

1319.

MOTHER'S PENSION—RESIDENT OF LESS THAN YEAR IN ONE COUNTY ENTITLED TO ALLOWANCE IN THAT COUNTY WHEN SHE PREVIOUSLY RESIDED TWO YEARS IN ANOTHER COUNTY.

*SYLLABUS:*

*Under the provisions of Section 1683-2, General Code, when a mother and children have resided for more than two years continuously in one county of the state prior to a residence of less than one year in another county of the state, she may be granted an allowance in the county in which she last resides if she is in all other respects qualified and entitled to a mother's pension.*

COLUMBUS, OHIO, December 21, 1929.

HON. DAVID CREGER, *Prosecuting Attorney, Upper Sandusky, Ohio.*

DEAR SIR:—Acknowledgment is made of the communication signed by yourself and Hon. Alfred Donithen, Prosecuting Attorney of Marion County, which reads:

"I am submitting for your opinion, a question arising from the adverse interpretation of the Mother's Pension Law by the Probate Judges of Wyandot and Marion Counties. The question is as follows:

"Ruth Freshnour, who before her marriage in May, 1920, lived in Wyandot County with her parents and upon her marriage moved with her husband to Virginia until the fall of 1920, when they moved to Marion County, Ohio, where two children were born and where the family lived continuously until November 6, 1928, when the husband and father died. On November 28, 1928, Mrs. Freshnour moved to Wyandot County with her children and has been living there ever since. Mrs. Freshnour received a mother's pension from Marion County for the months of February, March and October, 1929.

Should, under the provisions of 1683-2, of the General Code, which reads in part "and such mothers and children have a legal residence in any county of the state for two years", Marion or Wyandot County's Juvenile Court make the allowance to Mrs. Freshnour, she being deserving of such'."

The identical question which you present was under consideration by the Attorney General in an opinion found in Opinions of the Attorney General for the year 1916, page 1549, wherein it was held, as disclosed by the syllabus, that:

"The residence of a mother and her children for three years in one county of this state immediately prior to a residence of one month in another county of this state meets the requirement of Section 1683-2 G. C., 103 O. L., 877, as to the mother and children having a legal residence in any county for two years, and if in all other respects qualified, the mother may be granted an allowance under said section in the latter county."

The conclusion of said opinion was based upon, among others, an opinion of the Attorney General found in the Report of the Attorney General for the year 1914, page 921, and an opinion found in the Opinions of the Attorney General for the year 1915, page 2368.

From the foregoing it appears that that part of Section 1683-2, General Code, requiring one to reside in some county of the state for a period of two years before being eligible to apply for a pension has reference to establishing a residence in some county within the state before being eligible to apply for a pension but does not require

such residence to be established in the county in which the mother makes application.

Upon consideration I concur in the holdings of my predecessors hereinbefore referred to and you are accordingly advised that under the state of facts presented in your communication, it is my opinion that the party about whom you inquire, if in all other respects qualified, may be granted an allowance under Section 1683-2, General Code, in Wyandot County.

The conclusion I have herein reached is in accord with my opinion No. 810 rendered to Hon. J. R. Pollock, prosecuting attorney, under date of August 29, 1929.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

1320.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND J. W. WEEKS, DAYTON, OHIO, FOR CONSTRUCTION OF DAM NO. 2 AT MT. GILEAD, OHIO, FOR DEPARTMENT OF AGRICULTURE, AT AN EXPENDITURE OF \$20,244.05—SURETY BOND EXECUTED BY THE SOUTHERN SURETY COMPANY.

COLUMBUS, OHIO, December 23, 1929.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by the Department of Public Works, for the Department of Agriculture, Division of Fish and Game, and J. W. Weeks of Dayton, Ohio. This contract covers the construction of Dam No. 2, located at Mt. Gilead, Morrow County, Ohio, for the Department of Agriculture, Division of Fish and Game, Columbus, Ohio, and calls for an expenditure of twenty thousand two hundred and forty-four and 5/100 dollars (\$20,244.05).

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. You have also furnished evidence to the effect that the consent and approval of the Controlling Board to the expenditure has been obtained as required by Section 11 of House Bill 510, of the 88th General Assembly. In addition, you have submitted a contract bond upon which the Southern Surety Company of New York appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the workmen's compensation have been complied with.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other data, submitted in this connection.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*