

deed, encumbrance estimate No. 4795, and Controlling Board certificate, relating to the proposed purchase of two tracts of land in Benton Township, Pike County, Ohio, of 100 acres and 10 acres respectively, owned by Forest E. Roberts. In your communication, you requested another opinion relating to this purchase.

The abstract of title and other files relating to the purchase of these tracts of land were the subjects of former opinions of this department, to wit No. 36 under date of January 30, 1929, No. 220, under date of March 20, 1929, and No. 228 under date of March 22, 1929. In opinion No. 220 of this department, the title of Forest E. Roberts, shown by the corrected abstract of title submitted, was approved and thereafter in Opinion No. 228 above referred to, the warranty deed, encumbrance estimate and Controlling Board certificate above referred to, were likewise approved.

After the receipt of your last communication, enclosing said files, a further check of the same was made, at which time it was discovered that the description contained in the deed of the second tract of land above referred to, to wit the ten acre tract of land, was not definite enough to accurately describe the land. Thereafter on April 30, 1929, I returned said warranty deed to Forest E. Roberts with instructions to forward a corrected deed in which said tract of land should be accurately described. The letter written to Mr. Roberts in regard to this matter has been returned by him to this office and the same is herewith enclosed for your files. The corrected deed submitted by Mr. Roberts accurately describes both tracts of land to be conveyed to the State of Ohio, and inasmuch as said deed has been executed and acknowledged by said Forest E. Roberts and his wife, Gladys Roberts in the manner provided by law, and said deed is in form sufficient to convey to the State of Ohio a fee simple title to both of said tracts of land free and clear of all encumbrances, the corrected warranty deed lately submitted by Mr. Roberts is hereby approved.

By reason of the correction made by Mr. Roberts in the warranty deed submitted, all of the files relating to the purchase of these tracts of land are hereby approved and I am of the opinion that said Forest E. Roberts has a good and indefeasible fee simple title in and to the land here under investigation, subject only to the lien of the undetermined taxes for the year 1929. These taxes will probably amount to eight or nine dollars, and unless the same are remitted, some adjustment should be made with respect to these taxes before the transaction with respect to the purchase of these lands is closed.

I am herewith returning to you abstract of title, warranty deed, encumbrance estimate No. 4795 and Controlling Board certificate.

Respectfully,
GILBERT BETTMAN,
Attorney General.

406.

APPROVAL, LEASE FOR RIGHT TO USE WATER TAKEN FROM ST. MARYS FEEDER OF MIAMI AND ERIE CANAL—WESTERN OHIO RAILWAY & POWER CORPORATION, ST. MARYS, OHIO.

COLUMBUS, OHIO, May 15, 1929.

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

DEAR SIR:—You recently submitted for my examination and approval a certain lease in triplicate executed by you as Superintendent of Public Works to the Western

Ohio Railway and Power Corporation of St. Marys, Ohio, whereby there was granted to said corporation and to its successors and assigns the right to take water from the St. Marys feeder to the Miami and Erie Canal for the purpose of cooling condensers, generating steam and necessary sanitary purposes, for a period of ten years. The rental provided for in said lease for the use of the water is \$4,000.00 per annum, payable in semi-annual installments of \$2,000.00 each.

An examination of said lease shows that the same has been executed in accordance with the authority granted to you by the provisions of Sections 14009, et seq., General Code, and in conformity with the provisions of said section. Inasmuch, however, as there was nothing in said lease fixing the maximum amount of water that said lessee is authorized to take out of said feeder annually other than the provision that such water was to be withdrawn through a 24 inch intake pipe, and inasmuch as I did not have before me any other information on this subject, said lease and the duplicate and triplicate copies thereof were returned to you by letter with the statement that on the situation thus presented, I was not in a position to approve the rental provided for in said lease. You have re-submitted said lease and the copies thereof with a communication which reads as follows:

"Referring to the proposed water lease to The Western Ohio Power Corporation, we beg to advise that the annual rental was based on an annual consumption of one billion, five hundred million (1,500,000,000) gallons, at two and two-thirds ($2 \frac{2}{3}$) mills per thousand gallons, this rate being somewhat less than the rate for water in the Portage Lakes District, by reason of limited demand for water at St. Marys.

(While they are using the same intake installation that they used when operating their complete plant, consisting of six units, but three are now in use, and at times but two units.

We are returning the triplicate copies of the lease herewith.

Trusting this answers your inquiry and explains the situation, I am,"

Under the above statement with respect to the amount of water to be withdrawn annually under said lease, approximately all of which is to be returned to the feeder after use, I do not feel that in the exercise of the discretion imposed in me by the provisions of Section 14009, General Code, I should attempt to override your judgment in this matter, even though the rental to be paid by the lessee is somewhat less than that paid in other districts where there is a greater demand for water for manufacturing and factory uses. I am, therefore, approving said lease as is evidenced by my endorsement thereon and on the duplicate and triplicate copies thereof.

Respectfully,

GILBERT BETTMAN,

Attorney General.

407.

COUNTY COMMISSIONERS—ADOPTION OF REGULATION THAT SUPERINTENDENT OF COUNTY HOME MAY NOT HIRE MEMBER OF HIS FAMILY WITHOUT CONSENT OF COMMISSIONERS—LEGAL.

SYLLABUS:

Under the provisions of Section 2523 of the General Code, county commissioners may provide a regulation to the effect that the superintendent of the county home may