



WILLIAM J. SCOTT
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

July 27, 1971

FILE NO. S-322

PUBLIC ASSISTANCE:
GENERAL ASSISTANCE:
Costs of Burial of Indigent
Person by Township

Honorable Louis R. Bertani
State's Attorney
Will County
Courthouse
Joliet, Illinois 60431

Dear Mr. Bertani:

Your recent letter requesting my opinion reads
as follows:

"The Will County Coroner and the various Townships of Will County have agreed that townships will pay the sum of \$225.00 to meet the costs of the funeral, burial space, and cemetery charges for each indigent person who becomes deceased in the various townships. The Coroner reports that with the rising costs of these services, the sum of \$225.00 is no longer adequate. The several provisions of the Charities and Public Welfare Act of the State of Illinois which relate to indigent funerals are specific in providing for burial. This situation gives rise to two opinions which I request of your office:

1. Can the Coroner arrange for cremation of indigent decedents with the permission of legally responsible relatives?
2. If no legally responsible relatives are available or if none can be found, can the Coroner arrange for cremation of indigent decedents?"

Paragraph 6-6 of the Public Aid Code (Illinois Revised Statutes 1969, Chapter 23) concerns itself with the burial of those persons who require assistance from a township in Illinois but are not eligible for any of the categorical assistance programs and with the funeral and burial of such persons. It provides as follows:

"If the estate of a deceased recipient is insufficient to pay for funeral and burial expenses and if no other resources, including assistance from legally responsible relatives, are available for such purposes, there shall be paid, in accordance with the standards, rules and regulations of the Illinois Department, such amounts as may be necessary to meet costs of the funeral, burial space, and cemetery charges or to reimburse any person not financially responsible for the deceased who has voluntarily made expenditures for such costs."

Paragraph 7-5 of the Code concerns itself with the funeral and burial of persons who require assistance for medical purposes only, and again do not qualify for the categorical assistance programs, and are thus the responsibility of the township. That paragraph reads:

"Upon the death of a recipient under this Article, or of a person for whom application is made for aid in meeting funeral and burial costs only, if the estate of the deceased is insufficient to pay for funeral and burial expenses and if no other resources, including assistance from legally responsible relatives, are available for such purposes, there shall be paid, in accordance with the standards, rules and regulations of the Illinois Department, such reasonable amounts as may be necessary to meet costs of the funeral, burial space, and cemetery charges, or to reimburse any person not financially responsible for the deceased who has voluntarily made expenditures for such costs."

You will note that the sections do not set out a limitation upon the amount which may be spent for "the funeral, burial space, and cemetery charges", but leaves this within the rule-making discretion and standards of the Illinois Department. You will also note that there is reference only to burial space and cemetery charges, and no reference whatsoever, or implication about, any other disposition of the body of such a decedent.

Paragraph 12-4.11 of the Public Aid Code provides in part as follows:

* * *

"In fixing standards to govern payments or reimbursements for funeral and burial expenses, the Department shall take into account the services essential to a dignified, low-cost funeral and burial, but no payment shall be authorized from public aid funds for the funeral in excess of \$200, exclusive of such reasonable amounts as may be necessary for burial space and cemetery charges, and any applicable taxes or other required governmental fees or charges."

Another provision for burial of indigents is found in the Coroners' Act, Illinois Revised Statutes 1969, Chapter 31, Paragraph 22:

"After the inquisition the coroner may deliver the body of the deceased to his friends, if there be any, but if not, he shall cause him to be decently buried, the expenses to be paid from the property of the deceased, if there is sufficient, if not, by the county."

This, too, contemplates burial, and not cremation.

In view of the statutes quoted, without their specific mention of cremation, which is, as is well known, viewed with distaste by some persons, and with reservation by some religious groups, it is my opinion that cremation of indigents cannot be undertaken by the coroner and paid for by township funds, with or without the concurrence of legally responsible relatives of decedents.

The answer to your questions one and two are therefore both in the negative.

Very truly yours,

A T T O R N E Y G E N E R A L