

PAUPERS: Duty of coroner to bury dead body of  
BURIALS: pauper after inquest no longer exists;  
CORONERS: where body is claimed by relative, county  
DEAD HUMAN BODIES: where dead man resided has the duty to  
pay for burial expenses when he is buried  
and if wife has not the necessary means.  
Burial must be made at direction or with  
consent of the County Court.

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October 25, 1945



Honorable Morris Anderson  
Prosecuting Attorney  
Marion County  
Hannibal, Missouri

11/7

Dear Sir:

Receipt is acknowledged of your letter dated October 9, 1945, in which you requested an official opinion of this office and which reads as follows:

"A controversy has arisen between the Counties of Ralls and Marion in regard to the expense account for the burial of a pauper. The County Clerk, Mr. J. E. Briscoe, desires a ruling upon the state of facts as contained in a letter to me.

"As you can plainly see my interpretation does not suit Ralls County, and Ralls County's interpretation does not suit Marion County, therefore, it is necessary to call upon you for an opinion in regard to the law.

"The letter containing the facts is as follows:

"The Ralls County Clerk has sent us a bill for the burial of a body found in the Mississippi River just across the Marion County Line, in Ralls County. The body was a Hannibal man and his wife claimed the body and brought it back to Marion County where James O'Donnell, Coroner of Marion County, buried it. The Coroner of Ralls County was called when the body was discovered and held an inquest, for which he charged Ralls County. The Ralls County Court says Marion County is liable for the burial expenses but the Marion County Court holds that since the body was found in Ralls County that they owe the funeral bill. Will you please tell us who is responsible for this bill?"

Section 13231, R.S. Mo. 1939, provides when a county coroner shall hold an inquest, and reads as follows:

"Every coroner, so soon as he shall be notified of the dead body of any person, supposed to have come to his death by violence or casualty, being found within his county, shall make out his warrant, directed to the constable of the township where the dead body is found, requiring him forthwith to summon a jury of six good and lawful men, householders of the same township, to appear before such coroner, at the time and place in his warrant expressed, and to inquire, upon a view of the body of the person there lying dead, how and by whom he came to his death."

(Emphasis ours.)

In your statement of facts you state that the body was found in the Mississippi River just across the Marion County line, in Ralls County and that when the body was discovered the coroner of Ralls County was called and he held an inquest. Consequently, it appears that the above quoted section was complied with.

Section 13245, R.S. Mo. 1939, provides when it is the duty for the county coroner to bury a dead body after an inquest has been held and how he shall be paid for burial expenses incurred. Said section is as follows:

"Whenever an inquest shall be held, if there be no relative or friend of the deceased, nor any person willing to bury the body, nor any person whose duty it is to attend to such burial, the coroner shall procure a cheap, plain coffin, and cause a grave to be dug and the body to be conveyed thereto and buried. It shall be the duty of the coroner, in so doing, to avoid all unnecessary expense, and to render to the court an accurate statement of all money expended by him for such purpose; and

the county court shall make to him a reasonable allowance for his actual expenses in procuring the coffin, hauling the body to the grave, digging the grave and burying the body; and also a reasonable allowance, according to the circumstances, for his own time and services in attending to such preparations and burial."

(Emphasis ours.)

Had the body been unclaimed, it would have been the duty of the Ralls County coroner to bury the body in the manner prescribed in the above quoted section. However, when the wife of the dead man claimed the body and removed the body to Marion County, the duty to bury the body was no longer with the Ralls County coroner. He was required to deliver the body to the wife, in accordance with Section 13245, supra.

For Ralls County to be liable for the burial expenses, it was necessary that the body be unclaimed and buried by the coroner of Ralls County, as provided in Section 13245, supra.

We assume that the reason the wife did not bury the body was because she lacked the funds to do so. Had she the necessary means, it would have been her duty to pay for the burial expenses of her husband. The husband did not have the necessary means to pay for his own burial, as you have stated in your letter that he was a pauper.

Section 9595, R.S. No. 1939, provides for funeral expenses to be paid by the County Court, and reads as follows:

"The county court of the proper county shall allow such sum as it shall think reasonable, for the funeral expenses of any person who shall die within the county without means to pay such funeral expenses."

Assuming the dead man was without means to pay for his funeral expenses, the remaining problem is to determine where the man died. Under the circumstances this may be difficult to do, but if he died in Marion County then that county would be liable for the burial expenses if the man was buried at the direction or with the consent of the Marion County Court. The County Court would have to pay the coroner a reasonable sum for the money he expended for the burial. If the coroner buried the body voluntarily, or if there was not subsequent consent to the burial given by the County Court, then there

is no liability on Marion County to pay for the burial expenses by reimbursing the coroner. See Duval v. Laclede County, 21 Mo. 396, from which the following is quoted at l.c. 397:

"\* \* \* \* Assuming that the deceased was a poor person of the county, and that the burial of the county poor, as well as their support during life, is embraced in the general duty to take care of them, \* \* \* \* it would be against all principle to allow the plaintiff voluntarily to discharge this duty for the county, and in this manner become its creditor, without its consent, for services rendered, or money expended, in taking care of its poor.

"Such volunteer acts create no obligation in any case, without a subsequent express promise, nor even then, unless the party sought to be charged, was under a legal obligation to do the act. \* \* \* \*"

If it is determined that the man died outside Marion County, then that county would have no authority to pay any one for the funeral expenses, because Section 9595, supra, provides that the person must die within the county. The exception to this would be the burial expenses paid by the County Court, as provided in Section 13245, supra.

To better protect the welfare of the people within the county, it is our belief that Marion County should recognize its general duty to take care of the poor people who reside in the county by assuming the nominal expense of their burial when they are buried within the county. It could well be done in this case by deciding that the man died in Marion County and was buried by the Marion County coroner at the direction or with the consent of the County Court. In this regard we think that the noteworthy language and reasoning appearing in the dissenting opinion of Duval v. Laclede County, supra, should be brought to your attention in the quotation taken from l.c. 398:

"\* \* \* \* For the sake of humanity, it intended that every man who would bury the decaying bodies of the poor,

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should be paid. In such cases, there is no time to wait - there is no time to consult or ask advice, and therefore the law promises to pay anyone who will bury the body. If the law was such that the party would only be paid in the event the county court thought proper to do so, the dead body, in many cases, might go unburied, or buried in such a manner as would be a disgrace to humanity. \* \* \* \*"

#### Conclusion.

Therefore, it is the opinion of this office that: (1) Where the county coroner has custody of a dead body after an inquest has been held, and the body is unclaimed by friends or relatives, the coroner must bury the body, as provided in Section 13245, R.S. Mo. 1939. The County Court will pay the coroner for expenses incurred; (2) when the body is claimed by the wife and removed to another county, the duty of the coroner to bury the body no longer exists; (3) where the body is buried by the coroner in a county other than where it was found, the county where the body was found is not liable for burial expenses; (4) the county will pay reasonable funeral expenses for a person dying within the county who has no means to pay for his burial; (5) a person who buries the body of one who died within the county must do so at the request or with the consent of the County Court, to be reimbursed for burial expenses, except as provided in Section 13245, R.S. Mo. 1939; (6) if a person dies outside of the county, the county is not liable for burial expenses, except as provided in Section 13245, R.S. Mo. 1939; (7) the moral duty is with the county to pay for the burial of its poor, and expenses could be paid by Marion County, in the instant case, by deciding that the man died in Marion County and was buried by the Marion County coroner at the direction or with the consent of the Marion County Court.

Respectfully submitted,

APPROVED:

RICHARD F. THOMPSON  
Assistant Attorney General

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J. E. TAYLOR  
Attorney General

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