

tained in any section of the Code. Such authority is plainly inferable from the various sections relating to the County Home, including Section 2544, supra, which directs the superintendent of the home to "receive and provide" for indigent poor in proper cases. For these reasons it is my opinion that it is the duty of the proper county officers to bury at county expense the body of an indigent person who had become a county charge.

I come now to consider the question as to whether or not the fact that in the instant case the death occurred in a District Tuberculosis Hospital in any wise affects the question.

The purpose of authorizing the creation and maintenance of tuberculosis hospitals is manifest. It was recognized that not only could not a person suffering from this dread disease be adequately cared for in the County Home, but that one so afflicted could not be provided for in the home without endangering the lives and health of all other inmates. Provision was therefore made for what in reality is a County Home for the care of a particular class of unfortunates, the real difference being that those admitted to the hospital are doubly afflicted. I see no reason whatever in so far as the burial expenses of county charges are concerned why a distinction should be made between those charges cared for in a County Tuberculosis Hospital or a District Tuberculosis Hospital or the County Home.

For the foregoing reasons it is my opinion that it is the duty of the board of county commissioners to pay the burial expenses of county charges and that where an indigent person, who had been supported in whole or in part by a city, was committed by the proper county officers to a District Tuberculosis Hospital where such person subsequently died, it is the duty of the county commissioners of the proper county to pay the burial expense of such person.

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

563.

DISAPPROVAL, ABSTRACT OF TITLE TO GUILFORD LAKE PARK LAND,  
HANOVER TOWNSHIP, COLUMBIANA COUNTY.

COLUMBUS, OHIO, June 2, 1927.

HON. GEORGE F. SCHLESINGER, *Director, Department of Highways and Public Works,*  
*Columbus, Ohio.*

DEAR SIR:—An examination of the abstract of title pertaining to Tract No. 4, Guilford Lake Park, located in Columbiana County, Ohio, discloses the following:

This tract, which with others the state of Ohio through your department proposes to purchase, is not described in the abstract, but is described in a memorandum prepared by Mr. Booton of your department, as being a part of the following premises owned by William R. Patterson.

"Situated in the township of Hanover, county of Columbiana and state of Ohio, being a part of the southeast and southwest quarter of section 2, township 15, range 4, beginning at the southwest corner of said section; thence north 14 chains and 43 links to the section line and to the southwest corner of land formerly owned by Abraham Gardner; thence north 61.25° east 13 chains and 95 links to a corner; thence north 21° east 5 chains to a corner; thence south 86° east 24 chains and 50 links to a corner; thence north 5 chains

and 79 links; thence north  $3.25^{\circ}$  west 3 chains and 72 links; thence east 45.5 links; thence south  $3.25^{\circ}$  east 3 chains and 72 links. thence south 5 chains and 97 links to the southwest corner of a lot formerly owned by Galbreath; thence south  $75.75^{\circ}$  east 4 chains and 99 links to a corner; thence south 22 chains and 82 links to a corner on the south boundary line of said section; thence with said boundary west 43 chains and 84 links to the place of beginning and containing 100 acres, be the same more or less, excepting 1 acre therefrom heretofore sold to the school board of district No. ... of said township of Hanover and leaving a balance of 99 acres of land."

1. The records of Columbiana county do not show to whom the lands in section 2 were patented; however, a certificate of the auditor of state is attached to the abstract and shows that the south half of section 2, of which this land is a part, was patented to James Galbraith on August 8, 1803.

2. At section 1 the will of James Galbraith is inserted, which shows that the land under consideration was bequeathed to his two daughters, Ann and Sarah Galbraith. The will was recorded and the estate administered in 1816.

Forty-eight and sixty-one hundredths (48.61) acres of this tract were deeded on November 3, 1828 by Moses Hambleton and Ann Hambleton, his wife, to Aaron Rigby, who in turn deeded the same in 1836 to The Sandy & Beaver Canal Company. Forty-eight and fifty-six hundredths (48.56) acres of this same tract were on November 12, 1828, deeded by Stephen Hambleton and Sarah Hambleton, his wife, to Isaac Ireby, who in turn in 1836 deeded it to The Sandy & Beaver Canal Company. No reference is made in the abstract to the manner in which these two Hambleton families acquired title, if any, to the land so deeded; however, it is assumed that Ann Hambleton and Sarah Hambleton were the daughters of James Galbraith, named in his will. Evidence to this effect should be secured if possible.

3. The suits involving The Sandy & Beaver Canal Company in foreclosure and other proceedings and the suits brought against the purchasers and others in chain of title to James W. Estil, who acquired title to the tract in May, 1857, present great difficulty in tracing the title, and as is the case with the other Guilford Lake abstracts in which the company figures, upon the showing made it is impossible to pass upon these proceedings.

4. From May 5, 1857, down to the present time the title can be traced.

In section 50 of the abstract, it appears that Robert Patterson devised the property to his wife for life, with the remainder as follows: To his two grandchildren, Leonora Patterson and Margaret Patterson, a one-twelfth interest and the remaining eleven-twelfths to his surviving five children.

Section 52 of the abstract discloses that William R. Patterson, as executor of the estate of Robert Patterson, deceased, instituted a suit against the heirs of Robert Patterson on May 15, 1925. The abstract does not disclose in what court the suit was filed. The abstract shows that the petition recites that Robert Patterson in his life time contracted in writing with William R. Patterson to sell and convey to him in fee simple the title to said real estate, that the contract was not completed in the life time of Robert Patterson and that William R. Patterson and the plaintiff are desirous of completing the contract.

Waiver of service was filed in the suit by the five surviving children of Robert Patterson and a summons issued for Leonora and Margaret Patterson, a minor twenty years of age.

The return of the summons dated May 28, 1925, states that Margaret Patterson, a minor, was personally served as was Nellie Wayman, who was the minor's mother.

The next filing or entry in that case, as appearing in the abstract, was the decree dated July 25, 1925, by the terms of which the court finds that the allegations of the petition are true and that all persons have been served or waived, that the executor

complete the contract and execute and deliver a deed of general warranty for and on behalf of the heirs at law of Robert Patterson, deceased.

The property is still owned by William R. Patterson.  
Section 11603, General Code, provides:

“It shall not be necessary to reserve in a judgment or order the right of a minor to show cause against it after attaining the age of majority; but in any case in which, but for this section, such reservation would have been proper, within one year after his majority, the minor may show cause against such order or judgment.”

The abstract was last certified on the twenty-fourth of December, 1926; and, in view of the fact that no guardian ad litem was appointed for Margaret Patterson and no defense was made in her behalf and the possibility that the rights of Margaret Patterson might have been asserted subsequent to the last certification of the abstract, I think it is proper that the abstract be referred to McMillan & Kelso, the abstractors at Lisbon, Ohio, for a further examination of the dockets of the courts in that county to determine whether Margaret Patterson has asserted any rights in this proceeding or taken any step under and by virtue of section 11603.

I also suggest that the abstractors secure an affidavit in respect to Margaret Patterson's age.

3. Otherwise, the abstract shows good and merchantable title in William R. Patterson, subject to the following encumbrances:

(a) A mortgage executed by William R. Patterson and Margaret Patterson, his wife, on September 30, 1925, and recorded October 2, 1925, to secure the payment of an obligation in the sum of \$1,670.00 due and owing to the Citizens Savings Bank of Salem, Ohio. This mortgage is uncanceled.

(b) A lease executed by Robert Patterson and Anna Patterson, his wife, on January 5, 1910, filed for record June 21, 1910, by the terms of which they leased said premises to Fred W. Worthington for oil and gas purposes, for the term of two and one-half years and as much longer as oil or gas is found in paying quantities. The lease provides that it becomes null and void if a well is not drilled on said premises and oil or gas is not found in four months or the stipulated rental paid. There is nothing in the abstract to show whether oil or gas has been found in paying quantities or whether a well was drilled on the premises within the stipulated period.

(c) The taxes for 1926 have not been paid and are a lien.

(d) The abstract was last certified the 24th of December, 1926. Since that time the taxes for 1927 have become a lien and I assume have not been paid.

No deed or encumbrance estimate was submitted with the abstract which is herewith returned.

Respectfully,

EDWARD C. TURNER,  
*Attorney General.*