

CORONER'S FEES: A coroner of a fourth class county, being himself, a physician or surgeon, is not entitled to a twenty-five dollar fee (\$25) in conducting a post-mortem examination in addition to compensation in the form of salary as provided by law.

OPINION NO. 101
(542-1966)

July 11, 1967

Honorable William H. Bruce
Prosecuting Attorney
Reynolds County
Centerville, Missouri 63633



Dear Mr. Bruce:

This is to acknowledge receipt of your request for an official opinion from this office in regard to the following question:

"Will you please let us know, under Section 58.530 when the court allows twenty five dollars (\$25) for a post-mortem, being a physician, is the coroner allowed to retain the twenty five dollars (\$25) in addition to his salary?"

Section 58.530, RSMo 1959, reads as follows:

"Whenever the coroner, being himself a physician or surgeon, shall conduct a post-mortem examination of the dead body of a person who came to his death by violence or casualty, and it shall appear to the county court that such examination was necessary to ascertain the cause of such person's death, the county court may allow the coroner therefor an additional fee, not exceeding twenty-five dollars, to be paid as his other fees in views and inquests; but section 58.560 shall not be construed to apply to any such examination when made by the coroner himself."

In an opinion rendered by this office relating to the question of coroner's fees in "views and inquests" under Section 58.520, RSMo 1959, it was held that a coroner of a county of the third class was not entitled to fees for performing his services in addition to compensation in the form of salary as provided by law. Op. Atty. General No. 89, Thurman, 1-22-53. It is submitted that the immediate issue for our determination is whether or not the "physician fee" as referred to in Section 58.530, supra, is to be given the same consideration as a coroner's fees in "views and inquests" as ruled upon in the above opinion.

In the construction of statutes, courts must, if possible, give effect to every word, phrase, clause and sentence of the statute. In re Dugan's Estate, 309 S.W.2d 137. Thus, we are provided with a clue to our question when reference is made to the statute itself. Here, it is clearly stated that a coroner, being himself a surgeon or physician is entitled to a fee of twenty-five dollars which is to be paid as his other fees in "views and inquests." (emphasis ours).

In order to ascertain legislative intent, a court should trace the historical development of the legislation, considering all changes and modifications of legislative policy from time to time, and related statutes. State v. Chadeayne, 323 S.W.2d 680. When reference is made to the Missouri statutes, it is immediately noted that Sections 58.530 and 58.520, supra, providing for payment of fees to coroners, were both enacted in 1939. The Attorney General's opinion, supra, also commented on the fact that prior to 1945, coroners received compensation for their services by payment of "fees". However, the reasoning of the opinion was that with the enactment of legislation in 1945 providing for the salary of a county coroner, and by requiring a coroner to pay to the county treasurer all fees accruing to his office, the legislature intended that a coroner's salary was to be full compensation for his services and that he would not be entitled to the fees provided in Section 58.520. Thus, by the authority of this opinion, one could logically conclude that the same reasoning is applicable to Section 58.530, and that the legislature intended the denial of a fee formally payable to a coroner acting as a physician. It is presumed that the legislature is aware of an interpretation placed upon existing statutes and by amending a statute or enacting a new statute on the same subject, the legislature intended to effect some change in the existing law. Wright v. J. A. Tobin Const. Co., 365 S.W.2d 742.

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Finally, we turn to consider the relationship between a post-mortem examination and a coroner's duties in views and inquests. In the case of *Patrick v. Employees Mut. Liability Ins. Co.*, 118 S.W.2d 116, 233 Mo.App. 251, the court held that coroners are not authorized to perform an autopsy in their discretion except in connection with an inquest to be held before a jury of persons supposed to have died by casualty. This theory was also followed in the case of *Crenshaw v. O'Connell*, 150 S.W.2d 489, 235 Mo.App. 1085, where the court stated as follows:

"The law invests the coroner with no authority to have an autopsy performed except in connection with, and as an incident to, an inquest to be held before a jury upon the body of a person supposed to have come to his death by violence or casualty, * * *" (emphasis ours)

We are therefore persuaded that an autopsy or post-mortem examination is a proceeding which is in connection with and necessarily incident to the inquest procedure. See *Coty v. Baughman*, 50 S.D. 372, 210 N.W. 348. Consequently, when a coroner acts as a physician in conducting a post-mortem examination, he is charged with the responsibility and proper conduct of both activities. This being true, we believe that the twenty-five (\$25) fee payable to a coroner acting as a physician is in the nature of and in the same category as the coroner's fees in views and inquests ruled upon in Op. Atty. General No. 89, Thurman, 1-22-53, and should be denied to him as extra compensation.

CONCLUSION

A coroner of a fourth class county, being himself, a physician or surgeon, is not entitled to a twenty-five dollar fee (\$25) in conducting a post-mortem examination in addition to compensation in the form of salary as provided by law.

The foregoing opinion, which I hereby approve, was prepared by my assistant, B. J. Jones.

Yours very truly,


NORMAN H. ANDERSON
Attorney General