

I believe that the question of whether or not there was a valid common law marriage should be ascertained by the Court and not by this office, since it would be difficult to give an unequivocal answer to such question from the facts presented in your inquiry.

It was held with respect to common law marriages in the case of *Lumas vs. Lumas*, 26 O. App. 502, 160 N. E. 480, that where parties lived together in illicit relationship before the plaintiff procured a divorce that it was presumed their living together thereafter continued to be illicit and such cohabitation shows no relation on which the common law marriage might be predicated. In the case of *Dirion vs. Brewer, Admr.* 20 O. App. 298, 151 N. E. 818, a suit concerning the legitimacy of a child, the court held that when the parties agreed to live together as husband and wife and followed that by cohabitation, irrespective of the illicit relation which may have started their relationship, it would constitute a common law marriage. See also *Umbenhower vs. Labus*, 85 O. S. 238, and a recent more liberal decision, *Industrial Commission of Ohio vs. Miller* in an unreported opinion of the Court of Appeals of Mahoning County, being case No. 2137, decided December 5, 1934, the motion to certify being overruled on February 21, 1935 in case docketed No. 25176.

However, in answer to your question it is my opinion that the mother of children born in a common law marriage relationship is eligible to receive a mother's pension if all other requirements of law are met. The question of whether or not a valid common law marriage was entered into should be determined by the Court.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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4076.

APPROVAL, CERTIFICATE OF AMENDMENT TO THE ARTICLES OF INCORPORATION, OF THE AMERICAN INSURANCE UNION, INC.

COLUMBUS, OHIO, MARCH 20, 1935.

*Hon. George S. Myers, Secretary of State, Columbus, Ohio.*

DEAR SIR:—I have examined the certificate of amendment to the articles of incorporation of the American Insurance Union, Inc., which has been submitted to me for my approval, and finding the same not to be inconsistent with the Constitution or laws of the United States, or of the State of Ohio, I have endorsed by approval thereon.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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4077.

APPROVAL, TWO CERTAIN DEEDS TO LAND IN MILTON TOWNSHIP, JACKSON COUNTY, OHIO, KNOWN AS "BUCKEYE FURNACE", EXECUTED BY EARL E. RAIS AND S. H. SQUIRE, SUPT. OF BANKS, ACT-

ING ON BEHALF OF OHIO STATE BANK OF WASHINGTON C. H.,  
OHIO.

COLUMBUS, OHIO, MARCH 21, 1935.

*The Ohio State Archaeological and Historical Society, The Ohio State Museum,  
Columbus, Ohio.*

GENTLEMEN:—This is to acknowledge the receipt of your recent communication, submitting for my examination and approval, two certain deeds executed to your Society by Earl E. Rais and by S. H. Squire, Superintendent of Banks of the State of Ohio, respectively.

By the first deed here referred to, there is conveyed to the Society 97.22 acres of land in Milton Township, Jackson County, Ohio, which tract constitutes a part of the site of "Buckeye Furnace" one of the pioneer charcoal iron furnaces which played a part in the early industrial development of this state. By the other deed there are conveyed to your Society 178 acres of land which were lately owned and held by the Ohio State Bank at Washington Court House and which are now sold and conveyed to you by the Superintendent of Banks under statutory authority, as a part of the liquidation by him of said bank. This last tract of land, as well as the first, constitutes a part of the original site of said "Buckeye Furnace."

Under the provisions of Section 10198-1, General Code, your society is authorized to acquire lands which are the site of any historic event, building or structure, or which are the site of any historic occupation. It appears that this particular furnace was one of a number of furnaces of like kind, which had an important part in the early industrial development of this part of the state; and, for this reason, this furnace may be said to be an object of historical interest from an economic and industrial standpoint. I am of the opinion, therefore, that the Ohio State Archaeological and Historical Society is authorized to acquire the lands here in question and to maintain the same as the site of this historical structure.

When my attention was first called to the deeds above referred to, by which this property is conveyed to your society, I called your attention to the fact that these deeds following the form of prior deeds in the chain of title of the respective tracts of land conveyed, made such reservations of coal and other minerals that might be in these lands as, if acted upon, might have the effect of destroying improvements which you might desire to make on this land. With respect to this observation made by me as to the possible effect of these reservations, you have submitted copies of communications which you have received from Mr. Wilbur Stout, State Geologist and Mr. Frank C. Morrow, of Wellston, Ohio, in each of which communications it is stated that it is quite improbable that any action will be taken under these reservations which will in any wise affect the immediate site of "Buckeye Furnace" or any improvements that you may make on the lands which are the site of such furnace. In this situation, I do not feel that I should disapprove these deeds by reason of the reservations therein above referred to, and this for the reason that you are in a better position to determine the ultimate effect of such reservations than I am. In this view, and finding that these deeds have been executed and acknowledged in the manner provided by law, the same are hereby approved, as is evidenced by my approval endorsed upon these deeds.

I am herewith returning the deeds above referred to, as well as the other files submitted.

Respectfully,  
JOHN W. BRICKER,  
*Attorney General.*