

CHAPTER 9
Flooding of Cemeteries or Burial Grounds by Power or Water Companies

SECTION 49-9-10. Publication of notice before creation of artificial lake, pond, or reservoir on cemetery or burial ground.

Any water-power or reservoir company proposing to create an artificial lake, pond or reservoir on land whereon is situated a cemetery or burying ground shall, before the creation of such lake, pond or reservoir, cause to be published once a week for four successive weeks in a newspaper published in the county or counties in which such lake, pond or reservoir shall be created or, if there be no such newspaper, in a newspaper having general circulation in such county or counties a notice which shall set forth (a) the names, if known, of all persons buried within the area to be covered by water, (b) the names, if known, of all family and other burying grounds within such area and (c) such other information as may be known to the company and which would serve to designate the known graves or graveyards within such area. Such notice shall further contain a provision calling upon the relatives of all persons buried within such area to furnish to the company in writing within a stated period of time, to be not less than thirty days from the date of last publication, a statement of their wishes with respect to the disposition of the remains of the persons so buried, signed by the person making the request and giving his post-office address.

HISTORY: 1962 Code Section 70-171; 1952 Code Section 70-171; 1942 Code Section 6026; 1932 Code Section 6026; 1929 (36) 171.

SECTION 49-9-20. Procedure authorized if no requests for disposition of bodies received.

Unless the company shall receive written requests for the disposition of the remains of deceased relatives within the time stated in such notice, the company shall be at liberty to proceed with the creation of its proposed pond, lake or reservoir and to remove, if it deems it advisable, the bodies buried within the area together with any stones or markers to some suitable place nearby or to allow the bodies to remain within the area to be covered by water and the relatives of all persons buried within such area who fail to express in writing their wishes for the disposition of such bodies shall be deemed to have abandoned such graves.

HISTORY: 1962 Code Section 70-172; 1952 Code Section 70-172; 1942 Code Section 6026; 1932 Code Section 6026; 1929 (36) 171.

SECTION 49-9-30. Petition to judge upon disagreement as to disposition of bodies.

In the event that the company and the relatives of persons buried within the pond area of such company shall be unable to agree upon a proper disposition of the bodies, the company may present a petition to the resident or presiding judge of the court of common pleas for the county in which the graves or graveyard in question are located setting forth the facts and praying for an appropriate order in the premises.

HISTORY: 1962 Code Section 70-173; 1952 Code Section 70-173; 1942 Code Section 6026; 1932 Code Section 6026; 1929 (36) 171.

SECTION 49-9-40. Rule to show cause.

Upon the presentation of such petition the judge to whom it is presented shall issue a rule to show cause returnable in not less than ten days requiring the persons named in the rule to show cause why the bodies of the deceased persons in question should not be removed to some suitable cemetery or burying ground or such other disposition be made with reference thereto as to the judge before whom the rule is returnable may seem just and proper.

HISTORY: 1962 Code Section 70-174; 1952 Code Section 70-174; 1942 Code Section 6026; 1932 Code Section 6026; 1929 (36) 171.

SECTION 49-9-50. Service of rule to show cause.

The rule to show cause provided for in Section 49-9-40 shall be directed to the interested persons who have furnished the company the written statement or request prescribed in Section 49-9-10 and shall be personally served upon such persons as are residents of the State. If the persons to be served are nonresidents service may be made by registered mail, in which case a copy of the rule and petition shall be mailed at least ten days prior to the return date of such rule.

HISTORY: 1962 Code Section 70-175; 1952 Code Section 70-175; 1942 Code Section 6026; 1932 Code Section 6026; 1929 (36) 171.

SECTION 49-9-60. Hearing; final order.

Upon the return of such rule the judge before whom it is returnable may decide the issues arising thereon upon the petition and return or he may hear testimony or refer the matter to the master in equity, the clerk of court of the county or to a special referee and the matter shall thereon proceed to final determination in the same manner as is provided by law for actions so referred. The final order to be entered in the proceedings shall provide for a suitable and reasonable disposition of the bodies, taking into account all relevant circumstances, or it may provide that the bodies be allowed to remain under such conditions as the court may prescribe.

HISTORY: 1962 Code Section 70-176; 1952 Code Section 70-176; 1942 Code Section 6026; 1932 Code Section 6026; 1929 (36) 171.

SECTION 49-9-70. Removal of bodies; supervision; expense.

All removal of bodies under the provisions of this chapter shall be made under the supervision of a duly licensed embalmer and shall be at the expense of the company instituting the proceeding.

HISTORY: 1962 Code Section 70-177; 1952 Code Section 70-177; 1942 Code Section 6026; 1932 Code Section 6026; 1929 (36) 171.