

5735.

APPROVAL—CONDITIONALLY, GUARANTEE CERTIFICATE OF TITLE, ETC., TO LAND IN THE CITY OF AKRON, SUMMIT COUNTY, OHIO, BY THE BANKERS GUARANTEE TITLE AND TRUST COMPANY, AKRON, OHIO.

COLUMBUS, OHIO, June 22, 1936.

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

DEAR SIR: You have submitted for my examination and approval a guarantee certificate of title issued by The Bankers Guarantee Title and Trust Company of Akron, Ohio, and a warranty deed likewise executed by The Bankers Guarantee Title and Trust Company (as trustee) relating to and conveying to the state of Ohio a parcel of land situated in the city of Akron, Summit County, Ohio, which parcel of land is a part of Lot No. 5, west of the Portage Path in Portage Township, and which is more particularly described by metes and bounds as follows:

Beginning at a point in the West line of Hawkins Avenue, South  $0^{\circ} 25'$  West Two Hundred Eight (208) feet from the intersection of the West line of Hawkins Avenue and the north line of said Lot #5, which point is also in the south line of a four acre parcel, now or formerly owned by Fred and Anna Bauer; thence with the West line of Hawkins Avenue South  $0^{\circ} 25'$  West, Seventy-eight and Ninety-three Hundredths (78.93) feet to an angle in said Hawkins Avenue; thence continuing on said West line South  $26^{\circ} 56'$  East One Hundred Seventeen and Four Hundredths (117.04) feet to an iron pin; thence North  $88^{\circ} 19'$  West, One Thousand Fifty-four and Fifty-six Hundredths (1054.56) feet to an iron pin; thence North  $0^{\circ} 25'$  East, Three Hundred Seventy-seven and Seventy-six Hundredths (377.76) feet to an iron pin; thence South  $89^{\circ} 00'$  East, One Hundred Eighty-eight and Twenty-five Hundredths (188.25) feet to a stone; thence South  $0^{\circ} 25'$  West, Two Hundred Eight (208) feet to a stone; thence South  $89^{\circ} 00'$  East, Eight Hundred Twelve and  $54/100$  (812.54) feet to the place of beginning and containing Five (5) acres of land.

It appears from the warranty deed above referred to that after the same was executed by The Bankers Guarantee Title and Trust Company, as trustee aforesaid, the same was filed for record in the office of the Recorder of Summit County on June 13, 1936, and I assume from this

that there was a proper delivery of the deed and that the property therein described is now the property of the state of Ohio.

The certificate of title above referred to, which was likewise executed by The Bankers Guarantee Title and Trust Company under date of June 13, 1936, assumes the title of this property to be in the state of Ohio, and certifies and guarantees this title to be free and clear of all liens, charges and encumbrances between the dates therein referred to, to wit, January 1, 1890, and the date of said certificate which, as above noted, is June 13, 1936.

However, this certificate excepts from the guarantee of title thereby made "All taxes including special taxes and assessments for the year 1936 and thereafter." No special assessments are noted in this certificate and it may be assumed that at the time the certificate was made there was none appearing upon the tax lists and duplicates in the hands of the County Treasurer, and that if this property is subject to the lien of any special assessments levied by the city of Akron they are assessments which have not yet been certified to the County Auditor for collection in the manner provided by statute in such case made and provided. It does appear, however, that this property is subject to the lien of the undetermined taxes for the year 1936 upon this property.

The deed recites that the consideration for this property is the sum of \$10.00 "and other valuable consideration." I am advised, however, that for all intents and purposes this deed is a donation of this property to the state for state armory purposes. In this view, no contract encumbrance record was or is necessary in order to authorize you to accept title of this property on behalf of the state. Neither is any action by the Controlling Board necessary with respect to this transaction.

Subject only to the minor exceptions above noted, the certificate of title and warranty deed relating to the acquisition of this property are approved. However, as practical matters in connection with this transaction, it is suggested that before any moneys are expended for the construction of improvements or before any plans for such improvements are made, an investigation be made in the office of the Clerk of the city of Akron for the purpose of ascertaining whether any assessments have been levied by ordinance upon this property and, further, whether any zoning ordinances have been passed which might affect the use of this property. Although, in this connection, I do not admit that any ordinance of this kind can affect the state of Ohio in the lawful use of property made by it, some trouble may be avoided by determining the situation with respect to the existence or non-existence of zoning requirements affecting property in this locality.

I am herewith returning to you such certificate of title, warranty deed and other files which you submitted to me.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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5736.

APPROVAL—BONDS OF TOLEDO CITY SCHOOL DISTRICT,  
LUCAS COUNTY, OHIO, \$5,000.00.

COLUMBUS, OHIO, June 22, 1936.

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

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5737.

PAROLE—PERSON SENTENCED UNDER INDETERMINATE  
LAW TO SEVERAL CONSECUTIVE SENTENCES—WHEN  
ELIGIBLE FOR PAROLE—SENTENCING COURT MAY  
NOT MODIFY SENTENCE AFTER TERM FOR PURPOSES  
OF CLEMENCY.

**SYLLABUS:**

1. *Under Section 2166, General Code, a prisoner in the Ohio Penitentiary serving an indeterminate sentence is not entitled as a matter of right to be released on parole after serving the minimum term of his sentence less good time off for good behavior as provided by Section 2210, General Code, since the granting of a parole is discretionary with the Board of Parole as provided in Sections 2211-4, 2211-5 and 2211-6, General Code.*

2. *By virtue of the provisions of Sections 2166, 2166-1, 2169 and 2210, General Code, a person committed to the Ohio Penitentiary on August 25, 1927, to serve one sentence of not less than twenty-four years, eleven months, twenty-nine days, to twenty-five years, a second sentence of not less than four years, eleven months, twenty-nine days, to five years, to commence to run at the expiration of the first sentence, and a third sentence of not less than twenty-four years, eleven months, and twenty-nine days to twenty-five years, to commence to run at the expiration of the second sentence, is not eligible for a hearing for a parole before the Board of Parole until he has served the aggregate of the minimum terms*