

5184.

APPROVAL—NOTES OF MASSILLON CITY SCHOOL DISTRICT, STARK COUNTY, OHIO, \$12,000.00.

COLUMBUS, OHIO, February 24, 1936.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

5185.

APPROVAL—BONDS OF ROCKY RIVER VILLAGE SCHOOL DISTRICT, CUYAHOGA COUNTY, OHIO, \$5,000.00.

COLUMBUS, OHIO, February 24, 1936.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

5186.

APPROVAL—BONDS OF HAVILAND-SCOTT RURAL SCHOOL DISTRICT, PAULDING COUNTY, OHIO, \$7,000.00.

COLUMBUS, OHIO, February 24, 1936.

Industrial Commission of Ohio, Columbus, Ohio.

5187.

APPROVAL—ABSTRACT OF TITLE TO LAND IN VILLAGE OF WESTERVILLE, OHIO, FOR STATE ARMORY PURPOSES.

COLUMBUS, OHIO, February 26, 1936.

HON. EMIL F. MARX, *Adjutant General, Columbus, Ohio.*

DEAR SIR: This is to acknowledge the receipt of your recent communication with which you submit for my examination and approval an abstract of title of a certain parcel of land, a part of which is situated in the village of Westerville, Ohio, and a part of which is situated in Blendon Township outside of said village, which parcel of land is being

acquired by you for state armory purposes under the general authority conferred upon you as Adjutant General by Section 5239, General Code, and under the more particular authority conferred upon you by Amended Senate Bill No. 401 passed by the 91st General Assembly under date of January 23, 1936, which act amending section 1 of House Bill No. 531 entitled as an act "to make general appropriations for the biennium beginning January 1, 1935, and ending December 31, 1936", provides that for the purpose of carrying out the provisions of the act making an appropriation for armories, the Adjutant General, with the consent of the Governor, is authorized to sell or exchange any real estate owned by the state of Ohio for armory purposes in or near any city or village and to thereby acquire a new site for an armory in or near such city or village. In this case, the state of Ohio is acquiring the parcel of land above referred to, which is hereinafter described, from the village of Westerville in exchange for certain property which is now owned and held by the State for armory purposes in the village of Westerville and which, pursuant to the authority of said act, is to be conveyed by the State to said village.

The parcel of land here in question which is to be acquired by the state of Ohio for armory purposes is more particularly described as follows:

Situated partly in the Village of Westerville and partly in the Township of Blendon, in the County of Franklin and State of Ohio, to wit:

Situate in the State of Ohio, County of Franklin, and being part in the Township of Blendon and part in the Village of Westerville, Ohio, and being Parcel 3 and part of Parcel 2 as set forth by the Court of Common Pleas, Case No. 142,802, Franklin County, Ohio, in the division of the lands of Jacob Keefer and being more particularly described as follows:

Beginning at an iron pin at the S. W. corner of the said Jacob Keefer land and in the east line of State Street in the Village of Westerville, the same being the S. W. corner of Parcel 3 above mentioned; thence with the east line of State Street N. 15° 40' W. 250 ft. to an iron pin; thence S. 85° 59' E. 516.97 ft. across Parcel No. 2 to an iron pin in the west line of the Railroad right of way and the east line of Parcel No. 2; thence with the west line of said right of way S. 3° 22' W. 230.5 ft. to an iron pin in the south line of said Keefer land and the S. E. corner of Parcel 3; thence N. 86° 37' W. with the south line of said parcel, 435.4 ft. to the place of beginning, containing 2.548 acres, of which 1.150 acres is in the Village of Westerville.

Upon examination of the abstract of title submitted, I find that the village of Westerville, Ohio, has a good and indefeasible title to the above described parcel of land and that the same is free and clear of all encumbrances except the undetermined taxes for the year 1935 which are a lien upon this property. The village of Westerville acquired the parcel of land here in question, together with other lands, by a deed of conveyance executed to it by one Frances E. Kinter under date of October 17, 1935. The property thus conveyed was, of course, then subject to the lien of the undetermined taxes on the property for the year 1935, and the village of Westerville took the property by this conveyance subject to such lien. However, the lien imposed on real property by the provisions of Section 5671, General Code, for taxes thereon, is the lien of the State itself and unless some arrangement is made by and between yourself and the authorized officers of the village of Westerville for the payment of the taxes on this property, the lien of such taxes will become merged and lost in the fee simple title to the property which the State will acquire upon the delivery and acceptance of the deed executed by the village of Westerville.

The village of Westerville, Ohio, acting pursuant to the authority conferred upon it by Section 3631, General Code, acquired the land here in question for the purpose of conveying the same to the state of Ohio as a site for the erection of an armory and thereafter said village, acting pursuant to an ordinance adopted by the Council of said village in the manner provided by law, executed a deed by the hands of its authorized officers conveying this property to the State. Upon examination of this deed, I find that the same has been executed and acknowledged in the manner provided by law and that the form of this deed is such that the same is legally sufficient to convey the above described property to the state of Ohio by full fee simple title.

As above noted, the property here in question is being acquired by the state of Ohio for armory purposes in consideration of the conveyance by the state of Ohio to the village of Westerville of property now owned and held by the State for armory purposes in said village. And inasmuch as this property is not being acquired by the State by purchase from moneys appropriated by the legislature for the purpose, no action by the Controlling Board with respect to the acquisition of this property was or is necessary under section 8 of House Bill No. 531, above referred to, or otherwise. For the same reason, no contract encumbrance record under the provisions of Section 2288-2, General Code, is necessary.

The abstract of title and deed submitted to me are hereby approved and the same are herewith returned to you.

Respectfully,

JOHN W. BRICKER,
Attorney General.