

It is evident from the foregoing citations that the father is "charged by law (with the care, support, maintenance or education of a minor under the age of eighteen years."

When its jurisdiction is properly invoked, the juvenile court may exercise said jurisdiction over said respective parties, under amended Section 1655, General Code in regard to the matters therein provided.

In an opinion of this department construing Section 1655, General Code, found in Volume 1, Opinions of Attorney General, 1918, page 257, at page 259, it was held that:

"The juvenile court act conferred exclusive jurisdiction on the juvenile courts of the state with reference to all law violations by minors under eighteen years of age, except in certain felony cases, but the jurisdiction of the juvenile court to hear and determine prosecutions against adults for violations of laws relating to the custody, care and treatment of children was not made exclusive in all cases. * * * so far as the juvenile court laws are concerned prosecutions for violations of Section 12970 may be had in the juvenile court, common pleas court or magistrate's court. Prosecutions under Section 13008 * * * may only be had upon indictment in a court of common pleas, since the violation of that section is a felony."

It is evident therefore that the juvenile court has no jurisdiction under Section 13008 G. C. and that its jurisdiction under Section 12970 G. C. is concurrent with the common pleas and magistrate's court, and is confined to minors under sixteen years of age; but the juvenile court, under the provisions of Section 1655 G. C. as amended, 110 O. L., page 296, has jurisdiction over the parents of minors until said minors become eighteen years of age.

It is therefore the opinion of this department that the juvenile court has power under Section 1655 G. C. to compel the fathers of legitimate children of over sixteen and under eighteen years to support them in like manner as they are required to support their children who are under sixteen years of age.

Respectfully,

C. C. CRABBE,

Attorney General.

2117.

COUNTY BOARD OF EDUCATION NOT REQUIRED TO ACCEPT TERRITORY TRANSFERRED TO IT BY ANOTHER COUNTY BOARD OF EDUCATION—SECTION 4696, GENERAL CODE, CONSTRUED.

SYLLABUS:

The words "may accept", as used in the third sentence of Section 4696, do not make it mandatory upon the county board of education to accept territory transferred to it by another county board of education.

COLUMBUS, OHIO, December 31, 1924.

HON. EUGENE T. LIPPINCOTT, *Prosecuting Attorney, Lima, Ohio.*

Dear Sir:—

I am in receipt of your communication as follows:

"Section 4696 G. C. says in part: 'Upon petition of 75% of the electors in the territory proposed to be transferred, the county board of education shall make such transfer. A county board of education may accept a transfer of territory from any such school district and annex the same to a contiguous school district of the county school district.'

"I am asking you for a ruling or interpretation of the words 'may accept'. We understand a county board of education is required to release territory when 75% sign a petition asking the transfer from one county to another but is the accepting board required to accept the territory when offered them in such an instance in event the accepting board does not wish to accept the territory?"

Section 4696, General Code, found in 109 O. L., page 65, provides:

"A county board of education may, upon a petition of a majority of the electors residing in the territory to be transferred, transfer a part or all of a school district of the county school district to an exempted village, city or county school district, the territory of which is contiguous thereto. Upon petition of seventy-five percent of the electors in the territory proposed to be transferred the county board of education shall make such transfer. A county board of education may accept a transfer of territory from any such school district and annex same to a contiguous school district of the county school district.

"In any case before such a transfer shall be complete (1) a resolution shall be passed by a majority vote of the full membership of the board of education of the city, exempted village or county school district making or accepting the transfer as the case may be. (2) an equitable division of the funds and indebtedness between the districts involved shall be made by the county board of education, which in the case of territory transferred to a county school district shall mean the board of education of the county school district to which such territory is transferred, and (3) a map shall be filed with the county auditor of each county affected by the transfer. When such transfer is complete the legal title of the school property shall become vested in the board of education of the school district to which such territory is transferred."

It will be noted that the first sentence of this section provides that the county board of education *may transfer* a part or all of a school district of a county school district to the city, exempted village or county district upon a petition of a majority of the electors residing in the part to be transferred. There can be no doubt that it is discretionary with the county board of education to make the transfer under these circumstances.

The next sentence provides that on a petition of seventy-five per cent. of the electors the county board of education *shall make* such transfer. This makes it mandatory on the board of education which is petitioned to do everything necessary to effect such transfer.

The third sentence of such section provides that a county board of education *may accept* a transfer and annex same to a contiguous district. It will be noted that following the first sentence relating to petitions of a majority of the electors there is no provision for acceptance by a board to whom such transfer is made. As the part of the statute providing for acceptance follows the provision for a majority petition, as well as the provision for a petition of seventy-five per cent. of the electors, it is believed the provision for acceptance attaches in both instances. If this is not so there is no provision for acceptance in the first instance. To take a

construction that there is no provision for acceptance in the first instance would make null and void the first part of this section providing for transfer upon the petition of a majority of the electors. Therefore, we are constrained to hold that the provision for acceptance applies in both cases.

In the first sentence in Section 4696 G. C. the word "may" is used as permissive and in the second sentence the word "shall" is mandatory. This same sentence uses the term "board of education" in the singular, thus limiting the mandatory feature to the board making the transfer.

If the acceptance by the board of education applies in both instances, the word "may", as used in the third sentence could not be held to mean "may" when a majority of a petition is filed, and "shall" when a seventy-five per cent petition is filed. The place of the acceptance of both the majority petition and the seventy-five per cent petition leads to the conclusion that it is discretionary with the accepting board in both cases.

It is therefore my opinion that the words "may accept", as used in the third sentence of Section 4696, do not make it mandatory upon the county board of education to accept territory transferred to it by another county board of education.

In Volume 2, at page 357, Opinions of the Attorney General for 1921, will be found an opinion which would seem to hold that it is mandatory upon the county board of education to whom territory is transferred to accept same. It will be noted that in the question submitted it was presumed that it was obligatory upon the county board of education to accept, and the question is whether it requires a petition of seventy-five per cent. of the electors to make it obligatory to accept transfers. The question is answered in a single paragraph, and it is believed that if the question had been whether or not it was obligatory upon the county board of education to accept a transfer, it would not have been answered in the manner in which it was. Therefore, that opinion is modified to the extent that it is in conflict with this opinion.

Respectfully,

C. C. CRABBE,

Attorney-General.

2118.

CIVIL SERVICE—ACTUAL PERIOD OF THE WAR WITH SPAIN AND
WAR WITH THE CENTRAL POWERS OF EUROPE—SECTION 486-10,
GENERAL CODE, CONSTRUED.

SYLLABUS:

- (1) *The war with the Central Powers of Europe ended in contemplation of law on July 2, 1921, upon the ratification of the treaty by the senate.*
- (2) *The Spanish-American war ended with the ratification of the treaty of peace which was on February 6, 1899.*
- (3) *Any soldier, sailor, marine or Red Cross nurse who served in the army, navy or hospital service of the United States during the time in which the wars*