

5151.

APPROVAL—PETITION TO AMEND CONSTITUTION BY
ADOPTION OF ARTICLE KNOWN AS XIX, UNDER SEC-
TION 4785-175, G. C.

COLUMBUS, OHIO, February 8, 1936.

MR. CHARLES H. HUBBELL, *10401 Almira Avenue, Cleveland, Ohio.*

DEAR SIR: You have submitted for my examination a written petition signed by one hundred qualified electors of this state, containing a proposed constitutional amendment and a summary of the same under the provisions of Section 4785-175, General Code. It is proposed to amend the Constitution by the adoption of a new article to be known as Article XIX, which will read as follows:

*"Section 1**SOCIAL SECURITY FUND & CITIZENS RETIREMENT
ANNUITY FUND*

(a) There is hereby created in the Treasury of the State of Ohio two funds to be known as 'Social Security Fund' and 'Citizens Retirement Annuity Fund', respectively. There shall be deposited in said social security fund all revenue which the State of Ohio or any political sub-division thereof shall derive, either directly or indirectly, from any and all of the following named sources, to-wit: (1) from any and all sales taxes, excepting taxes upon the sales of cigarettes, excepting taxes upon the sales of liquids used or usable for motor vehicle fuel, and excepting taxes upon the gross receipts of public utility companies; (2) from any and all license fees from or for stores or mercantile establishments, excepting fees of ten dollars or less per year per store or mercantile establishment; and/or (3) from any and all taxes, licenses and/or profits for or on the manufacture and/or sale of alcohol, brandy, whisky, rum, gin, beer, ale, porter, wine or any spirituous, vinous, malt, distilled, brewed or fermented liquor, liquid or compound, by whatever name called, containing one-half of one per cent or more of alcohol by volume.

(b) Further the General Assembly is hereby authorized to appropriate or transfer to said social security fund or to said citizens retirement annuity fund such other sum or sums as may be necessary or desirable to carry out the provisions of this article, excepting that no such appropriation or transfer shall be made from said citizens retirement annuity fund to said social security fund.

(c) Funds in said citizens retirement annuity fund shall be disbursed only for the payments of sums expressly authorized by this article to be paid therefrom, and for no other purpose.

Section 2

ANNUITIES FOR CITIZENS OF OHIO SIXTY YEARS OF AGE

(a) Excepting as otherwise in this article provided, every citizen of the State of Ohio who, on or after the effective date of this article, shall be or become sixty years or more of age, shall, upon filing application and qualifying as hereinafter in this article provided, be entitled to receive from said citizens retirement annuity fund an annuity, payable monthly during the life of the annuitant, in a sum (not exceeding two hundred dollars per month) to be determined as hereinafter in this article provided.

(b) The right of any citizen to receive an annuity under the provisions of this article shall date from and begin on the first day of the month next succeeding the date of the proper filing of an application therefor, supported by proper and sufficient proofs in compliance with rules and regulations issued and promulgated in accordance with the provisions of this article, but subject to the limitations hereinafter in this article provided.

(c) No annuity shall be reserved for or paid to any person, however, unless he shall covenant and agree to expend, and unless he shall expend, within the State of Ohio, all of each month's annuity during the current calendar month in which it is received by him, or within the next succeeding calendar month, in and for the purchase of any services and/or commodities and/or a home or an equity in or a lease of a home, or for the payment of bonafide indebtedness lawfully arising for any such purchase.

(d) No annuity shall be reserved for or paid to any person, however, who, in any one calendar month, shall expend, either directly or indirectly, a total of more than twenty dollars for gifts or contributions to any one or more religious or charitable institutions, associations or organizations, or a total of more than twenty dollars for other gifts or contributions to any one or more persons or to any one or more public or private institutions, associations or organizations.

(e) No annuity shall be reserved for or paid to any person, however, who shall engage in any gainful pursuit.

(f) No annuity shall be reserved for or paid to any person, however, who, at any time after he shall have become an annui-

tant, shall receive, either directly or indirectly, any net income of any kind or nature, unless such person shall promptly make such full and complete statement, in writing and under oath, as may be required by rules and regulations issued and promulgated in accordance with the provisions of this article, fully disclosing the amount and source of any and all such net income, and until such person shall pay to the Treasurer of State, as an addition to said citizens retirement annuity fund, a sum equal to (1) the amount of the net income so received, diminished by (2) the aggregate amount of annuities reserved for and paid to each annuitant during the period from the date upon which such person shall have received such net income, to the date upon which such person shall make such payment to the Treasurer of State.

(g) No annuity shall be reserved for or paid to any person, however, who, at the time for reservation thereof and at the time for payment thereof, is not domiciled within the State of Ohio.

Section 3

CITIZENS RETIREMENT ANNUITY BOARDS

(a) Within each county of the state, there shall be a Citizens Retirement Annuity Board, consisting of three members, each of whom shall be an elector therein. Members of said citizens retirement annuity boards shall be appointed by, and may be removed by, the Auditor of State, for such period as he shall deem proper and necessary. In counties having less than two hundred thousand inhabitants no person shall be eligible for appointment as a member of said citizens retirement annuity board unless he holds the office of township trustee or the office of justice of the peace; provided that, at and during such time as there shall be less than two members of the citizens retirement annuity board of any such county, the duties of such citizens retirement annuity board shall devolve upon the board of county commissioners of said county.

(b) Subject to rules and regulations issued and promulgated in accordance with the provisions of this article, said citizens retirement annuity boards shall be charged with the duty of carrying out, in their respective counties, the provisions and purposes of this article, and shall also have jurisdiction, in their respective counties, to hear and determine all issues arising under the provisions of this article concerning annuitants or applicants for annuities residing within their respective counties. Any annuitant or applicant for an annuity shall have the right, however, to have any decision of any citizens retirement annuity

board reviewed by the Court of Common Pleas and by other state courts having general jurisdiction in the county in which said board is located.

Section 4

DISBURSEMENTS FROM SOCIAL SECURITY FUND

(a) Of the revenue which shall have been deposited in the social security fund during the calendar month preceding the actual date of apportionment and allocation, such part, if any, as a majority of the members of a Board of Apportionment and Allocation, consisting of the governor, the auditor of state and the secretary of state, may agree upon, shall be disposed of as follows, to-wit: (1) Apportioned for such of the following named purposes as may be so agreed upon, i. e., for poor relief, for relief of the needy unemployed, for unemployment insurance and/or for the payment of indebtedness therefor incurred either by the State of Ohio or any political sub-division thereof; (2) Allocated to and between the state at large and various political sub-divisions thereof, either arbitrarily or on the basis of population, on the basis of assessed valuation of real estate or on any other basis which may be so agreed upon; and (3) Disbursed in such manner as may be so agreed upon.

(b) No such apportionment and allocation of revenue shall be made during either the first five days or the last five days (Sundays and holidays included) of any month; no such apportionment and allocation shall, at any time, be made of revenue which shall have been deposited in said social security fund either prior to the first day or subsequent to the last day of the preceding month; and revenue which is subsequently to be deposited in said social security fund shall not, at any time, be anticipated, encumbered, segregated or earmarked.

(c) At the end of each calendar month all amounts in said social security fund which shall have been in said fund since prior to the first day of the preceding calendar month shall be transferred to said citizens retirement annuity fund and shall be considered as an addition or as additions to said citizens retirement annuity fund.

Section 5

DISBURSEMENTS FROM CITIZENS RETIREMENT ANNUITY FUND

(a) From and out of said citizens retirement annuity fund, the Treasurer of State is hereby authorized and directed, upon demand by the Auditor of State, to make distribution and dis-

bursements of the amounts necessary to cover the monthly annuities as designated by said Auditor of State to be so distributed and disbursed to qualified annuitants, and to make payments for other purposes, all as in this article provided, but not to exceed at any time the amount in said citizens retirement annuity fund.

(b) From and out of said citizens retirement annuity fund, the Auditor of State shall cause to be paid all proper and necessary expense of carrying out the provisions of this article. Such payments shall be made monthly in so far as may be practicable, and prior to the reservation of funds for annuities. Thereafter the Auditor of State shall cause to be paid at regular monthly intervals, to each person who qualifies to receive an annuity, such amount as shall become due under the provisions of this article.

(c) From and out of said citizens retirement annuity fund, disposition and disbursements of funds for annuities shall be made as follows, to-wit:

(d) Beginning on the first day of one of the first seven months of the year in which this article becomes effective, to be designated by the Auditor of State, but in any event not later than on the first day of July in said year, and on the first day of each calendar month thereafter, there shall be reserved and set aside, as hereinafter in this article provided, that part of said citizens retirement annuity fund which is available for distribution to qualified annuitants; but the amount so reserved and set aside in any one calendar month for any one annuitant shall not be more than two hundred dollars, and any and all amounts so reserved and set aside for each annuitant shall be an even multiple of ten dollars.

(e) The total amount reserved and set aside in any one calendar month for distribution to qualified annuitants shall be divided by the total number of such annuitants and shall be distributed and disbursed to such annuitants on the first day of the third calendar month following the date upon which it is reserved and set aside. No annuity shall be paid, however, to the heirs or to the estate of any deceased annuitant, and any and all amounts reserved and set aside for any person who shall die or cease to be a qualified annuitant prior to actual payment thereof shall revert to said citizens retirement annuity fund and shall be considered as an addition or as additions to said citizens retirement annuity fund; excepting that, in the discretion of the Auditor of State, any necessary part thereof may be used to defray the funeral and burial expense of said deceased annuitant.

(f) The amount in said citizens retirement annuity fund available on the first day of any calendar month for distribution and disbursement to annuitants shall be determined to be and shall be as follows: (1) the amount of the unreserved balance in said fund on the first day of the preceding calendar month, increased or augmented by (2) the amount of the additions to said fund during said preceding calendar month, decreased or diminished by (3) the amount disbursed from said fund during said preceding calendar month to defray the proper and necessary expense of carrying out the provisions of this article, and decreased or diminished by (4) the amount reserved from and set aside out of said fund during said preceding calendar month for distribution and disbursement to annuitants.

Section 6

SUSPENSION AND FORFEITURE OF ANNUITIES

The right of any person to receive an annuity under the provisions of this article may be suspended or forfeited for the violation of any of the provisions of this article, for the willful refusal or failure to obey any rule or regulation issued and promulgated in accordance with the provisions of this article, for the unreasonable and unnecessary maintenance of any able-bodied adult person in idleness, for the unreasonable and unnecessary employment of any person, or for the payment to any person of any salary, wages or other compensation or remuneration in disproportion to the services actually performed.

Section 7

RULES AND REGULATIONS

The Auditor of State shall issue and promulgate and enforce proper and suitable rules and regulations to govern the manner and place of registration by applicants for the annuities provided for in this article, and the method of identification of annuitants, and to require and secure the proper spending of the annuity money by the annuitants as required by this article, and adequate and sufficient accounting therefor, and also such other rules and regulations as he may deem proper and necessary for the carrying out of the provisions of this article; all in accordance with the intent and purposes of this article.

*Section 8**DEFINITIONS AND GENERAL PROVISIONS*

(a) The term 'net income' as used in this article shall be construed so as to include all money and/or commercially valuable benefit or its equivalent (other than annuities provided for in this article) actually received by any annuitant, after deducting only such expenses and charges, if any, as are directly incident to producing such net income.

(b) The term 'gainful pursuit' as used in this article shall be construed so as to include any occupation, profession, trade, calling, business or vocation performed or engaged in for any monetary or other commercially valuable consideration, compensation, remuneration or profit.

(c) The term 'annuity' as used in this article shall be construed so as to include the various sums and/or amounts of money reserved and set aside for and/or distributed and paid to the various persons who shall become and be the beneficiaries under the provisions of this article.

(d) Any annuity granted under the provisions of this article and the money proceeds thereof due or in the hands of the annuitant, shall be wholly exempt from attachment, garnishment, execution, levy and/or other judicial process.

(e) It shall be a felony, and punishable as such, for any applicant for an annuity, or for any annuitant, to knowingly make any false statement or withhold any fact material to the proper carrying out of any of the provisions of this article, with intent to defraud the State of Ohio or any annuitant, under penalty of a fine of not more than five thousand dollars or imprisonment for not more than two years, or both.

(f) The citizens retirement annuity provisions of this constitution shall be construed liberally for the purpose of effecting their general intent and of preserving the rights of annuitants.

(g) Laws may be adopted or passed to facilitate the operation of the citizens retirement annuity provisions of this constitution. No law shall be adopted or passed, however, which in any way hampers, impairs, limits or restricts any of the citizens retirement annuity provisions of this constitution or any of the rights of annuitants thereunder.

(h) All of the citizens retirement annuity provisions of this constitution are mandatory and shall be self-executing.

(i) The sections, provisions and items of this amendment are severable and, if any section, provision or item of this amendment shall be held to be invalid or ineffective, such section, pro-

vision or item shall be rejected without affecting the remainder of this amendment, and the decisions of the courts shall not affect or impair the remaining sections, provisions or items of this amendment. It is hereby declared as the intent of the people that this amendment would have been adopted had such invalid or ineffective sections, provisions or items not been included herein.

(j) The provisions of this article shall become effective on the first day of January next after the election at which this amendment is adopted by a vote of the people."

The summary of this amendment reads as follows:

"1. The proposed amendment to the Constitution creates in the State Treasury two funds to be known as 'Social Security Fund' and 'Citizens Retirement Annuity Fund'; provides that there shall be deposited in said social security fund all revenue from (1) sales taxes (excepting taxes upon sales of cigarettes, upon sales of liquids used or usable for motor vehicle fuel, and upon the gross receipts of public utility companies), (2) store license fees, and/or (3) taxes, licenses or profits for or on the manufacture or sale of intoxicating liquor; provides that the General Assembly may appropriate or transfer other sums to said social security fund or to said citizens retirement annuity fund (but not from the latter to the former); and provides that funds in said citizens retirement annuity fund shall be disbursed only as expressly authorized.

2. Further the proposed amendment provides that every citizen of Ohio sixty years or more of age shall be entitled to receive from said citizens retirement annuity fund an annuity (not exceeding \$200 per month), payable monthly for life, beginning with the month next succeeding the proper filing of application therefor, excepting that no annuity shall be paid to any person unless he expends within the State of Ohio all of each month's annuity within a certain time and for certain purposes, nor to any person who engages in any gainful pursuit, or who fails to pay into the State Treasury the amount of any net income received by him, or who is not domiciled within the State of Ohio.

3. Further the proposed amendment provides for a Citizens Retirement Annuity Board of three members in each county, to be appointed by the Auditor of State, with certain restrictions as to eligibility for membership thereon in counties having less than a specified number of inhabitants; provides that, whenever there shall be less than two members of any such board, the duties

thereof shall devolve upon the County Commissioners; defines the duties and jurisdiction of such boards; and grants to annuitants and to applicants for annuities the right to have such boards' decisions reviewed by the courts.

4. Further the proposed amendment provides that, by agreement of a majority of a Board of Apportionment and Allocation (consisting of the governor, the auditor of state and the secretary of state), certain portions of the above mentioned revenue may be used for relief and/or unemployment insurance, either in the state at large or in various political sub-divisions thereof, and requires that such portion of the above mentioned revenue as is not so used shall be disbursed for citizens retirement annuities and to defray the expense of administration thereof.

5. 6. 7. Further the proposed amendment specifies the manner, time and official authority for the payment of citizens retirement annuities and of the expense incident to the administration thereof; provides that annuities may be suspended or forfeited under certain conditions; and provides that the Auditor of State shall issue and promulgate and enforce rules and regulations to govern the registration by and identification of annuitants and to require and secure the spending of annuity money, and also other pertinent rules and regulations.

8. Further the proposed amendment defines certain terms; provides that annuities shall be exempt from judicial process; provides that it shall be a felony for any applicant or any annuitant to knowingly make any false statement or withhold any material fact with intent to defraud the State of Ohio or any annuitant, and provides a penalty therefor; states that the provisions thereof shall be construed liberally; provides that laws may be adopted or passed to facilitate the operation of the provisions thereof; states that the provisions thereof are mandatory and shall be self-executing; contains a saving clause; and states the effective date thereof."

I am of the opinion that the foregoing is a fair and truthful statement of the proposed constitutional amendment and accordingly submit for uses provided by law the following certification:

"Pursuant to the duties imposed upon me under the provisions of Section 4785-175, General Code, I hereby certify that the foregoing summary is a fair and truthful statement of the proposed amendment to the Constitution of Ohio by the addition

of Article XIX thereto. JOHN W. BRICKER, Attorney General.”

Respectfully,

JOHN W. BRICKER,
Attorney General.

5152.

APPROVAL—BONDS OF CANAL WINCHESTER VILLAGE
SCHOOL DISTRICT, FRANKLIN COUNTY, OHIO, \$9,500.00.

COLUMBUS, OHIO, February 8, 1936.

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

5153.

APPROVAL—ABSTRACT OF TITLE, ETC., TO LAND IN
FRANKLIN TOWNSHIP, FRANKLIN COUNTY, OHIO, FOR
PROPOSED SITE OF ARMORY BUILDING.

COLUMBUS, OHIO, February 8, 1936.

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

DEAR GENERAL MARX: You recently submitted for my examination and approval an abstract of title relating to three parcels of land in or adjacent to the city of Columbus which you desire to acquire as the proposed site of an armory building. The three tracts of land here referred to are situated in the county of Franklin, state of Ohio, and in the township of Franklin, are a part of fractional section 18, township 5, range 22, Refugee Lands, and are more particularly described as follows:

First Parcel: Beginning at an iron pin marking the intersection of the south line of Dublin Avenue with the west line of Sandusky Street as re-located by the Commissioners of Franklin County in 1928; thence with the west west line of Sandusky Street S. 39° 52' E. 21.55 feet to an iron pin marking a point of curvature in the said west line of Sandusky Street; thence with the said west line of Sandusky Street curved to the right with a radius of 905 feet, S. 34° 53' E. 157.33 feet on the long chord of said curve, to an iron pin on the south line of a tract of land containing 3.40 acres conveyed to the City of Columbus