

606.

APPROVAL, NOTES OF BUFFALO RURAL SCHOOL DISTRICT, NOBLE COUNTY, OHIO, \$1,192.00.

COLUMBUS, OHIO, April 15, 1933.

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

607.

APPROVAL, NOTES OF RUSH TWP. RURAL SCHOOL DISTRICT, TUSCARAWAS COUNTY, OHIO, \$821.00.

COLUMBUS, OHIO, April 15, 1933.

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

608.

APPROVAL, NOTES OF BIDWELL PORTER RURAL SCHOOL DISTRICT, GALLIA COUNTY, OHIO, \$4,230.00.

COLUMBUS, OHIO, April 15, 1933.

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

609.

APPROVAL, NOTES OF YELLOW CREEK TOWNSHIP RURAL SCHOOL DISTRICT, COLUMBIANA COUNTY, OHIO, \$1,707.00.

COLUMBUS, OHIO, April 15, 1933.

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

610.

DENTAL EXAMINATION—APPLICATIONS FOR LICENSE TO PRACTICE DENTISTRY FILED PRIOR TO EFFECTIVE DATE OF HOUSE BILL NO. 241 NOT AFFECTED THEREBY—PROCEDURE FOR APPLICATION DISCUSSED.

SYLLABUS:

Section 1322, General Code, as amended by House Bill No. 241, does not apply to those persons who file their applications for a license to practice dentistry prior

to the effective date of said act, and as to them, the examination of June, 1933, should be conducted in accordance with the present provisions of said section.

COLUMBUS, OHIO, April 17, 1933.

HON. MORTON H. JONES, *Secretary, Ohio State Dental Board, Columbus, Ohio.*

DEAR SIR:—I acknowledge receipt of your communication which reads as follows:

“On March 23, 1933, Governor White signed H. B. No. 241, which amends certain sections of our dental code. We are informed by the office of Secretary of State that this Bill was filed with the Secretary of State March 24, and that it would become effective June 22, 1933.

One of the amendments made in our dental code is that regarding the subjects for theory examination as held by the Ohio State Dental Board. In this change, certain subjects as formerly named were omitted, and new subjects which we have never before used were added.

The Ohio State Dental Board will hold an examination the fourth week in June, beginning Monday, June 26. The theory part of this examination will be held Thursday, Friday, and Saturday, June 29 and 30, and July 1, which is subsequent to the date of June 22 when the dental law, as amended, becomes effective. We wish to submit the following question to you for your opinion:

‘Will the Ohio State Dental Board conduct their theory examination of June, 1933, in accordance with the old section or in accordance with the new section, which becomes effective June 22, 1933?’

We are asking this at this time in order that due notice may be given to all applicants for examination, regarding the subjects in which examinations will be given.

We would appreciate your consideration of this question.”

Section 26, General Code, reads as follows:

“Whenever a statute is repealed or amended, such repeal or amendment shall in no manner affect pending actions, prosecutions, or proceedings, civil or criminal, and when the repeal or amendment relates to the remedy, it shall not affect pending actions, prosecutions, or proceedings, unless so expressed, nor shall any repeal or amendment affect causes of such action, prosecution, or proceeding, existing at the time of such amendment or repeal, unless otherwise expressly provided in the amending or repealing act.”

As held in the case of *State, ex rel., vs. Zangerle, Auditor*, 101 O. S. 235:

“Section 26, General Code, is a rule of legislative interpretation and is to be construed as a part of any amended act, unless such amendment otherwise expressly provides.”

I find no expression in House Bill No. 241 that it shall apply to pending proceedings.

Sections 1321 and 1321-1, General Code, provide, among other things, that each person who desires to practice dentistry shall file with the Secretary of the Dental Board a written application for a license, together with proof that he has met certain educational requirements. Section 1322, General Code, provides that such an applicant shall appear before the Board at its first meeting after the filing of his application and pass an examination, etc.

As to those who do not make application for an examination prior to the effective date of the new law, the new law would apply, as the right to make the application is not a pending proceeding within the meaning of section 26, General Code. *State, ex rel., vs. Board of Dental Examiners*, 5 C. C. (N. S.) 55, affirmed without opinion, 73 O. S. 376.

As to those who file their application prior to the effective date of the new law, the question arises as to whether such applications and the proofs filed therewith constitute a proceeding within the meaning of said section.

It has been held that the plans of a building commission for the construction of a court house constitute a proceeding within the meaning of section 26, General Code. *State, ex rel., vs. Cass*, 13 C. C. (N. S.) 449, affirmed without opinion, 84 O. S. 443.

It has been held several times by this office that the filing by the county commissioners of an application for state aid under the provisions of former section 1191, General Code, is a proceeding. In Opinions of the Attorney General for 1927, Vol. II, page 1357, the following was held:

"A proceeding is 'pending' within the meaning of Section 26 of the General Code when a board of county commissioners makes application for state aid under the provisions of Section 1191 of the General Code, and such a proceeding may be completed under the present law after the effective date of House Bill No. 67, passed by the Eighty-seventh General Assembly (Edwards-Norton Act)."

This ruling was followed in Opinions of the Attorney General for 1928, Vol. I, page 638; Vol. II, pages 971 and 1196; and Vol. III, page 1921.

In Opinions of the Attorney General for 1929, Vol. II, page 1172, the question arose as to whether the fees prescribed in the securities act, which became effective July 21, 1929, should apply where a corporation filed its application for certification of its stock prior to said date, but the examination under section 6373-16 was not made and the certificate was not issued until after said date. It was held:

"When an application has been filed for a Certificate of Corporate compliance in accordance with the provisions of Section 6373-14, General Code, prior to July 21, 1929, such application constitutes a pending proceeding within the meaning of Section 26, General Code, and the fee to be paid by such applicant for such certificate issued subsequent to July 21, 1929, the effective date of Amended Senate Bill No. 12, should be ten dollars, as provided in Section 6373-16, General Code, as in force and effect prior to July 21, 1929."

In view of the construction that has been placed upon the term "proceeding" as used in section 26, General Code, I am of the opinion that section 1322, General Code, as amended by House Bill No. 21, does not apply to those persons who

file their applications for a license to practice dentistry prior to the effective date of said act, and as to them, the examination of June, 1933, should be conducted in accordance with the present provisions of said section.

Respectfully,

JOHN W. BRICKER,

Attorney General.

611.

APPROVAL, NOTES OF BYRD TWP. RURAL SCHOOL DISTRICT,
BROWN COUNTY, OHIO, \$4,851.00.

COLUMBUS, OHIO, April 17, 1933.

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

612.

APPROVAL, NOTES OF PIERCE TWP. RURAL SCHOOL DISTRICT,
CLERMONT COUNTY, OHIO, \$1,997.00.

COLUMBUS, OHIO, April 17, 1933.

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

613.

APPROVAL, NOTES OF HARRISON RURAL SCHOOL DISTRICT,
GALLIA COUNTY, OHIO, \$3,422.00.

COLUMBUS, OHIO, April 17, 1933.

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

614.

APPROVAL, NOTES OF DOVER TOWNSHIP RURAL SCHOOL DIS-
TRICT, TUSCARAWAS COUNTY, OHIO—\$2,480.00.

COLUMBUS, OHIO, April 17, 1933.

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