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TRAILER—RESIDENCE QUALIFICATIONS—PERSON LIVING IN TRAILER MAY REGISTER AND VOTE IN PRECINCT WHERE TRAILER LOCATED—PROVISO, HABITATION FIXED—INTENTION TO RETURN WHENEVER ABSENT—SECTION 4785-30 G. C.

SYLLABUS:

A person living in a trailer who is possessed of the residence qualifications contained in section 4785-30 of the General Code, may register and vote in the precinct in which such trailer is located if his habitation is fixed in such precinct and it is his intention to return thereto whenever he is absent therefrom.

Columbus, Ohio, May 25, 1943.

Hon. Edward J. Hummel, Secretary of State,
Columbus, Ohio.

Dear Sir:

This will acknowledge receipt of your request for my opinion on the question of whether persons residing in trailers are entitled to register and vote in the precincts where such trailers are located.

Article V, Section 1 of the Constitution of Ohio, reads 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.”

The residence qualifications for voting are contained in Section 4785-30 of the General Code, which reads as follows:

“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 has been legally established.”

In order for a person living in a trailer to be eligible to vote under any circumstances, such person must have resided in the precinct in which he offers to vote, at least twenty-eight days and, in addition thereto, must have resided in the state one year and in the county thirty days next preceding the election. The mere fact, however, that such person lived in the precinct and in a trailer located therein for twenty-eight days or more does not in and of itself entitle such person to vote in said precinct, even though he possesses the other residence qualifications, to-wit, residence in the state for one year and in the county for thirty days.

The rules for determining residence for the purposes of voting are set out in Section 4785-31, General Code, which section, in so far as the same is material hereto, reads:

“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. * * *

c. A person shall not be considered to have lost his residence who leaves his home and goes into another state or county of this state, into which he comes for temporary purposes only,

without the intention of making such county his permanent place of abode."

In view of the above, it would appear that if a person lives in a certain precinct with the intention of remaining therein for an indefinite time and returning thereto whenever he is absent therefrom and considers such precinct as his place of fixed habitation and not as a place of temporary abode, it is, for the purposes of voting, his residence. This would be true whether the structure which houses him is a castle or a cottage, a mansion or trailer.

No doubt trailers were originally intended to afford temporary housing accommodations to tourists and are now generally used for such purposes. From this it does not follow, however, that permanent residence, as contemplated by the elections laws, cannot be acquired in the precinct where a trailer is located. If it is the intention of the occupant of a trailer to regard the place where such trailer is located as the place of his fixed habitation and not as a temporary place of abode, it would appear that such place should be regarded as his residence for voting purposes.

A question somewhat similar to the one here under consideration was before the Common Pleas Court of Hamilton County, in the case of *State, ex rel. Hughes, v. Schirmer, et al.*, 3 Oh. Supp., page 45. In said case, which was decided on September 26, 1935, the relator sought by mandamus to compel the defendants, members of the Board of Elections of Hamilton County, to register him as an elector from a building in Cincinnati, known as the Armleder Building, in which he was then living and which he claimed as his bona fide residence. The Armleder Building was at the time relator filed his petition and for some time prior thereto maintained by the United States government, at its exclusive expense, as a home for unemployed men. The relator had been living there for some six months prior to the filing of his petition. All of his personal effects were kept in said building and he was assigned to a particular bed therein.

Because of these facts it was contended by the respondent that his residence in said building was of a temporary character, that he would be maintained therein only during the then period of economic distress and that, therefore, said building could not be regarded as his place of fixed habitation.

After finding from the evidence that the relator had chosen said building as his place of habitation with no present intention of returning

to some other habitation, the court held that he was entitled to register therefrom and granted the writ prayed for.

In view of the above, it would appear that if the occupant of a trailer entered the county in which he is living, for temporary purposes only, without the intention of making such county his permanent place of abode, he would not be eligible to vote in said county. If, however, it is his intention to fix his place of habitation in such county and return thereto whenever he is absent therefrom, such person would be entitled to vote in the precinct in said county where his trailer is located, provided, of course, that he has lived in said precinct for twenty-eight days, in the county for thirty days and in the state for one year next preceding the election at which he offers to vote.

From the above discussion, it is apparent that your question cannot be categorically answered. The question of residence of a person is always one of fact and the resolution thereof is often attended with much difficulty.

In determining the residence of a person for purposes of voting, the intent of such person is of paramount importance. Such intent, however, must be considered in light of surrounding circumstances. The residence of a person depends upon no one fact, or combination of circumstances, but from the whole taken together it must be determined in each particular case. The question of residence therefore must be determined by the local election officials by the facts in each case and by the application of the rules set out in Section 4785-31, General Code.

In view of the foregoing, you are advised that, in my opinion, a person living in a trailer who is possessed of the residence qualifications contained in Section 4785-30 of the General Code, may register and vote in the precinct in which such trailer is located if his habitation is fixed in such precinct and it is his intention to return thereto whenever he is absent therefrom.

Respectfully,

THOMAS J. HERBERT,
Attorney General.