

tence for good behavior is computed on the basis of the minimum term of a general sentence and deducted from the minimum term only."

It would, therefore, appear that prisoners coming within the classes of cases herein considered are not eligible for parole until the expiration of fifteen years, unless they are entitled to time off for good behavior, in which case they would be eligible after the expiration of twelve years and eight months.

I base this conclusion upon the statement appearing in the hereinbefore quoted 1932 opinion, *supra*, and the fact that the diminution of sentence for good behavior as provided for in Section 2210, to my mind, only applies to the minimum sentence set by the court in sentencing the prisoner.

As pointed out above, it was held in the 1933 opinion, *supra*, that a prisoner is not entitled to release until he has served, by actual or constructive imprisonment, at least the minimum term provided by law. In this case the minimum term is twenty years and, therefore, the particular prisoner can not be released until the period of his imprisonment or the period of his parole equals the term of his minimum sentence, having in mind the prisoner on parole is considered as being constructively imprisoned.

Respectfully,

HERBERT S. DUFFY

*Attorney General.*

3165.

APPROVAL—AGREEMENT, JOHN JASTER, JR., DIRECTOR OF HIGHWAYS, STATE OF OHIO, WITH THE PENNSYLVANIA RAILROAD COMPANY, LESSEE OF THE PITTSBURG, FORT WAYNE AND CHICAGO RAILWAY COMPANY, ELIMINATION OF GRADE CROSSING OVER TRACKS, ON STATE HIGHWAY No. 501, DESCRIBED POINT IN RICHLAND COUNTY, OHIO.

COLUMBUS, OHIO, October 31, 1938.

HON. JOHN JASTER, JR., *Director of Highways, Columbus, Ohio.*

DEAR SIR: You have submitted for my consideration and formal approval a proposed agreement by and between John Jaster, Jr., Director of Highways of the State of Ohio, and The Pennsylvania Railroad Company, lessee, of the Pittsburg, Fort Wayne and Chicago

Railway Company, providing for the elimination of the grade crossing over the tracks of the Pennsylvania Railroad Company on State Highway No. 501, located at a point in Richland County, Ohio, about one-half mile east of the western county line.

After careful examination, it is my opinion that said proposed agreement is correct as to legality and form and when the same is executed by John Jaster, Jr., as Director of Highways for the State of Ohio, the same will become a binding contract by and between the parties for the purposes therein set forth. I, therefore, approve this proposed agreement as to legality and form and am returning the same herewith.

Respectfully,

HERBERT S. DUFFY

*Attorney General.*

3166.

APPROVAL—AGREEMENT, JOHN JASTER, JR., DIRECTOR OF HIGHWAYS, STATE OF OHIO, WITH THE PENNSYLVANIA RAILROAD COMPANY, LESSEE OF THE LITTLE MIAMI RAILROAD, RECONSTRUCTION CERTAIN DESCRIBED CROSSING, STATE HIGHWAY No. 8, TERRACE PARK, HAMILTON COUNTY, OHIO.

COLUMBUS, OHIO, October 31, 1938.

HON. JOHN JASTER, JR., *Director of Highways, Columbus, Ohio.*

DEAR SIR: You have submitted for my consideration and approval a proposed agreement by and between John Jaster, Jr., Director of Highways of the State of Ohio and The Pennsylvania Railroad Company, lessee of the Little Miami Railroad providing for the reconstruction of the existing separated crossing under the tracks of the Pennsylvania Railroad Company on State Highway No. 8, located at a point in Hamilton County, Ohio, in Terrace Park.

Upon examination, I find said proposed agreement in proper legal form and it is my opinion that when the same is executed by John Jaster, Jr., as Director of Highways for the State of Ohio, the same will become a binding contract by and between the parties for the purposes therein mentioned. I, therefore, approve said proposed agreement as to legality and form and am returning the same herewith.

Respectfully,

HERBERT S. DUFFY

*Attorney General.*