

for parole until he has served the minimum term of his sentence and upon recommendation of designated penal officials. See sections 2132, 2148-9, 2160, 2166, 2141, 2148-10 and 2171, General Code. Under these statutes paroles may be granted only to those prisoners who have served the minimum term of their imprisonment. This being so, it appears to me that even if the Governor, by virtue of the Weaver case, *supra*, had the power to parole a prisoner, it could only be exercised when the prisoner had been incarcerated in a penal institution and after he had served at least the minimum term of imprisonment provided by law.

It is therefore my opinion that:

1. The Governor has the power to pardon a person convicted of a crime, either before sentence or before incarceration in a penal institution.

2. The Governor can exercise his power of commutation at any time after a person has been convicted and sentenced for committing a crime.

Respectfully,

GILBERT BETTMAN,

Attorney General.

3240.

APPROVAL, NOTES OF McARTHUR-HUNTSVILLE VILLAGE SCHOOL DISTRICT, LOGAN COUNTY, OHIO—\$5,500.00.

COLUMBUS, OHIO, May 20, 1931.

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

3241.

FIREMEN'S PENSION FUND OF TOLEDO—COMPOSED PARTLY OF MONIES RECEIVED FROM REPEALED LAW WHICH IMPOSED TAX ON FOREIGN INSURANCE COMPANIES—RULE PROVIDING FOR USE OF SUCH FUND FOR FUNERAL EXPENSES OF FIREMEN, VALID.

SYLLABUS:

The firemen's pension fund of the City of Toledo, composed, in part, of collections made from the tax on foreign insurance companies, may be used for the purpose of paying funeral expenses of members of the fire department in pursuance of a proper rule to that effect adopted by the board of trustees of the firemen's pension fund.

COLUMBUS, OHIO, May 21, 1931.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Acknowledgment is made of your recent communication requesting my opinion upon a question submitted to you by one of your examiners. The letter from your examiner reads in part, as follows:

“The Firemen's Pension Trustees of Toledo have investments in an amount of \$58,650.00, most of the income for which investments was re-