

2097.

APPROVAL, BONDS OF THE VILLAGE OF MAUMEE, LUCAS COUNTY—  
\$15,000.00.

COLUMBUS, OHIO, May 14, 1928.

*Industrial Commission of Ohio, Columbus, Ohio.*

2098.

APPROVAL, CONTRACT BETWEEN THE STATE OF OHIO AND THE  
CITY OF MANSFIELD, FOR THE CONNECTION OF THE SEWERAGE  
SYSTEM OF THE OHIO STATE REFORMATORY WITH THE SEWER-  
AGE SYSTEM OF SAID CITY.

COLUMBUS, OHIO, May 14, 1928.

HON. JOHN E. HARPER, *Director, Department of Public Welfare, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your communication of recent date, enclosing contract in triplicate by and between the Department of Public Welfare of the State of Ohio and the City of Mansfield, Ohio, providing for the connection of the sewerage system of the Ohio State Reformatory with the sewerage system of said city.

Upon examination of said contract I find that the annual compensation provided for in said contract to be paid by your department to the City of Mansfield, Ohio, for the privilege of said connection, is only such as will fairly pay said city for the increased cost due it occasioned by such connection and additional services rendered on account of the same; and finding said contract to be otherwise in conformity to the provisions of Section 1809-1, General Code, said contract and the triplicate copies thereof are herewith approved.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

2099.

DEAD BODY—UNCLAIMED PAUPER—BURIAL AT EXPENSE OF MU-  
NICIPALITY WHERE FOUND—EXCEPTIONS—INMATES OF PUBLIC  
INSTITUTIONS.

SYLLABUS:

*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 his death and not by the township in such county in which the village was located.*

COLUMBUS, OHIO, May 15, 1928.

HON. ISAAC E. STUBBS, *Prosecuting Attorney, Cambridge, Ohio.*

DEAR SIR:—This will acknowledge receipt of your communication, which reads as follows:

“Wish you would give me your opinion as to whether or not a village municipal corporation is liable for the expense of the burial of an indigent person residing in said village, rather than that the township within which such village is situated should bear such expense.

You will observe that Section 3495, General Code, reads a little differently from Section 3476, General Code, which latter section applies to relief of indigent poor persons.

I have before me Attorney General's Opinions, 1921, page 332, which holds that the municipal corporation is liable rather than the township, but in the case in which that was decided, the municipal corporation was a city.”

Section 3495, General Code, referred to in your communication, is applicable to the consideration of the question here presented. This section reads as follows:

“When the dead body of a person is found in a township or municipal corporation, and such person was not an inmate of a penal, reformatory, benevolent or charitable institution, in this state, and whose body is not claimed by any person for private interment at his own expense, or delivered for the purpose of medical or surgical study or dissection in accordance with the provisions of Section 9984, it shall be disposed of as follows: If he were a legal resident of the county, the proper officers of the township or corporation in which his body was found shall cause it to be buried at the expense of the township or corporation in which he had a legal residence at the time of his death; if he had a legal residence in any other county of the state at the time of his death, the infirmary superintendent of the county in which his dead body was found shall cause it to be buried at the expense of the township or corporation in which he had a legal residence at the time of his death, but if he had no legal residence in the state, or his legal residence is unknown, such infirmary superintendent shall cause him to be buried at the expense of the county.

It shall be the duty of such officials to provide at the grave of such person, a stone or concrete marker on which shall be inscribed the name and age of such person, if known, and the date of death.”

Construing the provisions of this section, this department in an opinion under date of April 22, 1921, Opinions of the Attorney General for 1921, Vol. I, p. 332, held that:

“Where an indigent person is a legal resident of the county, the expenses of the burial of such person should be paid by the township in which he had a legal residence at the time of his death; but if such person was also a legal

resident of a municipal corporation, the expenses of his burial should be paid by the municipal corporation and not by the township wherein such corporation is situate."

As noted in your communication, the question under consideration in the opinion of this department, above referred to, was one between the township and a city situated in such township. However, there is no suggestion of any difference between cities and villages as municipal corporations with respect to the question here presented, either in the provisions of Section 3495, General Code, or in the former opinion of this department construing the same.

In Opinion No. 366 of this department, under date of April 21, 1927, it was held that where the dead body was that of a person who was a resident of an incorporated village at the time of his death, the expense of his burial should be charged against such corporation and not against the township in which the village is situated. In the opinion of this department last referred to, after noting at some length the former opinion under date of April 22, 1921, it was said :

"While the specific question presented by you was not touched upon in the above opinion and while such opinion related to the City of Ashland, it is significant that no distinction was made therein with reference to cities and villages and that throughout the entire opinion the Attorney General ignores the fact that Ashland was a *city* as distinguished from a *village*, and considers the statute then under construction (Section 3495) as applicable to all municipal corporations. The law in the syllabus and the whole discussion relates to municipal corporations, both cities and villages.

For the reasons stated I am of the opinion that when the dead body of a person is found in a township or municipal corporation and such person was not an inmate of a penal, reformatory, benevolent or charitable institution, in this state, and the body is not claimed by any person for private interment at the expense of such person, or delivered for the purpose of medical or surgical study or dissection, if the deceased were a legal resident of the county, the proper officers of the township or corporation in which his body was found shall cause it to be buried at the expense of the township or corporation in which he had a legal residence at the time of his death.

In the specific case that you present I am of the opinion that inasmuch as the dead body was that of a person who was a resident of an incorporated village at the time of his death, the expense of his burial should be charged against such corporation and not against the township in which the corporation is situate."

By way of specific answer to the question presented in your communication, therefore, I am of the opinion that the burial expenses of the person referred to in your communication should be paid by the village in which he resided at the time of his death rather than by the township in which said village is located.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*