

material. This is a matter for the judgment of the inspector in the first instance and that judgment must be exercised in good faith and with no other motive in view than a legitimate search for articles capable of carrying the pest.

In specific answer to your inquiry, I am of the opinion that under the provisions of Section 1140-13 of the General Code, the duly authorized agents of the Department of Agriculture in the enforcement of quarantine regulations, may search automobiles along the highway, without a search warrant, which they know, or have reasonable ground to believe, and do believe, to be carrying any agricultural or horticultural product or any other materials of any character whatsoever, capable of carrying the European corn borer in any living state of its development.

Respectfully,

GILBERT BETTMAN,
Attorney General.

683.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND OF CLEVELAND, CINCINNATI, CHICAGO AND ST. LOUIS RAILWAY COMPANY IN CITY OF CINCINNATI, HAMILTON COUNTY, OHIO.

COLUMBUS, OHIO, July 27, 1929.

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

DEAR SIR:—There has been submitted to this department for examination and approval an abstract of a certain parcel of land situated in the City of Cincinnati, Hamilton County, Ohio, and being the easterly seventy-five feet off of lots 7, 8, 9, 10 and 11, as numbered and delineated on the plat of Theophilus French's subdivision in the then village of Carthage, as recorded in Plat Book 3, p. 51, of the Hamilton County, Ohio, records.

An examination of the abstract of title submitted shows that the property here in question is owned of record by the Cleveland, Cincinnati, Chicago and St. Louis Railway Company, but that the record title of said company to this property is subject to the following exceptions:

1. The abstract shows that on and prior to May 1, 1869, said lots No. 7, 8, 9, 10 and 11 of Theophilus French's Subdivision in the then village of Carthage, Hamilton County, Ohio, were owned and held in fee simple title by said Theophilus French. On said date, to-wit, May 1, 1869, said Theophilus French, his wife joining with him in the deed, conveyed said lots above referred to to one John Dean. It appears that shortly after this conveyance said John Dean died, and thereafter on May 1, 1871, said Theophilus French, together with his wife, conveyed these same lots, together with Lot 12 in said subdivision to Thomas F. Brown and George S. Brown. There is nothing in the abstract to show how the title to the lots here in question came back to Theophilus French after his conveyance of the same to John Dean, nor is there anything in the abstract to show how the title of said John Dean or his heirs to these lots was extinguished.

It is quite probable that the Cleveland, Cincinnati, Chicago and St. Louis Railway Company and its predecessors in title have owned and held said lots in adverse possession and in such manner that the heirs of said John Dean have long since been barred by the statute of limitations from asserting any right, title or interest claimed

by them in this property. However, the facts above stated, unexplained, stand as a defect in the record title of the Cleveland, Cincinnati, Chicago and St. Louis Railway Company in and to the property here under investigation. If additional information can be procured and made a part of the abstract curing this defect in the record title, this, of course, should be done. If this defect in the record title to this property cannot be cured in the manner above indicated, a full statement of the relevant facts showing that by reason of the adverse possession of the Railway Company and its predecessors in title the rights and interests of the heirs of said John Dean have been barred by the statute of limitations, should be made a part of the abstract.

2. The Cleveland, Cincinnati, Chicago and St. Louis Railway Company obtained title to the property here under investigation from the Cincinnati and Springfield Railway Company, which company had previously obtained title to the property from said Thomas E. Brown and George S. Brown above referred to. The title to this property is held by the said Cleveland, Cincinnati, Chicago and St. Louis Railway Company subject to the lien of the following mortgages executed by said Railway Company and the Cincinnati and Springfield Railway Company, which mortgages are a lien upon the property under investigation and other property owned and held by the Cleveland, Cincinnati, Chicago and St. Louis Railway Company:

(1) A certain mortgage executed February 22, 1871, by the Cincinnati and Springfield Railway Company to the Union Trust Company of New York, to secure an issue of bonds in the sum of two million dollars, payable April 1, 1901.

(2) A mortgage executed by the Cincinnati and Springfield Railway Company to Oscar Townsend, Trustee, under date of January 1, 1872, to secure an additional issue of bonds amounting to \$750,000, issued by said company.

(3) A mortgage executed by the Cleveland, Cincinnati, Chicago and St. Louis Railway Company to the Mercantile Trust Company and to Theodore P. Haughey, Trustee under date of May 15, 1893, to secure an issue of bonds in the sum of \$50,000,000.

(4) A mortgage executed by the Cleveland, Cincinnati, Chicago and St. Louis Railway Company to the Central Trust Company of New York and William A. Wildhack, Trustees, under date of January 2, 1913. This mortgage was executed for the purpose of extending the lien of the general first mortgage of the said Railway Company to the railroad and properties of the Harrison Branch Railroad Company; and this mortgage may not affect the property here under investigation.

(5) A mortgage executed by the Cleveland, Cincinnati, Chicago and St. Louis Railway Company to the Bankers Trust Company and Union Trust Company of Indianapolis, Trustees, under date of January 6, 1913, for the purpose of extending the lien of the general mortgage of the Cleveland, Cincinnati, Chicago and St. Louis Railway Company to the railroads and properties formerly owned and held by the Cairo, Vincennes and Chicago Railway Company, the Cincinnati and Springfield Railway Company, the Columbus, Springfield and Cincinnati, Railroad Company and the Harrison Branch Railroad Company.

(6) A mortgage executed by the Cleveland, Cincinnati, Chicago and St. Louis Railway Company, to the Guaranty Trust Company of New York and Frank L. Littleton, Trustees, June 27, 1919, upon all property of said mortgagor company then owned or thereafter acquired, to secure the bonds of said company.

Releases should be obtained with respect to each and all of the above mentioned mortgages, so far as the lien of the same extends to the property here under investigation.

3. The abstract shows that the taxes for the last half of the year 1928 and the taxes for the year 1929 upon said Lots 7, 8, 9, 10 and 11 of French's Subdivision are unpaid and a lien. Some adjustment with respect to these taxes should, of course, be made before the transaction relating to the acquisition of the property here under investigation is closed.

The abstract of title, which is the subject of this opinion, is not accompanied by any deed, encumbrance estimate of certificate showing a release of the purchase money by the Controlling Board. All of these files should be submitted to this department for approval with the corrected abstract. The abstract of title submitted is herewith returned.

Respectfully,
GILBERT BETTMAN,
Attorney General.

684.

APPROVAL, BONDS OF ASHTABULA COUNTY—\$16,500.00.

COLUMBUS, OHIO, July 27, 1929.

Industrial Commission of Ohio, Columbus, Ohio.

685.

APPROVAL, BONDS OF CITY OF GALLIPOLIS, GALLIA COUNTY—
\$46,000.00.

COLUMBUS, OHIO, July 27, 1929.

Industrial Commission of Ohio, Columbus, Ohio.

686.

EXPLOSIVES—STATUTORY TERM DOES NOT INCLUDE CARBIDE, GUN
SHELLS AND CARTRIDGES.

SYLLABUS:

Carbide used by miners and gun shells and cartridges do not come within the provisions of the Ohio Explosive Laws.

COLUMBUS, OHIO, July 29, 1929.

HON. THOS. C. DEVINE, *Division Chief, Division of Factory and Building Inspection, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication, as follows:

“A question has arisen whether or not carbide used by miners, also gun shells and cartridges, come within the provisions of the Ohio Explosive Laws, a copy of which is enclosed. Will you kindly give us your opinion?”