

time from the date of his declared delinquency to the date of his arrest shall not be counted as a part of time served."

Sec. 2175. "A prisoner at large upon parole or conditional release committing a new crime, and re-sentenced to the penitentiary, shall serve a second sentence, to begin at the termination of his service under the first or former sentence, or the annulment thereof."

These sections were construed in a recent opinion of this department addressed to the Ohio Board of Clemency, being Opinion No. 727, dated July 11, 1927, Opinions, Attorney General, 1927, the syllabus of which reads:

"1. Under the provisions of Section 2174, General Code, where a prisoner has violated the conditions of his parole or conditional release, and the Ohio Board of Clemency has declared such prisoner to be delinquent and entered such facts in the proceedings of the board, such prisoner shall thereafter be treated as an escaped prisoner owing service to the state and, when arrested, shall serve the unexpired period of the maximum term of his imprisonment and the Ohio Board of Clemency is without authority again to restore such prisoner to parole.

2. The Ohio Board of Clemency is without authority to 'annul' a sentence as that word is used in Section 2175, General Code."

In view of the foregoing and answering your questions specifically it is my opinion:

1. With respect to those prisoners sentenced to the Ohio Penitentiary transferred to the London Prison Farm and paroled and who, while upon parole, commit a new crime and are resentenced to the Ohio Penitentiary, the provisions of Section 2175, General Code, apply, viz., that he "shall serve a second sentence, to begin at the termination of his service under the first or former sentence, or the annulment thereof."

2. I see no reason why retransfer from the London Prison Farm to the Ohio Penitentiary should be made for the sole purpose of parole as above stated. In contemplation of law inmates of the London Prison Farm are inmates of the Ohio Penitentiary and it is immaterial whether they are paroled by the Ohio Board of Clemency from the London Prison Farm direct or retransferred to the Ohio Penitentiary before being released on parole.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

906.

APPROVAL, BONDS OF THE VILLAGE OF PARMA, CUYAHOGA COUNTY  
—\$133,080.30.

COLUMBUS, OHIO, August 23, 1927.