

2651.

APPROVAL, BONDS OF SUGARCREEK TOWNSHIP CENTRALIZED SCHOOL DISTRICT, GREENE COUNTY, OHIO—\$2,000.00.

COLUMBUS, OHIO, September 29, 1928.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

2652.

APPROVAL, BONDS OF WASHINGTON TOWNSHIP RURAL SCHOOL DISTRICT, LUCAS COUNTY, OHIO—\$123,734.00.

COLUMBUS, OHIO, September 29, 1928.

Retirement Board, State Teachers Retirement System, Columbus, Ohio

2653.

APPROVAL, BONDS OF FRANKLIN COUNTY—\$16,530.00.

COLUMBUS, OHIO, September 29, 1928.

Industrial Commission of Ohio, Columbus, Ohio.

2654.

INDIGENTS—LEGAL SETTLEMENT DISCUSSED.

SYLLABUS:

Under the provisions of Section 3477 of the General Code, as amended in 112 Ohio Laws, 157, a mother and children can not acquire a legal settlement in a county to which they have moved from another county in Ohio while receiving aid from the State Division of Charities.

COLUMBUS, OHIO, September 29, 1928.

HON. J. E. PATRICK, *Prosecuting Attorney, New Philadelphia, Ohio.*

DEAR SIR:—In your recent communication you request my opinion as follows:

"Your opinion is respectfully requested on the following state of facts which have been in controversy between Tuscarawas and Coshocton County:

A mother and two children had a residence for all purposes in Coshocton County and on January 22, 1926, in a proceedings had in Juvenile Court of Coshocton County, these children were declared to be dependent and they were placed in the temporary custody of the Division of Charities, and some-time later the State Department made an allowance which was paid to the mother to assist in the support of these children, payments being charged back to Coshocton County as provided by law. Orders of the Juvenile Court were made continuing the custody in the Division of Charities until January 22, 1928, when an order was made discontinuing such custody on and after May 31, 1928.

In June, 1926, this mother with her children moved from Coshocton County to Dover, Tuscarawas County, Ohio, where she has resided since that time but until May 31, 1928, while living in Dover, she has continued to receive payments from the Division of Charities to assist in the support of these children, such payments, of course, being charged back to Coshocton County.

Section 1653 of the General Code deals with committing dependent children and provides in part that the county commissioners *of the county in which it has a settlement* shall pay reasonable board.

The meaning of the word 'settlement' is not defined in the Juvenile Code but is defined by Section 3477, wherein it is stated in substance that a person obtains a legal settlement in any county in which he or she has continuously resided and supported himself or herself for twelve consecutive months without relief.

We, of course, are aware of the fact that the residence of the children is that of the mother but Section 3479 provides that where a person has for a period of more than one year not secured a legal settlement in any county, he shall be deemed to have a legal settlement in the county where he last had such settlement.

The authorities of Coshocton County feel that Section 3477 is an act passed for the purpose of protecting townships from being imposed upon by indigent persons removing from another township in the hope of securing public relief and that it has no application whatever to the question of dependent children. We, however, feel that the definition of 'legal settlement' as given in that section controls the residence of this mother and her children and that since she has not been in Tuscarawas County for one year without receiving relief she has not gained a settlement and consequently her children have also failed to gain a settlement.

This woman and her children are still in need of relief and we, therefore, respectfully request your opinion as to their eligibility to relief and sustenance from this county on the above statement of facts."

An analysis of your inquiry presents the issue as to whether or not the persons mentioned have acquired a legal settlement in your county. Section 3477 of the General Code as last amended (112 O. L. 157) provides:

"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."

In view of the fact that the persons mentioned were receiving the relief from the state as indicated in your letter, until May 31, 1928, little difficulty would arise in determining the correct answer to your inquiry were it not for the pronouncement of the court in the case of *Board of Commissioners vs. Board of Commissioners*, 116 O. S. 663, which was previously cited in my opinion which is found at page 1215 in the Opinions of the Attorney General for the year 1927. The syllabus of said court opinion reads:

"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."

In the body of said Supreme Court opinion it appears that in the case considered, the children whose status was in question had resided in the county for a very brief period, although the man to whom the mother was married had acquired a legal settlement in that county. Upon the question of one being required to be supported for a period of one year, the court in its comments in the course of said opinion says:

"The fact is that from the time of the divorce until the time of the removal of Mrs. White and her children to Summit County they were dependent upon charity for their support, but they were not receiving charity from the municipal township, or county officials of Trumbull County, but were receiving charitable assistance and support from a charitable association organized for the purpose of charity in the city of Warren. The charity they received, after the divorce in Trumbull County, was not the charitable assistance covered by Sections 3476, 3477, 3478 and 3479, General Code."

However, it will be noted that this case was decided on May 25, 1927. The act amending Section 3477 in the form hereinbefore set forth was filed in the office of the Secretary of State on April 26, 1927, and of course would not become effective until ninety days thereafter. It follows, therefore, that the case passed upon arose under the law as it existed prior to its amendment in 112 O. L., as hereinbefore referred to. Section 3477, *supra*, before the amendment referred to, provided:

"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, subject to the following exceptions:

First—An indentured servant or apprentice legally brought into this state shall be deemed to have obtained a legal settlement in the township or municipal corporation in which such servant or apprentice has served his or her master or mistress for one year continuously.

Second—The wife or widow of a person whose last legal settlement was in a township or municipal corporation in this state, shall be considered to be legally settled in the same township or municipal corporation. If she has not

obtained a legal settlement in this state, she shall be deemed to be legally settled in the place where her last legal settlement was previous to her marriage.

As was pointed out in my opinion No. 2560, issued to Honorable Mervin Day, Prosecuting Attorney of Paulding County, on September 10, 1928:

"By the terms of Sections 3477 and 3479, as amended, 112 O. L. 157, it is provided that a 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 a charitable or benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief, and that a person having a legal settlement in any county in the state shall be considered as having a legal settlement in the township in which he or she last resided continuously and supported himself or herself for three consecutive months, without public relief or relief from a charitable organization such as is described above."

From the foregoing it can not be disputed that the persons in question did not reside in your county without relief from the sources mentioned in Section 3477, supra, in its present form, for a period of twelve consecutive months. It is also believed that the Supreme Court of Ohio in the case of *Commissioners vs. Commissioners, supra*, passed upon an entirely different state of facts inasmuch as the relief furnished to the persons in question in that case did not come within the provisions of Section 3477 of the General Code.

You are specifically advised that the mother and children referred to in your communication can not acquire a legal settlement in your county unless and until they have been supported therein without relief from the sources set forth in Section 3477 of the General Code for a period of twelve consecutive months. Aid furnished to said persons by the State Division of Charities is relief mentioned in said section, and they are not eligible to relief in Tuscarawas County.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2655.

BRIDGE—COUNTY—PLANS AND SPECIFICATIONS OPEN TO PUBLIC UNTIL REJECTION.

SYLLABUS:

1. Where a private contractor has filed with the county auditor plans and specifications pertaining to a proposed county bridge, under the provisions of Section 2345, General Code, any person having any interest in the subject matter to which such plans and specifications relate may require the county auditor to permit him to inspect and examine such plans and specifications.
2. Where the bid of such private contractor is not accepted, he has the right to have the plans and specifications filed by him returned to him.