

In specific answer to your first inquiry, you are advised that I am of the opinion that council of a municipality may establish an office for an employe in the office of director of public safety to make investigations of the poor, and that the salary or compensation of such employe may be paid out of public funds.

Coming now to consider your second inquiry, inasmuch as I find no statutory inhibition to employ a person who is employed by a private agency to make investigations of the poor, I am of the opinion that such person could be employed by a municipality to fill an office established by council to make similar investigations. If a public charity organization has made an investigation and kept a record of facts relating to persons who receive or apply for relief, and such report is made to the municipality, there is no authority for payment to the charitable organization for such information.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

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CEMETERY—GROUNDS OUTSIDE MUNICIPALITY ESTABLISHED BY ASSOCIATION OF RELIGIOUS SOCIETY NOW EXTINCT—TOWNSHIP TRUSTEES MAY POSSESS.

**SYLLABUS:**

*Under the provisions of Section 3451 of the General Code, the township trustees may take possession of, and care for cemeteries outside of municipal corporations established by associations or religious societies, when such associations or societies have ceased to exist.*

COLUMBUS, OHIO, September 13, 1929.

HON. F. H. BUCKINGHAM, *Prosecuting Attorney, Fremont, Ohio.*

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

“Under General Code, Section 3471, where there is a public burying ground in a township not under the control of a municipal corporation and the title and control thereof are vested in an association or the trustees thereof, or in a religious society, said cemetery may be conveyed to the trustees of the township and their successors in office, and thereafter said cemeteries are held to be public burying grounds and belonging to such township.

Under General Code, Section 3451, it is provided that the right of possession and control to and in all public graveyards which have been used by the public but not expressly dedicated, or that are not owned or under the care of a religious or benevolent society or an incorporated company or association or under the control of the authorities of any city or village shall be vested in the trustees of the township where located.

In Sandusky County there are several cemeteries which were originally organized as cemetery associations or as a part of some religious organization. Many of these cemetery associations and religious organizations have ceased to exist and the trustees in office have been dead for many years. It

seems to me impossible under Section 3471 to have these cemeteries conveyed over to the township trustees, inasmuch as the original associations and organizations have become extinct.

I would like to get an opinion as to whether or not the township trustees have a right under Section 3451 to take over these cemeteries when the conditions are as outlined above, and take care of them as township cemeteries."

A question very similar to the one you present, was submitted to my immediate predecessor, and considered in Opinion No. 2446, found in Opinions of the Attorney General for 1928, at page 1929, the syllabus of which opinion reads as follows:

"Where a religious society which owned and cared for public burial grounds in a township outside of the limits of any municipal corporation therein becomes wholly dissolved and extinct, such grounds, if the same be still used as a place of public burial, vest in the trustees of the township for burial purposes, under the provisions of Section 3451, General Code; and such trustees are authorized and required to keep such cemetery in repair out of the public funds of the township, as provided by Section 3453, General Code."

In the body of said opinion, after quoting Sections 3451 and 3453 of the General Code, the following pertinent comment was made by the then Attorney General:

"These sections of the General Code, which were enacted as part of the same act (75 O. L. 581), evince a clear legislative intention that any tract or parcel of land in a township dedicated as public burial grounds, or used by the public as such, should be cared for by some responsible authority; and to this end it is provided that if such burial grounds are not owned and cared for by some religious society or by some city or village, such grounds shall vest in the township trustees, who are required to keep the same in repair out of the funds of the township.

It appears from your communication that the cemetery here in question was at one time owned and presumably cared for by a religious society in the community. In the use of the term 'religious society' I assume that you mean the same was a voluntary association or society and not a corporation. You further state that this religious society has long since gone out of existence. The question here presented is one with respect to the effect of this fact on the application of the provisions of Section 3451, General Code, as above quoted."

As you suggest, Section 3471 of the General Code, could not have application under the circumstances you present, for the reason that this section contemplates a transfer by the proper officials, of a cemetery association or religious society. However, I concur in the holding of my predecessor, with reference to his interpretation of Section 3451, General Code, which of course, is dispositive of your inquiry.

You are therefore specifically advised that in my opinion, under the provisions of Section 3451 of the General Code, the township trustees may take possession, and care for cemeteries outside of municipal corporations, established by associations or religious societies, when such associations or societies have ceased to exist.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*