

CORONERS: Inquest not to be held on Sunday. Fee for multiple death in one casualty is \$5.00.

October 21, 1937.

10-22



Dr. F. V. DeVinny
Coroner Schuyler County
Downing, Missouri

Dear Sir:

I acknowledge your request for an opinion dated October 19, 1937, which reads as follows:

"I am writing in regard to a matter which has just been under my jurisdiction. As Coroner of Schuyler County I was called at about 11:00 p. m., Saturday night to come to a place $3\frac{1}{2}$ miles south of Lancaster, Missouri, on highway #63 where an accident had occurred in which two men had been killed. The two men were hit by a car coming from the opposite direction, the men standing beside their car putting oil in the crankcase. Their headlights had been left on bright and the car was still on the pavement. (black-top).

"Being rather new to the Coroner's duties, I made arrangements for an inquest to be held the next morning (Sunday) and when about ready to start the inquest an attorney called and stated that an inquest held on Sunday would not be legal. I am most certainly not a lawyer, but the statute concerning Coroners and Inquests stated that I could call an inquest at 'any time or place' deemed fit. The Prosecuting Attorney ruled that the inquest would not be legal, so I called another one for Monday morning. It seemed rather inhuman to keep the bodies of these two men in an undertaking

establishment when their close relatives wanted them at their homes. However under the ruling of the Prosecuting Attorney I was powerless to release the bodies and they were held.

"I would appreciate your ruling on this matter, so that I may govern myself accordingly in the future.

"Another ruling I would like to have. Am I, as Coroner, entitled to the sum of \$5.00 for viewing each body or just \$5.00 for the two. The inquest was held over both bodies at the same time and naturally the witness, jury and other fees would apply to but the one time, but I thought that perhaps I was allowed the separate fee on each view."

Section 11612 R. S. Mo. 1929 R. S. Mo. 1929, provides:

" 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."

In the case of Houts v. McCluney 102 Mo. 13, 1. c. 17, 14 S. W. 766, the Supreme Court said:

"The object of the coroner's inquest is to ascertain whether the person died by felony or accident; and, if by felony, to discover the guilty person or persons. The inquest is a proceeding judicial in character, and is one step taken in the enforcement of the criminal laws of the land."

As to holding a coroner's inquest on Sunday, 13 C. J. p. 1248, Section 15, reads as follows:

"Following the established rule that Sunday is dies non juridicus, it has been said that the inquisition must not be conducted on Sunday; but it has been held that an inquest was not void because held on that day."

The fee to coroners having viewed dead bodies is found in Section 11802, R. S. Mo. 1929, which provides in part:

"Coroners shall be allowed fees for their services as follows: Provided, that when persons come to their death at the same time or by the same casualty, fees shall only be paid as for one examination:

"For the view of a dead body. . . \$5.00."

CONCLUSION.

In Missouri a coroner's inquest is a judicial proceeding. The question of the right of a coroner to hold an inquest on Sunday has never been presented to the Appellate Courts of this State. Since our Courts have held the inquest hearing to be a judicial hearing, we are of the opinion that the coroner's legislative power to issue warrants and express on same the time and place of the hearing is not intended as statutory power

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to designate the hearing for a Sunday. The coroner's function of holding an inquest over a dead body is to determine the cause of a sudden, violent or unnatural death, which can be determined on a week day as well as on a Sunday. Such was the intent of the Legislature.

Construing Section 11802, supra, we are of the opinion that where persons come to their death by the same casualty, as in the case you describe, the coroner's fee is limited to the fee for one examination, that is \$5.00.

Respectfully submitted

WM. ORR SAWYERS
Assistant Attorney General.

APPROVED:

J. E. TAYLOR
(Acting) Attorney General.

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