

Board of County Commissioners, Duty of Under Sections 2065 and 2067 Revised Codes. County, Duty of to Make Appointment. Interment, of Honorably Discharged Soldiers, Etc.. Soldiers, Etc., Honorably Discharged, Duty of County in Case of Death.

Under the provisions of Sections 2065 and 2067, it is the duty of the Board of County Commissioners to designate some proper person in the county to decently inter the body of any honorably discharged soldier, sailor or marine who shall have served in the army or navy of the United States, who may hereafter die.

April 18th, 1913.

Hon. Justin M. Smith,
County Attorney,
Bozeman, Montana.

Dear Sir:

I beg to acknowledge receipt of your communication under date of the 10th instant, submitting for my opinion the question whether the board of county commissioners should appoint a person with general authority to act in all cases specified in Secs. 2065 and 2067, Revised Codes, as amended by the laws of 1909 and 1911, or to make a special appointment in each case of this kind after the attention of the board has been called to the fact that an old soldier, sailor or marine has died without means to provide a decent burial. I note that you have given your opinion to the commissioners that the board should not make the appointment of a person with general authority, but should only make a special appointment in each case, after a proper case had been called to the board's attention. I regret to say that I am unable to agree with you in your construction of these sections. The duty imposed upon the board of county commissioners to

"Designate some proper person in the county whose duty it shall be to cause to be decently interred the body of any honorably discharged soldier, sailor or marine," etc.,

is an absolute duty and is not made dependent upon the board's attention being called to a particular case, nor is the language of the statute, in my opinion, consistent with the view that there should be a separate and distinct appointment for each separate case arising and brought to the attention of the board. In my opinion, the board of county commissioners should make this appointment without waiting for any special case to be brought before the board, and that the appointee should assume his duties without waiting for any affirmative action on the part of any other persons whatsoever.

It is true that this construction of the statute may entail considerable expense upon the county and may possibly result in the county being put to an expense in some improper cases, but these are questions for the Legislature, with which administrative officers

have no concern. I therefore advise that the county commissioners proceed at once

“To designate some proper person in the county, whose duty it shall be to cause to be decently interred the body of any honorably discharged soldier, sailor or marine, who shall have served in the army or navy of the United States, who may hereafter die.”

Very truly yours,

D. M. KELLY,
Attorney General.