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MUNICIPAL WORKHOUSE—WHEN COUNTY COMMISSIONERS MAY CONTRACT WITH SAID MANAGING OFFICERS TO PROVIDE BURIAL EXPENSE OF INMATES—IN ABSENCE OF AGREEMENT EXPENSE OF BURIAL SHOULD BE MADE BY WORKHOUSE AUTHORITIES.

1. *The county commissioners may contract with the managing officers of a municipal workhouse wherein they agree to provide the burial expense of an inmate who dies therein whose body has not been claimed by relatives or delivered for dissecting purposes under the provisions of section 9984 G. C.*

2. *In the event an inmate dies in a municipal workhouse who has been sentenced thereto from a county and whose body is not claimed by friends or delivered for dissecting purposes, in the absence of an agreement between the commissioners of the county from which said convict has been committed and the management of such workhouse to the effect that the county is to bear such burial expense, such burial should be made at the expense of the workhouse.*

COLUMBUS, OHIO, January 28, 1922.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Acknowledgment is made of the receipt of your recent communication, which reads as follows:

• “We respectfully request your written opinion upon the following matters:

A certain city of this state owns and operates a workhouse. Contracts are made with the various counties to take care of their workhouse prisoners.

QUESTION 1. If a prisoner sent up from a foreign county is a resident of that county, and said prisoner dies while in the workhouse and his body is not claimed for burial, who should pay the burial expenses?

QUESTION 2. If the prisoner is not a resident of the county from which he is sentenced, but a resident of the state in another county, who should pay the burial expenses?

QUESTION 3. If a prisoner sent from a foreign county is not a resident of the state and said prisoner dies while in the workhouse, who pays burial expenses?”

Section 3495 G. C., which is a part of the poor laws, provides for the burial of the dead body of a person found in a township or municipal corporation when it is not claimed by any person for private interment or delivered for the purpose of dissection under the provisions of section 9984 G. C. However, said section 3495 expressly excepts from the operation thereof persons who were inmates of “a penal, reformatory, benevolent or charitable institution in this state.” The following section provides for the expense of the burial of paupers who die in “benevolent” institutions. These sections do not provide, and no other section has been found which does expressly provide for the burial of a person who dies in a penal or reformatory institution when the body of such person is not claimed by friends or

for the purpose of dissection. However, it cannot be claimed that the legislature has failed to make a provision for the burial of a person who dies in such an institution because such authority is not expressly provided.

The workhouse authorities have certain powers relative to the management and maintenance of the workhouse and methods are provided for its upkeep. Section 4141, which relates to a city or district workhouse, authorizes the authorities to receive as inmates thereof persons sentenced thereto, as provided by law, from counties other than the one in which such workhouse is situated, "upon such terms and during such length of time as is agreed upon by the commissioners of such counties, or by the council of such municipality, and the council of the city, or the board of the district workhouse, or other authority having the management and control of such workhouse." Therefore, the workhouse authorities have power to enter into a contract defining the terms upon which they shall receive such inmates. If in the management of the workhouse the services of the inmates produce revenue for the workhouse, it will be seen that it is possible for a profit to be made by such institution.

Therefore it is believed that in view of said section 4141, the management of such workhouse may take into consideration in its contract with the commissioners of the county the expenses of the burial of an inmate sentenced thereto from such county. In other words, it is believed that it is within the power of said commissioners to agree with the workhouse authorities that in event an inmate dies and his body is not claimed by friends or by those authorized to receive it for dissecting purposes, the county will bear the expense of such burial. However, in those cases in which such a contract is not entered into it would seem that it would become the duty of the management of the workhouse to bear the expense of such a burial. The workhouse authorities are charged with the maintenance of the workhouse and are required to provide food and clothing, etc., for the inmates. In the case of the death of an inmate whose body is not claimed it would seem clear that the burial of such body is necessarily an incidental expense of said institution.

If the view herein taken is not correct, then the conclusion must be that there is no authority to bury such a body unless it be under the provisions of the health law. Such a view is clearly untenable.

Therefore, in specific answer to your inquiry you are advised:

(1) That the county commissioners may contract with the managing officers of a municipal workhouse wherein they agree to provide the burial expense of an inmate who dies therein whose body has not been claimed by relatives or delivered for dissecting purposes under the provisions of section 9984 G. C.

(2) That in the event an inmate dies in a municipal workhouse who has been sentenced thereto from a county and whose body is not claimed by friends or delivered for dissecting purposes, in the absence of an agreement between the commissioners of the county from which said convict has been committed and the management of such workhouse to the effect that the county is to bear such burial expense, such burial should be made at the expense of the workhouse.

Respectfully,
JOHN G. PRICE,
Attorney-General.