

4104.

APPROVAL, BONDS OF CITY OF AKRON, SUMMIT COUNTY, OHIO, \$4,000.00.

COLUMBUS, OHIO, MARCH 29, 1935.

State Employees' Retirement Board, Columbus, Ohio.

4105.

APPROVAL, BONDS OF CUYAHOGA COUNTY, OHIO, \$10,000.00.

COLUMBUS, OHIO, MARCH 29, 1935.

State Employees' Retirement Board, Columbus, Ohio.

4106.

KENT STATE COLLEGE—UNAUTHORIZED TO ESTABLISH COURSE OF STUDY LEADING TO MASTER'S DEGREE.

SYLLABUS:

The Trustees of Kent State College are without power to establish courses of study leading to a master's degree, or to appoint or elect instructors to present such courses of study.

COLUMBUS, OHIO, MARCH 30, 1935.

HON. J. O. ENGLEMAN, *President, Kent State College, Kent, Ohio.*

MY DEAR MR. ENGLEMAN:—I have your request for my opinion, which reads as follows:

"The Board of Trustees of Kent State College in regular meeting here Monday, February 11th, upon motion of John R. Williams, seconded by Alma M. Zinninger, passed a resolution as follows:

'Because of the numerous requests from Alumni of the College, for the Board of Trustees to authorize an extension of the curriculum offerings of the college to make it possible for graduates of the college holding a bachelor's degree, and others interested who have a bachelor's degree from other reputable institutions, to continue their study for a fifth year of graduate work here, upon the satisfactory completion of which a master's degree could be awarded by the Board, the President of the college is hereby directed by the Board of Trustees to request from the Attorney General a ruling on the question, "Has the Board authority under the existing statutes so to extend the scope of the courses taught here, and to grant the master's degree upon the sat-

isfactory completion of a fifth year of college work?" The foregoing resolution was passed by the unanimous vote of the board.

E. L. Boshier, President.

Alma M. Zininger, Secretary.'

A former President of the College has asserted that the Board has the authority upon which you have been requested to render an opinion. An interested group of citizens has secured from an attorney a legal opinion to the effect that the Board of Trustees now has statutory authority to grant the master's degree upon the successful completion of a fifth year of college work. Notwithstanding these two facts, the Board of Trustees has concurred in my judgment that if action is taken here permitting our own or other college graduates to continue work here, and if the master's degree is granted to them for the completion of such work, it should be done only after you have rendered an opinion favorable to such action.

The Board here is assured that there is a substantial group of Alumni ready to register for such graduate instruction, beginning with the forthcoming summer term of the college here in June."

A "scholastic degree" is defined by the Supreme Court of Massachusetts, in the case of *Commonwealth vs. New England College of Chiropractic, Inc.*, 221 Mass., 190, 198 N. E., 895, as, "Any Academic rank recognized by colleges and universities having a reputable character as institutions of learning or any form of expression composed in whole or in part of words recognized as indicative of academic rank, so that there is conveyed to the ordinary mind the idea of some collegiate, university or scholastic distinction."

There appears to be no set standard applicable to all institutions of learning as to just what scholastic standing or distinction or other qualification merits a particular degree. Each institution possessing the power to confer degrees sets its own standards for the granting of the particular degrees which it may lawfully grant. There are, however, some recognized distinctions and classifications applicable to academic degrees usually conferred by colleges and universities which by common understanding and perhaps to some extent recognized by regulations adopted by college Associations have become so well established as to be accepted generally in college and university circles. Thus, it is well recognized that a "master's" degree is one of the degrees usually conferred by colleges of liberal arts and sciences. It is also a matter of common knowledge that there is a distinction between what are referred to as "earned degrees" and "honorary degrees." "Earned degrees" are those conferred as a result of the recipient's meeting certain academic standards, and are usually conferred upon the satisfactory completion of established courses of study, while "honorary degrees" are ordinarily bestowed in recognition of some outstanding achievement on the part of the individual. Sometimes, however, honorary degrees are conferred in return for gifts made to a college or university and occasionally as a reward for service to the university.

Very rarely, however, master's degrees have been bestowed as honorary degrees although in a few instances perhaps it has been done. It is not regarded as good practice, and is not looked upon with favor by the Association of American Universities. The better and almost universal practice is to confer masters' degrees only after the completion of established advanced courses of study under instructors specially fitted for the purpose.

The question of whether or not institutions of learning may confer degrees and

what degrees they may confer is one of power. It is stated in *Corpus Juris*, Vol. II, page 983, that:

"Colleges and universities have power to confer degrees and grant diplomas where such power has been conferred on them either expressly or by necessary implication and not otherwise. A college incorporated under a general law authorizing the incorporation of colleges has implied power to grant diplomas, as this is one of the characteristic features of a college. But a college incorporated as a literary and scientific institution has no implied power to confer degrees. *Philadelphia Medical Colleges* case, 3 Whart. (Pa.) 445; *Townshend vs. Gray*, 62 Vt., 373, 19 Atl. 635."

That the right of a college or university to confer degrees is a matter which is a proper subject of regulation by statute has been recognized by the Legislature of Ohio from the earliest times. The Act of the legislature which was passed in 1804 creating "Ohio University" (2 O. L., 193), in setting forth the purposes for which the university was being created, contained the following:

"For the instruction of youth in all the various branches of liberal arts and sciences, for the promotion of good education, virtue, religion and morality, and for conferring all the degrees and literary honors granted in similar institutions." (Italics mine.)

The Act creating Miami University (7 O. L., 183) contained a similar provision with respect to conferring degrees in Section 1, thereof. It was there provided that of the purposes of creating the University, one of them was for conferring *all* the literary honors granted in similar institutions.

The conferring of degrees by private institutions of learning is regulated by statute. See Sections 922 and 923, General Code.

The pertinent statutory provision applicable to Kent State College, with respect to the power of the Trustees of the College to confer degrees is found in Section 7924-2, General Code, which reads as follows:

"The boards of trustees of Bowling Green state college and Kent state college, respectively, are hereby further authorized to establish courses leading to the degrees of bachelor of arts and bachelor of science, and to elect and appoint such additional instructors as may be necessary to carry out the provisions of this section. On the recommendation of the faculty, the board of trustees may confer such honorary degrees as are customarily conferred by colleges of liberal arts in the United States."

It will be observed from a reading of the above statute that Kent State College is not authorized to confer *all* degrees that similar institutions confer, as are Ohio and Miami universities, but this power is limited so far as degrees other than honorary degrees are concerned, to the conferring of the degrees of bachelor of arts and bachelor of science and the establishment of courses leading to these bachelors' degrees and the appointment and election of instructors for the purpose of giving the courses mentioned.

It seems clear that the purpose and intent of the legislature in providing that Kent and Bowling Green State Colleges might establish courses leading to bachelor degrees,

was to limit them to the conferring of bachelor degrees only so far as earned degrees or degrees given on account of scholastic standing after the completion of courses of study are concerned.

It is everywhere recognized that a master's degree is a degree of somewhat higher standing than a bachelor's degree and is given only on the satisfactory completion of courses of study somewhat in advance of, and in addition to the courses of study which lead to a bachelor's degree.

I am therefore of the opinion that inasmuch as the Trustees of Kent State College are limited by statute to the establishment and presentation of courses of study leading to the degrees of bachelor of arts and bachelor of science so far as earning degrees is concerned, they are without power to establish courses of study leading to a master's degree either of arts or science or to confer such masters' degrees as earned degrees.

Respectfully,

JOHN W. BRICKER,
Attorney General.

4107.

COURT—AUTHORIZED TO DIRECT TIME AND MANNER OF PAYMENT
OF FINE OR REMIT OR SUSPEND SENTENCE IN MISDEMEANORS
DESCRIBED IN SECTION 1454, G. C.

SYLLABUS:

Any court having jurisdiction over the misdemeanors mentioned and provided for by section 1454, General Code, may, at the time of sentence, direct the time and manner of payment of the fine, which time shall in no case exceed one year from the date of sentence, as provided by section 13451-8a of the General Code, and such court may, at the time of sentence, remit the same or suspend such sentence in whole or in part upon such terms as the court may impose, as provided by section 13451-8b of the General Code.

COLUMBUS, OHIO, MARCH 30, 1935.

HON. WILLIAM H. REINHART, *Conservation Commissioner, Columbus, Ohio.*

DEAR SIR:—I acknowledge receipt of your request for an opinion, reading as follows:

“I respectfully request an opinion from your office with reference to Senate Bill No. 133, an Act to authorize courts to modify, suspend or remit sentences.

Section 1454, General Code of Ohio, vests the authority to release from confinement or parole in the Conservation Commissioner. A ruling from your office, as well as a decision from the Ohio Supreme Court makes it mandatory for the Court to impose sentence, thereby placing defendant under legal restraint until fine and costs are paid or released therefrom by an order from the Conservation Commissioner.

Senate Bill No. 133 is evidently in conflict with Section 1454 and therefore your opinion is necessary to clarify and harmonize Section 1454 and Senate Bill No. 133.”