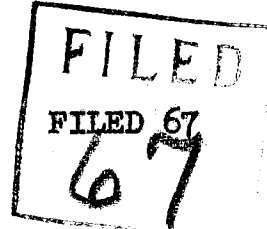


DEAD HUMAN BODIES: (1) Duty of coroner having custody of dead body found  
CORONER: floating in stream or river, to notify secretary of anatomical board as to disposition; (2) If unfit for anatomical purposes, may direct coroner to dispose of same by burial; (3) Must exercise reasonable discretion as to place of burial; (4) Coroner obligated to pay undertaker.

September 7, 1940



Mr. John F. Nunnelee, Jr.  
Coroner  
Scott County  
Charleston, Missouri

Dear Sir:

We are in receipt of your letter of September 3d, wherein you state as follows:

"I am writing you in the hope of obtaining information as to the disposition of human bodies found floating in streams and rivers in Missouri.

"What is the law regarding the burial of these cases, and where by law shall burial be made? By whom? Under whose supervision and instruction?

"Is it lawful to dispose of these bodies by the burial being made on the bank of the stream where they are found?

"Is it the duty of the County Court to pay costs for burial of these bodies to the Undertaker that has been instructed by the County Coroner to so dispose of body?"

In response to your inquiry as to the disposition of human bodies found floating in the streams and rivers in

Mr. John F. Nunnelee, Jr.

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Missouri, we are enclosing copy of an opinion rendered by this Department under date of December 16, 1936, to Dr. Louis H. Padberg, Coroner, St. Louis, Missouri, wherein the following conclusion was reached.

"We, therefore, rule that coroners are charged with the duty of notifying the secretary of the Missouri Anatomical Board whenever they have in their custody the body of any deceased person required to be buried at public expense."

Said conclusion was bottomed upon Section 9129, R.S.Mo. 1929, which reads as follows:

"Superintendents or wardens of penitentiaries, houses of correction and bridewells, of hospitals, insane asylums and poorhouses, and coroners, sheriffs, jailers, city and county undertakers, and all other state, county, town or city officers in whose custody the body of any deceased person, required to be buried at public expense, shall be and are hereby required immediately to notify the secretary of the board of distribution, whenever any such body or bodies come to his or their possession, charge or control, and shall thereafter dispose of such body or bodies, as the secretary of the state board may direct: Provided, that at any time before said body or bodies have actually been distributed, as provided in this article, any relative or friend of any such deceased person or persons, shall have the right to take and receive the same from the possession of any person in whose charge or custody it may be found, for the purpose of interment: Provided, that when a claim

is made for such body or bodies by any person, not a relative of such deceased person or person, the expense of the interment shall be borne by the person making such claim. The school or college securing such body shall pay all necessary expense incurred in the delivery thereof, including cost of notice to secretary, which notice shall be by telegraph, when necessary. A correct record of all such bodies, name and date of death, shall be kept in a book kept for that purpose with the county clerk of the county in which such person died, or the city health commissioner of St. Louis city, and such record must be furnished said county officer by person or persons reporting said bodies to the state anatomical board."

Section 9129, supra, has been repealed and in its place we have Section 4, Laws of Missouri, 1939, page 512, which reads as follows:

"Superintendents or wardens of penitentiaries, houses of correction and bridewells, hospitals, insane asylums and poor houses, and coroners, sheriffs, jailers, city and county undertakers, and all other state, county, town or city officers having the custody of the body of any deceased person required to be buried at public expense, shall be and hereby are required immediately to notify the secretary of the Board, or the person duly designated by the Board or by its secretary to receive such notice, whenever any such body or bodies come into his or their custody, charge or control, and shall, without fee

or reward, deliver, within a period not to exceed thirty-six (36) hours after death, except in cases within the jurisdiction of a coroner where retention for a longer time may be necessary, such body or bodies into the custody of the Board and permit the Board or its agent or agents to take and remove all such bodies, or otherwise dispose of them: Provided that each educational institution receiving a body from the Board shall hold such body for at least thirty (30) days, during which time any relative or friend of any such deceased person or persons shall have the right to take and receive the dead body from the possession of any person in whose charge or custody it may be found, for the purpose of interment, upon paying the expense of such interment. Each educational institution securing a dead body shall pay all necessary expense incurred in the delivery thereof, including cost of notice to the secretary of the Board or his agent, which notice shall be by telegraph, when necessary to insure immediate notice. A correct record of all such bodies, including the name and date of death, shall be kept in a book provided for that purpose by the county clerk of the county in which such person died, and by the city Health Commissioner of the City of St. Louis, and such record shall be promptly furnished said officer by the person or persons reporting said bodies to the secretary of the Board or his agent. Whenever any person fails to give the notice and deliver the body

of a deceased person as required by this act, and by reason of such failure such body shall become unfit for anatomical purposes, and is so certified by the duly authorized officer or agent of the Board, such body shall be buried at the expense of the person so failing to notify and deliver such body."

It is thus evident that it is still the duty of coroners having the custody of the body of any deceased person required to be buried at public expense, to immediately notify the secretary of the anatomical board and deliver such body into the custody of the board.

Section 6, Laws of Missouri, 1939, page 513, provides in part that, "bodies required to be buried at public expense shall be under the exclusive custody and control of the board."

It is probably very likely that when the anatomical board is notified by the coroner of the custody of such a body as referred to in your letter, that they will advise the coroner that such body is not desirable because it has become unfit for anatomical purposes. They will in all likelihood direct that the body be disposed of by burial.

You then ask whether it is lawful to dispose of these bodies by the burial being made on the bank of the stream where they are found??

We find no statute declaring where such a body may be buried, provided it is not desired by the anatomical board. Section 11626, R.S.Mo. 1929, provides 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."

Furthermore, we find no statute authorizing the county court to pay costs for burial of these bodies to the undertaker that is instructed by the county coroner to dispose of the bodies. We do not intend by this statement to mean that the coroner may not employ an undertaker to bury the body. We are merely referring to the person authorized to be paid by the county court. The county may only pay the coroner for the burial, which must be in accord with the manner prescribed by statute, and the coroner then is personally obligated to the undertaker for whatever services he contracts.

From the foregoing we are of the opinion (1) that it is the duty of coroners having the custody of the body of any deceased person found floating in the streams and rivers in Missouri, required to be buried at public expense, to immediately notify the secretary of the anatomical board for instructions as to the disposition of the body. (2) If the board does not desire said body because it is unfit for anatomical purposes, or for any other reason, it may direct the coroner to dispose of same by burial. (3) If ordered disposed of by burial the coroner should exercise a reasonable discretion as to the place of burial. (4) It is not the

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duty of the county court to pay the costs for burial of the body to the undertaker who has been authorized by the county coroner to dispose of the body, but the county court's obligation for costs for burial of the body is to the coroner who in turn is personally obligated to pay the undertaker for services he contracted.

Respectfully submitted,

MAX WASSERMAN  
Assistant Attorney-General

APPROVED:

COVELL R. HEWITT  
(Acting) Attorney-General