

**NORTH CAROLINA DIVISION OF SERVICES FOR THE BLIND
PROGRAMS AND FACILITIES SECTION
SPECIAL ASSISTANCE FOR THE BLIND PROGRAM**

Section: Appendix B
Title: Letter Regarding Emancipation of Minors

STATE OF NORTH CAROLINA
DEPARTMENT OF JUSTICE
RALEIGH

13 AUGUST 1948

SUBJECT: STATE COMMISSION FOR THE BLIND;
INFANTS; EMANCIPATION.

Mr. H. A. Wood, EXECUTIVE SECRETARY
NORTH CAROLINA STATE COMMISSION FOR THE BLIND
MANBION PARK BUILDING
RALEIGH, NORTH CAROLINA

DEAR MR. WOOD:

YOU INQUIRE AS TO THE DEFINITION OF AN EMANCIPATED MINOR AND ALSO THE AGE THAT A MINOR MAY BE CONSIDERED EMANCIPATED UNDER NORTH CAROLINA LAW. YOU CALL ATTENTION TO THE FACT THAT UNDER THE PUBLIC ASSISTANCE ADMINISTRATION, PAYMENTS WILL BE SUBJECT TO FEDERAL PARTICIPATION IF MADE TO A MINOR IF HE IS EMANCIPATED; THE PARENT OR LEGAL GUARDIAN OF THE MINOR OR TO RELATIVES OR OTHER PERSONS ACTING IN LOCO PARENTIS.

"UNDER THE LAWS OF MOST STATES, A PARENT CAN EMANCIPATE HIS MINOR CHILD; AND THIS EMANCIPATION MAY BE FOR THE WHOLE MINORITY OR FOR A SHORTER TIME." EMANCIPATION MAY BE DIRECTLY AND EXPRESSLY MADE BY THE FATHER OR PARENTS OR IT MAY BE IMPLIED FROM CONDUCT OR CIRCUMSTANCES. FOR EXAMPLE, IN THE CASE OF HOLLAND V. HARTLEY, 171 N. C. 376, ON THE QUESTION OF EMANCIPATION, OUR COURT SAID:

"HIS HONOR VERY PROPERLY PLACED THE BURDEN OF PROOF UPON THE DEFENDANT TO SATISFY THE JURY BY A PREPONDERANCE OF EVIDENCE THAT THE SON HAD BEEN EMANCIPATED FROM THE CONTROL OF HIS PARENT. THE EVIDENCE TENDS TO PROVE THAT THE CHILD LEFT HIS FATHER'S ROOF WHEN HE WAS ABOUT 18 YEARS OLD, BY AND AGREEMENT WITH THE DEFENDANT THAT THE SON WAS TO HAVE ALL HIS EARNINGS, MAKE HIS OWN CONTRACTS, AND RECEIVE HIS OWN WAGES. ALL THE EVIDENCE TENDS TO PROVE THAT THE FATHER PERMITTED HIS SON TO WORK FOR HIMSELF, TO REMAIN AWAY FROM THE PARENTAL ROOF, AND TO RECEIVE AND SPEND THE EARNINGS OF HIS OWN LABOR. THERE IS NO EVIDENCE IN THE RECORD WHICH TENDS TO CONTRADICT THE TESTIMONY OF THE FATHER TO THAT EFFECT. IT IS WELL SETTLED FOR SUCH STATE OF FACTS THAT THE FATHER HAS RELEASED HIS PARENTAL CONTROL AND IS NOT LIABLE FOR THE CARE AND MAINTENANCE OF HIS CHILD. DANIEL V. R. R., ANTE, 23; 29CYC., 1626 LOWRIE V. OXENDINE, 153 N. C., 268.

IN THE CASE OF LOWRIE V. OXENDINE, 153 N. C. 268, IN SPEAKING OF EMANCIPATION, THE COURT SAID:

"WE THINK THERE WAS EVIDENCE THAT THE PLAINTIFF HAS BEEN EMANCIPATED BY HIS FATHER AND PERMITTED TO WORK FOR HIMSELF AND TO RECEIVE THE EARNINGS OF HIS LABOR. IN INGRAM V. R. R., 152 N. C., 762, WE HELD THAT 'IF A MINOR SON CONTRACTS ON HIS OWN ACCOUNT FOR HIS SERVICES WITH THE KNOWLEDGE OF HIS FATHER, WHO MAKES NO OBJECTION THERETO, THERE IS AN IMPLIED EMANCIPATION AND AN AB-

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Mr. H. A. Wood
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SENT THAT THE SON SHALL BE ENTITLED TO THE EARNINGS IN HIS OWN RIGHT, CITING BRUDSALL v. WAGONER, 4 Col., 261; ARMSTRONG v. McDONALD, 10 Barb., 300; JENNY v. ALDEN, 12 Mass., 375; CAMPBELL v. CAMPBELL, 11 N. J. Eq., 268; TAYLOR v. WEBB, 36 N. Y. Supp., 592."

THERE IS NO HARD AND FAST RULE ON THE SUBJECT, AND YOUR AGENTS WILL HAVE TO SIZE UP THE SITUATION AND DECIDE IF A MINOR IS ACTUALLY, AS WE SAY LOOKING OUT FOR HIMSELF OR NOT; AND, LIKEWISE, THERE IS NO SPECIFIC AGE FIXED BY LAW AS TO EMANCIPATION. IN FACT, AGE HAS NOTHING TO DO WITH THE MATTER AT ALL IN OUR JURISDICTION EXCEPT THAT WHEN A PERSON ARRIVES AT THE AGE OF TWENTY-ONE, HE IS AUTOMATICALLY EMANCIPATED AS A MATTER OF LAW FOR HE THEN BECOMES AN ADULT PERSON. IF THERE IS ANY FURTHER QUESTION THAT I CAN ANSWER, YOU MAY LET ME KNOW.

YOURS VERY TRULY,

HARRY McMULLAN
ATTORNEY GENERAL

/s/ RALPH MOODY,
ASSISTANT ATTORNEY GENERAL