

3238.

DISAPPROVAL, BOND FOR THE FAITHFUL PERFORMANCE OF HIS
DUTIES AS RESIDENT DISTRICT DEPUTY DIRECTOR—H. H.
FETZGER.

COLUMBUS, OHIO, May 20, 1931.

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

DEAR SIR:—You have submitted a bond purporting to cover the faithful performance of the duties of H. H. Fetzger, as Resident District Deputy Director assigned to Ashland County. Said bond is being returned without my approval for the reason that the power of attorney submitted by J. W. Gardner, who signed the bond on behalf of the surety, The United States Fidelity & Guaranty Company authorizes him to sign "bonds and undertakings given or required in any judicial action or proceeding" etc., and in my opinion, does not authorize the execution of the bond under consideration.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3239.

GOVERNOR—AUTHORITY TO PARDON, COMMUTE THE SENTENCE
OF, OR PAROLE A FELON AFTER CONVICTION AND SENTENCE,
BUT BEFORE INCARCERATION IN PENAL INSTITUTION, DIS-
CUSSED.

SYLLABUS:

1. *The Governor has the power to pardon a person convicted of a crime, either before sentence or before incarceration in a penal institution.*
2. *The Governor can exercise his power of commutation at any time after a person has been convicted and sentenced for committing a crime.*

COLUMBUS, OHIO, May 21, 1931.

HON. GEORGE WHITE, *Governor of Ohio, Columbus, Ohio.*

MY DEAR GOVERNOR:—This is to acknowledge your letter of recent date, which reads as follows:

"A circumstance has arisen which causes me to ask you the following question:

Has the Governor of Ohio authority to pardon, commute or parole the sentence of a person convicted of a felony but who has not entered upon a term in a penal institution though sentence has been pronounced?"

Article III, section 11 of the Constitution of Ohio, reads as follows:

"He shall have power, after conviction, to grant reprieves, commutations, and pardons, for all crimes and offenses, except treason and cases