

but in none of these sections is there any provision for the city council to appoint assistants or create positions in this particular court, whether it be regarded as a police court or not, and after considering all of these sections, this department is unable to find any authority on the part of the city council to create this position. It may be of some value to your correspondent to suggest for his consideration the possibility of requiring the performance of the duties involved in the position under consideration by a clerk in the department of public safety, if under this act, as it practically operates, the city's interest is sufficient and the emergency justifies, until some relief may be obtained by legislative action.

Respectfully,
JOHN G. PRICE,
Attorney-General.

1680.

COUNTY SOLDIERS' RELIEF COMMISSION—MAY PURCHASE LAND
FOR BURIAL OF SOLDIERS UNDER SECTIONS 2943 ET SEQ. G. C.

The County commissioners are not authorized to purchase land and dedicate it for the use of burial of soldiers, indigent or otherwise, but the county soldiers' relief commission may make such purchase under sections 2943 et seq. G. C., payment for which shall be made by the warrant of the county auditor from the general county fund.

COLUMBUS, OHIO, December 4, 1920.

HON. THOMAS A. JENKINS, *Prosecuting Attorney, Ironton, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your recent request for the opinion of this department from which the following is taken:

“The local post of the American Legion wishes to have a certain plot of ground in the local cemetery set apart for use as a burial ground for soldiers. This cemetery is a joint cemetery of the city and township. It is sought to have the county commissioners purchase this plot of ground from the cemetery trustees, and then dedicate it for the purpose indicated above. It is the intention that this ground be then used as a burial place for any soldier whose relatives wish him to be buried therein, regardless of the financial abilities of said soldier. * * * The county commissioners have adopted a resolution providing for the purchase of said land, and for payment of the same by paying one-fourth cash and by issuing notes for the balance * * *. In view of the facts will you kindly advise me as to the following:

First: Can the county commissioners purchase land and dedicate the same for use of burial of soldiers other than indigent soldiers?

Second: Would not the county commissioners be required to have certificate of auditor to effect that money was in the treasury or else in process of collection before any such obligation could be lawfully incurred?”

Provision is made in sections 4154 et seq. for township, village and city cemeteries and for the union of municipalities and townships for what are termed union cemeteries. Provision is also made in sections 10093 et seq. for the main-

tenance of cemeteries by cemetery associations. There is no provision, however, for a county cemetery. However, in sections 2943 and 2949-1, inclusive, provision is made for soldiers' burial plots. Section 2943 is as follows:

"Upon application in writing made by a veteran soldiers' association in any city, township, or village or upon a petition in writing of five or more veteran soldiers in any city, township or village where no veteran soldiers' organization exists, the soldiers' relief commission of any county, shall purchase or provide a soldiers' plot in any cemetery where no burial plot is provided in such county, city or village for the burial, removal and re-interment of the bodies of neglected and indigent soldiers."

Section 2944 provides for the payment of the expense of such purchase by the auditor from the general county fund. There is no requirement in this section that approval or the allowance of the county commissioners is necessary.

The meaning of this section, as to the use to which the plot is to be put, is not clear, because of the terms and punctuation or lack of punctuation, as it may be viewed, of the rest of the section. Standing by itself, the section is susceptible of these two interpretations:

(1) As though it read "shall provide a soldiers' plot in any cemetery for the burial of neglected and indigent soldiers, where no such burial plot is provided in such county, city or village," or,

(2) "Shall purchase a 'soldiers' plot' in any cemetery where there has not been provided a burial plot for neglected and indigent soldiers." This approaches nearer the literal terms of the section.

A definition contained in section 2949 of the same act is as follows:

"The word 'Soldiers' shall mean: An honorably discharged soldier, sailor, or marine, who served in the army or navy of the United States of America. **The words 'Soldiers' plot' shall mean:** A plot of land in any cemetery, set apart to be exclusively used for interring the remains of deceased veteran soldiers of the United States."

It is to be noted that this definition contains no reference to indigency.

In opinion 281, Vol. I, Opinions of the Attorney-General, 1919, page 496, this department, quoting from an opinion from a former attorney-general, held that "the statute is certainly one to be construed liberally in favor of the soldiers." (Referring to 2950 G. C.)

Sections 2945 and 2960 provide for the care of soldiers' and sailors' graves without reference to financial responsibility of the estate of the deceased soldier or sailor.

Considering the purpose and intention of this kind of legislation, it is concluded that the meaning of the term "soldiers' plot" is governed by section 2949, the object of which is to specifically define that term, rather than any inference which may be drawn from that part of the latter part of section 2943, reading:

"For the burial, removal and re-interment of the bodies of neglected and indigent soldiers,"

as it is believed that these last words are used to describe a condition, upon the fulfillment of which the soldiers' plot, as defined in section 2949, may be provided and are not intended as a limitation upon the use of such plot.

Consequently, it is the opinion of the attorney-general that while the county

commissioners are not authorized to purchase such land, as stated in your question, such purchase may be made by the soldiers' relief commission of the county under sections 2943 et seq., above referred to.

This, it is believed, renders further consideration of your second question unnecessary.

Respectfully,
JOHN G. PRICE,
Attorney-General.

1681.

APPROVAL, TRANSCRIPT OF RECORD OF PROCEEDINGS FOR SALE TO THE KUHLMKE MACHINE COMPANY OF AKRON, OHIO, PARTS OF LOTS 177, 178 AND 179 IN CITY OF AKRON, OHIO. -

COLUMBUS, OHIO, December 4, 1920.

HON. JOHN I. MILLER, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your letter of December 2, 1920, transmitting in duplicate transcript of record of your proceedings relating to the sale to The Kuhlke Machine Company of Akron, Ohio, of parts of lots 177, 178 and 179 as shown on the original plat of South Akron, Ohio, said lots being now in the city of Akron, Ohio, and the tract sold containing 11,280 square feet more or less.

I have examined the transcript and find that your proceedings have been in accordance with law; and I am therefore returning the transcript with my approval endorsed thereon.

Respectfully,
JOHN G. PRICE,
Attorney-General.

1682.

APPROVAL, FINAL RESOLUTION FOR ROAD IMPROVEMENTS IN DARKE COUNTY, OHIO.

HON. A. R. TAYLOR, *State Highway Commissioner, Columbus, Ohio.*

COLUMBUS, OHIO, December 4, 1920.

1683.

APPROVAL, FINAL RESOLUTION FOR ROAD IMPROVEMENT, SUMMIT COUNTY, OHIO.

HON. A. R. TAYLOR, *State Highway Commissioner, Columbus, Ohio.*

COLUMBUS, OHIO, December 6, 1920.