

“Obviously, the proceedings of boards of education, of county commissioners, township trustees and the like, must not be judged by the same exactness and precision as would be the journal of a court.”

In view of the foregoing, I am of the opinion that meetings of a board of township trustees need not be conducted in strict compliance with parliamentary procedure.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3267.

APPROVAL, BONDS OF TULLY TOWNSHIP, MARION COUNTY,
OHIO—\$7,703.15.

COLUMBUS, OHIO, May 28, 1931.

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

3268.

APPROVAL, BONDS OF JEFFERSON RURAL SCHOOL DISTRICT,
JACKSON COUNTY, OHIO—\$18,000.00.

COLUMBUS, OHIO, May 28, 1931.

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

3269.

APPROVAL, BONDS OF CLEVELAND HEIGHTS VILLAGE SCHOOL
DISTRICT, CUYAHOGA COUNTY, OHIO—\$10,000.00.

COLUMBUS, OHIO, May 28, 1931.

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

3270.

SUSPENDED SCHOOL—WHEN BUILDING BURNS, SCHOOL LOT MAY
BE SOLD IMMEDIATELY.

SYLLABUS:

Where a school has been suspended by authority of Section 7730, General Code, and later the school building burns to such an extent as to make it unsuitable for school purposes, the real estate comprising the school lot may be sold at once, if, in the judgment of the board of education, it is not needed for school purposes.

COLUMBUS, OHIO, May 28, 1931.

HON. JOHN R. PIERCE, *Prosecuting Attorney, Celina, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion which reads as follows:

“Where rural school building has burned, can real estate on which same is located be sold as well as condemned building? The school also has been suspended under authority of Section 7730, G. C., for the reason that daily attendance was below ten, but four years has not elapsed since said suspension and the school building will probably never be rebuilt nor a new one erected, and if desired, real estate can be purchased at any future time.”

Section 7730, General Code, provides that under certain circumstances, schools may be suspended and the pupils residing within the territory of the suspended school assigned to another school. It also provides that when a school has been suspended and a proper petition is filed by the parents or guardians of pupils residing in the vicinity of the suspended school the local board of education shall reopen such school “provided there is a suitable school building in the territory of such suspended school as it existed prior to suspension.”

Section 7731-1, General Code, provides in substance that in order to protect the rights of the petitioners, as provided for in Section 7730, General Code, where a school has been suspended, the school building and real estate comprising the school lot shall not be sold by the board of education of the district until after four years from the date of the suspension of such school unless the school building has been condemned for school use by the Director of Industrial Relations of Ohio, or unless a new building has been erected in substantially the same location as the old so that the residents of the territory affected will have substantially the same school privileges as before, so far as attending school is concerned, if the school should be re-established. However, there is no provision requiring the re-establishment of the school unless there is a suitable building in the territory of the suspended school. If the building burns to such an extent as to make it unsuitable for school purposes, whether the same is condemned by the Department of Industrial Relations or not, the board can not be required to re-establish the school.

As I understand the situation which prompted your inquiry, a certain school had been suspended by authority of section 7730, General Code, and later the school building burned. Clearly, in that case, the board could not be required, upon petition, to re-establish the school, and therefore there is no occasion for waiting four years to sell the real estate which comprised the school lot. In this connection, your attention is directed to two former opinions of this office which may be found in the reported Opinions of the Attorney General for 1929, at pages 192 and 714.

I am therefore of the opinion, in specific answer to your question, that this

school lot may be sold at any time after the building burned, if, in the judgment of the board of education, it is not needed for school purposes, and it is not necessary to wait four years.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3271.

GOVERNOR—POWER TO COMMUTE DEFINITE SENTENCE TO INDEFINITE SENTENCE—LIMITATIONS NOTED.

SYLLABUS:

1. *The Governor can commute a definite sentence to an indefinite sentence but can not fix a maximum term for such indeterminate sentence which would exceed the maximum time the prisoner would serve under the definite sentence after deducting the "good time" provided for by section 2163, General Code.*

2. *The Governor, in granting a conditional commutation of a definite sentence to an indefinite sentence, can fix as a maximum term for such indefinite sentence any term providing it does not exceed the maximum term imposed by the trial court.*

COLUMBUS, OHIO, May 28, 1931.

HON. JOHN MCSWEENEY, *Director of Public Welfare, Columbus, Ohio.*

DEAR SIR:—This will acknowledge your letter of recent date, which reads as follows:

"A number of prisoners are now confined in the Ohio Penitentiary serving definite sentences, that is, cases where the statutory maximum was fixed by the sentencing court as the judicial minimum. For example, No. 55722, was given a sentence of from 20 to 20 years on a charge of 'Forcing entrance to a safe.' The statutory minimum for this crime is one year. It is understood that the reason for the court's imposing this extreme minimum was the belief that this man had been implicated in the killing of a police officer. Since the admission of the prisoner to the Penitentiary, this belief has been refuted by the confession of another man that he killed the officer. It is, therefore, believed that the penalty given No. 55722, is too long.

The question has arisen as to what action may be taken either by the Governor or the Board of Clemency to effect the release of such prisoners who are serving definite or 'flat' sentences.

Is it possible for the Governor to commute a definite sentence establishing a minimum or a maximum, or both a minimum and maximum, other than that imposed by the sentencing court, and by so doing make the prisoner eligible to parole by the Ohio Board of Clemency?"

Your inquiry raises the question of whether or not the Governor can commute a definite sentence to an indefinite or indeterminate sentence. Commutation of a sentence has been defined by many authorities as a substitution of a lower