

depends on the terms of the commutation. Courts have held that where it is apparent that the authority granting the commutation intended that no allowance for good behavior should be made, such intention will be given effect. This rule of law was applied in the case of *Meyers vs. Jackson*, 245 Mich. 692, where the terms of the commutation read as follows:

“So that the same will expire fifteen years from date of sentence.”

The court held that a prisoner whose life sentence was commuted by the governor to expire fifteen years from date of sentence is not entitled to any reduction of sentence for good behavior under 1 Compiled Laws, 1915, section 1732, in force when he was sentenced, since the date of expiration is fixed by executive order, and the statute has no application. Thus it seems to me that the governor, in granting commutation of a sentence in which the order read “to be released from confinement at the end of eleven years from beginning of sentence,” meant that the prisoner was not to be allowed time off the commuted sentence for good conduct and that the prisoner was to be released only at the end of eleven years of imprisonment. The language of the commutation, in my mind, is plain and unambiguous and there is no necessity for making any construction other than that of the natural meaning of the words “at the end of eleven years from beginning of sentence.” The governor, if he intended otherwise, would not have used such language and would, no doubt, have left out the words “end” and “from beginning of sentence” if he intended that the prisoner was to have the benefits of section 2163, General Code. It is apparent from the order of commutation, that the prisoner was to serve eleven full years from the beginning of his sentence and not otherwise.

In conclusion, it is therefore my opinion that where the expiration of a sentence in the commutation of a life sentence is fixed by the governor to be “at the end of eleven years from beginning of sentence,” the provisions of section 2163, General Code, are not applicable to the commuted sentence, and the prisoner is not entitled to any diminution for good behavior.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3022.

APPROVAL, SUPPLEMENTAL FINAL RESOLUTION FOR ROAD IMPROVEMENT IN LUCAS COUNTY, OHIO.

COLUMBUS, OHIO, March 5, 1931.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

3023.

TOWNSHIP BOARD OF EDUCATION—VACANCY IN MEMBERSHIP—HOW FILLED—WHAT NECESSARY TO MAKE SELECTION VALID.

SYLLABUS:

Opinion of Attorney General, 1924, Vol. 1, p. 137, approved.