for, it is believed that the power to act under that petition is merged in an election, and that before another election could be held in a case where a petition is necessary, it would require another petition to be regularly filed therefor. The last sentence of the section referred to is: "The result shall be determined by a majority vote of such electors."

However, a careful examination of Section 4735-1, General Code, discloses that it contains another provision, to-wit:

> " * * * or when such board, by a majority vote of the full membership thereof, shall decide to submit the question."

Your letter apparently overlooks that feature of the section above referred to.

In the case of the Board of Education of Hancock county vs. Boehm et al., 102 O. S., 292, the court on page 303 used the following language:

> "Sections 4735-1 and 4735-2 are only effective to dissolve and transfer an entire existing district to another existing district *upon the initiative of the electors* of the district seeking dissolution and union with another district, *or upon the initiative of the board of such district* seeking dissolution and union with another district. * * * "

We therefore find in the above mentioned section two methods of procedure, one upon the authority of a petition regularly filed, the other upon "a majority vote of the full membership" of the board itself. If either of those conditions obtains before the certificate of the clerk to the board of deputy state supervisors of elections is made, it is my opinion that an election thereafter following would be regularly held so far as the action of the board of education is concerned.

Specifically answering your question, therefore, if you find that the board complied with the latter provision mentioned in the section it would be a sufficient condition precedent on which to hold a valid election, and I find no statutory inhibition against holding a second election within the same year.

Respectfully,
EDWARD C. TURNER,
Attorney General.

173.

DISAPPROVAL, OIL AND GAS LEASE BETWEEN STATE OF OHIO AND RUTTER & HARTWELL, CERTAIN LAND LOCATED IN ROSS COUNTY, OHIO.

COLUMBUS, OHIO, March 11, 1927.

HON. JOSEPH T. TRACY, *Auditor of State, Columbus, Ohio.*

DEAR SIR:—Examination of an oil and gas lease between the State of Ohio and Rutter & Hartwell, covering 1760 acres of land located in Sections 35 and 36, southwest quarter of Section 27, southeast quarter of Section 29 and the southeast quarter of Section 33 in Ross county, Ohio, reveals the following:

(1) The lease recites that the same has been executed in triplicate. Only two copies of the lease have, however, been submitted to this office.

(2) The lease recites that the same has been executed under and in pursuance of an act of the General Assembly of the State of Ohio amending Section 3209 of the General Code, passed February 16, 1914, and amended July 20, 1914 (105 O. L. 6). Since this lease is made pursuant to Section 3209-1 of the General Code, and since Section 3209, General Code, was repealed in 107 O. L. 357, I suggest that the lease recite that it is made in pursuance to Section 3209-1, General Code.

(3) The seal of the Auditor of State is missing. Section 3203-4, General Code, provides that leases shall be signed by the Auditor of State, acting as the state supervisor of school and ministerial lands, and the seal of the auditor shall be affixed.

(4) In the last sentence of the first paragraph ending on page 2, the words "offset walls" should probably read "offset wells." In the first sentence of the third paragraph on page 3, I suggest that the word "may" be inserted following the word "lessee," to read as follows: "The lessee may at any time by paying to the lessor all amounts," etc. The last sentence in the first paragraph ending on page 4, with reference to the right of the Auditor of State to enter upon the premises and eject the lessee and repossess the premises, is not quite clear. The phrase "of the said lessor's former estate" appears to be incomplete.

(5) The signature of the lessor and lessee are found on page 4 of the lease and the acknowledgments of the lessor and lessee are found on page 5 of the lease. Since the lease is made up of separate sheets of paper fastened together by means of wire fasteners, the execution of the lease is improper, since it does not comply with Section 8510 of the General Code which requires that the acknowledgment be certified on the same sheet on which the instrument is written or printed. It is imperative under this section that the signatures and acknowledgments appear on the same sheet.

For the foregoing reasons the two copies of the lease above referred to are returned to you without my approval noted thereon.

Respectfully,
EDWARD C. TURNER,
Attorney General.

174.

TUMEY CASE—DOES NOT AFFECT ELIGIBILITY OF JUSTICE OF THE PEACE AS EXAMINING MAGISTRATE.

SYLLABUS:

Recent decisions of United States Supreme Court does not affect jurisdiction or eligibility of justice of the peace as examining magistrate.

COLUMBUS, OHIO, March 11, 1927.

HON. JOHN W. DUGAN, *Prosecuting Attorney, New Lexington, Ohio.*

DEAR MR. DUGAN:—In response to your request over the telephone, I beg to advise you that it is my opinion that the decision of the Supreme Court of the United States in the case of Ed. Tumey vs. the State of Ohio, No. 527 on the October term 1926 docket in no way affects the eligibility of a justice of the peace as an examining magistrate. In other words, the power of justices of the peace throughout the State of Ohio to bind accused persons over to the grand jury is in no way affected by said decision.

I am departing from the rule of this office, in insisting that questions be sub-