

Lima-Ottawa road, I. C. H. No. 129, sections M and P, types A and B, Putnam county.

I have carefully examined said resolutions, find them correct in form and legal, and I am therefore returning the same to you with my approval endorsed thereon in accordance with section 1218 G. C.

I note that as to the resolution covering type B, I. C. H. No. 129, section P, Putnam county, the auditor has made a special endorsement on his certificate that the council has made all proceedings for type A, and that therefore a certificate cannot be made as to type B. I presume that the auditor refers to the proceedings of the council of a municipality through which the improvement is being made. However, as the amount certified for type A on this same section is larger than that needed for type B, it is clear that the certificate made for type A will serve for both types A and B.

Respectfully,
JOHN G. PRICE,
Attorney-General.

3012.

ADJUSTED COMPENSATION FOR SOLDIERS OF WORLD WAR—WHEN
MINORS ARE NOT ENTITLED TO SAID COMPENSATION.

Ex-service men who were minors at the time of the commencement of service in the world war, and whose parents were then living and were citizens and bona fide residents of other states, are not entitled to adjusted compensation under section 2a, article VIII, Ohio Constitution, in the absence of peculiar facts and circumstances of such character as would, in law, effect a change of domicile or residence from the other state to Ohio.

COLUMBUS, OHIO, April 21, 1922.

HON. ROBERT R. ROBERTS, *Director, Department of Adjusted Compensation, Columbus, Ohio.*

DEAR SIR:—Your letter of recent date relative to the right of certain minors to receive adjusted compensation under the provisions of section 2a of Article VIII of the Ohio Constitution was duly received.

Your letter states that many ex-service men who have filed claims for adjusted compensation were minors at the time of the commencement of their service, and that their respective parents were bona fide residents of other states.

The question for decision is whether or not such minors, of their own volition, could establish their residences in Ohio.

The general rule, tersely expressed in *State vs. Kaplan*, 8 N. P., 197, is that "Every person must have a domicile somewhere. No person can have more than one domicile at the same time," and with respect to minors the law appears to be well settled in this state that their domicile or residence is that of the parents. See *Trustees vs. Trustees*, 3 Ohio, 99; *Sturgeon vs. Korte*, 34 O. S., 525; in re *Murray*, 4 N. P. (N. S.) 233, affirmed 8 C. C. (N. S.) 498; *Wickham vs. Coyner*, 12 C. C. (N. S.) 433.

In *Trustees vs. Trustees*, supra, the court, at page 102, say:

"If the legal settlement of the child does not follow that of the parent, it might and frequently would so happen that the legal settlement of the child would be in one place, while that of a parent would be in another. And a case might be presented where there are many children that the settlement of the parent and each one of the children would be in separate and distinct townships. Will it be for a moment believed, that such is the policy or meaning of the law?"

In *Sturgeon vs. Korte*, supra, the court, at page 535, used the following language:

"Minors being incapable of acquiring a domicile, retain that of their parents."

In re. *Murray*, supra, the court, having under consideration the meaning of the word "resident," as used in section 6254 (R. S.), after holding that the word meant the same as "domicile," also held that:

"A minor cannot himself change his domicile, and, as the residence of a minor is determined by the domicile of a parent or some person standing in the relation of a parent to him, the word 'resident,' as used in section 6254, R. S., means 'domicile.'"

The statute involved in the foregoing case provided that "The probate court of each county shall, when necessary, appoint guardians of minors, *resident* in said county,"—the word "resident" being the word also used in section 2a, Article VIII, Ohio Constitution, in defining the persons entitled to receive adjusted compensation.

In *Wickham vs. Coyner*, supra, the court held:

"A person during minority has not the capacity to change his domicile, and a student domiciled outside a state must remain in Ohio one year after attaining his majority in addition to the necessary intent to change his domicile to acquire a residence for voting purposes."

It would seem, in view of the foregoing authorities, that the domicile or residence of the minors referred to in your letter was that of their parents, which could not be changed of their own volition. Whether or not the law of the state of the parents' domicile or residence permits minors to change their residence at will, query; but so far as the law of this state is concerned, it cannot be done. There may be cases involving special or peculiar facts and circumstances which might be held to effect a change in the domicile or residence of a minor, but no such cases are referred to in your letter. In this connection reference may be made to *Green vs. Burkhardt*, 8 N. P., 237, which holds that the burden is on the claimant to prove a change of domicile or residence.

You are therefore advised that ex-service men who were minors at the time of the commencement of service in the world war, and whose parents were then living and were citizens and bona fide residents of other states, are not entitled to adjusted compensation under section 2a, article VIII, Ohio Constitution, in the absence of peculiar facts and circumstances of such character as would, in law, effect a change of domicile or residence from the other state to Ohio.

Respectfully,
JOHN G. PRICE,
Attorney-General.