

signed by the lessee for the reduction requested is that Gordon State Park, which is adjacent to the land covered by the lease in question, has been abandoned, and that as a result thereof the lessee is in receipt of no income in his use of this property and that the same is now used by him for resident purposes. I assume that you have made an adequate investigation of the questions presented by this application and that your finding is in accord with the merits of the case as disclosed by such investigation. In this view, I do not have inclination to question your finding in this matter and finding your proceedings to be substantially in accordance with the requirements of the state, the same are approved as to legality and form, as is evidenced by my approval endorsed upon the resolution which is made a part of the proceedings relating to this reduction. I am herewith returning to you the files submitted in this matter.

Respectfully,

JOHN W. BRICKER,
Attorney General.

3637.

BURIAL—UNCLAIMED BODIES OF INDIGENTS WHO DIE IN TRANSIENT BUREAUS BURIED AT EXPENSE OF COUNTY.

SYLLABUS:

When indigents, having no legal residence in the state, die in transient bureaus and their bodies are not claimed by any person for private interment, or delivered for the purpose of medical or surgical study or dissection according to the provisions of Section 9984, the infirmary superintendent should cause such bodies to be buried at the expense of the county.

COLUMBUS, OHIO, December 18, 1934.

HON. EMORY F. SMITH, *Prosecuting Attorney, Portsmouth, Ohio.*

DEAR SIR:—I am in receipt of your communication requesting my opinion which reads as follows:

“For some time the Federal Government has had established in this city an institution commonly known as the Transient Bureau, wherein persons not having legal settlement in this county or state are housed and cared for. Several of such inmates have died and the superintendent of the county infirmary has been burying them in the same manner as pauper dead are buried, as provided in the statutes for the burial of pauper dead. This, of course, causes the tax payers of this county and state to bear the expense of burial of these persons, who are in a sense induced to come to this county and remain here for indefinite periods of time. It looks most unfair to local tax payers to have to bear such expense as it would seem that should the Federal Government induce and encourage these persons to come and remain here it should bury them if they die.

I would appreciate receiving your opinion as to whether or not it is the duty of the county, at its own expense, to bury such persons.”

I call your attention to Section 3495, General Code, which reads in part 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.* * * *” (Italics the writer’s.)

Section 9984, General Code, referred to in Section 3495, quoted supra, provides a manner by which medical colleges may receive bodies for dissection.

The words “benevolent or charitable institution in this state,” were construed in Opinions of the Attorney General for 1912, Vol. II, page 1356 at page 1357, in the following language:

“The benevolent and charitable institutions referred to in Section 3495 of the General Code are benevolent institutions supported in whole or in part by the state.”

This construction was not followed in Opinions of the Attorney General for 1922, Vol. I, page 60, where it was assumed that a city workhouse is included in the section as a “penal” or “reformatory” institution. However, in my opinion it is clear that the words “benevolent or charitable institutions in this state” as employed in Section 3495, General Code, quoted supra, do not embrace a transient bureau established with the use of Federal funds. It is also clear that Section 3495 is in noways repealed, either directly or by implication, by any of the Federal and State emergency relief laws.

In case of the death of indigents in transient bureaus an attempt should always be made to locate the relatives or others to pay for the burial expenses. However, in specific answer to your inquiry, it is my opinion that when indigents having no legal residence in the state, die in transient bureaus, and their bodies are not claimed by any person for private interment, or delivered for the purpose of medical or surgical study or dissection in accordance with the provisions of Section 9984, the infirmary superintendent should cause the bodies to be buried at the expense of the county.

Respectfully,

JOHN W. BRICKER,

Attorney General.