

Coming now to a consideration of your second question it is my opinion that the definition of the word "continue" as used in Section 7874, General Code, is dispositive of the question. The word "continue" when used as an intransitive verb, is defined by Webster, as follows:

"To remain in a given place or condition; to remain in connection; to abide; to be permanent or durable; to endure, to last, to keep up or maintain a particular condition, course or series of actions."

In the light of this definition it seems clear that the phrase "continue at least four days" as used in Section 7874, General Code, means that the four days must be four consecutive days. This conclusion is strengthened by the fact that in Section 7869, General Code, where authority is given to county boards of education to decide the length of time of holding county institutes the expression is used "may remain in session, in no case for a longer period than five days." Again it is said that at least one day of such *session* shall be under the immediate direction of the county superintendent. The use of the phrase "remain in session" in the one sentence, and the use of the word "session" in the other sentence clearly leads to the conclusion that the five days spoken of in the statute shall be taken to be five consecutive days.

In conclusion, therefore, and in specific answer to your question, it is my opinion that county teachers' institutes when held must be held for not more than five consecutive days nor less than four consecutive days.

Respectfully,

EDWARD C. TURNER,

*Attorney General.*

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2893.

APPROVAL, BONDS OF THE VILLAGE OF LYNTHURST, CUYAHOGA COUNTY—\$72,600.00.

COLUMBUS, OHIO, November 17, 1928.

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

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2894.

ESTATE—MONEYS OF PERSONS DYING IN HOSPITAL—TO WHOM PAYABLE.

**SYLLABUS:**

*The authorities of the University Hospital are not authorized to pay over moneys in their possession belonging to the estate of a deceased person to any person other than the duly appointed and qualified administrator or executor of the estate of such deceased person.*

COLUMBUS, OHIO, November 19, 1928.

HON. CHARLES E. FINDLAY, *Superintendent, Starling-Loving Hospital, Neil and Eleventh Avenues, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your recent communication, which reads as follows:

“On May 2, 1927, a patient by the name of R. U. was brought to the Isolation Unit of University Hospital by the City Health Department. He had on his person forty-five dollars and fifty-five cents (\$45.55) which was placed in our safe. This patient died the same day and we were unable to locate any relatives or obtain any information concerning him other than that he was a veteran of the Spanish American War.

The S. D. B. Undertaking Company took the body, assuming full responsibility for it. They received one hundred dollars (\$100.00) from the Government for burial expenses. These expenses, as shown by their receipts, amount to one hundred and forty-seven dollars (\$147.00) and they desire that the money we are holding be applied on this account.

This is the first instance of a case of this kind and we should like an opinion as to what disposition should be made of money held by us under these circumstances.”

From your communication it appears that the hospital authorities now have on hand \$45.55 belonging to the estate of the said R. U., deceased, and that the S. D. B. Undertaking Company has a claim of \$47.00 against the estate of said R. U. as the balance due for services rendered in conducting the funeral and burial of said R. U.

Under the laws of this state the only person who is authorized to collect moneys due and payable to the estate of a deceased person is the duly appointed administrator of such estate. *Chappelear vs. Martin*, 45 O. S., 126; *McBride vs. Vance*, 73 O. S., 258. On the other hand, the only manner in which claims on open account or other unsecured claims against the estate of a deceased person can be enforced is through the administrator of such estate.

Under the provisions of Sections 10617 and 10625, General Code, the S. D. B. Undertaking Company, as a creditor of the estate of said R. U., is authorized to make application for and procure the appointment of an administrator of said estate. In proceedings in the Probate Court of this county relating to the appointment of such administrator, some question may arise as to the domicile of said R. U. at the time of his death. The Probate Court, however, has in such case full jurisdiction to adjudicate and determine this question; and as a matter of practice a Probate Court in this state does not hesitate to appoint an administrator where there are assets and debts of the decedent within the jurisdiction of the court to be collected and paid. *In re Estate of Fallon*, 3 O. N. P. 62.

By way of specific answer to the question submitted in your communication, I am of the opinion that you are not authorized to pay the money in your hands direct to the S. D. B. Undertaking Company, but that the same should be paid to an administrator of the estate of said R. U., to be appointed for the purpose of receiving and paying out said money. In the present case it may be unfortunate that the S. D. B. Undertaking Company is not able to secure the application of this money for the payment of its claim without incurring the expense of having an administrator appointed for the purpose. As to this, however, I can only say that the law does not so provide.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*