

1596.

COUNTY COMMISSIONERS—RIGHT TO ERECT SPEAKER'S STAND IN
CEMETERY CONSIDERED.

SYLLABUS:

Authority of county commissioners to erect a speaker's stand in cemetery discussed.

COLUMBUS, OHIO, March 7, 1930.

HON. JESSE K. GEORGE, *Prosecuting Attorney, Steubenville, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent communication which reads:

"The board of county commissioners of this court have advertised for bids, and are desirous of entering into a contract for the construction of a speaker's stand around the Soldiers and Sailors monument erected in the Union Cemetery, of this city, said speaker's stand to be constructed of granite, and estimated to cost \$9,000.00. The Union Cemetery Association is a corporation for profit and conveyed the land upon which the monument is erected to the trustees of the Soldiers and Sailors Memorial Association of Steubenville, Ohio, for burial purposes and the erection of the monument. The monument was erected by funds derived from public subscription.

Has the board the authority to enter into such contract by virtue of Section 2961 of the General Code, 14849-2 of the General Code, or any other section of the Code?"

Section 2961 of the General Code, to which you refer, provides:

"In any county having a cemetery or part thereof set apart for the burial of soldiers and sailors of the United States, or containing a monument erected to their memory, or such monuments and memorials erected by private or public expense, to the memory of soldiers or sailors who fought to establish or in defense of, the union, the county commissioners shall care for and properly preserve that portion of such cemetery so set apart for the burial of such soldiers and sailors, and care for and properly preserve such monument or monuments or memorials, and the commissioners shall pay all expenses incident thereto from the general fund of the county."

In analyzing the provisions of the section above quoted, it will be seen that it is the duty of the county commissioners to preserve the portion of such a cemetery which is set apart for burial of soldiers; also it is the duty of the commissioners to preserve such monuments or memorials as may be constructed in such a cemetery to the memory of the soldiers. It will, therefore, be seen that if the section under consideration affords the authority to make the construction described in your letter, it must be upon the theory that such construction is an element in the preservation of the cemetery or monuments therein. While, of course, it may be possible that a speaker's stand could be erected in such a manner as to inclose a monument and thereby contribute to its preservation, there does not appear anything to indicate that any such purpose actuated the commissioners in the case you mention.

Furthermore, it would follow that such a structure would be rather inconsistent in connection with a preservation program and of course such a construction

could not be made under the guise of preserving a monument when such claims were nothing but a subterfuge.

Without undertaking to analyze in detail Section 14849-2 of the General Code, to which you refer, and its related sections, it may be stated that they refer to expenditures made in pursuance of levies authorized by a vote of the people, and would not appear to have application to the state of facts you present.

I regret to advise that I have found no other provisions of the statute that would seem to authorize the construction of the stand under the circumstances you mention.

In all probability such a structure could be erected as a memorial in itself, but such undertaking must be made in pursuance of the statutes which require the submission of the question to the voters, etc.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1597.

APPROVAL, BONDS OF ORANGE TOWNSHIP RURAL SCHOOL DISTRICT, SHELBY COUNTY—\$49,602.67.

COLUMBUS, OHIO, March 7, 1930.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

1598.

POOR RELIEF—HOSPITAL EXPENSES OF INDIGENT RESIDENT OF VILLAGE CHARGEABLE AGAINST TOWNSHIP.

SYLLABUS:

Where temporary relief is furnished to one who possesses a legal settlement in a township and who resides outside the limits of a city, the total cost thereof should be borne by such township notwithstanding said person is a resident of a village within such township.

COLUMBUS, OHIO, March 7, 1930.

HON. JOHN K. SAWYERS, JR., *Prosecuting Attorney, Woodsfield, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent communication, which reads:

“The mayor of Woodsfield and the township trustees of Center Township, in which township Woodsfield lies, have come to me about the matter of payment for medical services rendered an indigent person.

It seems as though the indigent person in question became seriously ill from appendicitis and was removed to a hospital at Cambridge, Ohio. Whereupon the hospital authorities performed an operation and notified