

OPINION NO. 67-060**Syllabus:**

1. The probate court is required to keep books wherein shall be incorporated the records and data mentioned in Subsections (A) to (O), both inclusive, of Section 2101.12, Revised Code.

2. The probate judge may properly include in one book, provided the same is properly indexed, the dockets mentioned in Subsections (B), (C), (D), (E), (F), (G), (H), (I), (J) and (L) of Section 2101.12, Revised Code.

To: Richard J. Rinebolt, Hancock County Pros. Atty., Findlay, Ohio
By: William B. Saxbe, Attorney General, June 23, 1967

I have before me your request for my opinion which reads in part as follows:

"The most recent enactment of Ohio Revised Code Section 2101.12 referring to the maintenance of books and records by the Probate Court of the County became effective October 25, 1961 and includes Sections A to O inclusive. The Attorney General in 1948 in Opinion Number 3489 in interpreting General Code 10501-15, which is now Ohio Revised Code 2101.12, provided that Sections B, C, D, I and J could all be kept in one book and that another book was required for E, F, G, H, and L. With the enactment of Ohio Revised Code Section 9.01 does the Attorney General's Opinion Number 3489 still apply and can a single docket or a single record be used in connection with B, C, D, E, F, G, H, I, J, and L, it being unquestioned that A, K, M, N, and O must be separate records?"

Section 9.01, Revised Code, formerly Section 32-1, General Code, effective October 11, 1945, to which you refer, provides for the photostating and microfilming of court records. In Opinion No. 1389, Opinions of the Attorney General for 1950, a former Attorney General has stated that Section 32-1, General Code, was not intended to act as a substitute for an original record or document, but was intended to operate as a means of preserving records for safekeeping and of reducing the space required for their storage. I would concur in this interpretation of Section 32-1, supra. Further, since the provisions of Section 32-1, General Code, and Section 9.01, Revised Code, are substantially the same, I am unable to discover how Section 9.01, supra, could affect the manner in which records are to be kept by the Probate Court as prescribed by Section 2101.12, Revised Code.

In Opinion No. 3489, Opinions of the Attorney General for 1948, the then Attorney General was asked whether the records provided for by Subsections 5, 6, 7, 8 and 11 of Section 10501-15, General Code, now Subsections (E), (F), (G), (H), (I) and (L) of Section 2101.12, Revised Code, might be contained in one book; the same question was asked as to records provided for in Subsections 2, 3, 4 and 9 of Section 10501-15, General Code, now Subsections (B), (C), (D) and (J) of Section 2101.12, Revised Code. The questions were answered affirmatively. As you have indicated, no determination was made concerning whether the resulting two books might also have been combined. Turning to the language of Opinion No. 3489, Opinions of the Attorney General for 1948, I find at page 381, the following:

* * * * *

"* * *The statute under consideration merely requires the keeping of the records and data therein enumerated. It is certainly not a sensible view of the matter to say that the law must be so construed as to require separate books when the General Assembly has not so expressly provided and when, in the judgment of the probate judge, it would facilitate matters to have certain records and data in one bound volume instead of two or more bound volumes. Just why the information contained in two separate books could not be consolidated in a single book or volume, if the words are to be used synonymously, does not readily appear.

"In the absence of any language which in specific terms requires the probate court to keep thirteen or more separate books, which, to my way of thinking Section 10501-15, General Code, does not demand, I cannot by inference construe that section as imposing upon the probate court the mandatory duty to keep thirteen or more separate books.* * *"

I concur in the result reached by the former Attorney General and suggest that the same reasoning may be applied to answer the question which you have presented.

Therefore, it is my opinion and you are hereby advised as follows:

1. The probate court is required to keep books wherein shall be incorporated the records and data mentioned in Subsections (A) to (O), both inclusive, of Section 2101.12, Revised Code.
2. The probate judge may properly include in one book, provided the same is properly indexed, the dockets mentioned in Subsections (B), (C), (D), (E), (F), (G), (H), (I), (J) and (L) of Section 2101.12, Revised Code.