

complied with. A certificate of the Secretary of State shows that the contracting foreign corporation is authorized to do business in Ohio under the terms of section 188, General Code.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3295.

DISCUSSION AS TO LEGALITY OF PURCHASE OF LAND OF LAFAYETTE TAYLOR AND VOLNEY S. TAYLOR, REGARDLESS OF OIL AND GAS RESERVATIONS.

COLUMBUS, OHIO, June 3, 1931.

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

DEAR SIR:—Under date of April 20, 1931, I rendered to you Opinion No. 3167, in which was pointed out the state of the title of a 637 acre tract of land in Scioto County, the purchase of which from Lafayette Taylor and Volney S. Taylor is contemplated. Therein, it was pointed out that on February 29, 1924, one E. J. Gregg, in conveying the land to Lafayette and Volney S. Taylor, expressly reserved the oil, gas and mineral rights for a period of ten years, and that the title of the Messrs. Taylor was subject to this right which will not expire until February, 1934. In a subsequent letter you have requested my opinion as to whether this land may be legally purchased regardless of said reservation.

Section 1172, General Code, provides:

“The title of all lands for the use of the Ohio agricultural experiment station shall be conveyed in fee simple to the state, but no title shall be conveyed for such purposes until the attorney general is satisfied that it is free from defects and encumbrances.”

A rigorous and literal interpretation of this section may seem to preclude the purchase of any land whose title has any defect whatsoever. However, having in mind that there are practically no titles which are not defective in some manner, common sense precludes such an impracticable interpretation—otherwise it would be almost impossible for the state to purchase land. Clearly this statute contemplates only serious, material defects which might result in the state's losing the land, or which might interfere gravely with the uses contemplated by the state, or which might vitally impair the marketability of such land in case the state sought to sell it after the purposes for which it had been purchased have terminated.

Having in mind that seven of the ten years for which the above reservation was made have elapsed without any move to develop the rights reserved, that the reservation expires in less than three years, that it is unlikely that any one

will go to the expense of development within the short time that remains, and that information indicates that there is no gas or oil in this vicinity in paying quantities, I believe that the reservation in question is only an immaterial defect and therefore I am of the opinion that this land may be purchased legally irrespective thereof. See Opinions of the Attorney General for 1927, pages 366 and 367.

In my former opinion concerning the title to this land I pointed out that the record title discloses that one John A. Watson is the owner in fee simple of an undivided one-half interest in parcel No. 2 of caption land. Because of the difficulty there would be, as previously pointed out, in establishing complete title in Messrs. Taylor by adverse possession against their record tenant in common, I suggest that a suit to quiet title be instituted in order to remove this defect.

Information furnished subsequent to the previous opinion satisfactorily shows that, out of survey No. 14896, the 50 acres recited as having been conveyed to one Robert McChesney (p. 17, abstract) do not coincide with parcel No. 2 of caption land.

The tax receipts submitted show that the taxes for 1930 have been fully paid. Of course, the 1931 taxes are now a lien upon this property.

The error which appeared in the description in the deed to the state of Ohio conveying the first parcel of caption land has been corrected, and I find that the deed to the state relating to each parcel is executed in proper form, with the release of dower, purporting to convey a fee simple title to the state with the exception of the oil, gas and mineral reservations discussed above.

The abstractor has attached to the abstract of title a new certificate, dated April 30, 1931, which indicates that nothing has occurred since the date of his last certificate, dated October 20, 1930, to alter the status of the 595 acre tract in survey No. 15901; but he makes no mention of having examined, subsequent to the last certificate, the records pertaining to parcel No. 2, comprising 50 acres in survey No. 14896.

Enclosed please find papers which you have recently submitted to me pertaining to this purchase.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3296.

APPROVAL, CONTRACTS FOR ROAD IMPROVEMENTS IN CUYAHOGA
AND MORROW COUNTIES.

COLUMBUS, OHIO, June 3, 1931.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

3297.

APPROVAL, CONTRACT BETWEEN THE STATE OF OHIO AND THE
JENNINGS-LAWRENCE COMPANY OF COLUMBUS, OHIO, FOR EN-
GINEERING SERVICES AT HAWTHORNDEN FARM, CLEVELAND
STATE HOSPITAL, CLEVELAND, OHIO, AT THE EXPENDITURE
OF \$1100.00.