OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable Bowlen Bond
County Attorney
Freestone County
Teague, Texas

Dear Mr. Bond:

Opinion No. O-7304

Re: Conflict of jurisdiction of a delinquent child.

Your request for an opinion from this department is as follows:

"On July 9, 1946, Joice Hawkins and James Lee Terry, ages 16 and 18, respectively, both of whom reside in Limestone County, Texas, committed a burglary of the Southern Pacific Railway Station at Wortham, in Freestone County; subsequent thereto on the same night, these boys committed two burglaries in Mexia, Limestone County, Texas. They were apprehended by the peace officers of Limestone County, both making a voluntary statement of the burglaries in Freestone and Limestone Counties. On a petition duly filed in the County Court of Limestone County, sitting as a Juvenile Court, alleging one of the burglaries in Limestone County, each of the boys were on the 13th day of July, 1946, adjudged to be a delinquent child, and disposition made of each of them by committing the custody and control to individuals in Limestone County. I am informed that the judgment of the court, a copy of which I have not been furnished, committed each of these boys until they became 21 years of age.

"No action has been taken against the boys in Freestone County.

"Section 5, Art. 2338-1, Vernon's Annotated Statutes, as amended, provides in part:

NO COMMUNICATION IS TO BE CONSTRUED AS A DEPARTMENTAL OPINION UNLESS APPROVED BY THE ATTORNEY GENERAL OR FIRST ASSISTANT

"'When jurisdiction shall have been obtained by the court in the case of any child, such child shall continue under the jurisdiction of the court until he becomes twenty-one (21) years of age, unless discharged prior thereto; such continued jurisdiction shall, however, in no manner prejudice or constitute a bar to subsequent or additional proceedings against such child under the provisions of this Act.'

"Section 6 of Art. 2338-1, of said Act provides in part:

"'The Juvenile Court having jurisdiction of a child may transfer the case to the Juvenile Court of the County in which the child is presently residing, and shall send transcript of records of the Judge of the other court, which shall be filed in the office of the clerk of such court".

"Question: After the adjudication of a child to be a delinquent child in the Juvenile Court in one County, committing the child until he becomes 21 years of age, does the Juvenile Court of another county acquire jurisdiction of such child upon a petition filed subsequent to the adjudication in the former county, based on felonious acts committed in the latter county prior to the adjudication in the former county?'

It is the opinion of this department your question should be answered in the negative.

Section 5 Article 2338-1 Revised Civil Statutes (Vernon's Annotated Statutes), which you quote, emphatically states that when jurisdiction shall have been obtained by the court in the case of any child, "such child shall continue under the jurisdiction of the court until he becomes twenty-one years of age, * * *."

It will be observed this jurisdiction which abides for the time stated is over the child, not the particular offense or act with which the child is charged. It is a well-settled principle of law in this State, that where a court of competent jurisdiction first acquires jurisdiction of the subject matter, it has exclusive jurisdiction thereof to the end of the proceeding. Cleveland v. Ward, 285 S. W. 1063.

Our conclusion is compelled by the subject or purpose stated in the title to Senate Bill No. 44, the Act in question, as follows:

> "An Act, the purpose of which is to change the method for handling delinquent children from the present criminal procedure to guardianship in order to secure for each child coming within the Act such care, guidance and control as will serve the child's welfare and best interest of the State; * * *."

The latter portion of Section 5, authorizing subsequent or additional proceedings against such child is not at all inconsistent with the construction we have given, but is subordinate thereto, and such subsequent or additional proceedings should be instituted in the court having exclusive jurisdiction; or, if such additional proceeding should be instituted in another court, it would be removed upon proper plea of pending suit to the court having first acquired jurisdiction. (Cleveland v. Ward, supra).

Very truly yours

ATTORNEY GENERAL OF TEXAS

APPROVED JUL 26 1948

FIRST ASSISTANT
ATTORNEY GENERAL

By Ocie Speer
Ocie Speer
ASSISTANT

OS-MR

APPROVED
OPINION
COMMITTEE
BY BWM
CHAIRMAN