

2889.

APPROVAL, FINAL RESOLUTIONS ON ROAD IMPROVEMENTS IN DELAWARE, SANDUSKY AND COLUMBIANA COUNTIES.

COLUMBUS, OHIO, November 16, 1928.

HON. HARRY J. KIRK, *Director of Highways, Columbus, Ohio.*

2890.

APPROVAL, FINAL RESOLUTIONS ON ROAD IMPROVEMENTS IN DELAWARE COUNTY.

COLUMBUS, OHIO, November 16, 1928.

HON. HARRY J. KIRK, *Director of Highways, Columbus, Ohio.*

2891.

APPROVAL, LEASE TO MIAMI AND ERIE CANAL LAND.

COLUMBUS, OHIO, November 16, 1928.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—I have your letter of November 14, 1928, in which you enclose the following lease, in triplicate, for my approval:

<i>Name</i>	<i>Miami and Erie Canal</i>	<i>Annual Rental</i>
City of Sidney-----	Land Lease	\$2,230.28

I have examined said lease, find it correct as to form, and I am therefore returning the same with my approval endorsed thereon.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2892.

TEACHERS INSTITUTE—COUNTY—DURATION OF SAME DISCUSSED.

SYLLABUS:

County teachers' institutes when held, must be held for not more than five consecutive days, nor less than four consecutive days.

COLUMBUS, OHIO, November 17, 1928.

HON. J. L. CLIFTON, *Director of Education, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your request for my opinion which reads as follows:

"We are confronted with the question whether a county teachers' institute may be held for fewer than four days; and also with the question whether a county institute established by the county board to be conducted for four days may yet be conducted on four scattered days, as the first Saturday of October, December, February, and April.

We shall be glad to have your opinion on these two questions, in view of the somewhat confused state in which the statutes relating to institutes appear to have been left."

Sections 7869, 7871 and 7874, General Code, read in part as follows:

Section 7869. * * * "The county boards of education shall decide the length of time county institutes may remain in session, in no case for longer period than five days. At least one day of such session shall be under the immediate direction of the county superintendent who shall arrange the program for such day."

Section 7871. "The board of education of each city school district may provide for holding an institute yearly for the improvement of the teachers of the common schools therein. General meetings of the teachers of a city district held upon not less than four days in any year, whether consecutive days or not, for the purposes of instruction, shall constitute a teachers' institute for a city district within the meaning of this section."

Section 7874. "All institutes held under the provisions of this chapter shall continue at least four days. * * *"

Section 113 of an act of the General Assembly entitled "An Act for the reorganization and maintenance of Common Schools" (70 O. L. 195 et seq.) passed May 1, 1873, read as follows:

"No institute held under the provisions of this act shall continue for a period of time less than four days."

Said act of 1873 provided for both county teachers' institutes and city teachers' institutes. The provisions of Section 113 above quoted clearly applied to both county and city teachers' institutes. Said Section 113 of the Act of 1873 was incorporated in the provisions of Section 4094 of the Revised Statutes of 1880. Said Section 4094, Revised Statutes was at that time a part of Part Second, "Civil," Title III, "Schools," Chapter 13, "Teachers' Institutes," of the Revised Statutes of 1880. In the revision the language was changed to read:

"All institutes held under the provisions of this chapter shall continue at least four days."

Included within said Chapter 13 was Section 4086, Revised Statutes, authorizing the organization of county teachers' institutes and Section 4092, Revised Statutes authorizing and relating to the holding of teachers' institutes in city school districts, of the first class. Said Section 4092, Revised Statutes, was amended in 1893 (90 O. L. 131). As amended, it read in part:

"* * * and general meetings of the teachers of any such city district held upon not less than four days in any year whether consecutive days or not, for the purposes of instruction, shall be deemed to constitute a teachers' institute for said city district within the meaning of this section. * * *"

Both Sections 4092 and 4094, Revised Statutes were again amended in 1904 (97 O. L. 378), but no changes were made therein affecting the time of holding teachers' institutes. The provisions of Section 4092, General Code as then amended, relating to the time of holding institutes in city districts, were made to apply to all city school districts instead of as formerly, to city districts of the first class.

Upon the codification of 1910, Sections 4092 and 4094, Revised Statutes, became Section 7871, and Section 7874, respectively, of the General Code of Ohio contained in Chapter 8 thereof, under the Title of the General Code relating to public schools.

Since 1893, and until the present time, the general provisions of the statute to the effect that teachers' institutes shall continue for at least four days, do not apply to city institutes. During the course of the several changes and amendments made to these and related statutes since 1873, no specific reference has at any time been made with regard to the time of holding county teachers' institutes until 1914 when the provision to the effect that:

"The county boards of education shall decide the length of time county institutes may remain in session, in no case for a longer period than five days."

was incorporated by amendment in the provisions of Section 7869, General Code (104 O. L. 157). Prior to 1914, no maximum limitation existed for the holding of county teachers' institutes, and the question arises whether or not the provisions of Section 7869, General Code, as amended in 1914, were intended by the Legislature to change the general provisions of Section 7874, General Code, relating to the minimum number of days a county teachers' institute should continue, and give to the county board of education authority to provide for the holding of teachers' institutes for a less number of days than four, or whether the intention was merely to fix a maximum number of days for which the institute might be held, and extend to the county board of education the authority to decide whether or not the institute should be held for either the maximum or minimum period thus fixed.

It is significant to note that at the same session of the Legislature which amended Section 7869, General Code, to read as it now does, Section 7874, General Code was also amended. In amending Section 7874, General Code, no change was made with reference to the minimum number of days which all institutes including county teachers' institutes, should continue.

In an opinion of the Attorney General reported in the Opinions of the Attorney General for 1924 at page 646 it was held:

"In view of the provisions of Sections 7869 and 7874 of the General Code a county board of education cannot legally provide for holding a teachers' institute for a period of two or three days. Such institutes should continue for at least four days."

While Section 7869, General Code, fixes a maximum period of five days, it does not specify, change, amend or repeal the minimum of four days fixed by Section 7874 of the General Code, and does not in terms or spirit conflict with said section, and in my opinion cannot be construed as a specific provision permitting county boards of education to provide otherwise than for the holding of institutes in accordance with the provisions of Section 7874, General Code. In fact, if the time of the enactment be taken into consideration, Section 7874, General Code, as enacted in 1914, was included within an act of the Legislature which was passed ten days later than the act which contained Section 7869.

Coming now to a consideration of your second question it is my opinion that the definition of the word "continue" as used in Section 7874, General Code, is dispositive of the question. The word "continue" when used as an intransitive verb, is defined by Webster, as follows:

"To remain in a given place or condition; to remain in connection; to abide; to be permanent or durable; to endure, to last, to keep up or maintain a particular condition, course or series of actions."

In the light of this definition it seems clear that the phrase "continue at least four days" as used in Section 7874, General Code, means that the four days must be four consecutive days. This conclusion is strengthened by the fact that in Section 7869, General Code, where authority is given to county boards of education to decide the length of time of holding county institutes the expression is used "may remain in session, in no case for a longer period than five days." Again it is said that at least one day of such *session* shall be under the immediate direction of the county superintendent. The use of the phrase "remain in session" in the one sentence, and the use of the word "session" in the other sentence clearly leads to the conclusion that the five days spoken of in the statute shall be taken to be five consecutive days.

In conclusion, therefore, and in specific answer to your question, it is my opinion that county teachers' institutes when held must be held for not more than five consecutive days nor less than four consecutive days.

Respectfully,

EDWARD C. TURNER,

Attorney General.

2893.

APPROVAL, BONDS OF THE VILLAGE OF LYNDHURST, CUYAHOGA COUNTY—\$72,600.00.

COLUMBUS, OHIO, November 17, 1928.

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

2894.

ESTATE—MONEYS OF PERSONS DYING IN HOSPITAL—TO WHOM PAYABLE.

SYLLABUS:

The authorities of the University Hospital are not authorized to pay over moneys in their possession belonging to the estate of a deceased person to any person other than the duly appointed and qualified administrator or executor of the estate of such deceased person.