

2705.

APPROVAL, BONDS OF VILLAGE OF MOGADORE, SUMMIT COUNTY,
OHIO—\$23,178.03.

COLUMBUS, OHIO, December 22, 1930.

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

2706.

JURISDICTION—CLERK OF COMMON PLEAS COURT, LUCAS COUNTY,
ALSO CLERK OF COURT OF DOMESTIC RELATIONS—RESPECTIVE
DUTIES OUTLINED.

SYLLABUS:

The clerk of the Common Pleas Court of Lucas County is the clerk of the Court of Common Pleas, Division of Domestic Relations, in and for Lucas County; and as such clerk, he is required to keep the records and journals, collect and disburse funds in all cases brought in such court, including cases in which this court exercises jurisdiction as a Juvenile Court in the same manner as these duties are performed for the other branch of the Common Pleas Court of Lucas County.

COLUMBUS, OHIO, December 22, 1930.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—I am in receipt of your letter of recent date, which is as follows:

“A common pleas judge in Lucas County was elected under the provisions of Section 1532-6, General Code. This section provides that the judge so elected shall exercise the same powers and have the same jurisdiction as is provided by law for judges of the court of common pleas. He and his successor shall, however, be elected and designated, as a judge of the court of common pleas, division of domestic relations, and all the powers provided for in Title 4, Chapter 8, of the General Code, relating to juvenile courts, shall be exercised in Lucas County by such judge of said court of common pleas, and on and after the appointment of such judge, there shall be assigned to said judge and his successor, elected or appointed in pursuance of this act, all cases under the juvenile court act, all bastardy cases, and all divorce and alimony cases in said county.

Question: Is the clerk of the courts of Lucas county the clerk for this court, and is he required to keep the records for such court and receive and disburse all moneys paid in to the court as he is required to do for the regular common pleas court?”

On April 4, 1923, the 85th General Assembly passed an act entitled: “An Act to supplement Section 1532 of the General Code, by the enactment of supplemental Section 1532-6, General Code, creating a Division of Domestic Relations of the Common Pleas Court for Lucas County.” (110 O. L. 157). Section 1532-6, Gen-

eral Code, in its present language, is the same as it was when it was originally enacted, and reads as follows :

“From and after the passage and taking effect of this act, there shall be one additional judge of the court of common pleas in and for Lucas County, who shall reside therein.

Such additional judge shall be elected in 1924 and every six years thereafter, for a term of six years, commencing on the first day of January, next after his election. Vacancies occurring in the office of such additional judge in Lucas County shall be filled in the manner prescribed for the filling of vacancies in the office of judge of the court of common pleas.

He shall have the same qualifications and shall receive the same compensation as is provided by law for the judges of the court of common pleas in Lucas County. He shall exercise the same powers and have the same jurisdiction as is provided by law for judges of the court of common pleas. He and his successors shall, however, be elected and designated as a judge of the court of common pleas, division of domestic relations, and all the powers provided for in title four, chapter eight, of the General Code, relating to juvenile courts, shall be exercised in Lucas County by such judge of said court of common pleas, and on and after the appointment of such judge, there shall be assigned to said judge and his successors, elected or appointed in pursuance of this act, all cases under the juvenile court act, all bastardy cases and all divorce and alimony cases in said county. And whenever said judge of the court of common pleas, division of domestic relations, shall be sick, absent, or unable to perform his duties, the duties of said office shall be performed by another judge of the court of common pleas of said county, assigned for said purpose, according to law.”

You will note that this section provides that after the passage and taking effect of this act there shall be an additional judge of the Court of Common Pleas for Lucas County, and it is further provided in the act that when said judge shall be sick, absent or unable to perform his duties the duties of the office shall be performed by *another judge of the Common Pleas Court of Lucas County*.

It appears from a reading of the act creating an additional judge in Lucas County that such judge is constituted a judge of the Common Pleas Court. The judge of the Court of Common Pleas, Division of Domestic Relations of Lucas County is authorized to exercise all powers provided in Title 4, Chapter 8 of the General Code, relating to juvenile courts, and it is further provided that all cases under the Juvenile Court, all bastardy cases, and all divorce and alimony cases in Lucas County shall be assigned to said judge. Title 4, Chapter 8 of the General Code, includes Sections 1639 to 1683-10, of the General Code, which sections relate to the Juvenile Court. The term “Juvenile Court” as used in the statutes of Ohio relating to Juvenile Courts does not signify a separate and distinct court. The term is used to designate a certain jurisdiction which may be exercised by the Common Pleas Court, Probate Court and Court of Insolvency as determined by statutes controlling the question. This conclusion was reached by me and the reasons therefor fully discussed in Opinion No. 2486 rendered to your Bureau under date of October 29, 1930. See also Opinion No. 25 issued to the State Civil Service Commission of Ohio under date of January 25, 1929.

In view of the conclusions reached by me in the two former opinions cited herein, I have no difficulty in arriving at the conclusion that the Court of Common Pleas, Division of Domestic Relations of Lucas County, when exercising jurisdiction as a “Juvenile Court” does so in the capacity of a judge of the Common Pleas Court.

There is nothing in the provisions of Section 1532-6, of the General Code, which makes any reference as to who should keep the records and disburse the funds of the Court of Common Pleas, Division of Domestic Relations of Lucas County, Ohio. Since the act, itself, makes no express provision as to who should perform the duties of the clerk of such court and I have concluded that the Court of Common Pleas, Division of Domestic Relations of Lucas County, when exercising jurisdiction of a Juvenile Court or any other jurisdiction, does so in the capacity of a judge of the Common Pleas Court, it necessarily follows that the statutes dealing generally with Common Pleas Courts relative to the keeping of dockets, entering of judgments, orders and decrees of the court and collection and distribution of moneys paid into such court will apply.

Section 2867 and other related sections provide for the election of a clerk of the Common Pleas Court and set forth the duties of such clerk with respect to the keeping of records, books, making entries, etc. These sections are applicable to the Court of Common Pleas, Division of Domestic Relations of Lucas County, as well as to the other branch of the Common Pleas Court of this county.

Directing your attention at this point to Section 1641, of the General Code, which relates to Juvenile Courts, in this section it is provided that the clerk of the court shall keep an appearance docket and a journal in the form of which shall be entered the style of the case and the minutes of each proceeding, and in the latter of which shall be entered all orders, judgments and findings of the court. I do not believe that any implication can arise from the provisions of this section which authorizes some other clerk than the clerk of the Common Pleas Court to keep the dockets and journals of the Common Pleas Court, Division of Domestic Relations, when such court is exercising jurisdiction in juvenile matters.

It appears to me that the clerk of the Court of Common Pleas in Lucas County is the clerk of the Court of Common Pleas, Division of Domestic Relations, and acts as such clerk in all matters relating to the Courts of Common Pleas, Division of Domestic Relations, including the keeping of records, dockets, journals, collection and disbursement of funds in cases in which the Court of Common Pleas, Division of Domestic Relations of Lucas County exercises jurisdiction as a "Juvenile Court."

In view of the discussion herein, and in specific answer to your inquiry, I am of the opinion that the clerk of the Common Pleas Court of Lucas County is the clerk of the Court of Common Pleas, Division of Domestic Relations, in and for Lucas County; and as such clerk, he is required to keep the records and journals, collect and disburse funds in all cases brought in such court, including cases in which this court exercises jurisdiction as a Juvenile Court in the same manner as these duties are performed for the other branch of the Common Pleas Court of Lucas County.

Respectfully,
GILBERT BETTMAN,
Attorney General.