

or friends cannot provide for such decent burial.

February 6, 1934.

We acknowledge receipt of yours of the 29th of January, which is as follows:

"I have a question that I would like to submit to you as to the interpretation of Section 4536, of the Revised Codes of 1921, as amended by Chapter 181, page 486, Session Laws of the 23rd Session of Montana, said section being in relation to the burial of deceased soldiers, sailors and marines, etc.

"It appears this law was first enacted in 1903, carried forward into the Revised Codes of 1907, then reenacted in the Revised Codes of 1921 and subsequently amended by Chapter 181, Session Laws of the 23rd session.

"We have a Spanish War Veteran who died in the Federal Hospital at Helena, Montana, about the 14th day of January, 1934. The veteran was buried at the expense of his own estate and I understand an application is to be made to the board of county commissioners for an allowance of \$150.00 funeral expenses as provided in said Section 4536.

"In the Codes of 1907 there is a provision to the effect that any honorably discharged soldier who died without leaving sufficient means to defray funeral expenses should be buried at the expense of the county, such expense not to exceed the sum of \$50.00. When that section was enacted in the Revised Codes of 1921, the clause relating to the soldier dying without sufficient means for burial service is left out and the amount increased for the soldier to \$150.00. The amendment enacted by the Session Laws in the 23rd Session left the Section 4536 the same with the exception that the burial fees allowed to nurses should not exceed the sum of \$100.00, which is practically the only change made by the last amendment to Section 4536.

"The question is, if a deceased soldier had sufficient means to defray the expenses of his burial, would the board of county commissioners be compelled to allow, on proper application, the sum of \$150.00 for burial expenses,"

**Opinion No. 449.**

**Veterans—Funeral Expenses—County Commissioners.**

HELD: It is the intent of Section 4536, R. C. M., 1921, as amended by Chapter 181, Laws of 1931, to provide for the decent burial of veterans only when the deceased's estate, or relatives

Chapter 181 to which you refer was enacted by the Twenty-second Legislative Assembly, not the Twenty-third.

From a careful reading of the said chapter and the prior acts which that chapter amended, we are of the opinion that it was the intent of the legislature to provide for the "decent burial" of all such persons as those named in the Act when deceased's estate, or relatives or friends could not provide such decent burial. The injunction that when the county pays for such burial service such burial shall not be made in any pauper burial ground or cemetery, we think, furnishes the key to this interpretation. Certainly, the statute does not mean that all persons named in the Act shall be buried at public expense regardless of their financial condition or that of their relatives at the time of death.

We think it of particular significance that Section 4536 R. C. M. 1921 is included in the Chapter entitled "Care of County Poor." We think this fact further supports the construction we have placed on the statute as indicated above.