

VOTING: Members of Citizens Conservation and transient camps are entitled to vote in county and state elections, both as resident voters.

July 31, 1936

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Honorable Wilbur C. Buford
Game and Fish Commissioner
Jefferson City, Missouri

Dear Sir:

Your request for an opinion dated July 23rd, is as follows:

"Please render an opinion as to whether or not the members of the various C. C. C. Camps and Transient Camps over the state are entitled to vote in the respective counties in which those camps are located, at the coming primary and general election this summer and fall, and if they are entitled to vote, must they vote absentee ballots when they have been a resident of the state for one year and a resident of the camp for sixty days, and have declared themselves to be residents of the county in which the camp is located?"

Section 2, Article VIII of the Missouri Constitution was adopted February 26, 1924, and provides as follows:

"All citizens of the United States, including occupants of soldiers' and sailor's homes, over the age of twenty-one years who have resided in this state one year, and in the county, city or town sixty days immediately preceding the election at which they offer to vote, and no other person, shall be entitled to vote at all elections by the people; provided, no idiot, no insane person and no person

while kept in any poor-house at public expense or while confined in any public prison shall be entitled to vote, and persons convicted of felony, or crime connected with the exercise of the right of suffrage may be excluded by law from the right of voting.

Section 10178 R. S. Mo. 1929, provides as follows:

"Every male citizen of the United States and every male person of foreign birth who may have declared his intention to become a citizen of the United States according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-one years, possessing the following qualifications, shall be entitled to vote at all elections by the people; First, he shall have resided in the state one year immediately preceding the election at which he offers to vote; second, he shall have resided in the county, city or town where he shall offer to vote at least sixty days immediately preceding the election; and each voter shall vote only in the township in which he resides, or if in a town or city, then in the election district therein in which he resides; Provided, however, that no officer, soldier or marine in the regular army or navy of the United States, shall be entitled to vote at any election in this state; and provided further, that no person while kept at any poorhouse or other asylum at public expense, except the soldiers' home at St. James and the confederate home at Higginsville, nor while confined in any public prison, shall be entitled to vote at any election under the laws of this state; nor shall any person convicted of felony or other infamous crime, or of a misdemeanor connected with the exercise of the right of suffrage, be permitted to vote at any election unless he shall have been granted a full pardon; and after a second conviction of felony or other infamous crime, or of a misdemeanor connected with the exercise of the right of suffrage, he shall be forever excluded from voting."

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The Constitution and Statute above set out does not refer to those persons who work in Citizens Conservation Camps, and transient camps, and the very fact that these camps are composed of citizens, would indicate that they are to be treated as citizens of the United States, irrespective of their duties relating to the camp to which they belong.

It is the opinion of this office that one who belongs to a Citizens Conservation Camp or transient camp, is not disfranchised as a voting citizen, and if said elector has resided in this State for one year and in the county, city or town sixty days immediately preceding the election to which he offers to vote, he shall be considered an elector, and as such is entitled to vote as any other elector when presenting himself to the polls for that purpose.

II.

Residence is a prerequisite to voting in this State. The Attorney General's office takes notice that the personnel of a Citizens Conservation Camp and transient camp is usually made up of citizens, who, before entering the camp, resided in many states in the Union. This question may present itself: Is this personnel made up only of temporary residents in this State and County, at all events, not entitled to vote in Missouri, because of the non-permanency of their camp's location?

The fact that a camp may be moved at pleasure does not mean that the personnel must follow the camp. One who is a member of a Conservation Camp or Transient Camp is not on the same plane as an inmate in a poorhouse, or a convict in the penitentiary, and hence disqualified as a citizen and a voter. These citizens are not incarcerated in a Citizens Conservation Camp or Transient Camp. They are there by choice. They leave by choice, and they retain all their civil rights while attending camp. To reason otherwise would defeat the very purpose for which these camps were created by our President. They can sever their relations with the camp life on their own volition. Their membership and domicile within a Citizens Conservation Camp, or transient camp, without additional facts, is of minor importance in determining the question of their residence when qualifying them as electors for voting, under the Missouri Constitution and Statutes.

Webster's dictionary defines the verb "reside" as used in the Constitution and Statutes thus:

- "1. To take up one's abode or station.
2. To dwell permanently or for a considerable time; to have a settled abode for a time; to have one's residence or domicile; specif., to be in residence, as the incumbent of a benefice."

Webster also gives as synonyms for the verb "reside";

"Live; dwell; abode; sojourn; stay and remain."

Section 655 R. S. Mo. 1929, provides in part as follows, and defines residence in this State in its seventeenth point thus:

"* * * *, seventeenth, the place where the family of any person shall permanently reside in this state, and the place where any person having no family shall generally lodge, shall be deemed the place of residence of such person or persons respectively; * * * "

The above statutory definition is not to be interpreted to mean that only persons falling within its provisions are to be considered as legal residents of this State when qualifying as voters. True, those persons which fall within the statutory definition are residents, *inso facto*, for the purpose of voting. On the other hand the word "reside" as used in the Constitution and Statutes relating to voting has no fixed meaning applicable alike in all cases, but the intention of the party is a large factor in determining residence.

Our Supreme Court said in *Green v. Beckwith*, 38 Mo. 384, l. c. 387;

"A man's residence, like his domicile, or usual place of abode, means his home, to and from which he goes and returns, daily, weekly, or habitually, from his ordinary avocations and business, wherever carried on."

In the case of *State ex rel. v. Smith*, 64 App. 313, l. c. 319, the Court said:

"The term 'residence' has no fixed meaning applicable alike to all cases. It must be understood differently, according

to a number of varied conditions. In some instances it is regarded as synonymous with 'domicile,' but they are not, in all cases, to be treated as convertible terms. It is said that domicile is residence combined with the intention. It has been well defined to be residence at a particular place, accompanied with positive or presumptive proof of an intention to remain there for an unlimited time. A man can have but one domicile, for one and the same purpose, at any one time, though he may have numerous places of residence. His place of residence may be, and most generally is, his place of domicile, but it obviously is not by any means necessarily so, for no length of residence, without the intention of remaining, will constitute domicile."

Judge Cooley in his Constitutional Limitations, volume 8, page 1365 to 1367 says:

"A person's residence is the place of his domicile, or the place where his habitation is fixed without any present intention of removing therefrom. The words 'inhabitant,' 'citizen,' and 'resident', as employed in different constitutions to define the qualifications of electors, means substantially the same thing; and one is an inhabitant, resident, or citizen at the place where he has his domicile or home. Every person at all times must be considered as having a domicile somewhere, and that which he has acquired at one place is considered as continuing until another is acquired at a different place. One's residence is where he has an established home; the place where he is habitually present, and to which, when he departs, he intends to return. The fact that he may at a future time intend to remove will not necessarily defeat his residence before he actually does remove. It has been held that a student in an institution of learning, who has residence there for the purpose of instruction, may vote at such place provided he is emancipated from his father's family and for the time has no home elsewhere. * * * * * Temporary absence from

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one's home, with continuous intention to return will not deprive one of his residence, even though it extend through a series of years."

CONCLUSION.

It is the opinion of this office that one who belongs to a Citizens Conservation Camp or Transient Camp is not disfranchised as a voting citizen. It is our further opinion that as far as residence is considered in the qualifications of voters, those members in a Citizens Conservation Camp or Transient Camp, residing in a camp located in this State and your County, may become qualified electors and voters in your State and County elections. The fact that one is a member of a camp is not of itself conclusive evidence as to temporary residence, disqualifying him as a voter. Residence for the purpose of voting, in all cases is largely a matter of intention on the part of the elector. The elector's intention as to residence can be determined by his overt acts and his declarations on the matter. When once an elector has fixed his habitation for the required period of time within your jurisdiction, with no present intention of moving, then he is a qualified voter in your jurisdiction, as far as residence is concerned, even though he be a member and living at a Conservation Camp or Transient Camp.

Those electors who have always been a resident of this State but have not shown any intention of being but temporary residents of your county may vote an absentee ballot within this State and your county, the ballot to be voted and transmitted as the absentee ballot of any other qualified voter. On the other hand, where a member of a C. C. C. Camp or Transient Camp, of proper age, has resided in the State of Missouri for one year and in a county for sixty days, even as a member of a Citizens Conservation Camp or Transient Camp during his county residence, and has declared himself to the Judges of election, to be a resident of the camp in the county in which the camp is located is entitled to vote in said County, State and National election as a resident voter, and is a qualified elector for that purpose. He cannot legally be disfranchised or forced to vote an absentee ballot under such circumstances.

Respectfully submitted

WM. ORR SAWYERS,
Assistant Attorney General

APPROVED:

~~JOHN W HOFFMAN, JR. (Acting) Attorney General~~