

333.

APPROVAL, NOTES OF AMES-BERN RURAL SCHOOL DISTRICT, ATHENS COUNTY, OHIO—\$16,139.00.

COLUMBUS, OHIO, March 22, 1933.

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

334.

APPROVAL, NOTES OF BARLOW RURAL SCHOOL DISTRICT, WASHINGTON COUNTY, OHIO—\$6,029.00.

COLUMBUS, OHIO, March 22, 1933.

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

335.

APPROVAL, NOTES OF STOKES TOWNSHIP RURAL SCHOOL DISTRICT, LOGAN COUNTY, OHIO—\$13,642.00.

COLUMBUS, OHIO, March 22, 1933.

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

336.

BASTARDY PROCEEDINGS—JUVENILE COURT MAY CALL JURY WHEN.

SYLLABUS:

Juvenile courts may call a jury for the purpose of hearing several different bastardy cases, providing the cases are so far advanced as to enable the court to determine the necessity for a jury in each case.

COLUMBUS, OHIO, March 23, 1933.

HON. DWIGHT CUSICK, *Prosecuting Attorney, New Lexington, Ohio.*

DEAR SIR:—This will acknowledge receipt of your letter of recent date in which you request an opinion as to the following:

“May the probate court, where he has several bastardy cases, try all of said cases with one jury or must a separate jury be drawn for each case?”

Probate courts are without jurisdiction in bastardy cases and it is therefore presumed that you refer to a probate judge who has been selected to act as juvenile judge under favor of Section 1639, General Code. If such is the case, the probate judge so selected, when acting as juvenile judge, has jurisdiction to hear bastardy cases under favor of Section 12115, General Code.

Section 12122 of the General Code provides in part:

“When, before the court to which he is recognized to appear, the accused pleads not guilty of the charge, or, having been recognized, fails to appear, the court shall order the issue to be tried by a jury. * * * *”

Section 1641, General Code, provides for the records, journals and dockets to be kept by juvenile courts and is as follows:

“The clerk of the court of (or) the judge exercising the jurisdiction shall keep an appearance docket and a journal, in the former of which shall be entered the style of the case and a minute of each proceeding and in the latter of which shall be entered all orders, judgments and findings of the court.”

The court, in *The Children's Home of Marion County, et al. vs. Fetter, et al.*, 90 O. S. 110, held in the second branch of the syllabus:

“The probate courts of this state acting as juvenile courts under the provisions of Section 1639 et seq., General Code, are courts of record * * * * *”

It would therefore appear that juvenile courts, which jurisdiction has been conferred upon the probate court of the county, are courts of record and the drawing of a jury in such court would therefore be done in the manner provided for the drawing of juries in courts of record. Section 11419-28 reads as follows:

“At any time, during the term of a court of record the court may order an additional number of jurors to be drawn by the commissioners for the term, or for part of a term, at which the order is made, or for immediate service in a particular case. The order shall specify the number to be drawn, and the time of drawing. The drawing may be made either in open court, under the direction of the judge, or in the ordinary manner prescribed in this act, except that notice of the drawing is not required to be given, provided that the required officers are present. The sheriff shall forthwith notify the jurors so drawn, in the same manner as other jurors are notified, to attend the term, or part of a term, at the time specified in the order, and make due and proper return of the venire with his service thereon. Such return shall be presumptive evidence of the fact of such service.

The provisions of the last two preceding sections apply to the notification of jurors drawn under this section.”

It would therefore appear that a juvenile court which has several cases in said court so far advanced as to be able to determine the necessity of the drawing of a jury to hear the several cases, may provide for the drawing of one jury

to hear the several cases as provided by Section 11419-28, the jury being drawn for the several cases or for a definite time covering such time as will enable the jury to hear the several cases. The time for the hearing would need be arranged so as not to require the continuous sitting of the jury for longer than three weeks as provided by Section 11419-43, General Code.

Respectfully,

JOHN W. BRICKER,

Attorney General.

337.

SPECIAL ASSESSMENTS—CERTIFIED TO COUNTY AUDITOR BY
CLERK OF MUNICIPAL COUNCIL—ENTIRE NUMBER OF ASSES-
MENTS AND AMOUNT CERTIFIED AT ONE TIME.

SYLLABUS:

When special assessments have been levied by a municipality, payable in installments, and bonds, notes or certificates of indebtedness issued in anticipation of the collection thereof, under the provisions of Section 3892, General Code, the clerk of council shall, on or before the second Monday in September each year, certify to the county auditor the entire assessments, stating the amounts of the installments and the years within which said installments are payable.

COLUMBUS, OHIO, March 23, 1933.

HON. FRED W. EVERETT, JR., *Prosecuting Attorney, Jackson, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

“I would like to submit the following question for your consideration and decision:

Under Section 3892 of the General Code where it says ‘the clerk of the council, on or before the second Monday in September, each year, shall certify such assessment to the county auditor,’ etc., is it necessary for the clerk of the council to make said certification each year or will one certification place the duty and obligation on the county treasurer to collect all of said assessment?

The words ‘each year’ following September are rather hard to construe as to whether they refer to the installments of the assessment or whether they refer to the total assessment, but inasmuch as the statute says assessment instead of assessments, I believe that one certification by the clerk of the council is sufficient, but I would like to have your decision in the matter.

The city of W. certified certain street assessments to the county auditor in 1924 and the treasurer has been collecting those assessments up until the present time, but refused to collect same during the past tax collection period.”

Section 3892, General Code, provides as follows:

“When any special assessment is made, has been confirmed by council, and bonds, notes or certificates of indebtedness of the corporation are issued in anticipation of the collection thereof, the clerk of the