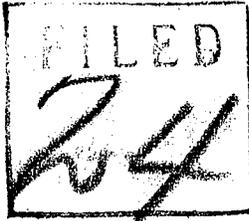


CORONERS:
INQUESTS:

When there is no coroner in a county, there is no means by which an inquest may be held.



December 9, 1955

Honorable J. Morgan Donelson
Prosecuting Attorney
Mercer County
Princeton, Missouri

Dear Sir:

Your recent request for an official opinion reads as follows:

"The coroner for Mercer County, Dr. C. P. Pickett, died some months ago after his election and qualification after the last regular election. The vacancy of this office was duly certified to the Governor but since that time no appointment has been made. I would like an official opinion from your office as to whether an inquest can be held under these circumstances when required? Whether the sheriff under the law requiring him to act in the temporary absence of the coroner is broad enough to permit said sheriff to act as coroner? If the sheriff cannot act and no appointment is made, who is permitted by law to perform the necessary duties required of a coroner?"

Section 58.205, RSMo, Cum. Supp. 1953, reads as follows:

"The sheriff of the proper county shall, in the temporary absence of the coroner for any reason, perform all the duties imposed by law upon the coroner."

It will be noted that the above holds that the sheriff may perform all of the duties of the coroner, which certainly would include the holding of inquests, "in the temporary absence of the coroner." It is clear that the above means to confer the power of a coroner on the sheriff when there is a coroner of the county in existence, which is not the situation here since the coroner, being dead, leaves the county wholly without a coroner.

Honorable J. Morgan Donelson

For the same reason, it cannot be said that the coroner is "temporarily absent," his absence being final and absolute.

In view of the above, we do not believe that the above statute can be made to apply in the situation which you set forth. Furthermore, we are unable to find the power of holding inquests conferred upon any other person in any county since the repeal of Section 58.450, RSMo 1949, which stated that if the coroner is unable to take the inquest, any magistrate or any judge of a circuit court of the proper county may take the inquest and perform all of the duties hereby enjoined on the coroner. This section was repealed by the laws of 1951.

CONCLUSION

It is the opinion of this department that when there is no coroner in a county, there is no means by which an inquest may be held.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Hugh P. Williamson.

Yours very truly,

JOHN M. DALTON
Attorney General

HPW:bi