

Upon consideration of the terms and provisions of said lease, which calls for an annual rental of \$50.00, in semi-annual installments of \$25.00 each during the term of said lease, I find that said lease has been properly executed, and that the provisions thereof are in conformity with the terms of Section 471, General Code, and with those of other statutes relating to leases of this kind. Said lease is accordingly hereby approved by me with respect to its execution, legality and form, as is evidenced by my approval endorsed upon said lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,
 GILBERT BETTMAN,
Attorney General.

2722.

DEPENDENT CHILDREN—FATHER LIVING BUT MOTHER DECEASED—
 LEGAL SETTLEMENT ATTAINED AFTER TWELVE MONTHS' RES-
 IDENCE WITH GRANDPARENTS, EVEN THOUGH FATHER RE-
 SIDES IN ANOTHER COUNTY.

SYLLABUS:

Children whose mother is dead, and who have lived with their grandparents in a given county for a period of twelve months without relief, have a legal settlement in such county, notwithstanding their father resides in another county.

COLUMBUS, OHIO, December 26, 1930.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—This will acknowledge receipt of your recent communication, which reads as follows:

“In a case where children are left with their grandparents in one county, their mother being deceased and their father having removed to another county, and the grandparents are no longer able to support the children, may temporary or partial relief be granted by the trustees of the township in which the grandparents reside or would the township or municipality of the other county in which the father resides be liable for such relief.”

Section 3477, General Code, defines legal settlement, which is one of the basic elements which must exist to authorize poor relief, 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.”

It is a fundamental principle of law in this state that the domicile of the father is the domicile of the infant and remains such while the father lives, unless, of course, the guardianship is divested by reason of a statutory proceeding or otherwise. In case the father dies, then the mother becomes the natural guardian, and in

case of the death of both parents the grandparent becomes the natural guardian. In the case of *In re Guardianship of James Edward Murray*, 4 N. P. (n. s.) 233, the court's opinion was affirmed in 8 C. C. (n. s.) 498. The opinion of the court below contains an exhaustive discussion of the subject. The following is quoted from the body of the opinion:

"A minor cannot himself change his domicile. American Law of Guardianship, Woerner, page 31; Schouler on Domestic Relations, Section 230; Law of Domicile, Jacobs, Section 229; 34 O. S. at page 535; 3 Ohio 99.

The father is the natural guardian of the child, and while the father lives the domicile of the child is the same as that of the father. Law of Domicile, Jacobs, Sections 235, 236; 3 Ohio 99.

The father can change the child's domicile only by changing his own domicile. Law of Domicile, Jacobs, Section 236; 17 Ohio State 31.

After the father's death the mother becomes the natural guardian of the child, and the child's domicile is then the domicile of the mother. Law of Domicile, Jacobs, Section 238; 12 Ohio 194; 5 Ohio 315.

She can change the domicile of the child only by changing her own domicile. Law of Domicile, Jacobs, Section 240; 112 U. S. 458; 12 Ohio 194.

'As infants have the domicile of their father, he may change their domicile by changing his own; and after his death the mother, while she remains a widow, may likewise by changing her domicile, change the domicile of the infants; the domicile of the children, in either case, following the independent domicile of their parents.' Law of Domicile, Jacobs, Section 240; 112 U. S. 452.

After the death of both the father and mother, the grandfather becomes the natural guardian of the child. 114 U. S. 218; Reeves on Domestic Relations, 315; 15 Georgia 414.

'As between two ancestors of equal degree, probably the one, would have the power to change the domicile, who first got possession of the infant, and with whom the latter actually resided.' Law of Domicile by Jacobs, Section 245.

I know of no way in which the grandparent can change the domicile of the child except in the same way that the father or mother can change a child's domicile and that is by changing his or her own domicile. In fact, a child's domicile never changes, except with the domicile of the father or mother or grandparent, or some other person standing in loco parentis, or by operation of law, as where the surviving parent dies, domiciled at a place other than the domicile of the grandparent, when, if the child goes to live with the grandparent, and actually resides with and becomes a member of the family of the latter, its domicile is changed to that of the grandparent. 114 U. S. 218."

Of course, when a personal guardian has been appointed for an infant in pursuance of some legal proceedings, such guardian could exercise the power of the natural guardian to the end that he or she could change the domicile of the ward. Of course, if the father has abandoned the child, it is probable that the grandparent, standing in loco parentis, may change the domicile.

While the law seems reasonably clear as to the manner in which the domicile of a child is determined, your inquiry presents the question as to whether the term "legal settlement" is synonymous with "domicile" or "residence." By the express terms of Section 3476, General Code, it is the duty of the township trustees to furnish temporary relief to those in need who have a legal settlement in the township. In construing Section 3477, supra, and related sections, it is believed essential to keep

in mind that such statutes require a liberal interpretation to the end that the needy may be assisted. In the case you mention, if a technical conclusion is adopted, then it would appear that the county in which the father resides could not furnish relief for the reason that the child has not been supported in said county as contemplated by Section 3477, which conclusion might result in there being no provision for relief to a worthy person.

It is my opinion that the term "legal settlement" is not synonymous with "domicile," but rather contemplates that a person is included who has actually been in a county for a period of twelve months without relief. This would seem to be the logical conclusion from a practical standpoint, for it certainly would be more satisfactory if the authorities who are closely in contact with the children would be required to furnish relief.

By way of specific answer to your inquiry, it is my opinion that children, whose mother is dead, and who have lived with their grandparents in a given county for a period of twelve months without relief, have a legal settlement in such a county, notwithstanding their father resides in another county.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2723.

APPROVAL, BONDS OF McCUTCHEVILLE RURAL SCHOOL DISTRICT,
WYANDOT COUNTY, OHIO—\$35,000.00.

COLUMBUS, OHIO, December 27, 1930.

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

2724.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND THE HENDERSON-BENNER ELECTRIC CORPORATION OF COLUMBUS, OHIO, FOR LIGHTING FIXTURES FOR PHYSICAL EDUCATION BUILDING AT OHIO STATE UNIVERSITY AT AN EXPENDITURE OF \$11,471.00—SURETY BOND EXECUTED BY THE UNION INDEMNITY COMPANY OF NEW ORLEANS, LOUISIANA.

COLUMBUS, OHIO, December 27, 1930.

HON. ALBERT T. CONNAR, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by the Department of Public Works, for the Board of Trustees of the Ohio State University of Columbus, Ohio, and the Henderson-Benner Electric Corporation of Columbus, Ohio. This contract covers the construction and completion of contract for lighting fixtures for Physical Education Building, as set forth in the specifications for equipment for Physical Education Building on the campus of