would lead to the result that the power of commutation, which the constitution extends to all offenses after conviction, would be limited by statute to cases where the punishment imposed exceeds the minimum authorized by law. Neither the court nor the legislature has the power so to limit the authority conferred on the Governor by the constitution." (Emphasis supplied)

It would seem to me that the foregoing authority is clear and unambiguous. However, further discussion may be desirable.

Section 13 of Article V of the Constitution of 1870 provides:

"The Governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses, subject to such regulations as may be provided by law relative to the manner applying therefor."

The Governor has constitutional authority to grant pardons which completely obliterate the conviction, and the effects of the conviction, of the individual, *a fortiori*, he would have authority to commute a sentence to a term less than the minimum term provided by law.

In another Illinois case, *People* v. *Jenkins*, 322 Ill. 33, the Governor attempted to commute the sentence of one Perry from a life sentence for murder to a sentence for manslaughter. The court held that the Governor had no authority to change the sentence of the court from one crime to another but, in passing upon the question, said:

"* * * * The executive authority having the pardoning power may commute the punishment imposed by the sentence of a court to a lighter punishment, as from death to imprisonment for life or for a fixed time, or from imprisonment for life to imprisonment for a fixed time, or from imprisonment for a definite period to a shorter period. Such change of a judicial sentence by the executive is expressly permitted by section 13 of article 5 of the constitution, which vests the Governor with power to grant reprieves, commutations and pardons, after conviction, for all offenses, subject to such regulations as may be provided by law relative to the manner of applying therefor. * * *"

The general proposition, and it might be said that my research has disclosed no case to the contrary, is found in 67 C.J.S., 585:

"* * * Where an original sentence is lawful, execution of the commuted sentence is not affected because the statutes do not permit courts in the first instance to fix such punishment. * * *"

In the case of *Stroud* v. *Johnson*, 139 F. 2d 171, cert. den. 321 U.S. 796, the court said at page 172:

"In an old case, Ex parte Wells, 59 U.S. 307, 18 How. 307, 15 L.Ed. 421, the Supreme Court held that the President of the United States had the power to commute a death sentence to a sentence of life imprisonment or attach any other condition to such commutation. In Ex parte Harlan, C.C., 180 F. 119, 127, it was held that where the original sentence is valid and the President having the power to commute sentences, the commuted sentence cannot be unlawful merely because the statutes do not authorize the courts to fix such punishment in the first instance. * * *"

To the same effect is *Ex parte Harlan*, 180 F. 119, 127 and *Baston* v. *Robbins*, 135 A. 2d 279, 280 (Me.) (1957).

It is clear that the Governor may commute a sentence to the penitentiary to a term less than the minimum term provided by statute.

(No. 300—May 22, 1962)

COUNTIES AND COUNTY BOARDS—*Leasing Not Needed Space In Court House For Private Purposes.* A County cannot lease not needed space in the Court House for private purposes. The County Board can lease such space to the State or any court thereof, to any city, village, town, sanitary district or other municipal corporation.

STATUTES CONSTRUED—Illinois Revised Statutes 1961, Chapter 34, Paragraph 3551.

Hon. Robert L. Dannehl, State's Attorney, Iroquois County, Watseka:

I have your communication of May 10, 1962, wherein you cite the case of *Yakley* v. *Johnson*, 295 Ill. App. 77, which holds that space in the Court House cannot be leased by the County to private interests, and you request my opinion as to whether this decision would also include space in the Court House which is not needed for County purposes.

In this connection, I direct your attention to Illinois Revised Statutes 1961, Chapter 34, Paragraph 3551, which is as follows:

"Whenever there is space in the county court house not needed for county purposes, the county board may lease such space to the state or any court thereof, to any city, village, town, sanitary district or other municipal corporation for such period of time and upon such terms as may seem just and equitable to the board."

Under this specific statutory provision, the Legislature has limited the leasing of not needed space in a County Court House to the State, courts or any municipal corporation.

The holding in the *Yakley* case and the above quoted statutory provision, in my opinion, precludes the leasing of not needed space in the County Court House to private interests.

(No. 301—May 22, 1962)

OFFICERS—*Deputy Constable—Residence Qualification.* A deputy constable must possess the same residence qualification as the constable and reside within the justice district for which he is appointed.

STATUTES CONSTRUED—Illinois Revised Statutes 1961, Chapter 79, Paragraph 1.6.

Hon. Charles J. Ryan, State's Attorney, Morgan County, Jacksonville:

I have your communication of May 17, 1962, wherein you state as follows:

"Pursuant to Section one of Chapter 79, Illinois Revised Statutes 1961, Morgan County has been divided into three Justice Districts. A constable has been elected in each of the three districts.

"Section 1.6 of said Chapter 79 provides in part as follows:

'Each constable may appoint one Deputy Constable.

"May I have your opinion as to whether a constable may appoint as his deputy a resident of a justice district other than the district in which the appointing constable was elected."

Article VI, Section 21 of the Illinois Constitution provides as follows: