

2221.

APPROVAL, PROPOSED DEED DRAFTED BY AUDITOR OF STATE
AND EXECUTED BY THE GOVERNOR.

COLUMBUS, OHIO, January 26, 1934.

HON. JOSEPH T. TRACY, *Auditor of State, Columbus, Ohio.*

DEAR SIR:—Mr. Adam Pontius of the City of Canton, Ohio, acting through his attorneys, Lynch, Day, Pontius and Lynch of that city, has made an application to this office pursuant to the provisions of section 8528, General Code, for the correction of an error in a deed executed by Governor Duncan McArthur under date of November 26, 1831. The deed here in question was one executed under authority of an act enacted by the legislature of this state under date of January 29, 1827, providing for the sale of section 16 school lands theretofore granted by Congress for the use of the common schools of the state.

From the files submitted to me, it appears that on the 21st day of October, 1829, one Peter Pontius purchased a certain lot designated as Lot No. 2, containing eighty-one acres of land and being the north half of the southeast quarter section of section 16, township 11, range 8 of the School Lands in Stark County, Ohio. The purchase price of said tract of land was seven hundred and two dollars, the appraised value thereof. One-fourth of the purchase money having been paid on said date, the county auditor of said county executed to the purchaser, Peter Pontius, his certificate in proper form reciting that upon the payment of the balance of the purchase price of this property the purchaser would be entitled to receive a deed for said lot which, as above noted, was described as being the north half of the southeast quarter of section 16 of said township and range. Thereafter, on January 16, 1830, the County Auditor of Stark County executed and delivered to Peter Pontius, the purchaser of said lot, a receipt for the sum of five hundred twenty-six dollars and fifty cents, the same being the balance due on the purchase price of this lot.

It was after these transactions were had by and between Peter Pontius, the purchaser of this property, and the County Auditor of Stark County, as above noted, that the deed of Governor McArthur was executed. Instead of describing the property therein conveyed as being the north half of the southeast quarter of section 16 in said township and range, which was the proper description of the lot or tract of land actually sold to Peter Pontius, this deed described said property as the north half of the northeast quarter of section 16 in said township and range. As a matter of fact, as appears from the records in your office, the north half of the northeast quarter of section 16 in said township and range was sold to one David Ebi and in this situation it is quite clear that the description of the land intended to be conveyed in the deed from Governor McArthur to Peter Pontius was erroneous.

From an abstract of title of the tract of land here in question, to wit, the north half of the southeast quarter of section 16 in township 11, range 8, it fairly appears that Peter Pontius entered upon this land at the time of his purchase of the same and that he occupied the land as a farm down to the time of his death on the 30th day of August, 1882. Upon the death of Peter Pontius, this property passed by descent to his heirs, one of whom was Adam Pontius, a grandson who, through the effect of mesne conveyances and by inheritance from

other heirs of Peter Pontius, later, on the 22nd day of April, 1928, succeeded to the sole inheritance of said tract of land which he now owns and holds.

I am therefore of the opinion on the considerations above stated that satisfactory evidence has been produced showing that an error occurred in the deed executed by Governor Duncan McArthur to Peter Pontius, above referred to, and that a new deed drafted by or on behalf of you, as Auditor of State, should be executed by the Governor, as required by sections 8528 and 8529, General Code, in such case made and provided.

Respectfully,
 JOHN W. BRICKER,
Attorney General.

2222.

APPROVAL, BOND FOR THE FAITHFUL PERFORMANCE OF HIS
 DUTIES AS ACCOUNTANT—EDWARD F. BAKER.

COLUMBUS, OHIO, January 26, 1934.

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

DEAR SIR:—You have submitted a bond in the penal sum of \$10,000, with surety as indicated, to cover the faithful performance of the duties of the official as hereinafter listed:

Edward F. Baker, Accountant, Department of Highways—The United States Casualty Company.

The above mentioned bond is executed pursuant to the provisions of sections 1182-2 and 1182-3, General Code. Such sections provide in part:

“Sec. 1182-2. The director may appoint additional clerks and stenographers, and such other engineers, inspectors and *other employes* within the limits of the appropriation as he may deem necessary to fully carry out the provisions of this act. * * *”

“Sec. 1182-3. Each employe or appointee under the provisions of this act in cases other than where the amount of the bond is herein fixed, may be required to give bond in such sum as the director may determine. All bonds hereinbefore provided for shall be conditioned upon the faithful discharge of the duties of their respective positions, and such bonds * * * shall be approved as to the sufficiency of the sureties by the directors, and as to legality and form by the attorney general, and be deposited with the secretary of state. * * *”

Finding said bond to be in proper legal form, in accordance with the above quoted statutory provisions, I hereby approve same, and am returning it to you herewith.

Respectfully,
 JOHN W. BRICKER,
Attorney General.