

000.00, under date of April 7, 1925, which is unreleased of record, and a lien upon the property.

Also said certificate of title discloses that a judgment was rendered in the sum of \$2078.36 with costs, which was levied on other lands and assigned to the Union Properties, Inc. and which probably is a lien on the premises.

It also appears that an action was instituted on November 21, 1934 in case No. 417646, being a foreclosure procedure on other lands. However, it further appears that in connection with this proceeding, a levy was made on the premises under consideration and the judgment should be disposed of in some manner before the title is clear.

It further appears that there is still a balance of \$399.05 of unpaid taxes for the year 1937 which are a lien upon the premises; also general taxes for the year 1938, which sum is not set forth in said certificate, are a lien upon the premises.

It may further be noted that the taxes for the year 1939 are now a lien upon said premises, but under the terms of the deeds submitted in connection with this transaction, the grantors warrant the title, "except taxes and assessments for 1938 and thereafter." Before any warrant is delivered to the purchasers, steps should be taken to see that all liens upon the premises are properly disposed of.

The deed, certificate of title, encumbrance estimate and other data submitted are being returned herewith.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

726.

MINORS—JUVENILE COURT HAS EXCLUSIVE JURISDICTION OF ALL PERSONS UNDER EIGHTEEN YEARS OF AGE CHARGED WITH CRIME OF ARSON OR OTHER BURNINGS—SECTIONS 12433-12436, G. C.—WITHIN DISCRETION OF SUCH COURT TO REFER CASES TO COURT COMMON PLEAS FOR DISPOSITION—ADULTS.

SYLLABUS:

Under the authority of the Juvenile Court Code, a juvenile court has exclusive jurisdiction of all persons under the age of eighteen years who are charged with a violation of the crime of arson or other burnings as contained in sections 12433 to 12436, inclusive, General Code.

COLUMBUS, OHIO, June 9, 1939.

HON. RAY R. GILL, *State Fire Marshal, Columbus, Ohio.*

DEAR SIR: This will acknowledge receipt of your request for my opinion, which reads as follows:

“Will you please give to our office the youngest age of a person who may be charged with arson under Sections 12433 and 12437, for prosecution in the criminal courts of the county in which they reside?”

Our office has had the experience of young men and young ladies between the ages of sixteen and twenty-one years, through the juvenile authorities, being placed upon probation, whereas, in the estimation of our office, some of these individuals should have been tried as any adult who commits the crime of arson.”

The sole question presented by your inquiry is, what is the youngest age at which a person charged with arson and related crimes, as set forth in sections 12433 to 12436, inclusive, General Code, may be tried before a common pleas court without first appearing before a juvenile court?

A proper answer to the question propounded requires an examination of the new Juvenile Court Code, sections 1639-1 to 1639-60, inclusive, General Code (117 O. L. 520). Before entering into a discussion of said act, I direct your attention to certain definitions contained therein as follows:

Section 1639-1.

“The word ‘child’ includes any child under eighteen years of age.

The word ‘adult’ includes any person eighteen years of age or over.”

Section 1639-3.

“For the purpose of this chapter, the words ‘delinquent child’ includes any child:

1. Who violates any law of this state, the United States, or any ordinance or regulation of a subdivision of the state.”

I might state that whenever the words above defined appear in this opinion they will bear the meaning given them by statute.

The general jurisdiction of a juvenile court is contained in section 1639-16, General Code, which provides in part as follows:

“(a) The court shall have exclusive original jurisdiction under this chapter or under other provisions of the General Code:

1. Concerning any child who is (1) delinquent, (2) neglected, (3) dependent, or (4) crippled.”

More pertinent to your inquiry is section 1639-29, General Code, which reads as follows:

“When a child is arrested on and under any charge, complaint, affidavit, or indictment, whether for a felony or a misdemeanor, such child shall be taken directly before the juvenile judge; if the child is taken before a justice of the peace, judge of the police or municipal court or court of common pleas other than a juvenile court, it shall be the duty of such justice of the peace or such judge of the police or municipal court or court of common pleas to transfer the case to the court exercising the powers and jurisdiction herein provided. The officers having such child in charge shall take it before the judge of such court, who shall proceed to hear and dispose of the case in the same manner as if the child had been brought before such judge in the first instance. Upon such transfer or taking of such child before such judge, all further proceedings upon or under the charge, complaint, information or indictment shall be discontinued in the court of said justice of the peace, police or municipal judge or judge of the court of common pleas other than a court exercising the powers and jurisdiction herein conferred, and the case against or relating to such child shall thenceforth be within the exclusive jurisdiction of such court and shall be deemed to be upon a complaint filed in such court as fully as if the appearance of such child had been upon a complaint filed in and a citation or warrant of arrest originally issued out of and by such court.”

The latter section gives a juvenile court exclusive jurisdiction of children arrested on and under any charge, complaint, affidavit or indictment, whether for a felony or misdemeanor. It further provides that in the event a child has been taken before a court, other than a juvenile court, in any of the above instances, such court shall immediately relinquish jurisdiction of the case and transfer it to the juvenile court.

In view of this positive enactment, it is clear that all children charged under the arson statutes above referred to, must be taken before a juvenile court, which court has exclusive jurisdiction to dispose of the matter in accordance with the provisions of section 1639-30, General Code.

This position is supported by the case of *State v. Joiner, et al.*, 20 C. C. (N. S.) 313, as evidenced by the first branch of the syllabus as follows:

“The juvenile court has exclusive jurisdiction over minors who are under eighteen years of age and charged with crime, whether misdemeanor or felony.”

That case was decided in 1917 but remains the law today in view of the fact that the then existing juvenile court code was substantially the same in that respect.

Pertinent to your inquiry, I quote section 1639-32, General Code:

“In any case involving a delinquent child under the provisions of this chapter who has committed an act which would be a felony if committed by an adult, the judge after full investigation and after a mental and physical examination of such child has been made by the bureau of juvenile research, or by some other public or private agency, or by a person or persons, qualified to make such examination, may order that such child enter into a recognizance with good and sufficient surety subject to the approval of the judge, for his appearance before the court of common pleas at the next term thereof, for such disposition as the court of common pleas is authorized to make for a like act committed by an adult; or the judge may exercise the other powers conferred in this chapter in disposing of such case.”

It will be observed that by virtue of that section a juvenile court may transfer a case involving a delinquent child who has committed an act defined as a felony, to the court of common pleas for disposition in the same manner as if committed by an adult. The power to transfer such case, however, is wholly discretionary with the juvenile court. It was so held by the Court of Appeals of Richland County, in the case of Leonard, Supt., v. Licker, 3 App. 377, as disclosed by the second branch of the syllabus as follows:

“Section 1681, General Code, is discretionary and not mandatory, and a delinquent child, charged with a felony, may be committed as provided in Section 1652, or recognized to the court of common pleas, subject to the requirements of the general criminal laws of the state, at the discretion of the juvenile judge.”

Section 1681, General Code, referred to in the above syllabus is analogous to and was superseded by section 1639-32, supra (117 O. L. 520, 531), and for that reason the rule set forth therein is applicable at the present time.

The same conclusion was reached by the Common Pleas Court of Geauga County, in the case of State v. Joiner, supra, as stated in the second branch of the syllabus, as follows:

“Where a minor under eighteen years of age is charged with a felony, it is discretionary with the juvenile judge whether he will commit him to the care of a probationary officer or the state

reformatory, or bind him over to the grand jury under the general criminal laws.”

From the foregoing, it is clear that the juvenile court has exclusive jurisdiction over those children under the age of eighteen years who are charged with a violation of the arson statutes; in those cases in which a penitentiary sentence is fixed as a penalty for violation, such court may, at its discretion, refer them to the Common Pleas Court for such disposition as that court is authorized to make for like acts committed by adults.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

727.

DEATH—INDIGENT—WHERE NO PHYSICIAN IN ATTENDANCE—LOCAL HEALTH OFFICER SHOULD SIGN DEATH CERTIFICATE—AUTOPSY—AUTHORIZED ONLY WHERE DEATH SURROUNDED BY UNLAWFUL OR SUSPICIOUS CIRCUMSTANCES—PROSECUTING ATTORNEY—CORONER—ENTITLED TO FEES—WHEN REQUIRED TO SIGN DEATH CERTIFICATE.

SYLLABUS:

1. *Upon the death of an indigent person and where there has been no physician in attendance, the death certificate is signed by the local health officer; if this officer cannot act, the registrar shall make the certificate, and a physician's certificate is not required.*

2. *An autopsy is authorized only in case of death occurring in an unlawful or suspicious manner and upon request of the prosecuting attorney of the county in which the body was found. The coroner is not entitled to fees for performing an autopsy unless the autopsy is so authorized.*

3. *The coroner is not required to sign the death certificate where death is not supposed to have been caused by unlawful or suspicious means.*

COLUMBUS, OHIO, June 9, 1939.

HON. LLOYD JONES, *Prosecuting Attorney, Delaware, Ohio.*

DEAR SIR: I am in receipt of your recent request for my opinion, which reads as follows:

“Upon the death of a person in indigent circumstances and where there has been no physician in attendance, by whom is the