

not include writs of restitution, but that the court, independent of such section and by virtue of the usages of equity, had the authority to issue a writ of restitution.

It is never to be presumed that the legislature amends a statute by the language added thereto without intending a change of meaning to the extent of the language so added. The evident legislative purpose in the amendment of such section was to make it definitely appear that the legislative intent was to include a writ of restitution within the meaning of the term "execution" as that term is used in the procedural sections of the General Code. It is highly probable that the motivating cause for such amendment was the construction placed upon such section by the courts prior to the amendment.

Section 11712, General Code, is contained in the same chapter of the Code as Sections 11653 and 11654, that is, the chapter with reference to execution. I find no other provision of statute which limits or attempts to fix the date of the return of execution other than that contained in Section 11712, General Code. It would therefore appear that the intent of the legislature was to authorize the sheriff to return the writ at any time after its execution within sixty days after its issuance.

I am assuming, for the purposes of this opinion, that the court, in the issuance of a writ of restitution, has not fixed a date for its return. I am not herein considering, and express no opinion on the question as to whether the court has the jurisdiction to fix an earlier date for the return of the writ than the sixty day period nor do I express any opinion as to whether the court of common pleas has the authority to compel the sheriff to return the writ at an earlier date than sixty days after its date.

Specifically answering your inquiry, it is my opinion that:

(1) A writ of restitution for the possession of real estate sold at an execution sale is an execution, within the meaning of Sections 11653 and 11654 of the General Code.

(2) When a writ of restitution has been issued to the sheriff for the restitution of possession of real estate sold in execution sale, there is no statute requiring the sheriff to return such writ prior to sixty days after its date.

Respectfully,

JOHN W. BRICKER,
Attorney General.

1039.

STATE EDUCATIONAL EQUALIZATION FUND—BOARD OF EDUCATION MAY PARTICIPATE AND LEVY TAX OUTSIDE FIFTEEN-MILL LIMITATION PURSUANT TO VOTE OF ELECTORS BEYOND TIME SPECIFIED IN INITIAL RESOLUTION TO SUBMIT QUESTION TO ELECTORS.

SYLLABUS:

A board of education may continue to participate in the state educational equalization fund and levy a tax outside of the fifteen mill limitation pursuant to vote of the electors as provided by Section 5625-18a, General Code, as enacted by the

89th General Assembly, beyond the time specified in the initial resolution to submit the question to the electors.

COLUMBUS, OHIO, July 17, 1933.

HON. LEO M. WINGET, *Prosecuting Attorney, Sidney, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your request for my opinion as to whether or not a board of education can continue to participate in the state educational equalization fund and levy a tax outside of the fifteen mill limitation pursuant to vote of the electors as provided by Section 5625-18a, General Code, as enacted by the 89th General Assembly, without being limited as to such participation and tax levy to the specific number of years provided in the initial resolution to submit the question to the electors.

An examination of the pertinent provisions of the General Code discloses no express authority to fix any definite number of years for such participation in the preliminary resolution to submit the question under Section 5625-18a, General Code. The form of ballot to be submitted under the provisions of this last mentioned section may not contain any limitation as to the number of years during which a board of education shall so participate and levy the tax therein provided. As stated in my opinion No. 962 with respect to this matter:

“The provisions of this section with respect to the form of ballot are mandatory. The exact form is set forth therein in quotation marks and it is therefore my view that a form of ballot which would set forth the period of participation in the state educational equalization fund and the period during which the tax outside the fifteen mill limitation shall be levied would be contrary to the provisions of Section 5625-18a, *supra*. In providing the exact form of ballot which shall be used the legislature apparently did not desire that the board of education should be limited by the electors as to the period during which the district may participate.”

Specifically answering your inquiry, it is my opinion that a board of education may continue to participate in the state educational equalization fund and levy a tax outside of the fifteen mill limitation pursuant to vote of the electors as provided by Section 5625-18a, General Code, as enacted by the 89th General Assembly, beyond the time specified in the initial resolution to submit the question to the electors.

Respectfully,

JOHN W. BRICKER,
Attorney General.