

4944.

APPROVAL, CORRECTED ABSTRACT OF TITLE, WITH EX-  
CEPTIONS, TO LAND IN HANOVER TOWNSHIP, ASH-  
LAND COUNTY, OHIO.

COLUMBUS, OHIO, November 29, 1935.

HON. CARL E. STEEB, *Secretary, Board of Control, Ohio Agricultural Exper-  
iment Station, Columbus, Ohio.*

DEAR SIR:—Some time ago you submitted for my examination and approval a corrected abstract of title, certain deeds, contract encumbrance record No. 18 and Controlling Board certificate relating to the purchase by the state of Ohio of a tract of land in Hanover Township, Ashland County, Ohio, which is more particularly described as follows:

The same being a part of the west half of the northwest quarter of section 15 of Hanover Township (19), range 15, and for description beginning at the northeast corner of the west half of said northwest quarter, thence south one hundred and sixty (160) rods; thence west along the south line of said quarter fifty (50) rods; thence north parallel with the section line of said section one hundred and sixty (160) rods to the north line of said section; thence east along the north line of said section fifty (50) rods to the place of beginning, being fifty (50) acres off the east side of the west half of said quarter section in said section, township and range.

Upon examination of the corrected abstract of title submitted to me, I find that at and prior to the death of Alice M. Sellers, she and one George A. Liggett, an insane person, each owned and held an undivided one-half interest in fee simple in the above described tract of land, free and clear of all encumbrances except certain oil and gas leases which had been theretofore executed on this property by George A. Liggett and Alice M. Sellers, respectively, and a pipe line lease executed by Alice M. Sellers. At the present time the title to the above described property is owned and held by the estate of Alice M. Sellers, deceased, represented by one Albert H. Arnholt, the administrator of said estate, and by said George A. Liggett, represented by D. Homer Graven, his guardian. And the present status of the title to said property is such that said Albert H. Arnholt, as administrator of the estate of Alice M. Sellers, and D. Homer Graven, as guardian of George A. Liggett, an insane person, are enabled to convey the above described property to the State by fee simple title, free and clear of all encumbrances except an oil and gas lease executed by Alice M. Sellers and her husband, under date of October 28, 1913, to The

Ohio Fuel Supply Company. Apparently, some gas is being produced by The Ohio Fuel Supply Company under this lease and royalties are being paid to the estate of Alice M. Sellers, as provided for in said lease. The pipe line right of way or easement granted by Alice M. Sellers to the East Ohio Gas Company is apparently still in operation and is an encumbrance upon this property. To what extent said oil and gas lease and the pipe line lease above referred to, though they are encumbrances upon the title which the State will obtain in the purchase of this land, will interfere with the purposes for which the land is to be used by your department, is a matter for your determination. In addition to the encumbrances above noted, the taxes for the year 1935 are a lien upon this property. At the time the abstract of title was prepared and submitted to this office, the taxes on this property for the year 1935 were undetermined, but the same can probably be determined at this time. With the abstract of title there have been submitted to me two deeds, one an administrator's deed purporting to convey to the state of Ohio the undivided one-half interest in the property which vested in the heirs of Alice M. Sellers upon her death and the other purporting to convey to the State the undivided one-half interest owned and held by George A. Liggett through his guardian. These deeds have been executed by the administrator of the estate of Alice M. Sellers and by the guardian of George A. Liggett pursuant to the authority of an order of sale made and entered by the Probate Court of Ashland County, Ohio, in proceedings in said court instituted by said respective fiduciaries. The proceedings relating to the sale of this property and of the respective undivided interests therein are substantially regular, and are a sufficient predicate for the orders made by the court directing the sale of the respective undivided interests in this property above referred to. Upon examination of the deeds submitted, I find, however, that the description of the property, as the same is set out in each of these deeds, is incorrect in that the second call of the description of this property by metes and bounds is "thence west along the south line of said quarter thirty (30) rods"; whereas, it is quite obvious that said call should read "thence west along the south line of said quarter fifty (50) rods". There also appears in these deeds a needless duplication of the last call and there should be stricken therefrom the following words: "thence east along the north line of said section", as first stated therein.

At the time you submitted the abstract of title and deeds above referred to, you likewise submitted to me contract encumbrance record No. 18 covering the purchase price of this property. By an error in the preparation of this contract encumbrance record, pointed out in my communication to you under date of November 1, 1935, this instrument was made out in the name of Albert H. Arnholt, administrator of the estate of Alice M. Sellers, deceased; and the same was returned to the Department of Finance for correction so that the name of D. Homer Graven, guardian of George A. Liggett, would likewise appear therein as one of the persons with whom the contract for the

purchase of this property was made. The contract encumbrance record has been corrected and the same now shows a sufficient unencumbered balance in the appropriation account made to the credit of the Division of Forestry in your department, to pay the purchase price of this property, which purchase price is the sum of \$750.00. Of this purchase price, the sum of \$375.00 is to be paid to Albert H. Arnholt, as administrator of the estate of Alice M. Sellers, deceased, and \$375.00 is to be paid to D. Homer Graven, as guardian of George A. Liggett.

It further appears, by way of recital in said contract encumbrance record, as well as by the Controlling Board certificate therewith filed, that said Controlling Board has approved the purchase of this property and has released from the appropriation account the money necessary to pay the purchase price of the property.

Subject to the exceptions above noted, I am approving the title to this property and I am herewith returning to you the abstract of title and other files submitted, with the exception of the deeds which I am forwarding to Mr. D. Homer Graven for correction with respect to the description of the property in the particulars pointed out above.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

---

4945.

TREASURY STOCK—PART OF ISSUED AND OUTSTANDING  
SHARES OF STOCK IN DETERMINING FRANCHISE TAX.

**SYLLABUS:**

*The treasury stock of a corporation as defined in Section 8623-2, General Code, is to be considered as a part of the issued and outstanding shares of stock by the Tax Commission in determining the franchise tax of said corporation, under the provisions of Section 5498, General Code, and for said purpose the treasury stock should be computed at its fair value.*

COLUMBUS, OHIO, November 29, 1935.

*The Tax Commission of Ohio, State Office Building, Columbus, Ohio.*

GENTLEMEN:—Your request for my opinion reads as follows:

“The commission desires your written opinion on the following question: