lease is one for a term of fifteen years and permits the lessee to take water from the lake for said purpose from May 15, to September 15, of each year during the term of said lease; and the annual rental to be paid by the lessee for the use of such water is the sum of twelve dollars, payable in semi-annual installments of six dollars each.

Upon consideration of said lease and of the terms and provisions thereof, I find that the lease has been legally executed, and that the terms and provisions of the lease are in conformity with sections 431, 14009 and other sections of the General Code, relating to the execution of leases of this kind.

Said lease is accordingly hereby approved by me as to legality and form, which approval is endorsed upon said lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3154.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND OF WILSON F. SMITH,
DECEASED, IN FAYETTE COUNTY, OHIO.

COLUMBUS, OHIO, April 15, 1931.

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

DEAR SIR:—I am in receipt of your letter submitting for my examination and approval an abstract of title, copy of real estate option, authority of controlling board, encumbrance estimate No. 813, administrator's deed and tax receipts for the year 1930, relating to the proposed purchase of 35 acres of land situated in Scioto Township, Ross County, Ohio, from Delbert Spears, as administrator of the estate of Wilson F. Smith, deceased, late of Fayette County, Ohio, said land being a part of survey No. 15056.

I find, in the chain of title to this land, several deficiencies, pending whose clarification and correction I deem it best to withhold my approval.

In the first place I notice that by a deed (p. 20, Abstract) dated July 11, 1870, Charles W. and S. Louisa Doubleday purport to convey the premises in question to one Kinsley Sherman in fee simple. By the next recorded transaction relating to this land, one George T. Murdock, as sole executor of the last will and testament of Jane H. Sherman, purports to convey said land to George D. Sherman. But nowhere do I find any intimation of the manner in which Jane H. Sherman became the owner of this land, and before approving the title, I should like some definite information concerning it.

From the Probate Court record of Fayette County, Ohio, I notice that Wilson

F. Smith died intestate (p. 38, Abstract) leaving as his only next of kin (p. 37, Abstract) the following nineteen persons:

Harriett Booco
 Maria Allen
 Wert Wright
 Eugene Wright
 Chloe Williams
Mrs. Geo. Crawford
 Eva Grieves
 Mrs. Stewart Goldsberry
 John J. Smith
 C. B. Smith
Ott Smith
 Mrs. D. R. Dawson
 Lulu Richardson
 Carey Smith
 Grover Smith
 Arzola Payne
 Hazel Cox
 Clara Collins
 Cora Hartless

The record further shows (p. 39, Abstract) that said Delbert Spears, administrator, brought an action in the Probate Court of Fayette County, Ohio, naming as defendants the nineteen persons above named as being the only next of kin, for the purpose of obtaining the right to sell the real estate in question in order to pay the decedent's debts.

It further appears (p. 40, Abstract) that service by publication was made upon six of said nineteen persons and upon the unknown heirs of another, namely, upon C. B. Smith, Veda Dawson, Arzola Payne, Wert Wright, Eugene J. Wright and Hazel Cox, and upon the unknown heirs of Maria Allen, deceased.

The record likewise discloses (pp. 41-42, Abstract) "Waiver of the issuing and service of summons, appearance entered and consent to sale of real estate by" the following twelve persons:

Cora Harkless
 Chloe Williams
Florence Sclnetzer
 Clara Collins
 John J. Smith
H. A. Smith
 Lula Richardson
 Eva Grieves
 Harriet Booco
 Martha Goldsberry
 Cary M. Smith
 G. C. Smith

A comparison of the names of the nineteen persons named as the only next of kin of Wilson F. Smith with the names of the persons upon whom service was made in said action reveals the following discrepancies: (1) One Florence Sclnetzer and one H. A. Smith are named (p. 42, Abstract) as persons waiving service of summons, entering appearance and consenting to the sale of said real estate, but neither one of these individuals appears among the list of the nineteen next of kin; (2) Among the nineteen next of kin appear (p. 37, Abstract) the names of Mrs. George Crawford and Ott Smith, but nowhere in the record does

it appear that service was made upon either one of these individuals or that either one of them waived service, entered appearance and consented to the sale of said real estate.

Information may be available indicating that Mrs. George Crawford and Florence Schnetzer are the same person and that Ott Smith and H. A. Smith are the same person. If this should prove to be true I should like some definite evidence of it. Probably this deficiency could best and most quickly be cured by having Mrs. George Crawford and Ott Smith execute quit claim deeds to the state of Ohio for this strip of land.

I am herewith returning to you in the interim all of the papers enumerated above as having been received.

Respectfully,
GILBERT BETTMAN,
Attorney General.

3155.

APPROVAL, CONTRACT FOR ROAD IMPROVEMENTS IN JEFFERSON
AND FRANKLIN COUNTIES.

COLUMBUS, OHIO, April 15, 1931.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

3156.

APPROVAL, BONDS OF JACKSON CITY SCHOOL DISTRICT, JACKSON
COUNTY, OHIO—\$250,000.00

COLUMBUS, OHIO, April 15, 1931.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

3157.

DISCUSSION OF TITLE OF F. D. SULLIVAN TO CERTAIN TRACTION
LANDS FORMERLY OWNED BY THE DAYTON & NORTHERN
TRACTION COMPANY AND THE INDIANA, COLUMBUS & EAST-
ERN TRACTION COMPANY.

COLUMBUS, OHIO, April 16, 1931.

HON. O. W. MERRELL, *Director, Department of Highways, Columbus, Ohio.*

DEAR SIR:—Acknowledgment is hereby made of the following inquiry from you:

“An opportunity has been placed before this Department to acquire from a private owner certain abandoned traction company rights-of-way formerly owned by the Dayton & Northern Traction Company, adjacent to and paralleling State Route 51, in Montgomery County, between Dayton and Salem, Ohio.

Prior to a decision as to the desirability of purchasing this right-of-way, it is necessary for us to know whether the present owner has clear and legal title thereto.

The right-of-way in question was originally purchased from individ-