

the legislature intended to do away with the privilege of determining by local option elections whether the sale of beer should be had in municipal corporations and townships. It is true that section 20 (section 6212-63), as enacted in Amended Substitute Senate Bill No. 346, was specifically repealed in section 63 of the Ohio Liquor Control Act. However, it must be borne in mind that the legislature reenacted the same section in the same act, and in section 6212-63, as enacted in the Ohio Liquor Control Act, it specifically provides that the word "beer", as used in section 6212-62, which, prior to being given a sectional number by the Attorney General, was section 19 of Amended Substitute Senate Bill No. 346, is to include malt beverages containing one-half of one per centum or more of alcohol by weight and not exceeding 3.2 per centum of alcohol by weight. There is no language in section 6212-63, as enacted in the Ohio Liquor Control Act, which would indicate that the legislature intended to repeal the local option provisions contained in section 6212-62.

The provisions of section 6212-62, as originally enacted in Amended Substitute Senate Bill No. 346, must be construed in the light of the amendment made by the legislature in that section by the specific provisions contained in section 6212-63, as enacted in the Ohio Liquor Control Act. The term "beer", as used in section 6212-62, having been expressly changed by the enactment of section 6212-63 in the Ohio Liquor Control Act, it follows that the provisions of the former statute must be read and construed in the light of the latter statute. To construe the provisions of section 6212-62 as having been repealed by the subsequent action of the legislature in specifically repealing section 20 of Amended Substitute Senate Bill No. 346 in section 63 of the Ohio Liquor Control Act would be violative of the rule of statutory construction that the repeal of statutes by implication is not favored. Furthermore, the action taken by the legislature in the Ohio Liquor Control Act in reference to section 20 of Amended Substitute Senate Bill No. 346 (section 6212-13) merely resulted in the amendment and not the permanent repeal of that section.

It is therefore my opinion that the local option provisions of section 19 (section 6212-62, General Code) of Amended Substitute Senate Bill No. 346 were not nullified by the repeal of section 20 (section 6212-63, General Code) of Amended Substitute Senate Bill No. 346 in section 63 of the Ohio Liquor Control Act, inasmuch as section 6212-63, General Code, was reenacted in the latter act.

In holding a local option election in reference to the sale of beer, as provided in section 6212-62, General Code, the question should be put to the electorate in the following manner "Shall the sale of beer as defined in section 6212-63, General Code, be permitted within the district," etc.

Respectfully,

JOHN W. BRICKER,
Attorney General.

2382.

BURIAL—UNCLAIMED BODY OF INDIGENT BURIED AT EXPENSE OF VILLAGE—OPINIONS OF ATTORNEY GENERAL FOR 1932, VOL. III, P. 1387, AND VOL. II, P. 1928, FOLLOWED.

SYLLABUS:

Opinions reported in Opinions of the Attorney General for 1932, Volume III.

page 1387, and in *Opinions of the Attorney General for 1928, Volume II, page 1179, followed.*

COLUMBUS, OHIO, March 19, 1934.

HON. PAUL V. WADDELL, *Prosecuting Attorney, St. Clairsville, Ohio.*

DEAR SIR:—This is to acknowledge receipt of a request for my opinion, from your Assistant, which reads as follows:

“In opinion No. 4814, dated December 14, 1932, on record in volume 3, Ohio Attorney General Opinions, page 1387, the Attorney General of Ohio at that time rendered an opinion for this office. In the concluding paragraph it was stated that the expense of burial, etc., should be paid by the township, village or city in which such decedent had legal residence.

We believe, that under Section 3476, it is intended that such expense be borne only by the township or city, and that the term village is erroneously placed in the opinion, as villages have no provisions for burial of indigents. That opinion apparently has caused the state examiner to make a finding against one of our townships, for the reason that the bill should have been paid by a village in that township. Inasmuch as most indigent burials are required to be paid by township where all people who live in village within the township I am requesting that your office re-examine that opinion, and if you then determine that it was erroneous, that it be corrected; but that, if in your opinion it should stand as it is, that I may be notified as it has been the advice of this office that the township pay for burials of indigent who die in a village situated within the township; but that burials of indigent persons residing in a city situated within a township be paid by that city.”

Your communication indicates you are under the impression that the opinion rendered to your office by my predecessor in office, *Opinions of the Attorney General for 1932, Volume III, page 1387, No. 4814*, was in error for the reason that the term “village” was included as one of the political subdivisions liable for burial expenses of certain persons whose remains were not claimed for private interment. You refer to section 3476, General Code, as the basis for that belief.

Your attention is invited to an opinion of this office appearing in *Opinions of the Attorney General for 1928, Volume II, page 1179*, the syllabus of which reads:

“The dead body of a person not an inmate of a penal, reformatory, benevolent or charitable institution, which is not claimed for private burial and is not turned over for dissection in the manner provided by law, should be buried at the expense of the *village* in which he resided at the time of the death and not by the township in such county in which the village was located.” (Italics the writer’s.)

It will be noted that section 3495 of the General Code provides for the burial of the dead in certain cases, and that section 3476 applies to relief of in-

igent poor persons. In another opinion of this office, Opinions of the Attorney General for 1927, Volume I, page 625, the difference between these sections is discussed. There does not seem to be any intimation of a difference between cities and villages as municipal corporations in the question presented in the provisions of section 3495 of the General Code.

Therefore, in view of the fact that section 3476 of the General Code, upon which you seem to base your view that the Opinion No. 4814 of 1932 was in error in including "village" so far as burial expense of indigent persons is concerned, is a section applying to relief; and, in view of the further fact that section 3495 of the General Code is applicable to municipal corporations in general, I come to the conclusion that the position taken by the Attorney General in the opinion mentioned in your letter and in the 1928 opinion, *supra*, should be followed.

Respectfully,

JOHN W. BRICKER,
Attorney General.

2383.

APPROVAL, LEASE EXECUTED TO THE STATE OF OHIO BY THE TRUSTEES OF CAMP LOUISA OF SALINE TOWNSHIP, JEFFERSON COUNTY, OHIO.

COLUMBUS, OHIO, March 19, 1934.

HON. WILLIAM H. REINHART, *Conservation Commissioner, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of your recent communication submitting for my examination and approval a certain lease Number 2217, which has been executed to the State of Ohio by the Trustees of Camp Louisa of Saline Township, Jefferson County, Ohio.

By the lease here in question there is leased and demised to the State of Ohio for a term of five (5) years a certain tract of 108 acres situated in said township and county and being a part of the north one-half of Section 29, Township 8, Range 2, which tract of land so leased and demised is to be set aside by you as a game refuge under the authority conferred by the provisions of section 1435-1, General Code.

Upon examination of this lease I find that the same has been properly executed by the trustees of the society above referred to and that the provisions of this lease conform to the above noted and other statutory provisions relating to leases of this kind.

I am accordingly approving this lease as to legality and form as is evidenced by my approval endorsed upon the lease and upon the duplicate copy thereof, which are herewith returned.

Respectfully,

JOHN W. BRICKER,
Attorney General.