2981.

APPROVAL—TITLE TO CERTAIN LANDS, HIGHWAY RIGHT OF WAY, CLEVELAND INTERURBAN RAILROAD COMPANY, SH 1CH No. 35, SECTION L-1, pt. LANDERS CIRCLE, CUYAHOGA COUNTY, OHIO.

COLUMBUS, OHIO, September 16, 1938.

HON. JOHN JASTER, JR., *Director of Highways, Columbus, Ohio.*

DEAR SIR: This is to acknowledge receipt of your recent communication requesting an opinion as to the title to certain lands sought to be acquired for highway right of way, commonly described as a parcel of the Cleveland Interurban Railroad Company and designated in the records of your department at SH (1CH) No. 35 Section L-1 (pt), Cuyahoga County (Landers Circle).

Attached to such request is a photostatic copy of a quit-claim deed and a certificate of title for described premises, dated August 27, 1938.

I have carefully checked the above enclosures and it is my opinion that you can safely rely upon this certificate of title as being correct and that the same discloses the persons having an interest in said premises of record.

I am returning herewith said enclosures with my approval of the certificate of title as executed by Michael P. O'Brien for the lands in which you are interested.

Respectfully,
HERBERT S. DUFFY,
Attorney General.

2982.

DEPENDENT CHILDREN — GRANT OF AID — WHEN CHILD MOVES FROM ONE COUNTY TO ANOTHER—OBLIGATION TO PAY IMMEDIATELY ASSUMED BY COUNTY WHERE CHILD RESIDES.

SYLLABUS:

In the act providing for aid for dependent children, where a child moves from one county to another, the county to which he or she moves must immediately assume the obligation of paying the grant of aid to

which the child is entitled, and the county from which such child moves should not continue to pay such grant.

COLUMBUS, OHIO, September 17, 1938.

HON. MARGARET M. ALLMAN, *Director, Department of Public Welfare, Columbus, Ohio.*

DEAR MADAM: I am in receipt of your request for my opinion which reads as follows:

> "Under the laws of Ohio relating to the program of Aid to Dependent Children, there are no county residence requirements. For that reason I am requesting an opinion as to the procedure we should follow in developing a rule by which to fix county responsibility for families moving from one county to another within the State of Ohio. Should the county from which the family has moved, continue to pay the grant of Aid to Dependent Children for a certain length of time? If so, for how long? The next question naturally follows: When should the county to which the family has moved accept responsibility for paying the grant?"

The act granting aid to dependent children does not, it is true, specifically require county residences of the recipient. The only requirement in so far as residence is concerned, is provided in Section 1359-32d, General Code, which reads as follows:

> "He (the recipient) shall have resided in the State of Ohio for at least one year immediately preceding the application for such aid or, if he was born within the state within one year immediately preceding such application, his mother shall have resided in the State of Ohio for one year immediately preceding his birth." (Words in parenthesis the writer's.)

Despite the fact that the only residence requirement is residence in the State of Ohio, it is evident from a reading of the entire act relating to the granting of aid to dependent children that the administration of such act depends upon residence of the recipient in the county from which he or she is receiving such aid.

Section 1359-38, General Code, provides in part, as follows:

> "Prior to the beginning of each fiscal year or as soon thereafter as such appropriation shall be available, the state

> department of public welfare shall apportion such appropriation among the several counties in the state in the proportion that the number of children under sixteen years of age in each county as estimated by the department of public welfare, bears to the total number of such children in the state as so estimated. * *"

From a reading of Section 1359-38, supra, it will be noted that the apportionment to the several counties of the appropriation made by the legislature for the administration of aid to dependent children depends upon the number of children receiving aid in a particular county. Thus, if a child moves from one county to another, the county receiving such child is entitled to a greater portion of the appropriation than was theretofore allotted to such county. In other words, the amount of funds to which any particular county is entitled varies with the number of children receiving aid in such county and naturally this number increases or decreases each time a child moves into or out of a particular county. Therefore, when a county receives a greater sum because of the fact that the recipients of aid to dependent children have increased in that county, it is only logical that that county should pay the grant to the child.

Another section of the act which points out the importance of county residence is Section 1359-33, General Code, which reads as follows:

> "The amount of aid payable in respect of any child or children living in the same home shall be determined on the basis of actual need and shall be sufficient to provide support and care requisite for health and decency, taking into account the income from other sources of such child or children, his or their parent or parents and (irrespective of the existence or nonexistence of any legal obligation of support and care) the relative or relatives in whose home he or they are living."

According to this section, the amount of aid depends upon certain conditions which have been set out in the statute.

It is reasonable to assume that when a child moves from one county to another, these conditions will vary, and when they vary, the amount of aid payable to such child increases or decreases as the case may be.

Inasmuch as under the provisions of this act, a county is only allotted a certain sum of money to distribute in the form of aid, it should not be required to contribute aid to a child in another county in a greater sum than it would be required to contribute if the child lived in the contributing county, merely because the child moved from the contributing county to another county or rather merely because the child formerly lived in the contributing county.

Sections 1359-33 and 1359-38, General Code, are only two of the sections in the act granting aid to dependent children which indicate the importance of county residence. There are others which I deem it unnecessary to cite and explain in order to answer your questions.

It is therefore my opinion that county residence is of prime importance in the administration of the aid for dependent children act.

Under the law as interpreted by this opinion it is conceivable that a county would not have available sufficient funds to distribute. Such a situation could arise if there were a large influx of children eligible under the aid for dependent children act into one county. This difficulty is disposed of by Sections 1359-37 and 1359-32, of the General Code. Section 1359-37, supra, reads in part, as follows:

> "Before the beginning of each quarter of each fiscal year, the state department of public welfare shall estimate the amount to be apportioned to each county for such quarter under this section on the basis of existing or anticipated state appropriations pursuant to this act and the amount to be contributed by the county pursuant to this act, with respect to which the county auditor of each county shall on request of the department furnish the necessary information, and shall thereupon certify to the director of finance, the auditor of state and, with respect to any county, the county commissioners, the county auditor and the county administration of such county, each amount so estimated, reduced or increased, as the case may be, by any sum which it finds that its estimate for any prior quarter was greater or less than the amount which should have been paid to the county for such quarter, except to the extent that such sum has been applied to make an amount certified for any prior quarter greater or less than the amount estimated by the department for such county for such prior quarter."

Section 1359-32, supra, reads in part, as follows:

> "Subject to the provisions of this act and to the availability of revenues for the purposes thereof, a child residing in the State of Ohio shall be entitled to aid if and when the following conditions are fulfilled, and not otherwise; provided, however, that during any quarter of any fiscal year for which the state department of public welfare shall not have certified an apportionment of amounts received by the state from the federal government as provided by Section 7* of this act, if the state department of public welfare in that event determines that the

> revenues available in a county for the purposes of this act are insufficient to provide aid to all children residing in the county with respect to whom the conditions of this act are fulfilled, and shall so certify to the county administration, the granting of aid to any child during such quarter shall be at the discretion of the county administration under such rules and regulations as the department may prescribe and certify."

Thus, under the provisions of Section 1359-37, supra, an apportionment of the funds available for distribution under the aid for dependent children act, is made at the beginning of each quarter of a fiscal year. If at that time it is found that the sum allotted to the county at the beginning of the prior quarter was less than it should have been a greater sum may then be alloted by the express language of this statute. The result then is that a county is given a greater sum than was theretofore allotted in order to administer the act in a particular county. Therefore, if there has been an influx of children into a particular county during the prior quarter, these children will be taken care of during subsequent quarters by virtue of the increased sums allotted to the county to which these children have moved.

In order to further dispose of the apparent objection heretofore raised, if, after applying the provisions of Section 1359-37, supra, there are still insufficient funds to provide aid for all children residing in a county, then, by authority of Section 1359-32, supra, the granting of aid to any dependent child during such quarter shall be at the discretion of the county administration, under such rules and regulations as the Department of Public Welfare may prescribe and certify.

Therefore, if, despite the fact that a county has received a greater sum than was theretofore allotted to such county under Section 1359-37, supra, the amount alloted to such county is still insufficient, then at the discretion of the county administration aid may be discontinued in a particular case or cases, to the extent that it is necessary in order to bring the county back into its budget.

Accordingly, in specific answer to your question it is my opinion that when a child moves from one county to another, the county to which he or she moves must immediately assume the obligation of paying the grant of aid that the child is entitled to, and the county from which such child moves should not continue to pay such grant.

In view of this conclusion, it is unnecessary to answer your second question.

Respectfully,

HERBERT S. DUFFY,

Attorney General.