

4374.

APPROVAL, ABSTRACT OF TITLE TO LAND OF WADE ROBERTS AND
ROBERT E. SICKINGER IN MILAN TOWNSHIP, ERIE COUNTY,
OHIO.

COLUMBUS, OHIO, June 2, 1932.

HON. I. S. GUTHERY, *Director of Agriculture, Columbus, Ohio.*

DEAR SIR:—There has been submitted for my examination an abstract of title, deed and taxation exemption paper relating to the proposed donation of a tract of land by Wade Roberts and Robert E. Sickinger in Milan Township, Erie County, Ohio, to the State of Ohio for a raccoon ranch.

The abstract, certified under date of February 5, 1932, discloses that said Roberts and Sickinger held a good and merchantable fee simple title to said land.

The deed executed by said Roberts and Sickinger to the State of Ohio is executed in proper form to convey a fee simple title with the release of dower subject to legal highways and is executed upon the following conditions:

“Said premises shall be used by the Conservation Division of Ohio principally for a coon ranch. Said property to revert back to the grantors herein at their option if said land is not used by the State of Ohio for the propagation of wild game.”

Approval is hereby given said documents, and they are herein returned to you
Respectfully,

GILBERT BETTMAN,
Attorney General.

4375.

BODY—INMATE OF PUBLIC INSTITUTION—MUST BE KEPT FOR
THIRTY-SIX HOURS BEFORE BEING TURNED OVER FOR DISSEC-
TION PURPOSES.

SYLLABUS:

So long as the officers of a public institution keep the custody and control of the body of a deceased inmate for thirty-six hours, to the end that it may be delivered to relatives or friends if called for, they may actually cause said body to be kept at such place as in their discretion is proper for the preservation of the same. In no event, however, should such body be delivered for dissection purposes until the expiration of thirty-six hours.

COLUMBUS, OHIO, June 2, 1932.

HON. JOHN MCSWEENEY, *Director of Public Welfare, Columbus, Ohio.*

DEAR SIR:—Your recent communication reads:

“Section 9984, G. C., reads as follows:

'Section 9984. *How medical colleges may receive bodies for dissection.*—Superintendents of city hospitals, directors or superintendents of city or county infirmaries, directors or superintendents of work-houses, directors or superintendents of asylums for the insane, or other charitable institutions founded and supported in whole or in part at public expense, the directors or warden of the penitentiary, township trustees, sheriffs, or coroners, in possession of bodies not claimed or identified, or which must be buried at the expense of the county or township, before burial, shall hold such bodies not less than thirty-six hours and notify the professor of anatomy in a college which by its charter is empowered to teach anatomy, or the president of a county medical society, of the fact that such bodies are being so held. Before or after burial such superintendent, director, or other officer, on the written application of the professor of anatomy, or the president of a county medical society shall deliver to such professor or president, for the purpose of medical or surgical study or dissection, the body of a person who died in either of such institutions, from any disease, not infectious, if it has not been requested for interment by any person at his own expense.'

Does the provision 'shall hold such bodies not less than thirty-six hours and notify the professor of anatomy * * * of the fact that such bodies are being so held,' prohibit the superintendent of an institution from delivering the dead body of an inmate to the anatomical department of a medical college immediately after death where such body shall be held thirty-six hours before any further disposition is made of it except embalming?

If this could be done, the body if claimed within the thirty-six hours would be in a much better state of preservation than if kept in the morgue of the institution. Briefly, it would simply mean the keeping of the body in the morgue of the anatomical department of the medical college subject to the disposal of the superintendent of the institution in which death occurred, and under better conditions than the institution could keep it.

We respectfully request an opinion on this question."

In connection with your inquiry, no decision has been found bearing directly upon the point involved.

The language in the section which you quote would seem to indicate two things. First, the body shall not be delivered for dissection purposes before the end of thirty-six hours. Second, the professor of anatomy mentioned shall receive notice to the end that he may receive the body if he so desires, if it is unclaimed. It is believed that a common-sense interpretation of the section would support the conclusion that officers in charge of an institution should maintain the custody and control of the body of a deceased inmate for the period of thirty-six hours in order to give persons an opportunity to claim the same. The theory I have mentioned is supported by Section 9987, General Code, which reads:

"In all cases the officer having such body under his control, must notify or cause to be notified, in writing, the relatives or friends of the deceased person."

The section last above quoted indicates that it is the control of the body that is of paramount importance rather than the place it is actually kept. It will be

observed that under certain conditions township trustees are required to take charge of a dead person for burial purposes. It would be absurd to say that they could not deliver it to an undertaker for keeping during the thirty-six hour period which it is required to be held.

In specific answer to your inquiry it is my opinion that so long as the officers of a public institution keep the custody and control of the body of a deceased inmate for thirty-six hours, to the end that it may be delivered to relatives or friends if called for, they may actually cause said body to be kept at such place as in their discretion is proper for the preservation of the same. In no event, however, should such a body be delivered for dissection purposes until the expiration of thirty-six hours.

In order that the status of the body during the thirty-six hour interval be made clear, I suggest that a written communication accompany the body when it is sent to the medical college immediately after death. Such communication should state specifically that the body is transmitted to the college where it is to be held solely for and on behalf of the public officer charged by Section 9984, General Code, with its custody during such period.

At the same time, the notice to the professor of anatomy or president of the medical society can be sent. The communication should further state that further instructions with respect to the disposition of the body will be furnished at the end of the thirty-six hour period, and that no use of the body can be made, other than embalming, in the interval or prior to receiving further instructions.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4376.

APPROVAL, BOND FOR FAITHFUL PERFORMANCE OF HIS DUTIES
AS RESIDENT DISTRICT DEPUTY DIRECTOR—HAROLD G.
BARBER.

COLUMBUS, OHIO, June 2, 1932.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a bond upon which the name of Harold G. Barber appears as principal and the Fidelity and Deposit Company of Maryland appears as surety, in the penal sum of Five Thousand Dollars, conditioned to cover the faithful performance of the duties of the principal as Resident District Deputy Director assigned to Fulton, Henry and Williams Counties.

Finding said bond legal and proper as to form, I have endorsed my approval thereon and return the same herewith.

Respectfully,

GILBERT BETTMAN,
Attorney General.