

3953.

APPROVAL, BONDS OF FRANKLIN TOWNSHIP RURAL SCHOOL DISTRICT,  
 RICHLAND COUNTY, OHIO, \$2,549.59.

COLUMBUS, OHIO, February 16, 1935.

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

3954.

INDIGENT—RETAINS LEGAL SETTLEMENT FOR POOR RELIEF PURPOSES  
 UPON MOVING TO AND LIVING ON FEDERAL GOVERNMENT'S LAND  
 TERRITORIALLY LOCATED WITHIN TOWNSHIP WITHIN WHICH HE  
 HAD LEGAL SETTLEMENT.

**SYLLABUS:**

*Where an indigent has a legal settlement in a township and moves to and lives on land owned by the Federal Government which is territorially within that township, such indigent not having obtained a new legal settlement, retains his legal settlement in the township from which he moved.*

COLUMBUS, OHIO, February 18, 1935.

HON. LESTER S. REID, *Prosecuting Attorney, Chillicothe, Ohio.*

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

“In this County there is a considerable amount of land owned by the Federal Government which was purchased by the Government during the World War and which was used by a firing range, consisting of some one thousand acres. Numerous families have become squatters upon this territory and the local subdivisions do not receive any compensation in the form of taxes on this land.

The question which I desire to have answered, is: Assuming that these people have the legal requirements to be furnished with relief by the Township Trustees, whether the fact that they live on this Government land would be sufficient to warrant the Township Trustees in refusing to aid such parties on the ground that it is Government land and over which land the Township Trustees have no jurisdiction in any manner?”

By virtue of Article I, Section 8, cl. 17 of the Constitution of the United States Congress acquires exclusive jurisdiction over lands within a state whenever, by the consent of its legislature, such lands are purchased by the United States “for the erection of forts, magazines, arsenals, dockyards, and other needful buildings” and in such case no express cession of jurisdiction is required, the jurisdiction of the state being completely ousted.

Section 13770, General Code of Ohio provides:

“That the consent of the state of Ohio is hereby given in accordance with the seventeenth clause, eighth section, of the first article of the constitution of

the United States, to the acquisition by the United States, by purchase, condemnation, or otherwise, of any land in this state required for sites for custom houses, court houses, post offices, arsenals, or other public buildings whatever, or for any other purposes of the government."

Section 13771, General Code of Ohio provides:

"That exclusive jurisdiction in and over any land so acquired by the United States shall be, and the same is hereby, ceded to the United States, for all purposes except the service upon such sites of all civil and criminal process of the courts of this state; but the jurisdiction so ceded shall continue no longer than the said United States shall own such lands."

Section 13772, General Code of Ohio provides in part:

" \* \* \* so long as the said lands shall remain the property of the United States when acquired as aforesaid, and no longer, the same shall be and continue exempt and exonerated from all state, county and municipal taxation, assessment or other charges which may be levied or imposed under the authority of this state; provided that nothing in this act contained shall be construed to prevent any officers, employes or inmates of any national asylum for disabled volunteer soldiers located on any such land over which jurisdiction is ceded herein, who are qualified voters of this state from exercising the right of suffrage at all township, county and state elections in any township in which such national asylum shall be located."

Prior to the enactment of Section 13772, General Code, quoted in part supra and prior to an Act of Congress of January 1, 1871, relinquishing to the State of Ohio jurisdiction over a National Asylum for disabled volunteer soldiers located territorially in Montgomery County, it was held in the case of *Sinks vs. Reese*, 19 O. S. 306, as disclosed by the third branch of the syllabus:

"3. The inmates of such an asylum, resident within such territory, being within the exclusive jurisdiction of a government other than that of the State within whose boundaries such asylum or territory may be situated, are not residents of such State, within the meaning of article 5, sec. 1, of the constitution of Ohio; and where the constitution of such State confers the elective franchise upon residents thereof alone, the inmates of such asylum, resident within such territory, are not entitled to vote at any election held within and under the laws of such State."

It was stated at page 316:

"By becoming a resident inmate of the asylum, a person though up to that time he may have been a citizen and resident of Ohio, ceases to be such; he is relieved from any obligation to contribute to her revenues, and is subject to none of the burdens which she imposes upon her citizens. He becomes subject to the exclusive jurisdiction of another power, as foreign to Ohio as is the State of Indiana or Kentucky, or the District of Columbia. \* \* \*"

However, the above case related to "residence" for voting purposes and not "legal settlement" for poor relief purposes and it is thought not to be analogous for reasons to be cited infra.

I assume from the language of your request that the "squatters" in question have a "legal settlement" in the township you refer to unless they have lost that legal settlement by virtue of their moving and living on the Firing Range which is land owned by the Federal Government. In other words, the question presented is not whether such persons could *acquire* a legal settlement for poor relief purposes in the township by virtue of living on the federal land, but whether such persons have *lost* their legal settlement in the township by reason of their moving and living on this federal territory. For example, it has been held in Massachusetts that residents on land ceded to the federal government by a state for navy yards, forts, arsenals, etc., will not enable a person to *acquire* a settlement. Opinion of Justices, I Mete. (Mass.) 580.

Although, as pointed out, in the case of *Sinks vs. Reese*, supra, it was therein stated that a person by becoming a resident of a national asylum ipso facto lost his citizenship and residence in Ohio for voting purposes, the poor relief laws, on the other hand, provide that a person's settlement is not lost except upon his acquisition of a new settlement. *Newton vs. Southbury*, 100 Conn. 251, 123 A. 278; *Payne vs. Dunham*, 29 Ill. 125; *Fayette County vs. Bremer County*, 56 Iowa 516, 9 N. W. 372; *Carthage vs. Canton*, 97 Me. 473, 34 A. 1104; *Williamsburg vs. Adams*, 184 Mass. 263, 68 N. E. 230; *In re Leslie*, 166 Minn. 180, 182, 207 N. W. 323 (Cit Cycl); *Peterborough vs. Lancaster*, 14 N. H. 382; *Bateman vs. Mathes*, 54 N. J. L. 536; *New York Public Charities Comr. vs. Vassie*, 167 App. Div. 74, 152 N. Y. S. 496; *Rouse vs. Directors McKean County Poor Dist.*, 169 Pa. 116, 32 A. 541; *Tunbridge vs. Norwich*, 17 Vt. 493; *Saukville vs. Grafton*, 68 Wis. 192, 31 N. W. 719. Section 3479, General Code, provides in part:

" \* \* \* 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."

It was held in the case of *Trustees of Crane Township vs. the Trustees of Antrim Township*, 12 O. S. 430 as disclosed by the first branch of the syllabus:

"I. If a person resident in, and having a settlement entitling him to relief under the act for the relief of the poor of the state, removes to a sister state, with the intention of remaining, and while there, exercising the right of suffrage, and acquires a residence and settlement entitling him to relief under the poor laws of that state, his residence and settlement in this state is lost, and his return will not revive it. \* \* \* " (Italics the writer's.)

The inference from this case is that a person would not lose his legal settlement in Ohio until he acquires a new settlement in another state for poor relief purposes. It was held in an opinion of my predecessor to be found in Opinions of the Attorney General for 1932, Vol. III, page 1305 as disclosed by the first branch of the syllabus:

"1. Relief to an indigent person having a residence as defined in Sections 3477 and 3479, General Code, in a city, should be furnished by such city regardless of the present abode of such indigent person."

Inasmuch as the indigents who had a legal settlement in the township in question have not acquired a new legal settlement in any other state or territory, it is my opinion that they retain their legal settlement in the township and should be furnished relief by the township trustees.

Respectfully,  
 JOHN W. BRICKER,  
*Attorney General.*

---

3955.

APPROVAL, BONDS FOR THE FAITHFUL PERFORMANCE OF THEIR DUTIES—G. M. ANDERSON AND J. R. BURKEY, AS DEPUTY DIRECTORS OF HIGHWAYS.

COLUMBUS, OHIO, February 18, 1935.

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

DEAR SIR:—You have submitted two bonds, each in the penal sum of \$5,000.00, with sureties as indicated, to cover the faithful performance of the duties of the officials as hereinafter named:

G. M. Anderson, Deputy Director of Highways, in charge of the Bureau of Maintenance—Great American Indemnity Company.

J. R. Burkey, Deputy Director of Highways, in charge of the Bureau of Bridges—Great American Indemnity Company.

Said bonds have undoubtedly been executed pursuant to the provisions of sections 1181 and 1182-3, General Code. Such sections provide, in so far as pertinent here:

“Sec. 1181. The director shall also appoint four deputy directors \* \* \*. Another of said deputies shall \* \* \* have supervision of all matters pertaining to road maintenance and repair on the state highway system. Another of said deputies shall \* \* \* have supervision of all matters pertaining to the design, construction, maintenance and repair of culverts and bridges and grade separation projects on the state highway system. \* \* \* The director shall require each deputy director to give bond in the sum of five thousand dollars, conditioned for the faithful performance of his duties with sureties to the approval of the state highway director.”

“Sec. 1182-3. \* \* \* All bonds hereinbefore provided for shall be conditioned upon the faithful discharge of the duties of their respective positions, and such bonds \* \* \* shall be approved as to the sufficiency of the sureties by the director, and as to legality and form by the attorney general, and be deposited with the secretary of state. \* \* \*”

Finding said bonds to have been properly executed in accordance with the foregoing statutory provisions, I have accordingly approved the same as to form, and return them herewith.

Respectfully,  
 JOHN W. BRICKER,  
*Attorney General.*