

This lease, which is one for a term of fifteen years, and which provides for an annual rental of nine dollars (\$9.00), payable in semi-annual installments, has been properly executed by the Superintendent of Public Works and by the above named lessee.

Upon examination of the terms and provisions of said lease, I find that the same is in conformity with the provisions of House Bill No. 162, passed by the 86th General Assembly, subject to the terms and conditions of Senate Bill No. 194, passed by the 89th General Assembly, known as the De Armond Act, which contemplates that the Miami and Erie Canal lands, or such parts thereof as may be designated by the state highway director, may be used for state highway purposes.

I am accordingly approving said lease as to legality and form and said lease and the duplicate and triplicate copies thereof are herewith returned with my approval endorsed thereon.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4063.

APPROVAL, NOTES OF WICKLIFFE VILLAGE SCHOOL DISTRICT,
LAKE COUNTY, OHIO—\$175,000.00.

COLUMBUS, OHIO, February 17, 1932.

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

4064.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND IN LAUREL
TOWNSHIP, HOCKING COUNTY, OHIO.

COLUMBUS, OHIO, February 17, 1932.

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

DEAR SIR:—I am in receipt of your letter submitting for my analysis an abstract of title, deed to the State of Ohio, encumbrance estimate No. 1786, copy of real estate option, authority of state controlling board and tax receipts for the year 1930, relating to the proposed purchase of forty-six acres of land situated in Laurel Township, Hocking County, Ohio, from Rachel Sweazy, et al., said land being fractional lot No. 3, in section 30, township 12 and range 18, which tract of land, prior to its platting as a fractional lot in said section, was described as being the northwest quarter of the northeast quarter of section 30, township 12 and range 18.

The caption land was contained in a patent granted by the United States to Jacob Slyer in 1841, said patent comprising the land in the west half of the north-east quarter of section 30, township 12, range 18 (transaction No. 16, abstract).

By intervening conveyances, the land granted by said patent came into the hands of one Christ Meister in 1857 (transaction No. 14).

In 1861, said Christ Meister conveyed to one Greenbury Paxton a strip of land seventeen rods in width, taken off of the west side of said patented land and running through its whole length (transaction No. 13). This, of course, conveyed to Greenbury Paxton a strip of land seventeen rods in width off of the west side of the land now proposed to be sold to the State.

Later, said Greenbury Paxton granted said seventeen rod strip to one Peter Wyncoop (transaction No. 12). The abstract shows *only one* conveyance by said Peter Wyncoop (transaction No. 10). The latter, a deed to James J. Paxton, describes a two acre tract of land by metes and bounds which are difficult to follow inasmuch as no plat showing them has been furnished. However, judging the best I can from the description, it appears to me that, after said conveyance from said Wyncoop to said James J. Paxton, there remained in said Wyncoop all or most of the seventeen rod strip on the west side of the caption land. Since the abstract does not show that Wyncoop ever conveyed this seventeen rod strip away, the record legal title to it, as far as the abstract indicates, is still in said Wyncoop, and not in the state's proposed grantors. Further investigation will probably bring to light facts which will clear up this apparent defect.

The rest of the caption land (that is, all of it except said 17 rod strip) came, in 1873, into the hands of James Paxton, Jr. (transaction No. 9). Later, one James Paxton (whom I assume to be the same person as the aforementioned James Paxton, Jr.), made two conveyances, one in 1877 (transaction No. 7) and one in 1879 (transaction No. 8), in each of which, one William Collison was the grantee. The land described in each of these deeds was located in the northwest quarter of the northeast quarter of said section 30, township 12 and range 18, the former being in the northern part thereof and the latter being in the southern part thereof. The description in the latter mentions the fact that it touches the former tract at one point, but from the description used in the two deeds, I am unable to ascertain whether the northern boundary of the southern parcel and the southern boundary of the northern parcel coincide at all points so as to form one solid tract of the northwest quarter of the northeast quarter of said section (exclusive, of course, of the 17 rod strip already discussed) or whether there is a gap between the two parcels. More information should be furnished to show that these two parcels do come together without any land intervening between them.

Furthermore, the abstract shows that said William Collison died leaving:

Lucius Collison—a married son
 Rosa Sullivan—a married daughter
 John Collison—a minor son
 Ida Collison—a minor daughter
 and
 Jane Collison—his wife
 (who later married one Sullivan)

Then said Lucius Collison died leaving:

Mertie Collison—a minor child
 Grace Collison—a minor child
 Kinsa Collison—a minor child
 and
 Clara Collison—his wife

Clara Collison for herself and her children, then brought suit against the widow and children of William Collison in order to partition the two aforesaid

tracts which had been conveyed in 1877 and 1879 to William Collison by James Paxon.

Transaction No. 6 indicates that, in 1893, by a sheriff's deed in partition, certain lands were deeded to one *Mary J. Sullivan*, subject to the dower of *Jane Collison Sullivan*, who being entitled to dower in the whole tract, had her dower set off by metes and bounds. Apparently Mary J. Sullivan and Jane Collison Sullivan are one and the same person so that she became entitled to the entire tract which was the subject of the partition. However, the abstract does not give the description in said sheriff's deed, and this will have to be furnished before the title can be adequately analyzed. Furthermore, before I can approve the partition transaction as a valid link in the chain of title, information must be furnished showing that guardians ad litem were legally appointed for the infant defendants in the partition suit and that the defendants in said suit were legally served with notice.

The next phase of the abstract presenting difficulty is that having to do with the disposal of the title following the death of said Mary J. Sullivan. Transaction No. 5 indicates that one-third of the caption land was inherited by Rosa Sullivan and that Rosa Sullivan died leaving Gertie Vanscoy, John Sullivan and Asa Sullivan to whom said Rosa Sullivan's interest was transferred by affidavit. This transfer took place in 1921. In order to make sure that the three persons mentioned, properly succeeded to the interest of said Rosa Sullivan, an affidavit should be furnished showing that they were her only heirs. Likewise, in order to show that this interest came to them free and unencumbered, an affidavit is requested showing that all of the debts of the estate of said Rosa Sullivan have been paid. If the estate of said Rosa Sullivan went through process of administration, this should be shown.

Transaction No. 4 shows that, in 1921, a number of persons who are described as being all of the children and heirs of Mary J. Collison Sullivan conveyed the caption land to one Leland Wilson, said named grantors being:

John Collison
 Edna Collison, his wife
 Asa Sullivan
 Gertie Vanscoy
 Hugh Vanscoy, her husband
 John Sullivan
 Sadie Sullivan, his wife
 Myrtle Hanna
 Joseph Hanna, her husband

The partition proceedings, previously alluded to, brought to light the fact that one Ida Collison was a child of said Mary J. Collison Sullivan and that Mertie Collison, Grace Collison and Kinza Collison were the grandchildren of said Jane Collison Sullivan through the latter's deceased son Lucius. Said Ida, Mertie, Grace and Kinza Collison would apparently be among the heirs of said Jane Collison Sullivan, and since they did not join in the deed to said Leland Wilson, his title would apparently be subject to whatever interest they might have. In order to clear up this uncertainty, information concerning the settlement of the estate of said Jane Collison Sullivan should be furnished, and if said Ida, Mertie, Grace and Kinza Collison were not heirs of said Jane Collison Sullivan, the reasons therefor should be shown by affidavit. Likewise, it should be shown that the debts of the estate of said Jane Collison Sullivan were all paid.

Said Leland Wilson, in 1921, conveyed the caption land to David Lloyd, An-

thony Sweazy and L. A. Keister (transaction No. 3). In 1925, L. A. Keister conveyed his interest to Anthony Sweazy and, in 1928, David Lloyd conveyed his interest to Anthony Sweazy (transactions No. 1 and No. 2).

Apparently, Anthony Sweazy has since died, because the grantors in the proposed deed to the state are described as being the widow and children and heirs at law of Anthony Sweazy. Further information is desired to show that the debts of the estate of Anthony Sweazy have been paid and to show in what manner he ordered his property to be disposed. If Anthony Sweazy left no will, an affidavit is desired showing that the people named as grantors in the proposed deed are all and the only heirs of said Anthony Sweazy and that Rachel Sweazy is his widow.

As shown by the enclosed receipt, the taxes for 1930 have been fully paid. However, the taxes for the year 1931 are now a lien upon said property.

Encumbrance estimate No. 1786 shows that there remains in the proper appropriation account a sufficient balance to pay the purchase price of said land, but I call your attention to the fact that said encumbrance estimate has not yet been signed by the director of finance.

The state controlling board has given its approval to the purchase.

The proposed deed is in proper form to convey a fee simple title to the State of Ohio.

Enclosed please find all of the documents and papers above enumerated.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4065.

NOTARY PUBLIC—FEES CHARGEABLE FOR TAKING DEPOSITIONS
AND SWEARING WITNESSES—BASED ON SECTION 1746-2 G. C.

SYLLABUS:

Pursuant to Section 127, General Code, a notary public should charge for taking depositions and swearing witnesses the fees set forth in Section 1746-2, General Code.

COLUMBUS, OHIO, February 18, 1932.

HON. F. H. BUCKINGHAM, *Prosecuting Attorney, Fremont, Ohio.*

DEAR SIR:—Your recent communication reads:

“I have been asked to submit to you the following question relative to the fee allowed a Notary Public for taking depositions:

General Code Section 11545 states: ‘The following fees shall be allowed for taking depositions in this state: Swearing each witness, four cents; * * * for each hundred words contained in the deposition and certificate, ten cents. * * *’

Section 127 of the General Code says that ‘A notary public shall be entitled to the following fees: * * * for taking and certifying depositions and affidavits, administering oaths and other official services, the