

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.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3272.

OFFICES COMPATIBLE—MEMBER OF COUNTY BOARD OF EDUCATION AND VICE-PRESIDENT OF RURAL BOARD OF EDUCATION.

SYLLABUS:

Under the authority of Section 4728, General Code, a vice-president of a board of education of a rural school district may be appointed as a member of the county board of education and occupy both positions concurrently.

COLUMBUS, OHIO, May 28, 1931.

HON. MARCUS McALLISTER, *Prosecuting Attorney, Xenia, Ohio.*

DEAR SIR:—Your recent letter reads:

"Your opinion is earnestly solicited on the following statement of facts:

"A is a member and vice president of the board of education of a township rural school district, of this county, and he was recently appointed to fill a vacancy existing on the county board of education. He is, at present, holding as a member of both boards.

"Would the fact that he is an officer of one board make an exception to the provisions of Section 4728 of the General Code of Ohio?"

The designation in your letter of a "township rural school district" no doubt refers to a rural school district since, by the terms of Section 4679, General Code, school districts of this state are divided into city school districts, village school districts, rural school districts, and county school districts.

Section 4728, General Code, to which you refer, reads as follows:

"Each county school district shall be under the supervision and control of a county board of education composed of five members, who shall be electors residing in the territory composing the county school district and who may or may not be members of local boards of education. The members of such county board in office when this act goes into effect shall continue in office until their successors are elected and qualified."

This section clearly authorizes a member of a board of education of a rural school district to be at the same time a member of a county board of education. See also Opinions of the Attorney General for 1927, page 25.

Section 4747, General Code, reads:

"The board of education of each city, exempted village, village and rural school district shall organize on the first Monday in January after the election of members of such board. One member of the board shall be elected president, one as vice-president and a person who may or may not be a member of the board shall be elected clerk. The president and vice-president shall serve for a term of one year and the clerk for a term not to exceed two years. The board shall fix the time of holding its regular meeting."

Your question then resolves itself into a determination of whether or not the fact that a member of a board of education is appointed as vice-president of the board will contradict the express authority conferred by Section 4728, *supra*, for a member of a local board of education to become a member of a county board.

An examination of the statutes pertinent to your question impels the conclusion that no substantial powers or duties are imposed upon a member of a local board of education by designating him as vice-president of such board, which would tend to inhibit such vice-president from properly performing the duties as a member of the county board of education. His powers and duties as a member of such board remain the same and his appointment and action as such officer are merely in compliance with Section 4747, above quoted, and are for the purpose of conducting the procedure of the board in an orderly manner.

I am, therefore, of the opinion that under the authority of Section 4728, General Code, a vice-president of a board of education of a rural school district may be appointed as a member of the county board of education and occupy both positions concurrently.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3273.

DEPENDENT CHILDREN—DETERMINATION OF THEIR LEGAL SETTLEMENT—SPECIFIC CASE.

SYLLABUS:

Legal settlement of minor children whose parents are divorced, discussed.

COLUMBUS, OHIO, May 28, 1931.

HON. RAYMOND E. LADD, *Prosecuting Attorney, Bowling Green, Ohio.*

DEAR SIR:—Acknowledgment is made of your communication, which reads:

"The question has arisen between Crawford and Wood Counties as to whether Crawford County is not compelled by law to accept three minor children for care and support.

The facts are as follows:

In the year 1929 C. J. L. and M. L., husband and wife, with their