cannot be fairly presumed that the legislature intended this ground of suspension or revocation to work retroactively. As stated in 2 Lewis' Sutherland Statutory Construction, page 1157:

> "The general rule is that statutes will be construed to operate prospectively only, unless an intent to the contrary clearly appears. It is said 'that a law will not be given a retrospective operation, unless that intention has been manifested by the most clear and unequivocal expression.'"

The legislature has recognized that laws to be given a retroactive effect should be worded that way very clearly.

Section 1343-2, General Code, before its repeal by the new Embalmers' and Funeral Directors' Act read as follows:

> "The state board of embalming examiners may revoke and void a license obtained by fraud or misrepresentation, or if the person named therein uses intoxicants or drugs to such a degree as to render him unfit to practice embalming, or has been convicted of a felony *prior or subsequent* to the date of his license, such revocation may be vacated, reversed or set aside for good cause shown at the discretion of the board, nor shall anything in this act apply to any person who has matriculated in an embalming college recognized by the Ohio state board of embalming examiners, prior to the passage of this act."
>
> (Italics the writer's.)

It is significant to point out that the applicants for certificates of registration without examination were not asked to state in their applications whether or not they had previously been convicted of a felony. Hence, no question of misrepresentation in the securing of a license is presented.

Without further extending this discussion, it is my opinion in specific answer to your question that the State Board of Barber Examiners is without authority to suspend or revoke a license of a barber because of the fact that he has been convicted of a felony prior to September 28, 1933, in the absence of a showing of misrepresentation in the original application for such license.

Respectfully,
JOHN W. BRICKER,
Attorney General.

2380.

LEGAL SETTLEMENT—ACQUIRED BY WOMAN MARRYING PERSON HAVING LEGAL SETTLEMENT IN COUNTY REGARDLESS OF HER PERIOD OF RESIDENCE IN SUCH COUNTY—BLIND RELIEF.

SYLLABUS:

Where a woman marries a person who has a legal settlement in a county, she thereby acquires by her marriage such legal settlement without living therein for twelve consecutive months.

COLUMBUS, OHIO, March 16, 1934.

HON. LYMAN R. CRITCHFIELD, JR., *Prosecuting Attorney, Wooster, Ohio.*

DEAR SIR:—I am in receipt of your communication which reads as follows:

> "I would appreciate your opinion upon the following proposition:
>
> A woman who is blind and who is a resident of this County receiving a blind pension, marries a man who is a resident of another County who also is blind and receiving a blind pension from the County of his residence. They live in the County in which the husband has a legal settlement but have only been married and residing there a few months.
>
> The County of which the husband is a resident believes that under the law, Section 2966 of the Code and other sections relating to blind pensions, that this county must continue to pay a blind pension to the wife and that they are not obligated to do so.
>
> The question of law involved, as I see it, is whether or not under our statutes this woman who is a resident of this county, by marrying a resident of another county, obtains a legal settlement in the other county?"

I call your attention to my opinion rendered August 29, 1933, which held as disclosed by the syllabus:

> "County commissioners may not refuse a new grant of blind relief under Sections 2966 and 2967, General Code, merely for the reason that such blind person has moved to another county and there resided for a period of more than one year without obtaining a legal settlement."

The case you present in your statement of facts is an unusual one inasmuch as under ordinary circumstances a person receiving blind relief from a particular county even though he moves to another county and there resides for a period of more than a year, would not ordinarily obtain a new legal settlement in the latter county. Section 2965, General Code, provides:

> "Any person of either sex who, by reason of loss of eyesight, is unable to provide himself with the necessities of life, who has not sufficient means of his own to maintain himself, and who, unless relieved as authorized by these provisions would become a charge upon the public or upon those not required by law to support him, shall be deemed a needy blind person."

Section 2966 provides as follows:

> "In order to receive relief under these provisions a needy blind person must become blind while a resident of this state, and shall be a resident of the county for one year."

Although the term "resident" is used in this latter statute, I call your attention to my opinion referred to supra, which states:

"The phrase 'shall be a resident of the county for one year' in Section 2966, General Code, has the same significance as the term 'legal settlement' in the statutes relating to the general administration of poor relief."

Section 2967, General Code, provides inter alia:

"At least ten days prior to action on any claim for relief hereunder, the person claiming shall file with the board of county commissioners a duly certified statement of the facts bringing him within these provisions. * * * No certificate for qualification of drawing money hereunder shall be granted until the board of county commissioners shall be satisfied by a certificate from a registered physician stating the extent to which the applicant's vision is impaired, and giving his opinion as to the possibility of correcting the impairment by proper procedure; and from the evidence of at least two reputable residents of the county, that they know the applicant to be blind and that he has the residential qualifications to entitle him to and that he is in need of the relief asked. * * * If the board of county commissioners be satisfied that the applicant is entitled to relief hereunder, said board shall issue an order therefor in such sum as board finds needed, not to exceed four hundred dollars per annum, to be paid quarterly from the funds herein provided on the warrant of the county auditor, and such relief shall be in place of all other relief of a public nature; provided, however, that where a husband and wife are both blind, and both have made application for blind relief as herein provided, the total relief given by said county commissioners to such husband and wife shall not exceed six hundred dollars per annum, and such relief shall be in place of all other relief of a public nature, to which such husband and wife or either of them, might be entitled as a blind person."

In a former opinion of this office, Opinions of the Attorney General for 1915, Vol. 2, p. 1432, it was held as disclosed by the syllabus:

"Relief under the blind relief laws, Section 2962-2970, inclusive, of the General Code, can only be rendered by the county *charged with the support of the applicant under the poor laws of this state.*"

It is also stated in this opinion at p. 1432:

"* * * He (referring to the blind person in question) must be a pauper, and therefore a charge upon the County in which he has a *legal settlement,* which said County must discharge its duty to support him by granting him blind relief."

The question therefore, narrows itself down to whether or not the woman in question who married a person having a legal settlement in another county and has there resided with him for a period of only a few months obtained a new legal settlement in the county wherein she is now residing with her husband. I call your attention to the case of *Board of Commissioners of Summit County* vs. *Board of Commissioners of Trumbull County,* 116 O. S. 663, which held as disclosed by the syllabus:

"When the parents of minor children are divorced, and the jury

gives to the mother the sole and exclusive care, custody and control of the minor children, the legal settlement of the mother thereby becomes the legal settlement of the minor children; and when the mother thereafter, acting in good faith, moves to another county, taking the minor children with her, and intending to make the latter county the permanent home of herself and her minor children as well and, pursuant thereto, the mother acquires a legal settlement in the county to which she thus moves, the minor children thereby acquire, through their mother, a legal settlement in the same county."

The facts of this case were substantially as follows: A mother and her eight minor children had a legal settlement in the City of Warren, Trumbull County. The mother divorced her husband and was granted the sole and exclusive care, custody and control of the children. She then moved with her eight children to Cuyahoga Falls in Summit County, with the intention of making that her home and the home of her minor children. Her purpose for going to Summit County was to marry one N. T. and the making her home with N. T. permanently in that county. She and her children lived in that county for approximately two months and then she and N. T., who had a legal settlement in Cuyahoga Falls in Summit County, were married. About a month and a half later N. T. deserted the mother and her children and the question of the county of their "legal settlement" arose.

It was stated at page 667 of this opinion:

"It is conceded in argument in this court that the mother acquired a legal settlement by her removal to Summit County with the intention to remain there permanently, and being supported there by Tyler for three months after her arrival.

We have no difficulty in reaching the conclusion, under the facts in this case, that the mother acquired a legal settlement in Summit County, nor have we any hesitancy in reaching the conclusion that that settlement constituted a legal settlement there of the minor children whom she took with her and kept with her in Summit County."

Although Section 3477, General Code, relative to "legal settlement", was amended after this case to its present form in 112 O. L. 157, still it is my view that this amendment has not changed the Ohio law in this respect. This section now reads:

"Each person shall be considered to have obtained a legal settlement in any county in this state in which he or she has continuously resided and supported himself or herself for twelve consecutive months, without relief under the provisions of law for the relief of the poor, or relief from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief."

I call your attention to Opinions of the Attorney General for 1929, Vol. I, page 420, which stated at page 424:

"It appears in the above case (referring to *Board of Commissioners*

of Summit County vs. *Board of Commissioners of Trumbull County, supra),* that the mother and children, the status of whom was in question, had resided in Summit County for a very brief period. The mother, however, had in the meantime been married to a man, who at the time of marriage, was possessed of a 'legal settlement' in Summit County, and the court held, as will be noted, that by virtue of the marriage the mother acquired through her husband a 'legal settlement' in Summit County. * * * "

I also call your attention to my opinion No. 1518, rendered September 6, 1933, which held as disclosed by the second branch of the syllabus:

"Where a woman marries a person who has a legal settlement and residence in a county, she thereby acquires by her marriage such legal settlement and residence without living therein for twelve consecutive months without charitable relief."

The above opinion was rendered on authority of the case of *Board of Commissioners of Summit County* vs. *Board of Commissioners of Trumbull County, supra.*

An opposite conclusion to that of Opinion No. 1518 might lead to great hardship if a woman did not by her marriage acquire the legal settlement of her husband, inasmuch as a particular county might be charged with the relief of the husband while another county might be charged with the relief of the wife and much confusion would inevitably result.

Section 3484-1, General Code, provides:

"If a person requiring relief whose legal settlement has been ascertained to be in some other county of the state refuses to be removed thereto, pursuant to section 3482 or to section 3484 of the General Code, on complaint being made by the officer whose duty it is to remove him, the probate judge of the county in which the person is found shall issue a warrant for such removal. In addition to all other proceedings for the removal of a person requiring relief to another county of the state wherein his legal settlement may be, the township trustees or the proper officers of the municipal corporation in which a person requiring public relief is found or resident taxpayer of the county may institute proceedings in the probate court of such county to determine the legal settlement of such person and procure his removal thereto. Such proceedings shall be by petition which shall be sufficient if it states the facts required by section 3481 of the General Code to be ascertained. The county commissioners of the county in which such person is alleged to have a legal settlement shall be made parties and summons issued to them as in civil actions. The proceedings may be set down for hearing at any time after the return day of the summons and shall be deemed at issue without further pleading. If upon the evidence the person is found to require public relief or support and that he is legally settled in the township and county alleged in the petition a warrant for his removal to said county shall be issued by the probate judge and judgment shall be rendered for costs and all charges and expenditures for

which the commissioners of said county shall be liable by virtue of notice similar to that provided for in sections 3482 and 3483 of the General Code, which notice for the purpose of action herein provided for may be given by a board, officer or person authorized to bring such action."

If the opposite conclusion were reached with respect to the legal settlement of a wife by virtue of the above section, if strictly construed, a wife might be separated from her husband and the family broken up by such legal proceedings. It is not thought that the legislative intent in enacting Sections 3477, et seq., was ever to produce such dire consequences.

Consequently, it is my opinion that where a woman marries a person who has a legal settlement in a county, she thereby acquires by her marriage such legal settlement without living therein for twelve consecutive months.

Respectfully,
JOHN W. BRICKER,
Attorney General.

2381.

BEER—LOCAL OPTION PROVISIONS OF SECTION 19 OF AMENDED SUBSTITUTE SENATE BILL NO. 346 NOT NULLIFIED BY REPEAL OF SECTION 20 OF AMENDED SUBSTITUTE SENATE BILL NO. 346 IN SECTION 63 OF OHIO LIQUOR CONTROL ACT—MANNER OF SUBMITTING QUESTION TO ELECTORATE.

SYLLABUS:

The local option provisions of section 19 *(section* 6212-62, *General Code) of Amended Substitute Senate Bill No.* 346 *were not nullified by the repeal of section* 20 *(section* 6212-63, *General Code) of Amended Substitute Senate Bill No.* 346 *in section* 63 *of the Ohio Liquor Control Act, inasmuch as section* 6212-63, *General Code, was reenacted in the latter act.*

In holding a local option election in reference to the sale of beer, as provided in section 6212-62, *General Code, the question should be put to the electorate in the following manner "Shall the sale of beer as defined in section* 6212-63, *General Code, be permitted within the district", etc.*

COLUMBUS, OHIO, March 16, 1934.

HON. HOWARD S. LUTZ, *Prosecuting Attorney, Ashland, Ohio.*

DEAR SIR:—This will acknowledge your letter of recent date which reads:

"The question has arisen as to whether a local option vote on the sale of 'beer' as defined in former G. C. 6212-63 and as now defined in Section 1 of House Bill No. 1 passed by the 90th General Assembly in Special Session on Dec. 22, 1933, approved by the Governor and filed in the office of the Secretary of State on Dec. 23, 1933, can be had in view of the fact that former G. C. 6212-63 was repealed by Section 63 of said House Bill No. 1 and the reading of G. C. 6212-62 which was not repealed.