

CORONERS: Powers and duties of coroners and other officers  
in relation to inquests.  
INQUESTS:

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October 21, 1942

Forrest B. Goodrich, Coroner  
St. Clair County  
Osceola, Missouri



Dear Sir:

This is in reply to yours of recent date wherein you submit the following questions:

"1. When a wreck occurs on the Highway and some of the occupants of the car are killed, does the Prosecuting Attorney have the right to authorize the disposition of the dead body.

"2. When the above occurs does the Prosecuting Attorney or the Sheriff have the power to investigate, release the dead body without consulting the Coroner of that County.

"3. Is the power invested in the Prosecuting Attorney, Sheriff or the Coroner as to decide whether there shall be an inquest held.

"4. When a dead body is released in the above manner without the knowledge of the Coroner, who shall sign the death certificate.

"5. Should the Sheriff and the Prosecuting Attorney investigate, release a dead body, without the knowledge of the Coroner are they liable to a penalty."

The offices of coroner and sheriff are provided for by the Missouri Constitution, Article IX, Section 10.

Section 13227, R. S. No. 1939, provides as follows:

"A coroner shall be a conservator of the peace throughout his county, and shall take inquests of violent and casual deaths happening in the same, or where the body of any person coming to his death shall be discovered in his county, and shall be exempt from serving on juries and working on roads."

Section 13231, R. S. No. 1939, provides as follows:

"Every coroner, so soon as he shall be notified of the dead body of any person, supposed to have come to his death by violence or casualty, being found within his county, shall make out his warrant, directed to the constable of the township where the dead body is found, requiring him forthwith to summon a jury of six good and lawful men, householders of the same township, to appear before such coroner, at the time and place in his warrant expressed, and to inquire, upon a view of the body of the person there lying dead, how and by whom he came to his death."

Section 13242, R. S. No. 1939, provides as follows:

"The coroner, upon an inquisition found before him of the death of any person by the felony of another, shall speedily inform one or more justices of the peace of the proper county, or some judge or justice of some court of record, and it shall be the duty of such officer forthwith to issue his process for the apprehension and securing for trial of such person."

While a coroner is a constitutional officer, yet his powers and duties are provided for by the foregoing statutes. In searching through the statutes we find another section pertinent to this question, it is Section 9767, R. S. Mo. 1939, which is as follows:

"In case of any death occurring without medical attendance, it shall be the duty of the undertaker to notify the registrar of such death, and when so notified, the registrar shall inform the local health officer and refer the case to him for immediate investigation and certification, prior to issuing the permit: Provided, that when the local health officer is not a qualified physician, or when there is no such official, and in such cases only, the registrar is authorized to make the certificate and return from the statement of relatives or other persons having adequate knowledge of the facts: Provided further, that if the circumstances of the case render it probable that the death was caused by unlawful or suspicious means, the registrar shall then refer the case to the coroner for his investigation and certification. And any coroner whose duty it is to hold an inquest on the body of any deceased person, and to make the certificate of death required for a burial permit, shall state in his certificate the name of the disease causing death, or the means of death; causes or violence, and whether (probably) accidental, suicidal, or homicidal, as determined by the inquest; and shall, in either case, furnish such information as may be required by the state registrar properly to classify the death."

By this section it seems that in case of a death occurring without medical attention the death certificate may be signed by the local health officer. If the local health officer is not a qualified physician, or, if there is not a local health

officer, the registrar may make the certificate of death described in Section 9766, R. S. Mo. 1939.

Under Section 9767, and Section 13231, R. S. Mo. 1939, supra, in cases where it is probable that the death was caused by unlawful or suspicious means, or where the coroner is notified of the dead body of a person who is supposed to have come to his death by violence or casualty, the coroner has jurisdiction to hold an inquest. From a reading of these sections it will be seen that the principal reasons for notifying the coroner are to determine by an inquest whether or not such person has come to his death by unlawful or suspicious means, and not necessarily for the purpose of having the coroner sign the death certificate.

On the question of the necessity of holding an inquest by a coroner, we find that this department has, by two former opinions, ruled on this. We are enclosing copies of these opinions, which are as follows: An opinion dated November 15, 1935, to Dr. E. T. McGaugh, State Health Commissioner, Jefferson City, Missouri, and an opinion dated March 8, 1933 to Mr. L. D. Rice, Prosecuting Attorney, Neosho, Missouri.

In speaking of the duties of the coroner with reference to signing the death certificate under Section 9767, supra, the Supreme Court in O'Donnell v. Wells, 21 S. W. (2d) 762, 765, said:

"\* \* \* Said section does authorize the coroner to make the medical certificate when the case is referred to him by the registrar as a case without an attending physician and a case where death may have been caused by unlawful and suspicious means. When the coroner is so authorized, he must make the certificate as directed in said section. This duty is incidental to the duties of a coroner under chapter 48 (sections 5916-5957), Rev. St. 1919, which provides for taking inquests of violent and casual deaths. \* \* \* But the holding of an inquest does not authorize the coroner to make and sign the medical certificate unless the

case was referred to him by the registrar as provided in section 5803. If there is an attending physician, the medical certificate must be made and signed by him. \* \* \* \* \*

In our said opinion dated March 8, 1933, at page 4 thereof, we stated:

"Answering the first paragraph of the inquiry in your letter we are of the opinion that in every case where death has been occasioned by violence or casualty, as those terms are above defined, the Coroner is required to hold an inquest and that without regard to any criminality or negligence that might be involved in or grow out of the death."

CONCLUSION

From the foregoing, it is the opinion of this department that where a person comes to his death by violence or casualty the coroner is required to hold an inquest, regardless of any acts of the prosecuting attorney or sheriff.

We are further of the opinion that in cases of violent or casual death, the death certificate could be signed by the local health officer, if he is a qualified physician, or, if there is no local health officer, then the registrar is authorized to make the certificate. But, if it is a case where it appears probable that the death was caused by unlawful or suspicious means, then the registrar refers the case to the coroner for his investigation and certificate.

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On the question of the criminal liability of the sheriff and prosecuting attorney for releasing a dead body without the knowledge of the coroner, we find that the Kansas City Court of Appeals in the case of Hagener v. Pulitzer Pub. Co., 172 Mo. App. 436, 158 S. W. 54, held that the sheriff has no official duties to perform in connection with a coroner's inquest.

Section 13240, R. S. Mo. 1939, provides as follows:

"The evidence of such witnesses shall be taken down in writing and subscribed by them, and if it relate to the trial of any person concerned in the death, then the coroner shall bind such witnesses, by recognizance, in a reasonable sum for their appearance before the court having criminal jurisdiction of the county where the felony appears to have been committed, at the next term thereof, there to give evidence; and he shall return to the same court the inquisition, written evidence and recognizance by him taken."

And, Section 13242, R. S. Mo. 1939 provides as heretofore set forth in this opinion.

By these sections it will be seen that the criminal code is set in motion if it appear at the inquest that a felony has been committed in connection with the death, but we find no statutes which authorize the prosecuting attorney, or the sheriff, to interfere with the coroner in the performance of his statutory duties. However, Section 12984, R. S. Mo. 1939, provides as follows:

"That the prosecuting or circuit attorney of cities that now have or may hereafter have 500,000 inhabitants or more is hereby required to attend inquests held by coroners in cases of deaths occurring by violence, and which may result in a charge

of felony; and said prosecuting or circuit attorney shall make an investigation concerning said death and cause to be brought before the coroner any witnesses he may desire, and shall be permitted by the coroner to assist in the interrogation of witnesses for the full development of the circumstances leading up to and resulting in said death, and for his information concerning any possible criminal charge that may grow out of the same, and for the aforesaid services there shall be taxed as costs a fee in favor of said prosecuting or circuit attorney of ten dollars for each aforesaid inquest, to be paid as other costs by the respective counties. It shall be the duty of each coroner to promptly notify the prosecuting attorney of his county or city of the time and place of inquisition concerning any death of the aforesaid character."

In cities of 500,000 or over it is the duty of the prosecuting attorney or circuit attorney, to attend inquests held by coroners in cases of death occurring by violence, but this statute no where indicates that the powers and duties of the coroner in reference to holding an inquest are changed.

In searching through the statutes relating to crimes and punishment we fail to find any statute which imposes a penalty in a case where the prosecuting attorney and sheriff assume jurisdiction over the matter of holding inquests. In the absence of such a statute no penalty could be imposed; however, this does not prevent the coroner from holding an inquest when required under the statute so to do.

#### CONCLUSION

It is, therefore, the opinion of this department that if the sheriff and prosecuting attorney should release a body

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over which an inquest should be held, there is no criminal liability therefor. However, such act does not prevent the coroner from holding an inquest under the conditions hereinbefore set out.

Respectfully submitted,

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TWB:CP

APPROVED:

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