

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.

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.

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-