

for not less than one year next preceding the date of application.

"Residence", within the meaning of the Act, can only, under Section 33 (7), R. C. M., 1921, be gained for purposes of relief under Chapter 19, supra, by the union of the act and intent of residing within the county and state; and the "intent" there referred to must be determined by the facts and circumstances involved in the particular case under consideration.

March 13, 1934.

We acknowledge receipt of yours of the 7th enclosing copy of an opinion you rendered your board of county commissioners relative to the obligations of the county for the care and maintenance of indigent non-residents and you advise that the board has requested that such opinion be submitted to this office for approval.

Sections 4531, 4532, and 4533, R. C. M., 1921, have been amended at various times, but were amended at length by Chapter 19 of the Extraordinary Session of the Legislature of 1933-1934 and now provide as follows:

"Section 4531. Application of Persons Seeking Relief. Any person seeking relief must make application to any member of the Board, who, may grant an order for temporary relief, but before granting any permanent order for relief, must require satisfactory evidence that he has been a resident of the county for one (1) year immediately preceding the day upon which application is made and properly sign a document permitting the county and its representatives to investigate their financial condition in any way it, or they, see fit, including inquiry of individuals, banks, building and loan associations, insurance companies, United States Postal Savings Department, and request and authorize any and every individual, institution and department to impart unto said county or its representatives any information it, or they, may desire.

"Section 4532. Persons Belonging to Another County to Be Removed. When application is made, if it appears to the satisfaction of the Board that the person applying has resided in the county for one (1) year, he is entitled to the relief provided by this chapter; but if on examination it ap-

Opinion No. 497.

**Relief—Temporary Relief—Residence
—Intent and Act.**

HELD: Chapter 19, Laws of the Extraordinary Session, 1933, authorizes temporary relief to anyone on application, but permanent relief only to persons who have resided in the county

pears that the applicant is a resident of some other county of the state, the Board may provide him with transportation funds to move to the county of which he is a resident.

"Section 4533. Non-Residents Furnished Temporary Relief. Persons who have not been resident of a county one (1) year may be furnished relief by the Commissioners in cases of extreme necessity and destitution."

It will be noted that the new act authorizes temporary relief to any one on application, but permanent relief only to persons who have resided in the county for not less than one year next preceding the date of application.

Who is a "resident" under the provisions of the act is in some doubt, and the authorities give definitions that are not readily reconciled. 19 C. J. at page 396 says: "That there is a difference in meaning between 'residence' and 'domicile' is shown by the fact that a person may have his residence in one place while his domicile is in another." Residence is said, by the same authority, to be of a more temporary character than domicile, but Section 33, R. C. M., 1921, appears to give the word "residence" the same permanent character as most authorities give to "domicile."

Chapter 102, Laws of 1931, Section 2, relating to giving preference in the employment of bona fide residents on public improvement work, provides in part as follows: "A bona fide resident of Montana is hereby declared to be a person, who at the time of his said employment and immediately prior thereto, has lived in this State in such a manner and for such time as is sufficient to clearly justify the conclusion that his past habitation in this State has been coupled with intention to make it his home. Sojourners, or persons who come to Montana solely in pursuance of any contract or agreement to perform such labor, shall under no circumstance be deemed to be bona fide residents of Montana within the meaning and for the purpose of this Act." This, however, is a special act and is cited here merely to show the trend of legislation on the subject.

Subdivision 7 of Section 33, R. C. M. 1921, provides that "residence can be changed only by the union of act and intent" and appears to be determina-

tive of the question in this state. The "intent" there referred to must be determined by the facts and circumstances involved in the particular case under consideration.