

CORONER'S INQUEST:

A "view" or "inquest" must be held where the person is "supposed to have come to his death by violence or casualty."

In order for the coroner to "view" a body there must be an "inquest," Section 58.610, RSMo 1949, makes exception where some credible person declares under oath that the person came to his death by violence or crime; then the coroner, without a jury, shall view the body and declare the cause of death.

"VIEW" PART OF "INQUEST:"

November 26, 1951

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Dear Sir:

This is in reply to your request for an opinion of this department, which request is as follows:

"I would like to have your opinion as to when it is necessary and when not necessary for the coroner to conduct an inquest. This question arises particularly in connection with deaths arising out of automobile accidents on public highways. Section 58.260 Revised Statutes of Missouri, 1949, appears to be very definite in its requirements. In numerous sections, to-wit: 58.520, 58.580 and 58.610 Revised Statutes of Missouri, 1949, a 'view' is referred to. However, I find no statute defining a 'view' or authorizing a 'view'. I understand that the coroners in some of the Counties of the State merely go out and make a sort of an informal investigation, which they call a 'view' and do not have an inquest before a jury of six men, as is required by Section 58.260. I would like to know whether or not the law does provide for a 'view' and the definition of a 'view' and under what circumstances is a 'view' proper."

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We are enclosing herewith a copy of an opinion of this office given Honorable Henry H. Fox, Jr., Prosecuting Attorney, Jackson County, Kansas City, Missouri, dated July 27, 1949 (30). The first seven pages of this opinion to a great extent seem to answer your question. It is to be noted that the coroner should use discretion with respect to determining whether an inquest should be held. However, Section 58.260, RSMo 1949, provides that an inquest shall be held when the deceased person is "supposed" to have come to his death by violence or casualty." We call your attention to that part of Section 58.610, RSMo 1949, which is as follows:

"* * * except in a case in which some credible person shall have declared, under oath, to the coroner, that the person whose body is to be viewed came to his death by violence, or other criminal act of another, the coroner shall not summon any jury, but shall himself view the body and declare the cause of death."

(Emphasis ours.)

Here statutory reference is made to the coroner "viewing the body" without a jury, and his declaring the cause of death.

In Crenshaw v. O'Connell, 235 Mo. App. 1085, 150 S.W. (2d) 489, 1.c. 492, the court in dealing with the coroner's viewing the body and declaring the cause of death said:

"* * * where the dead person is not merely 'supposed' to have come to his death by violence or casualty, but where some credible person has declared under oath to the coroner that the person whose body is to be viewed came to his death by violence or other criminal act of another, the coroner may dispense with a jury and himself view the body and declare the cause of death. * * *

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there was no declaration under oath by any person as to the circumstances under which the deceased had come to his death so as to have entitled defendant to refrain from holding an inquest, and, upon a coroner's view of the body, himself declare the cause of death."

(Emphasis ours.)

We also refer you to Patrick v. Employers Mutual Liability Insurance Company, 233 Mo. App. 251, 118 S.W. (2d) 116, l.c. 123, where the same subject matter is discussed by the Kansas City Court of Appeals.

The courts fully recognize the fact that definite rules cannot be laid down to cover all situations as to the necessity of holding a coroner's inquest but hold that the coroner must in each case exercise his discretion in light of the facts and circumstances and statutory requirements.

In reply to your inquiry concerning a definition of "view" as used in the law relating to coroners and inquests, we refer you first to Black's Law Dictionary, Third Edition, page 1816, where you will find the following:

"VIEW OF AN INQUEST. A view or inspection taken by a jury, summoned upon an inquisition or inquest, of the place or property to which the inquisition or inquiry refers. Brown."

We also refer you to the case of Lancaster County v. Holyoke, 37 Nebr. 328, 55 N.W. 50, l.c. 52, 21 L.R.A. 394, where the Supreme Court of Nebraska defined "viewing" as used in connection with the law relating to coroners and inquests. Here the coroner was claiming an allowance of a fee for an examination made by him without a jury. The language of the statute was "For viewing dead body ... \$10.00." In 21 L.R.A. 394, l.c. 399, the Nebraska court defined "viewing" as follows:

"* * * The word 'viewing,' as here used, means something more than looking, seeing,

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beholding. It means inspection; investigation; an inquiry into the cause of the death of the person. And the coroner cannot alone make this inquiry, and he is not entitled to this fee unless he has, with a jury, held an inquest as provided by law."

In discussing this matter, the Supreme Court of Nebraska in 21 L.R.A. 394, l.c. 398, 399, said:

"* * * Our statute, however, (in Comp. Stat. chap. 18, sec. 97,) provides: 'The coroner shall hold an inquest upon the dead bodies of such persons only as are supposed to have died by unlawful means.' Under this the coroner has nothing to do with investigating the death of any person unless such person is supposed to have come to his death by unlawful means. If a person was known to have committed suicide, or if he was known to have come to his death from a stroke of lightning, or known to have received his death by a fall from a building, the coroner would have nothing to do with holding an inquest over the body of such persons. The statute last above quoted, when the coroner shall have been notified of the finding of a dead body of a person supposed to have died by unlawful means, requires the coroner to summon forthwith six lawful men of the county to appear before him at a time and place named in the warrant. This statute is mandatory, and if the coroner has received notice of the finding in his county of some one dead and that person is supposed to have died by unlawful means, then it is the duty of the coroner to forthwith summon a jury, and proceed to hold an inquest, and ascertain the cause of the death of the person. Section 105 of the same chapter provided that this jury, having

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inspected the body, heard the testimony, and made all needful inquiries, shall return to the coroner their inquisition in writing. It appears from this statute, then, that, in order for a coroner to act at all,--that is, in order for him to view the body of a person found dead in his own county,-- he must have reached the conclusion that the person came to his death by unlawful means; otherwise he has nothing to do with the dead body. * * * But, when he does act, he can only act in the manner provided by law; that is to say, the coroner, by virtue of his office, has no right to hold an inquest alone. When a person has been found dead and is supposed to have died by unlawful means, the statute provides that the facts as to the manner or means by which deceased came to his death shall be ascertained by a jury."

(Emphasis ours.)

It is to be noted that the Nebraska court was dealing with a statute which required "an inquest upon the dead bodies of such persons only as are supposed to have died by unlawful means," while the Missouri statute requires that an inquest shall be held when the deceased person is "supposed to have come to his death by violence or casualty."

Under our statutes, a "view" or an "inquest" must be held where the person is "supposed to have come to his death by violence or casualty." This, of course, requires a jury. Section 58.610, RSMo 1949, however, makes an exception to the above where some credible person declares under oath to the coroner that the person whose body is to be viewed, came to his death by violence or crime; then in that event the coroner shall not order a jury but shall himself view the body and declare the cause of death. With the above statutory exception there must be an "inquest" before there can be a "view." A view of the body is a part of the inquest as these terms are used in the coroner's and inquest law of the State of Missouri.

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CONCLUSION

It is, therefore, the opinion of this department that a "view" or "inquest" must be held in all cases where the person is supposed to have come to his death by violence or casualty. A "view" of a body is a part of an "inquest" as used in the coroner's and inquest law of Missouri; except where some credible person declares under oath to the coroner that the person whose body is to be viewed came to his death by violence or other criminal act, in which event the coroner shall himself "view" the body and declare the cause of death.

Respectfully submitted,

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APPROVED:



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GCH/fh

Enclosure