"Primarily *in* denotes situation or position with respect to a surrounding, encompassment or inclosure, denoted by the governed word."

Applying this definition of "in" to the words under discussion, it would seem that the words may be construed to read "shall appoint two suitable persons located within each township or ward in the county."

There is no doubt but that the legislative intent, by the enactment of this and related sections, was to provide for aid to be rendered in connection with the burial of soldiers, sailors and those covered by the terms of the section, where the application for aid was worthy and free from fraud. It is apparent that an advantage will accrue from having a local soldiers' burial committee to whom applications for aid may be referred, and one which would be conversant with the conditions surrounding the request for such aid.

That no economic benefit would result from allowing the appointment of burial committees for less than the whole number of townships or wards in the township is evident, since the compensation of the members of such committees is fixed by section 2951 in the amount of one dollar for each investigation. On the contrary, an increased expense would result from such a construction, viz., the expense of transportation of the soldiers' burial committee to the place where the investigation is to be made.

The language of the statute reads that "the county commissioners shall appoint two persons," etc. It is a well known rule in Ohio that the word "shall" is mandatory unless there are surrounding circumstances which negative such a construction. *State ex rel vs. Commissioners,* 94 O. S., 296, at page 306. No such circumstances exist in the instant case.

With a view to the objects to be attained by the establishment of soldiers' burial committees, and from a reading of the statute in connection with statutes in pari materia, I am of the opinion that the statute is mandatory and that county commissioners are required to appoint a soldiers' burial committee in each township or ward of the county, which committees shall each be composed of two persons who are located within the township or ward.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3235.

DEPENDENT CHILD—LEGAL RESIDENCE IN MOTHER'S COUNTY, WHEN ABANDONED BY FATHER — SPECIFIC FACTS — WHAT COUNTY LIABLE FOR SUCH CHILD'S SUPPORT.

SYLLABUS:

1. *Where the failure of a husband to provide for his wife results in the commitment of such wife to the County Infirmary and the later removal of the wife and a minor child from the County Infirmary to another county, legal residence may be established by the wife in the latter county.*

2. *When the mother of a minor child has established a legal residence in a county, and upon the death of the mother the child is committed to a county institution, the expense thereof is properly chargeable to such county.*

COLUMBUS, OHIO, May 20, 1931.

HON. RAY T. MILLER, *Prosecuting Attorney, Cleveland, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent request for my opinion upon the following state of facts:

"S.A. and R.A. are husband and wife, having a legal residence in Medina County about the year 1924. They have ten children. Complaint was made to the authorities of Medina County about the home conditions and the condition of the mother, R.A.

"As a result of these complaints, the mother, R.A., was committed to the Medina County Infirmary. While in the Infirmary, M.A., the youngest child, now in question, was born. The residence of the mother and sister of R.A. is Berea, Cuyahoga County. Sometime after the birth of M.A., the mother and sister of R.A. requested the Medina County Infirmary to release R.A. and her child, M., to their care and custody, which was done upon the posting of a bond by the mother and sister of R.A., to the Commissioners of Medina County, relieving them from any future responsibility for the said R.A. and her child M.

"R.A. and her youngest child M. continued to live in Berea, Cuyahoga County, until her death, December 24, 1930, leaving the child, M., dependent upon charity for support. R.A. lived in Berea, Cuyahoga County, about five years and during that time was self-supporting. The youngest child, M.A., was never a ward of any Court.

"As to the father, S.A.:—Several months after his wife R. was committed to the Medina County Infirmary, complaints were made about the home conditions of the father and other children. This resulted in Court action and eventually in 1929 all of the children (except M., the youngest) were committed to the State Board of Charities.

"In August 1929, the father called at the Welfare office of the State Board of Charities in Columbus saying that he was leaving, that he was through with Ohio.

"A short time later the father wrote to his children giving his address as Baltimore, Md., where he was working for the Navy on a dairy farm. The last heard from the father was early fall of 1930. Nothing has been heard from him since. R.A. and S.A. were never divorced.

"The question is, of what County is M.A. a legal resident, Medina or Cuyahoga?

"Of what County is M. a public charge?"

I assume that the purpose of your inquiry is to determine which county will be liable for the support of M.A. in case of commitment.

Section 3477, General Code, reads as follows:

"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."

From the facts contained in your communication it is apparent that R.A. obtained a legal settlement in Cuyahoga County since she supported herself and child for a period in excess of one year without charitable relief.

There is no doubt that the Juvenile Court of Cuyahoga County has jurisdiction to declare M.A. dependent since the child is found within the county under facts and circumstances which constitute dependency, and since the legal residence of the child or its parents does not determine the jurisdiction of the court. See Opinions of the Attorney General, 1929, page 1151.

Your request for opinion presents the question of legal residence of M.A. Legal residence is defined as that fixed habitation where the rights of elective franchise are to be exercised and where the liability for taxation exists. 34 CYC 1647.

From the statement of facts submitted, it is apparent that R.A. could have exercised the rights of elective franchise and could have been taxed in Cuyahoga County if she has complied with the elective formalities and made a tax return.

It would, therefore, follow from the above definition that R.A. had a legal residence in Cuyahoga County.

M.A. being a minor and abandoned by her father, her legal residence would be that of her remaining parent, or mother. 19 C.J. 412.

I am, therefore, of the opinion that where the failure of a husband to provide for his wife results in the commitment of such wife to the County Infirmary and the later removal of the wife and a minor child from the County Infirmary to another county, legal residence may be established by the wife in the latter county.

From the foregoing, it is apparent that upon commitment M.A. will become a county charge of Cuyahoga County.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3236.

AMENDED SENATE BILL NO. 31—REQUIRING CANDIDATE FOR COMMON PLEAS JUDGE, WHERE MORE THAN ONE ARE TO BE ELECTED, TO DESIGNATE INCUMBENT HE SEEKS TO SUCCEED —WHEN APPLICABLE TO CANDIDATE FOR MUNICIPAL JUDGE.

SYLLABUS:

Amended Senate Bill No. 31, *as enacted by the* 89th *General Assembly discussed with reference to its applicability to the election of judges of municipal courts.*

COLUMBUS, OHIO, May 20, 1931.

HON. JOSEPH N. ACKERMAN, *Chairman, Elections Committee, Ohio Senate, Columbus, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

"In introducing Senate Bill No. 31, the following enactment clause was passed:

'To supplement sections 4785-71, 4785-80, and 4785-91 by the enactment of supplemental sections 4785-71a, 4785-80a, and 4785-91a. and to