

record and notify the corporation in question of the action taken. The marginal notation could be in any form which would clearly indicate the fact of the cancellation and the reason therefor. As a suggestion merely, I offer the following:

(Date)

Authority to do business within this state revoked for failure to designate successor to statutory agent. (G. C. 181.)

Secretary of State.

Such an entry having been made upon the margin of the record, a notice of the action should be forwarded to the corporation direct. In my opinion it would also avoid confusion if notice of this action were given to the Tax Commission. In this way the commission will be advised of the status of the corporation and may be governed accordingly in the matter of taxes and fees.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1274.

BOARD OF CONTROL OF OHIO AGRICULTURAL EXPERIMENT STATION—NO AUTHORITY OVER INTER-COUNTY HIGHWAYS—CONSTRUCTION OF TRANSMISSION LINES ON STATE FOREST PROPERTY, DISCUSSED.

SYLLABUS:

1. *The Board of Control of the Ohio Agricultural Experiment Station has no authority to grant to a public utility company the right to erect poles on any inter-county highway or main market road.*

2. *Neither the Board of Control of the Ohio Agricultural Experiment Station nor the Director of Highways and Public Works has authority to grant to a public utility company the right to construct and maintain transmission lines on any portion of state forest lands.*

COLUMBUS, OHIO, November 18, 1927.

HON. CARL E. STEEB, *Sec'y, Board of Control, Ohio Agricultural Experiment Station, Wooster, Ohio.*

DEAR SIR:—Receipt is acknowledged of your communication of recent date requesting my opinion as follows:

"I am enclosing herewith letter from Mr. Edmund Secrest, State Forester, under date of November 7, which letter raises the question as to the power of the Board of Control of the Agricultural Experiment Station to give consent to a utility company to run a transmission line along the highway which extends through the Scioto Trail Forest. This forest is under the control of the Board of Control of the Ohio Agricultural Experiment Station.

I would be pleased to receive your advice that I may present the request with your reply to the Board of Control at its next meeting."

The enclosed letter from the State Forester reads as follows:

"I have a request from the Ohio Utilities Company to give consent to run a transmission line along the highway which extends through the Scioto Trail Forest, a distance of approximately 700 feet. The poles are to be set on highway property according to the statement of the Company, and spaced 250 feet apart, making 3 poles in all. The arms of the poles carrying the wires will reach over on to the state property at a distance of about 4 feet. I informed the company I would take it up with the Board of Control at their next meeting, and that I thought it would be necessary to get the opinion of the Attorney General as to whether or not our board has the right to grant a concession of this kind without legislative action.

Would it not be a good plan to put this matter before the Attorney General, and ask for his opinion as to the board's status in the matter?"

You will note that the letter of the State Forester recites that the utilities company is seeking permission from the Board of Control of the Ohio Agricultural Experiment Station to run a transmission line "along the highway" and to place the poles "on highway property."

I am advised by the Department of Highways and Public Works that the road extending through the Scioto Trail Forest to which you have reference, is a part of the state highway system, being Inter-county Highway No. 5, and also being known as United States Highway No. 23.

Under the provisions of Sections 1178 and 1184 of the General Code, the Director of Highways and Public Works is given complete control and supervision over the constructing, improving, maintaining and repairing of inter-county highways and main market roads. Section 7204-1a of the General Code provides in part as follows:

" * * * It shall be unlawful for any person, partnership or corporation to hereafter erect within the bounds of any highway or on the bridges or culverts thereon, any obstacle whatever *without first obtaining the consent and approval of the Director of Highways and Public Works, in case of inter-county highways and main market roads and the bridges and culverts thereon*, and the consent and approval of the county commissioners in case of highways other than inter-county highways or main market roads and the bridges and culverts thereon." (Italics the writer's.)

In an opinion of this department, Opinion Number 94, issued to the Director of Highways and Public Works on February 21, 1927, branches one and two of the syllabus read:

1. The Director of Highways and Public Works is authorized by Section 7204-1a of the General Code to consent to the construction of electric power lines along inter-county highways or main market roads.
2. The power to consent implies the authority to refuse consent, where the interests of the public for travel so require."

Provision is made for the establishing of an Agricultural Experiment Station in Section 1170 of the General Code, and, by the provisions thereof, said station is

placed under the control, management, supervision and direction of a board of control. Under the provisions of Section 1177-10a of the General Code, said board of control is authorized to buy forested lands or other lands in the state suitable for the growth of forest trees.

The Board of Control of the Ohio Agricultural Experiment Station is purely a creature of statute and no where in the statutes governing its powers do we find provision made clothing it with authority to lease any of the lands under its control or to grant permission to a public utility to occupy said lands for any purpose. Provision has been made, however, in Section 1177-10c, General Code, for the sale of portions of the State Forest lands under certain conditions.

It appears from the statement of facts contained in the communication of the State Forester relative to the instant question, that the Ohio Utilities Company is now seeking permission to erect poles within the limits of an inter-county highway. It further appears that the arms of these poles carrying the wires will reach over on to State Forest property. While the Director of Highways and Public Works may, upon application of the Utilities Company, grant said company the right to occupy an inter-county highway with its poles and transmission lines, yet, he has no authority to grant to such a company or to any one permission to occupy any portion of State Forest lands.

Answering your query specifically it is therefore my opinion that :

1. The Board of Control of the Ohio Agricultural Experiment Station has no authority to grant to a public utility company the right to erect poles on any inter-county highway or main market road.

2. Neither the Board of Control of the Ohio Agricultural Experiment Station nor the Director of Highways and Public Works has authority to grant to a public utility company the right to construct and maintain transmission lines on any portion of State Forest lands.

Respectfully,
EDWARD C. TURNER.
Attorney General.

1275.

APPROVAL, ABSTRACT OF TITLE TO LAND IN XENIA TOWNSHIP,
GREENE COUNTY, OHIO.

COLUMBUS, OHIO, November 18, 1927.

HON. CHAS. V. TRUAX, *Director of Agriculture, Columbus, Ohio.*

DEAR SIR:—Referring to and supplementing my opinion bearing No. 1255, dated November 14, 1927, regarding the status of title of property located in Xenia Township, Greene County, Ohio, described in said opinion, which it is proposed to purchase from D. E. Spahr and wife, I find that the proceedings of the City of Xenia relative to the purchase of said land and the sale of the same have now been furnished.

I am therefore of the opinion that the abstract of title submitted shows that D. E. Spahr has a good and merchantable title to said premises, free and clear of all encumbrances except the following :