

any qualification as to when it would become effective, would, so far as A himself is concerned, be construed as being effective at once if the remaining members of the board saw fit then to elect his successor. This, however, did not prevent A from continuing as a member of the board and participating in its deliberations until such time as his successor was elected and qualified.

Second, the circumstances surrounding the resignations of A and E were such as to vest in the board as it existed prior to January 1, 1928, the power and authority to elect members to fill the unexpired terms of A and E.

Third, the fact that the separate resignations of A and E were tendered on December 13, 1927, and no action was at that time taken with reference thereto, permitted A and E each to continue physically to occupy his position as a member of the board and to participate in the election of a person to fill the vacancy caused by the resignation of the other. The vote of A on December 30, 1927, on the motion to appoint D to fill out the unexpired term of E was legal and the vote of E on the motion to appoint B to fill out the unexpired term of A was legal.

Fourth, upon the qualification of D and B by taking the oath of office and assuming their duties as members of the board of education for this school district on the first Monday of January, 1928, or thereafter, they became legal members of such board.

Fifth, in view of the answers given to the four previous questions, your fifth question need not be answered.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

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1892.

APPROVAL, ABSTRACT OF TITLE TO LAND OF SOLOMON KLINE, IN  
LAUREL AND PERRY TOWNSHIPS, HOCKING COUNTY, OHIO.

COLUMBUS, OHIO, March 24, 1928.

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

DEAR SIR:—My opinion has been requested on a corrected abstract of title on certain lands situated in Laurel and Perry Townships, Hocking County, Ohio, and more particularly described as follows:

“First tract, being the east half of the southwest quarter of section number thirty (30) township number twelve (12) range eighteen (18) and the northwest quarter of the southwest quarter of said section thirty (30) and a part of the southwest quarter of the southeast quarter of said section thirty (30) same township and range, beginning at the southeast corner of the southwest quarter of said section; thence east to the county road; thence north along said road to the north and south line of said land; thence west to the northwest corner of said lot; thence with the line of said land to the place of beginning, containing one-half acre more or less, containing in all one hundred and twenty-one (121) acres more or less.

Second tract, being a part of the southwest quarter of the northeast quarter of section number thirty (30) township number twelve (12) range number eighteen (18) beginning at the northwest corner of said lot; thence south one chain; thence south forty-nine degrees east 1.24 chains; thence south  $77\frac{1}{2}$  degrees east 2.83 chains, thence south 8 degrees east 1.22 chains; thence south 7 degrees west 1.16 chains; thence south  $11\frac{1}{2}$  degrees west 1.64 chains; thence south 2 degrees west 5.95 chains; thence south  $44\frac{1}{2}$  degrees west 2.50 chains; thence south 27 degrees west 2.09 chains; thence south  $3\frac{1}{2}$  degrees west 3.50 chains to the south line of said lot, 29 links east of the southwest corner of said lot; thence east 20.35 chains to the southeast corner of said lot; thence north 19.87 chains to the northeast corner of said lot; thence west 20.94 chains to the place of beginning containing 36.55 acres. Also the southeast quarter of the northeast quarter of said section thirty (30), township twelve (12) range eighteen (18) containing 40 acres more or less. Also being a part of fractional lot number 4 section number 30 township number 12 range number 18 Hocking County, Ohio, beginning 1.00 chains south of the northeast corner of said lot thence south 49 degrees east 1.24 chains; thence south  $77\frac{1}{2}$  east 2.83 chains; thence south 8 east 1.22 chains; thence south 7 west 1.16 chains; thence south  $11\frac{1}{2}$  west 1.64 chains; thence south 2 west 5.95 chains; thence south  $44\frac{1}{2}$  west .83 chains to a stake in the county road thence by the center of said road north  $1\frac{1}{2}$  west 4.19 chains; thence north 19 west 2.78 chains; thence north  $2\frac{3}{4}$  west 2.40 chains; thence north  $27\frac{1}{2}$  west 3.22 chains to beginning containing 1.50 acres. All the aforesaid lands being in Laurel Township, Hocking County, Ohio.

Third tract, being the northeast quarter of the southeast quarter of section twenty-five (25) township number twelve (12) range nineteen (19) containing 40 acres more or less. Also thirteen acres of the same described as follows, being a part of the northwest quarter of the southeast quarter of same section, township and range. Commencing at the northeast corner of said lot thence west 26 rods to a stake; thence south 80 rods to a white oak sapling; thence 26 rods to the southeast corner of said lot; thence north 80 rods on the line of said lot to the place of beginning. Also a tract containing one acre, commencing at the northeast corner of the southeast quarter of section, township and range as above mentioned; thence south 2 rods; thence west 80 rods; thence north 2 rods; thence 80 rods to place of beginning, and also the southeast quarter of the northwest quarter of section number thirty-one (31) township number twelve (12) range eighteen (18) containing forty acres (40) more or less. A part of the above described real estate being in Perry Township and a part in Laurel Township, Hocking County, Ohio."

An examination of this abstract discloses certain infirmities in the early history of the title to a part of the lands here under investigation, but by reason of the fact as disclosed by the affidavits of competent persons, which affidavits have been incorporated in and made a part of said abstract, showing that Solomon Kline and his predecessors in title to said lands and premises have had exclusive, open, notorious, adverse and continued possession of said lands and premises under claim of ownership for more than thirty-five years, said infirmities can now be safely waived.

I am, therefore, of the opinion that said Solomon Kline now has a good and merchantable title to said lands and premises above described, subject only to the following exceptions:

1. Certain lease executed by Solomon Kline and Rachel C. Kline, his wife, to Ohio Fuel Gas Company April 15, 1927, granting to said Ohio Fuel Gas Company all the oil and gas and the exclusive right to drill for, produce and market such oil and gas, on 121 acres of said above described lands and premises located in Section 30, Laurel Township, for a period of five years from February 12, 1928, and so much longer thereafter as may be required if oil and gas are produced in paying quantities.

2. Certain lease executed by Solomon Kline and Rachel C. Kline, his wife, to Ohio Fuel Gas Company April 15, 1927, granting to said Ohio Fuel Gas Company all the oil and gas and the exclusive right to drill for, produce and market such oil and gas, on 40 acres of said above described lands located in Section 31, Laurel Township, for a period of five years from February 12, 1928, and so much longer thereafter as may be required if oil and gas are produced in paying quantities.

3. A certain right of way or license granted by Solomon Kline and A. C. Kline, his wife, to Ohio Fuel Supply Company under date of July 13, 1927, granting to said Ohio Fuel Supply Company, its successors and assigns, the right to lay, maintain and operate a pipe line in and through a part of said lands and premises. By said instrument a right of way and license is given to said Ohio Fuel Supply Company to erect and maintain telegraph or telephone lines along said pipe line if the erection and maintenance of the same is found to be necessary. There is nothing in the abstract to show what if anything has been done by said Ohio Fuel Supply Company in pursuance of the license or right of way granted to it for said purpose by this instrument.

4. Certain right of way or license granted by Solomon Kline and A. C. Kline, his wife, to Ohio Fuel Supply Company under date of August 18, 1913, giving to said Ohio Fuel Supply Company the right to lay, maintain and operate a pipe line in, upon and through certain of the above lands and premises. This instrument likewise grants to said Ohio Fuel Supply Company the right to erect and maintain a telegraph or telephone line along said pipe line if the erection and maintenance of the same is found necessary. There is nothing in the abstract to show whether anything was done by the said Ohio Fuel Supply Company pursuant to the grant of said right of way or license. In this connection it may be said that if nothing was done by said Ohio Fuel Supply Company in pursuance of the grant to it of the right of way noted in this exception, or that noted in exception 3, no rights can now be asserted under said instruments or either of them.

5. The abstract shows unpaid taxes for the last half of the year 1927, in the sum of \$19.81, which are a lien on said premises.

In addition to the exceptions above mentioned, it may be noted that if said lands or premises, or any part thereof, are in the actual physical possession of any person or persons other than said Solomon Kline under any claim or right whatsoever, the purchaser of said property will be required to take notice of the legal or equitable rights of such persons whatever they may be.

I have examined the warranty deed executed by Solomon Kline and Rachel C. Kline and find said deed to be properly executed and that it is in form sufficient to convey a fee simple title to said lands and premises to the State of Ohio free and clear of the inchoate dower right and interest of Rachel C. Kline, and free and clear of all encumbrances whatsoever.

The encumbrance estimate submitted to me is properly executed and shows that there are unencumbered balances legally appropriated sufficient to pay the purchase price of said property. I have likewise examined the duly certified copy

of the certificate showing that the Controlling Board, under date of December 5, 1927, duly approved the purchase of said property.

I am herewith forwarding to you said abstract, deed, encumbrance estimate, certificate and other files pertaining to the purchase of said property.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

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1893.

APPROVAL, AS TO FORM, BOND GIVEN BY THE OHIO RIVER EDISON  
COAL COMPANY TO THE STATE OF OHIO.

COLUMBUS, OHIO, March 24, 1928.

HON. GEORGE F. SCHLESINGER, *Director of Highways, Columbus Ohio.*

DEAR SIR:—Receipt is acknowledged of your communication of March 20th enclosing for my approval, as to form and legality, a bond in the sum of five thousand (\$5,000.00) dollars, given to the State of Ohio by The Ohio River Edison Coal Company, an Ohio corporation. This bond is conditioned to indemnify and protect the State of Ohio against any loss, cost or damage arising from or growing out of the construction of a railroad undergrade crossing. The contract for the construction of the said railroad undergrade crossing has heretofore been approved by this department as to its form and legality.

Finding said bond in proper legal form, I hereby approve the same.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

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1894.

APPROVAL, AS TO FORM, AGREEMENT BETWEEN THE DIRECTOR  
OF HIGHWAYS AND THE PURE OIL COMPANY.

COLUMBUS, OHIO, March 24, 1928.

HON. GEORGE F. SCHLESINGER, *Director of Highways, Columbus Ohio.*

DEAR SIR:—Receipt is acknowledged of your communication of March 16th enclosing for my approval, as to form, a certain agreement by and between the Director of Highways of the State of Ohio and the Pure Oil Company, a corporation.

The contract in question pertains to a certain right of way which the Pure Oil Company is granting to the State of Ohio for the purpose of improving State Highway No. 7, Section "A", Washington County, Ohio, through the property of said company. A nominal consideration of one (\$1.00) dollar is mentioned, and