

2. The Ohio Board of Clemency is without authority to order the return of one who has violated the conditions of a conditional pardon. Such return may be accomplished only upon the written request of the governor and in accordance with the provisions of Section 101, et seq., of the General Code.

3. Where a commutation has been granted by the governor to a prisoner convicted of a felony so as to render such prisoner eligible for parole by the Ohio Board of Clemency, he may be paroled by such board the same as though he were eligible under the sentence originally imposed and upon violation of his parole such prisoner may be returned into custody to serve the remainder of his sentence.

Respectfully,

EDWARD C. TURNER,

Attorney General.

1426.

SCHOOLS—COUNTY BOARD OF EDUCATION EQUALIZES INDEBTEDNESS WHEN COUNTY SCHOOL DISTRICT TRANSFERRED TO EXEMPTED VILLAGE SCHOOL DISTRICT.

SYLLABUS:

When territory is transferred from a school district of a county school district to an exempted village school district, upon petition of the electors residing in the territory transferred, an equitable division of the funds and indebtedness between the districts involved should be made by the county board of education of the county school district of which the territory transferred is a part.

COLUMBUS, OHIO, December 23, 1927.

HON. W. S. PAXSON, *Prosecuting Attorney, Washington C. H., Ohio.*

DEAR SIR:—This will acknowledge receipt of your communication, as follows:

“In September of this year, upon petition of more than seventy-five per cent of the electors in a certain territory known as the Smithville School District, and which is a part of the Fayette County School District, the Fayette County board of education transferred to the exempted village school district of Greenfield, Highland County, Ohio, said territory. The board of education of said exempted village school district of Greenfield passed a resolution accepting said transfer and have been taking care of the transportation and education of the pupils residing in said territory since the beginning of the school year this fall. The question now arises as to who shall make the equitable division of the funds and indebtedness between the districts involved. This requires a construction of Section 4696 of the General Code which was construed by your department in an opinion dated September 21st of this year rendered to Hon. Herman F. Krickenberger, prosecuting attorney of Darke County, copy of which opinion I have. However, in that case the transfer was from one county school district to another county school district and did not involve a transfer to an exempted village district. We shall appreciate receiving your opinion as to who has the authority to make this equitable division in this instance.”

Section 4696, General Code, reads in part, as follows:

"A county board of education may, upon petition of a majority of the electors residing in the territory to be transferred, transfer a part or all of a school district of the county school district to an exempted village, city or county school district, the territory of which is contiguous thereto. * * *

In any case before such a transfer shall be complete * * * an equitable division of the funds and indebtedness between the districts involved shall be made by the county board of education, which in the case of territory transferred to a county school district shall mean the board of education of the county school district to which such territory is transferred, * * * "

It will be observed from the above provisions that when transfers are made by a county board of education of a part or all of a district of the county district to an exempted village school district, (which exempted village school district is not a part of any county school district), the "equitable division of the funds and indebtedness between the districts involved shall be made by the *county board of education.*"

The districts involved between which the equitable division of funds and indebtedness is made is the exempted village school district to which territory is transferred and a district of the county school district to which the petition was addressed, and which thereafter made the transfer. The last mentioned school district is the only county school district having anything to do with the transfer. In view of this fact the language of Section 4696, supra, wherein it says "an equitable division of funds and indebtedness * * * shall be made by the county board of education" could mean no county board of education other than the county board of education which had made the transfer.

I am, therefore, of the opinion that when territory is transferred from a school district of a county school district to an exempted village school district, upon petition of the electors residing in the territory transferred, an equitable division of the funds and indebtedness between the districts involved should be made by the county board of education of the county school district of which the territory transferred is a part.

Respectfully,

EDWARD C. TURNER,

Attorney General.

1427.

APPROVAL, BONDS OF THE CITY OF JACKSON, JACKSON COUNTY—
\$19,138.76.

COLUMBUS, OHIO, December 23, 1927.

Industrial Commission of Ohio, Columbus, Ohio.

1428.

APPROVAL, BONDS OF LAKEWOOD CITY SCHOOL DISTRICT, CUYA-
HOGA COUNTY—\$250,000.00.

COLUMBUS, OHIO, December 23, 1927.

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