

As to the county in which the inquest should be held, whether in the county in which the accident occurred or where the death occurred, the following is found in 13 Corpus Juris, page 1248:

“An inquest is properly held in the territory of the coroner in whose jurisdiction the body is found, without regard to where the death occurred or where the injury was received.”

A number of cases are cited in support of this statement, among them *Moore v. Box Butte County*, 78 Nebr., 561, in which it was held:

“Jurisdiction to hold an inquest is conferred upon a coroner by his finding and custody in his county of the body of a person who has apparently come to his death by violent, mysterious or unknown means, and such jurisdiction is not defeated by the mere fact that the violence was inflicted or the death occurred in another county.”

In the case of *Pickett v. Erie County*, 3 Pa. Co., p. 23:

“An inquest is properly held in the county where the body is found, without regard to where the death occurred.”

The court, on page 74, said:

“The evident meaning and intent of the law is that the coroner’s inquest should be held where the body is found. It must be on view of the remains, and of course it would not be held in their absence, although an inquest should be summoned and made where the death occurred.”

The statutes considered in these cases are much alike our own, and in answer to your second question I am of the opinion that in such cases as you refer to the coroner could not follow the body into the county in which it had been removed and there hold an inquest.

Your third question is, which coroner has jurisdiction over the body and which coroner has the right to hold an inquest in cases where one receives mortal injuries in one county and is removed to another county where he dies as a direct result of said injuries? I take it that you mean in cases where the injuries are the result of an unlawful act. In answer to your third question it is my opinion, from a consideration of the statutes and cases cited under them in the discussion of your second question, that the coroner in whose county the body is found has jurisdiction over the same and should hold the inquest.

Respectfully,

C. C. CRABBE,

Attorney-General.

38.

MOTHERS’ PENSION LAW—JURISDICTION TO ADMINISTER VESTED EXCLUSIVELY IN JUVENILE COURT—OFFICES COMPATIBLE—HUMANE OFFICER—PROBATE OFFICER OF JUVENILE COURT—ATTENDANCE OFFICER—QUESTION OF FACT.

1. *Jurisdiction to administer the mothers’ pension law is vested exclusively in the Juvenile Court and must be exercised by the judge designated to transact the business of said court.*

2. *There is no statutory inhibition against the same person holding the position of humane officer, probation officer of the Probate Court, and county attendance officer. It is a question of fact to be determined in each instance whether it is physically possible for the same person to perform the duties of the three officers.*

COLUMBUS, OHIO, January 31, 1923.

HON. A. C. RISINGER, *Judge Court of Common Pleas, Eaton, Ohio.*

DEAR SIR:—In your letter of January 13, 1923, you request my opinion as to whether or not, as judge of the Common Pleas Court of Preble county, Ohio, you “can retain the mothers’ pension branch of the Juvenile Court law and have Judge Landis, the probate judge of said county, to take over the juvenile jurisdiction apart from said mothers’ pension.”

You also inquire as to “whether the duties of probation officer, humane officer and school attendance officer may all be in one person,” and you state that “such an arrangement would be economical, efficient and generally advantageous, and that the duties are compatible and in many instances coalesce.”

The answer to your first inquiry will depend upon the construction of sections 1683-2 to 1683-10 of the General Code, which define the jurisdiction and the procedure for granting, modifying and discontinuing mothers’ pensions; and also of sections 1639 to 1643, which relate to the powers and jurisdiction of the Juvenile Court.

The provisions of these various sections of the General Code, in so far as they define the jurisdiction and procedure in granting, modifying and discontinuing mothers’ pensions, are as follows:

Section 1683-2. * * * “*The Juvenile Court* may make an allowance to each of such women, etc.

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“Upon the expiration of such period, *said court* may, from time to time, extend such allowance.”

Section 1683-3. * * * “Such allowance may be made by “*the Juvenile Court*.”

“The mother must in the judgment of *the Juvenile Court* be a proper person.”

“Such allowance shall in the judgment of *the court* be necessary.”

“A careful preliminary examination of the home of such mother must first have been made under the direction of *the court*—and a written report of the result of such examination or investigation shall be filed with *the Juvenile Court*, for the guidance of *the court* in making or withholding such allowance.”

Section 1683-4. “*The Juvenile Court* may, in its discretion—discontinue or modify the allowance to any mother and for any child.”

Section 1683-5. * * * “*The Juvenile Court* shall select those cases in most urgent need of such allowance.”

Section 1683-8. “On such motion (to set aside, vacate or modify) *said Juvenile Court* shall hear evidence, and may make a new order sustaining the former allowance, modify or vacate the same.”

“If *the judgment of the Juvenile Court* be sustained or affirmed the person filing such motion shall pay the costs.”

Section 1683-9. * * * "The county auditor shall issue a warrant upon the county treasurer for the payment of such allowance as may be ordered by *the juvenile judge.*"

Section 1683-10. * * * "The board of county commissioners may transfer from any surplus moneys in the county treasury to the credit of any fund therein, to a fund *for the use of the Juvenile Court* under the provisions of sections 1683-2 to 1683-9, inclusive, of the General Code. The moneys so transferred shall be paid as provided in 1683-9 of the General Code upon *the order of the juvenile judge.*"

Under these express provisions of the General Code it is quite evident that jurisdiction in regard to mothers' pensions is granted to the juvenile court exclusively. It then remains to determine what constitutes the Juvenile Court and who may exercise its jurisdiction.

Section 1639 of the General Code provides as follows:

"Courts of Common Pleas, Probate Courts, and insolvency courts, and Superior Courts, where established shall have and exercise, concurrently, the powers and jurisdiction conferred in this chapter. The judges of such courts in each county, at such times as they determine, *shall designate* one of their number to *transact the business arising under such jurisdiction.* When the term of the judge so designated expires, or his office terminates, another designation shall be made in like manner.

In case of the temporary *absence or disability* of the judge so designated another designation shall be made in like manner to cover the period of such absence or disability.

The words, *Juvenile Court*, when used in the Statutes of Ohio shall be understood as meaning the court in which *the judge so designated* may be sitting while exercising such jurisdiction, and the words 'Judge of the Juvenile Court' or 'Juvenile Judge' as meaning such judge while exercising such jurisdiction."

This section gives equal and concurrent jurisdiction to the Common Pleas and Probate Courts in matters coming within the province of the Juvenile Court; and therefore the court first exercising the jurisdiction would have jurisdiction to the exclusion of all others; and the judges of these courts having designated the judge to act as such juvenile judge, the judge or judges of other courts would not have jurisdiction in matters conferred on the judge of the Juvenile Court.

Inasmuch as the power to hear and determine all matters in regard to mothers' pensions is granted exclusively to the Juvenile Court, and as the entire jurisdiction of the Juvenile Court must be exercised by the *one "judge designated* to transact the business arising *under such jurisdiction,"* it necessarily follows that the juvenile judge and he alone is authorized to exercise jurisdiction in regard to mothers' pensions.

In answering your second question, I will state that a former Attorney-General, on April 24, 1915 (Opinions of Attorney-General 1915, Vol. I, page 542), in an opinion rendered to Honorable F. M. Acton, probate judge, Lancaster, Ohio, held that "There is no statutory inhibition against the same person holding the position of humane officer and probation officer of the Juvenile Court."

It is provided by Section 7769-1 of the General Code that:

"With the consent and approval of the judge of the Juvenile Court, a probation officer of the court may be designated as county attendance officer."

As the statute provides that a probation officer of the court may be designated as county attendance officer, and as there is no statutory inhibition against the same person holding the position of humane officer, and probation officer of the Juvenile Court, and as I find no statute prohibiting the combining of the duties of probation officer, humane officer and county attendance officer in the same person, the conclusion is reached that said duties may be combined in the same person unless the offices are incompatible.

As held in the case of *State ex rel, Gebart* 12 O. C. C., (N. S.) at page 275:

"Offices are considered incompatible when one is subordinate to, or in any way a check upon, the other; or when it is physically impossible for one person to discharge the duties of both."

The duties of probation officer, humane officer and county attendance officer, as prescribed by statute, do not conflict in any manner, and neither of said offices are in any way a check upon, or subordinate to the others.

As to whether or not it would be "physically impossible for one person to discharge the duties" of these three offices, will depend upon the circumstances of each particular case, and the requirements of each county.

There is no doubt that, in many of the smaller counties of the state, it would be physically possible and practicable for one person to perform all the duties of these several offices, and as you state in regard to Preble county, that such combination "would be economical, efficient and advantageous."

The conclusions from the foregoing may be summarized as follows:

1. Exclusive jurisdiction to administer the mothers' pension law is vested in the Juvenile Court, and as judge of the Court of Common Pleas, you would be without authority to administer this branch of the law after the designation of the probate judge of your county, as juvenile judge. The jurisdiction of the Juvenile Court may not be thus apportioned; but must be exercised exclusively by the judge designated as juvenile judge.

2. If it is physically possible, in your county, for one person to discharge the duties of humane officer, probation officer of the Juvenile Court, and county attendance officer, in an efficient manner, then there is no legal objection to the same person holding all of these offices at the same time. If it is not physically possible in your county, for one person to discharge all of these duties at the same time, in an efficient manner then, under the law, as quoted above, the offices are incompatible and may not be held by one person at the same time.

Very respectfully,

C. C. CRABBE,
Attorney-General.

39.

APPROVAL, BONDS OF YORK TOWNSHIP RURAL SCHOOL DISTRICT, MEDINA COUNTY, \$8,000, TO CONSTRUCT, REPAIR AND IMPROVE SCHOOL BUILDING.

COLUMBUS, OHIO, January 31, 1923.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.