

**NATIONAL EXECUTIVE COMMITTEE
OF
THE AMERICAN LEGION
New York, New York
September 19, 1937**

Resolution No. 9: Overseas Graves Decoration Trust

Origin: Subcommittee on Resolutions

Submitted by: Subcommittee on Resolutions

WHEREAS, The national judge advocate heretofore filed an action in the Probate Court of Marion County, Indiana, in which Indianapolis Post No.4, Inc., of the Indiana Department of The American Legion, on its own behalf and on behalf of all other contributors of the Overseas Graves Decoration Trust of The American Legion, was the plaintiff, and Frank N. Belgrano, Jr., J. Ray Murphy, Harry W. Colmery, John R. Ruddick, Frank E. Samuel, and Sam W. Reynolds, Trustees of the Overseas Graves Decoration Trust of The American Legion were named as defendants for the purpose of obtaining a declaratory judgment defining the powers of the Trustees under the Overseas Graves Decoration Trust of The American Legion in connection with that provision of the Trust Agreement reading as follows:

"The income shall be used exclusively to honor, preserve and decorate the graves and for no other purpose, and under no circumstances shall the Trustees have the power or authority to expend, use or divert the Trust Fund or any part thereof for any other purpose whatsoever"; and

WHEREAS, The issues were closed in said action and the Court entered a Decree, a copy of which is appended to this resolution; and

WHEREAS, The Overseas Graves Decoration Trust Agreement heretofore executed by the Trustees of said Trust on the fourth day of November, 1935, contains the following provision, to-wit:

"It is expressly understood that this Agreement may be amended, changed or succeeded at the will of the National Executive Committee; provided, however, that the integrity of the purpose for which said Fund was created shall be preserved as to purpose"; and

WHEREAS, Said Trust Agreement under the authority as contained in said last quoted provision should be amended to conform with the construction of the powers of said Trustees as set out in said Court Order; now, therefore be it

RESOLVED, By the National Executive Committee of The American Legion in regular meeting assembled in New York, New York on September 19, 1937, That the provision in said Trust Agreement reading as follows:

"The income shall be used exclusively to honor, preserve and decorate the graves and for no other purpose, and under no circumstances shall the Trustees have the power to authority to expend, use of divert the Trust Fund or any part thereof for any other purpose whosoever," be amended to read as follows:

"The income shall be used exclusively to honor, preserve and decorate the graves and for no other purpose, and under no circumstances shall the Trustees have the

power or authority to expend, use or divert the Trust Fund or any part thereof for any other purpose;

"Provided, however, that the authority of said Trustees to preserve said graves shall include the right on the part of said Trustees to devote a sufficient amount of said income either in renewing the concessions on the graves of those veterans who served in the Arm and Navy of the United States in the Great War, whose graves are located in small private cemeteries throughout France in leased soil under ten and fifteen-year concessions, which in many instances are expiring, or to expend a sufficient portion of said income for the purpose of removing the said bodies upon the termination of said respective lease to a permanent resting place, and to take credit for any funds so expended in future current report to be filed in said Trust; and

"Provided, further, that said authority shall be permissive and not mandatory and shall be inclusive and not exclusive."; and, be it finally

RESOLVED, That the national judge advocate be and he is hereby authorized to prepare an amended agreement in conformance with this resolution to be executed by the present Trustees under said Trust Agreement.

Addendum A

* * * The Court Decree referred to in the above resolution reads as follows:

INDIANAPOLIS POST NO. 4,
INCORPORATED, OF THE INDIANA
DEPARTMENT OF THE AMERICAN
LEGION, ON ITS OWN BEHALF OF ALL
OTHER CONTRIBUTORS TO THE
OVERSEAS GRAVES DECORATION
TRUST OF THE AMERICAN LEGION.

IN THE PROBATE COURT OF MARION
COUNTY.
CAUSE NO. 3199.

vs.

FRANK N. BELGRANO, JR.,
J. RAY MURPHY,
HARRY W. COLMERY,
JOHN R. RUDDICK,
FRANK E. SAMUEL,
SAM W. REYNOLDS,
Trustees of the Overseas Graves Decoration
trust of The American Legion.

**Decree Entering Declaratory Judgment Defining Powers of Trustees Under
Overseas Graves Decoration Trust of the American Legion**

Comes now the plaintiff, Indianapolis Post No. 4, Incorporated, of the Indiana Department of The American Legion, on its own behalf and on behalf of all other contributors to the Overseas Graves Decoration Trust of The American Legion, by counsel, and come also the defendants, Frank N. Belgrano, Jr., J. Ray Murphy, Harry W. Colmery, John R. Ruddick, Frank E. Samuel and Sam W. Reynolds, Trustees of the Overseas Graves Decoration Trust of The American Legion, in person, and this cause being as issue upon the plaintiff's complaint herein and the respective answers filed by said defendants, is now submitted to the court for trial, finding and decree.

The court, having heard the evidence, having considered the issues as presented by the various pleadings here in, and being otherwise duly advised in the premises, now finds that the plaintiff, together with other patriotic organizations and persons, created by voluntary contributions a trust fund of approximately One Hundred Seventy Thousand Dollars (\$170,000.00), the income from which is to be used to honor, preserve and decorate the graves of those who served in the Army and Navy of the United States in the Great War who lie buried overseas, which fund and the accumulated income therefrom is now in the custody of the defendant Trustees.

The court further finds that said fund, including the income there from, is to be administered by the designated Trustees under the terms of a certain trust agreement known as the Overseas Graves Decoration Trust of The American Legion, a copy of which is made a part of the complaint and designated as Exhibit "A", and that the defendants herein are the Trustees under the terms of said agreement, and are charged with the proper administration of said fund.

That there are approximately two hundred (200) veterans who served in the Army and Navy of the United States in the Great War, whose graves are located in small private cemeteries throughout France. on leased soil, under ten and fifteen-year concessions, which in many instances are expiring, and unless renewed upon expiration, the bodies will be exhumed and the remains dumped into a lime pit.

That to remove said bodies as said respective leases expire will require an expenditure of approximately Seventy-five Dollars (\$75.00) for each body so removed, and that the said Trustees have ample income from said trust fund on hand with which either to renew said concessions or to remove said bodies as said leases expire to a permanent resting place.

That said trust agreement contains the following provision:

"The income shall be used exclusively to honor, preserve and decorate the graves and for no other purpose, and under no circumstances shall the Trustees have the power or authority to expend, use or divert the Trust Fund or any part thereof for any other purpose whatsoever."

That the authority of said Trustees to use the income from said trust fund for the purpose of honoring, preserving and decorating said graves as set out in said provision includes the right on the part of said Trustees to devote a sufficient amount from said income either to renew the concessions on said graves as they respectively expire, or to expend a sufficient portion of said income for the purpose of removing said bodies upon the termination of said respective leases to a permanent resting place, and to take credit for any funds so expended in their future current reports to be filed in said trust.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that said defendants as the duly appointed, qualified and acting Trustees of the Overseas Graves Decoration Trust of the American Legion, under the terms of said trust agreement, be and they are hereby authorized and empowered to expend a sufficient sum from the income of said trust fund from time to time, either for the purpose of renewing the leases on the graves of those soldiers and sailors of the United States in the Great War whose bodies lie buried in leased soil in France upon the expiration of said respective leases, or to expend a sufficient amount as each lease expires, for the purpose of removing said bodies to a permanent resting place, and to take credit for said expenditures in their future current reports to be filed in said trust. That the costs of this proceeding in the amount of \$..... be paid by said Trustees from said trust fund.

Dated this 26th day of June, 1937.

(Signed) SMILEY N. CHAMBERS,

Judge of the Marion Probate Court.