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DEAD BODIES: Removal or Burial Permits not required to be obtained, when body is removed for the purpose of preparing such body for burial.

October 10, 1941

Hon. Frank W. Jenny
Prosecuting Attorney
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Union, Missouri



Dear Sir:

This will acknowledge your letter of recent date, requesting an opinion from this department, which reads as follows:

"Section 9768 R. S. Mo. 1939 reads in part as follows:

"The undertaker or person acting as Undertaker, shall be responsible for obtaining and filing the Certificate of Death with the Local Registrar of the District in which the death occurred, and securing a Burial or Removal Permit prior to any disposition of the body."

"The question of the meaning of the word removal has been raised. Under a strict interpretation of the word any moving of the body from the place of death would be a removal. For Example:

"First:- If death occurred in the home and the Undertaker is called is it necessary to secure a removal permit from the Registrar before the body can be removed to the office of the Undertaker where preparation for burial is ordinarily provided under modern conditions.

"Second:- If a person die in the hospital in

one Township in a County is it necessary to secure a permit from the Local Registrar of that Township before the body can be removed to the office of the Undertaker in another Township for preparation for burial.

"Third:- If a person die in one County and an Undertaker from an adjoining county who might or might not be the Undertaker nearest the place of abode of such deceased person be called is it necessary to secure removal permit from the Local Registrar of the County of residence before removing the body across a county line to the office of the Undertaker.

"Fourth:- After the death of a person by accident and the Coroner has issued a Certificate of Death setting forth the cause of death is it necessary to secure Removal Permit from the Local Registrar before removing the body from a place on the Highway where death occurred to the office of the Undertaker or across a county line to the home of the Deceased.

"In each of the above instances if no apparent criminal responsibility is involved may the body be removed within the State of Missouri from one Township to another or from one county to another or from one Local Registrar's District to another without first securing a Removal or Burial Permit provided that Burial Permit be secured from the proper Local Registrar prior to interment or other disposition of the body."

An analysis of Section 9768 of R. S. Mo., 1939 obviously discloses that it is the duty of the Undertaker, or person acting as Undertaker, to obtain and file a certificate of death with the local Registrar of the District in which the death occurred. Moreover, it is also the Undertaker's duty to secure a Burial or Removal Permit, prior to the disposition of the body. Other parts of that section merely relate to the obtaining of such information as is necessary.

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While the above observation relates to the duties enjoined upon the Undertaker to secure a Burial or Removal Permit, prior to the disposition of the body, it is not to be construed so as to require the obtaining of a Burial or Removal Permit, under the circumstances which you have set forth. This observation is supported by the provisions of Section 9764 of R. S. Mo., 1939, which reads in part as follows:

"The body of any person whose death occurs in the state shall not be interred, deposited in a vault or tomb, cremated or otherwise disposed of, or removed from or into any registration district until a permit for burial, removal or other disposition shall have been properly issued by the local registrar of the registration district in which the death occurs: Provided, no such removal permit shall be required when a dead body is removed for the purpose of preparing such body for burial, but no such body shall be interred, deposited in a vault or tomb, cremated or otherwise disposed of until a permit so to do has been properly issued by the local registrar of the registration district in which the death occurs. * * *"

The above section of the statute is plain and unambiguous, and therefore, no room for construction exists. *Cummins v. Kansas City Public Service Company*, 66 S. W. (2d) 920, 334 Mo. 672. Hence, it is to be seen, from the examples you have set forth in your request, that a Removal Permit is not required when a dead body is removed for the purpose of preparing such body for burial.

Respectfully submitted

RUSSELL C. STONE
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APPROVED:

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