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VOTING RESIDENCE—INTENT MUST BE CONSIDERED IN LIGHT OF SURROUNDING CIRCUMSTANCES — OFFER TO MAKE AFFIDAVIT HE HAS NO PERMANENT RESIDENCE OTHER THAN CCC CAMP DOES NOT OF ITSELF FIX RESIDENCE OF WORLD WAR VETERAN IN CCC CAMP.

SYLLABUS:

1. *When determining residence under the election laws of Ohio the intent in regard thereto of a person offering to register or vote must be considered in the light of and supported by surrounding circumstances.*

2. *The offer by a World War veteran enrolled in a Civilian Conservation Corps camp to sign an affidavit to the effect he has no permanent residence other than such camp does not in and of itself fix his permanent residence for voting purposes at the camp.*

Columbus, Ohio, June 1, 1940.

Hon. J. Ewing Smith, Prosecuting Attorney,  
Bellefontaine, Ohio.

Dear Sir:

This will acknowledge receipt of your request for my opinion on the following:

“We have in this county a camp of the Civilian Conservation Corps consisting entirely of World War Veterans. A large number of these men are single and claim to have no other permanent residence except this camp.

I notice that under Section 4785-32 of the General Code, infirm or disabled soldiers who are inmates of a national home and have established residence qualifications there acquire lawful residence in the county and township in which such home is located.

The Logan County Board of Elections has asked that I request your ruling on the following question:

Can a World War Veteran, a member of a Civilian Conservation Corps Camp, who is willing to make an affidavit that he has no other permanent residence than the camp and who has resided in the State of Ohio for one year next preceding an election and who has qualified as to residence in the county for thirty days

and in the voting precinct for twenty days, be permitted to vote in the township or precinct in which such camp is located?"

The qualifications for an elector are contained in Article V, Section 1 of the Ohio Constitution, which provides as follows:

"Every citizen of the United States, of the age of twenty-one years who shall have been a resident of the state one year next preceding the election, and of the county, township, or ward, in which he resides, such time as may be provided by law, shall have the qualifications of an elector, and be entitled to vote at all elections."

Pursuant to the constitutional provision above quoted, the Legislature enacted Sections 4785-29 and 4785-30, Ohio General Code, which provide as follows:

Section 4785-29, General Code:

"Every citizen of the United State who is of the age of twenty-one years or over, who possesses the qualifications herein required, shall be entitled to vote at all elections."

Section 4785-30, General Code:

"No person shall be permitted to vote at any election unless he shall have been a resident of the state for one year, of the county for thirty days, and of the voting precinct twenty-eight days next preceding the election at which he offers to vote, provided that any qualified elector who in good faith removes from one precinct to another precinct in the same county at any time subsequent to the twenty-eighth day preceding an election shall have the right to vote at such election in the precinct from which he moved wherein his voting residence had been legally established."

The rules for determining residence within Ohio are contained in Section 4785-31, Ohio General Code, which in so far as is pertinent to your inquiry reads as follows:

"All registrars and judges of elections, in determining the residence of a person offering to register or vote, shall be governed by the following rules, so far as they may be applicable:

a. That place shall be considered the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.

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c. A person shall not be considered to have gained a residence

in any county of this state, into which he comes for temporary purposes only, without the intention of making such county his permanent place of abode.

d. The place where the family of a married man or woman resides shall be considered and held to be his or her place of residence; except that where the husband and wife have separated and live apart, the place where he or she resides the length of time required by the provisions of this act to entitle a person to vote, shall be considered and held to be his or her place of residence.

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In order to afford an answer to the question propounded, it becomes necessary to examine the Federal statutes creating the Civilian Conservation Corps to ascertain the purpose, duration and nature of the organization so established. Section 584, Title 16 of Volume 5 of Federal Code Annotated, provides as follows:

"There is hereby established the Civilian Conservation Corps, hereinafter called the Corps, for the purpose of providing employment, as well as vocational training, for youthful citizens of the United States who are unemployed and in need of employment, and to a limited extent as hereinafter set out, for war veterans and Indians, through the performance of useful public work in connection with the conservation and development of the natural resources of the United States, its Territories, and insular possessions: Provided, That at least ten hours each week may be devoted to general educational and vocational training: Provided, That the provisions of this Act (subchapter) shall continue (until) July 1, 1943."

Section 584g., Title 16 of Volume 5, Federal Code Annotated, provides in part as follows:

"The enrollees in the Corps (other than war veterans, enrollees in the Territories and insular possessions, Indians, not to exceed one mess steward, three cooks, five project assistants, and one leader per each company) shall be unmarried male citizens of the United States between the ages of seventeen and twenty-three years, both inclusive, and shall at the time of enrollment be unemployed and in need of employment: \* \* \* Provided further, That enrollments shall be for a period of not less than six months and reenrollments (except in the case of one mess steward, three cooks, and one leader, in each company, and War Veterans) shall not exceed a total term of two years: \* \* \* Provided further, That any enrollee may be discharged for the convenience of the Government within thirty days prior to the expiration of his period of enrollment."

It will be observed that the Civilian Conservation Corps was estab-

lished for the purpose of providing unemployment relief for youthful citizens, war veterans and Indians through the performance of useful public work. Enrollments in the Corps are for periods of six months to two years. It is true that the two year limitation does not apply to war veterans. Nevertheless, under the existing Federal statute their employments can not extend beyond July 1, 1943.

Under the provisions of Section 4585-31, paragraph a., supra, a person's residence is considered to be that place in which his habitation is fixed and to which whenever absent he intends to return. Section 4785-31, paragraph c., provides that a person does not gain a residence in a county to which he has moved for temporary purposes unless he intends to make such county his permanent place of abode. These two paragraphs are in *pari materia* and must be construed and interpreted one in the light of the other. That being the case, it appears the Legislature did not intend to permit a person to gain permanent residence within a county unless his habitation becomes fixed therein.

In the case of a war veteran enrolled in the C C C, it would appear his residence in the corps camp must, from the very nature of the employment and the act of Congress creating same, be of a temporary character. However, it is entirely conceivable that the voting district within which such camp is located may be or become the permanent residence of an enrollee. For example, if an enrollee plans to remain in such district after leaving the camp, it may be that while in the camp his permanent residence shall be considered within said district. Another such example would be that of a war veteran enrolled in the C C C who is married and has moved his wife and family into a dwelling located within the same voting district as that in which the C C C camp, at which such war veteran is enrolled, is situated. In that case, if the intent of the veteran is supported by the fact of residence as above set out, it appears the provisions of Section 4785-31, paragraph d., supra, would control and the veteran in question might legally qualify as an elector of the voting district in which both the C C C camp and his family's dwelling are located. In considering these examples, I am, of course, assuming that the enrollee is otherwise qualified as to citizenship, age and length of residence in Ohio.

It does not seem to me that the mere fact that the veteran referred to in your communication offers to swear by affidavit that he has no perma-

nent residence other than the camp would in and of itself fix his permanent place of abode at the C C C camp. When determining residence for voting purposes, the intent of a prospective elector must be considered in the light of and supported by surrounding circumstances. Such circumstances surrounding the enrollment of the many war veterans in C C C camps are, without doubt, very different in nature. The question of residence, therefore, must be determined by the local election officials by application of the facts surrounding each case to the rules adopted by the Legislature as set forth in Section 4785-31, General Code.

In view of the foregoing, it is my opinion that the offer by a World War veteran enrolled in a C C C camp to sign an affidavit to the effect he has no permanent residence other than such camp does not in and of itself fix his permanent residence for voting purposes at the camp.

Respectfully,

THOMAS J. HERBERT,  
Attorney General.