Section 4747, General Code, reads:

"The board of education of each city, exempted village, village and rural school district shall organize on the first Monday in January after the election of members of such board. One member of the board shall be elected president, one as vice-president and a person who may or may not be a member of the board shall be elected clerk. The president and vice-president shall serve for a term of one year and the clerk for a term not to exceed two years. The board shall fix the time of holding its regular meeting."

Your question then resolves itself into a determination of whether or not the fact that a member of a board of education is appointed as vice-president of the board will contradict the express authority conferred by Section 4728, supra, for a member of a local board of education to become a member of a county board.

An examination of tne statutes pertinent to your question impels the conclusion that no substantial powers or duties are imposed upon a member of a local board of education by designating him as vice-president of such board, which would tend to inhibit such vice-president from properly performing the duties as a member of the county board of education. His powers and duties as a member of such board remain the same and his appointment and action as such officer are merely in compliance with Section 4747, above quoted, and are for the purpose of conducting the procedure of the board in an orderly manner.

I am, therefore, of the opinion that under the authority of Section 4728, General Code, a vice-president of a board of education of a rural school district may be appointed as a member of the county board of education and occupy both positions concurrently.

Respectfully,

GILBERT BETTMAN,

Attorney General.

3273.

DEPENDENT CHILDREN—DETERMINATION OF THEIR LEGAL SETTLEMENT—SPECIFIC CASE.

SYLLABUS:

Legal settlement of minor children whose parents are divorced, discussed.

COLUMBUS, OHIO, May 28, 1931.

HON. RAYMOND E. LADD, *Prosecuting Attorney, Bowling Green, Ohio.*

DEAR SIR:—Acknowledgment is made of your communication, which reads:

"The question has arisen between Crawford and Wood Counties as to whether Crawford County is not compelled by law to accept three minor children for care and support.

The facts are as follows:

In the year 1929 C. J. L. and M. L., husband and wife, with their

four minor children, moved from Wood County to Wyandot County and later on moved to Crawford County. In April, 1930, the wife, M. L., established herself, with her four minor children, at Galion, in Crawford County, and applied for a divorce from her husband, C. J. L. On August 27, 1930, she returned three of the four children to the maternal grandparents in Wood County, keeping one of the children with her.

On the 22nd day of November, 1930, she was granted a divorce from her husband, C. J. L., on the ground of gross neglect of duty, by the Common Pleas Court of Crawford County, and she was given the exclusive custody and control of all four minor children.

On March 1st, 1931, the paternal grandparents of the three children, being in indigent circumstances, applied to the Wood County Juvenile authorities for aid, and financial help was rendered for the months of March and April, but the children were never made wards of our Juvenile Court. The assistance rendered was therefore unauthorized by law. The Wood County Juvenile authorities stopped further assistance on May 4th, 1931, and the grandparents are unable to support said children.

The mother who has obtained a legal residence and divorce in Crawford County, made demand on the Crawford County Juvenile authorities, she being in indigent circumstances, to take and care for said minor children. All four children are now in Crawford County.

The Crawford County Juvenile authorities are willing to care for the one child which has remained with the mother, but refuse to accept liability for the three children who resided with the grandparents in Wood County, claiming their residence is in Wood County, and that the Wood County authorities must care for and support them.

I have checked the case of

Board of Commissioners of Summit County vs. *Board of Commissioners of Trumbull County,* 116 O. S. 663

and with this as authority, I have advised the Wood County Juvenile authorities that the legal residence of the minor children residing with the paternal grandparents in this county, is that of the divorced mother, who was given the exclusive control and custody of the children, to wit: Crawford County, and that said latter county is responsible for the care and support of all four indigent children.

I might add that the husband is a paralytic and is unable to contribute anything towards the support of his children, and this fact also appears in the Journal Entry, copy of which I am enclosing herewith."

In a supplemental communication under date of May 13th you state that Mr. and Mrs. L. had a legal settlement in Wood County in 1929, prior to their moving to Wyandot County. You further state that Mrs. L. has not received relief under the provisions of Section 3477 of the General Code, during the time she has been living in Crawford County. Section 3477, supra, which defines the term "legal settlement" for the purposes of poor relief, 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."

Section 3479, General Code, among other things, provides:

" * * When a person has for a period of more than one year not secured a legal settlement in any county, township or city in the state, he shall be deemed to have a legal settlement in the county, township or city where he last has such settlement."

From the foregoing sections, it appears that when one has acquired a legal settlement in any county, that legal settlement continues until one has been acquired elsewhere.

In the case of *Board of Commissioners of Summit County* vs. *Board of Commissioners of Trumbull County,* 116 O. S. 663, to which you refer, it was held as disclosed by the syllabus:

"When the parents of minor children are divorced, and the decree 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."

While the first part of the syllabus would indicate that the legal settlement of the mother becomes the legal settlement of the children, irrespective of where the children are actually residing, it can be argued with some plausibility that the latter part of the syllabus modifies such conclusion. In other words, it may be contended that the conclusion of the court as a whole is based upon the mother taking the children with her with the intention of making her permanent home in the county to which she has migrated. In the body of the opinion by Kinkade, Judge, it is stated:

"Manifestly the minors of themselves could not change their legal settlement by going from one county to another without their parents, but it is quite another thing to say that if a parent, having exclusive control and custody of the children by a decree of court, changes legal settlement, that does not change the legal settlement of the children who have accompanied such parent into the new legal settlement territory.

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."

Notwithstanding the language of the court, it remains a fact that the mother acquired the legal settlement of her second husband and the children also obtained the same legal settlement as that of their mother.

While it is sometimes difficult to lay down a hard and fast rule with refer-

ence to legal settlement, for the reason that the poor laws are liberally construed to the end that the unfortunate may be given relief, it is believed that applying the principle announced in the Trumbull and Summit County case, supra, to the facts you present compels the conclusion that the mother and all of her children have a legal settlement in Crawford County.

In your communication you refer to the actions of the "juvenile authorities." In this connection, it may be pointed out that it has frequently been held by this office that a juvenile court has jurisdiction of a child found to be within the county under facts and circumstances which constitute dependency or delinquency.

Based upon the foregoing citations and discussions, it is my opinion that Mrs. L. and all her minor children have a legal settlement in Crawford County.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3274.

APPROVAL, ABSTRACT OF TITLE TO LAND OF JAMES H. PAYNE, JOURNEY ANDERSON AND ALEX MIXON IN THE CITY OF COLUMBUS, FRANKLIN COUNTY, OHIO.

COLUMBUS, OHIO, May 28, 1931.

HON. CARL E. STEEB, *Business Manager, Ohio State University, Columbus, Ohio.*

DEAR SIR:—There has been submitted for my examination and approval an abstract of title, warranty deed and encumbrance estimate No. 563, relating to lot No. 5, in Critchfield and Warden's Subdivision of the south half of the north half of lot 278 of R. P. Woodruff's Agricultural College Addition, as said lot is numbered and delineated upon the recorded plat of said subdivision, of record in Plat Book No. 4, page 234, Recorder's Office, Franklin County, Ohio.

Upon examination of said abstract of title, I am of the opinion that James H. Payne, Journey Anderson and Alex Mixon, as trustees of the West Frambes Avenue M. E. Church of Columbus, Ohio, an unincorporated religious society, have a good, merchantable title to the above described premises, free and clear of all incumbrances whatsoever. I am further of the opinion that by reason of the proceedings for the sale of said property had in the Common Pleas Court of Franklin County, Ohio, in case No. 127639 on the docket of said court, and the decree of the court in said cause authorizing the trustees of said religious society to sell said property, said trustees above named now have authority to sell this property to the state of Ohio for the consideration named in said order and decree, to wit, the sum of one thousand dollars.

Upon examination of the warranty deed tendered to the state of Ohio by said trustees above named conveying the property here in question, I find that said deed has been properly executed and acknowledged by said trustees and that the form of said deed is such that the same is legally effective to convey the above described property to the state of Ohio by fee simple title, free and clear of all incumbrances.

Upon examination of encumbrance record No. 563, I find that the purchase price of said property, which is the sum of one thousand dollars, has been duly incumbered for the purpose and that there is a sufficient unincumbered balance in the appropriation account to pay said purchase price. It likewise appears from