

erty, two thousand three hundred forty (2,340') feet, more or less, as measured along said transit line between Sections 26 and 25, town 2, range 8, M. R. S., thence southerly and southwesterly through the northwest quarter of section 25, town 2, range 8, M. R. S., two thousand seven hundred thirty (2,730) feet, more or less, to the south line of the said northwest quarter of said section 25, the said south line crossing the said transit line of the said Whitlock Survey at or near Station 9190 + 18, and containing twelve (12) acres, more or less."

It is noted in connection with this lease that the Director of Highways has by appropriate entries made in his office, released the above described parcel of land from his jurisdiction and control and has transferred such jurisdiction and control back to the Superintendent of Public Works.

Assuming that no application for the lease of this property has been made, pursuant to Section 14159-8, General Code, by any political subdivision, I find that this lease has been acknowledged by you as Superintendent of Public Works and as Director of said department acting for and on behalf of the State of Ohio and by the lessee, Laura T. McCann.

It further appears on an examination of the provisions of this lease and of the conditions and restrictions therein contained, that the same are in conformity with the statutory provisions above noted, under the authority of which this lease is executed, and with other statutory provisions relating to leases of this kind.

I am accordingly approving this lease as to legality and form, as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

1610.

STATUS—TITLE, WARRANTY DEED, ETC., PURCHASE BY STATE FROM MERRITT COX AND MARGARET COX, DESIGNATED LAND, LIBERTY TOWNSHIP, ROSS COUNTY, USE, FORESTRY PRESERVATION, FIRE CONTROL PURPOSES.

COLUMBUS, OHIO, December 28, 1939.

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

DEAR SIR: This is to acknowledge the receipt of your recent communication with which you submit for my examination an abstract of title,

warranty deed, contract encumbrance record No. 85 and other files relating to the proposed purchase by the Ohio Agricultural Experiment Station for and in the name of the State of Ohio, of a parcel of land which is owned of record by Merritt Cox and Margaret Cox, husband and wife, in the Township of Liberty, County of Ross, and more particularly described as follows:

“Beginning at a stake in the west line of lands owned by Merritt Cox 1144 feet northward from the southwest corner of the said Merritt Cox lands (this corner being the common corner to lands of Merritt Cox, Isiah Johnson, Wirt Crislip and J. E. Dubois); thence S 83° 22' E 210 feet to a stake; thence S 20° 15' W. 213 feet to a stake; thence S 74° 33' W. 172.5 feet to a stake in the west line of Merritt Cox lands; thence following the said west line of the Merritt Cox lands N 6° 38' E 271.5 feet to the place of beginning, containing one acre more or less.

Being part of the southeast quarter of section 22, township 8, range 20.”

With respect to the purchase of property for and in the name of the State of Ohio, which is to be under the control and supervision of the Ohio Agricultural Experiment Station, this body as an agency of the State, has only such power and authority as are conferred upon it by the statutory law of this state and such implied power and authority as are necessary in carrying out and making effective such express powers as may be granted by statute. Section 1173-2, General Code, provides that the Board of Control of the Agricultural Experiment Station is authorized to purchase land suitable for forestry purposes and it may be stated that the provisions of this act are sufficiently comprehensive to authorize the purchase of land for fire control purposes for the preservation of its forest.

Upon examination of the abstract of title of the above described property, which abstract of title is certified under date of November 21, 1939, I find that Margaret Cox and Merritt Cox, the owners of record of this property, have a good and indefeasible fee simple title to the same, subject, however, to certain easements given to The Hocking Power Company by Harley Thornton and Lulu Thornton, predecessors in title of Merritt Cox and Margaret Cox, and which easement may be found of record in Deed Book No. 202, page 379 of the Deed Records of Ross County, Ohio, and which easement grants a right of way for transmission of electric current; also an easement given by Merritt Cox to the Ohio Utility Company for construction of lines for transmission of electric energy along the public highway.

The abstract of title also sets out a certain oil and gas lease executed by the said Harley A. and Lulu Thornton, under date of July 12, 1912, to

The Logan Natural Gas and Fuel Company; also an oil and gas lease executed by Merritt Cox and Margaret Cox to C. A. Hertenstein and Wesley Hertenstein under date of November 29, 1927, and which leases have not been surrendered or canceled. However, I find that in connection with the granting and habendum clause in each lease there was also a surrender clause in each lease, providing that in the event that no oil or gas were found within a stipulated time then the lease would be null and void, and by reason of the additional information furnished me in this matter, to the effect that no wells were drilled during the terms of the leases, I am therefore of the opinion that said leases are a nullity in view of the case of *Broun v. Fowler*, 65 O. S., 507.

Upon examination of the warranty deed tendered by Merritt Cox and Margaret Cox, the owners of this property, I find that the same has been properly executed and acknowledged by said grantors. I further find that the form of the deed is such that the same is legally sufficient to convey the above described property to the State of Ohio, as the grantee therein named, by fee simple title, free and clear of the inchoate dower of the grantors, and said deed contains a covenant of warranty on the part of the grantors that this property is conveyed to the State free and clear of all encumbrances. However, I desire to point out that the undetermined taxes on this property for the year 1939 are a lien thereon.

Upon examination of contract encumbrance record No. 85 I find that the same has been properly executed and that there is shown thereby a sufficient balance in the proper appropriation account to the credit of the Ohio Agricultural Experiment Station, to pay the purchase price of this property, and which purchase price is in the sum of \$50.00.

Subject to the exceptions above noted, and the undetermined taxes for the year 1939, title of Merritt Cox and Margaret Cox in and to the above described property is hereby approved, as are likewise the warranty deed, contract encumbrance record and other files you have submitted for my consideration, all of which files are herewith enclosed.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

1611.

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BOND—CECIL EMMONS, AUDITOR, DEPARTMENT OF HIGHWAYS, \$10,000.00.

COLUMBUS, OHIO, December 28, 1939.

HON. ROBERT S. BEIGHTLER, *Director, Department of Highways, Columbus, Ohio.*

DEAR SIR: You have submitted for my approval a bond in the sum of \$10,000.00 with the National Surety Corporation as surety, covering