CORONERS: (1) Jurisdiction of coroners.
DEATH CERTIFICATES: (2) Proper person to sign death certificates.

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Honorable Henry H. Fox, Jr.
Prosecuting Attorney
Jackson County
Kansas City, Missouri

Dear Sir:

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

> "There has been some conflict in Kansas City, Jackson County, Missouri, concerning the powers and duties of the Coroner's office, with that of the City Health Department.
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> "The Coroner's office has requested my office to supply them with an opinion as to their powers and duties. A copy of said opinion I am transmitting to you herewith. I in turn am transmitting to you an opinion drawn by an attorney of this City for the Jackson County Coroners office which was submitted to me together with a form entitled 'Information and Guidance for Coroner Cases.'
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> "It is my request that you submit to me an opinion of the present law and statutory power of the Coroners office in so far as they relate to each one of the provisions contained in their 'Information and Guidance for Coroner Cases.'"

The statute relating to the duties of coroners is Section 13231, Mo. R.S.A., Laws of Missouri, 1945, page 990, which reads 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 sheriff of the county where the dead body is found, requiring him forthwith to summon a jury of six good and lawful citizens of the county, to appear before such coroner, at the time and place of 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."

At the outset of this discussion, we think it well to bring to your attention the language of the Supreme Court of Missouri in discussing the jurisdiction of coroners in the case of Boisliniere vs. The Board of County Commissioners, 32 Mo. 375, wherein the court said, l.c. 378:

> "The object of an inquest, of course, is to ascertain the cause of death--whether it was the result of violence or criminal agency; and in order to attain this object, the coroner is necessarily clothed with a discretion on the performance of his duties. The authority of a coroner in this branch of his office is necessarily judicial in its character; (4th Inst. 271; Hale, 65; Giles v. Brown, 1 Mills' C. Rep., 113;) and the obvious importance of this office to the criminal justice of the county must consist, in a great measure, in the discretion with which he exercises its functions in a judicial capacity. To maintain, as does the counsel for the commissioners, that an inquest should be held only in cases of death by violence or casualty, assumes the existence of the fact which can only be determined, in many instances, by such inquests. How is the coroner to be guided in exercising his jurisdiction in a given case? and when is it properly invoked in acting in this capacity? <u>There is not (nor could there be in the nature of things) any classification of circumstances by law circumscribing his action, or fixing precisely the limits of his authority. The nature of his duties and the object to be attained must guide his discretion, acting, as we must presume he does, under a sense of his obligations as an officer and the sanction of an oath.</u>

> When called upon to act, he will decline or proceed to the investigation accordingly as the circumstances of the particular case are, or are not, of such a suspicious character as to render proper an official examination, and of these he is the sole judge. But if he act, and the result shows the death to have been caused neither by violence, nor to have been the result of casualty, it does not follow that the inquest was improper, or that his authority was illegally exercised or abused; for the circumstances in this class of cases may furnish no stronger grounds for supposing criminal agency than in cases where the verdict of the jury may disclose a natural death. The law has imposed no limits on the discretion of the coroner, by means of any preliminary inquiry or otherwise, for the purpose of restricting his action in making inquests; and when he acts, the presumption is he has acted in proper cases."
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> (Underscoring ours.)

You will note in the underlined portion of the opinion above that the court declared there could not be any classification of circumstances circumscribing the action of the coroner or fixing precisely the limits of his authority.

The general rule concerning the jurisdiction of coroners is set out in 13 Am. Jur. at page 108, as follows:

> "The circumstances under which coroners' inquests shall be held are specified in general terms in the statutes relating to the office of coroner. These statutes usually provide for inquests in cases in which death is due, or is supposed to be due, to violence or other unlawful means. The object is to obtain information as to whether death was caused by some criminal act and to obtain evidence to prevent the escape of the guilty, as well as to furnish the foundation for a criminal prosecution in case death is shown to be felonious. It is necessary for a coroner to determine whether a statute contemplates the holding of an inquest in a particular case. When

> the statutes speak in general terms and do not specify the kind of information on which he is justified in acting, the coroner must necessarily be vested with discretion. Generally speaking, the determination of the question whether an inquest shall be held rests, within certain limits, in the sound discretion of the coroner. If there is reasonable ground to suspect that a death was felonious, it is the duty of the coroner to act. But his duty and power to hold an inquest rest on sound reason and are not to be exercised capriciously and arbitrarily. The mere fact that a body lies dead does not give the coroner jurisdiction, even though death was sudden. There ought to be a reasonable suspicion that it was caused by violent or unnatural means. Nevertheless, the cause of death may be shrouded in such mystery as to warrant the tentative assumption that death was occasioned in a manner which would justify the holding of an inquest to subserve the public ends.
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> " * * * A statute, however, which requires an inquest in case of death by 'violence, casualty, or any undue means' embraces cases of death resulting from chance or accident."

With this general rule in mind and the statement of the court in the Boisliniere case, we proceed to a discussion of the particular provisions contained in the enclosed paper entitled "Information and Guidance for Coroners Cases," which the Coroner of Jackson County has for circulation. The said paper contains a list of cases that the coroner desires to have reported to his office.

Provision (1) thereof is as follows:

> "1. All cases which have been unattended by a physician, or which have died suddenly while in apparent health, or which have been under medical attention less than twenty-four hours or have had no medical attendance within 24 hours. Also anyone who has been in a hospital less than 24 hours and not

> under care of a doctor previous to admittance into hospital."

We differ with this provision in that it specifically provides that "all" such cases should be regarded as coroners' cases. It is obvious that many of the cases listed would, under normal circumstances, not be matters for the coroner's office to investigate unless death was by violence or casualty. The matter would have to be determined in each individual case and would depend upon the apparent cause of death and upon the facts and circumstances preceding and following the death.

As noted in Section 13231, Mo. R.S.A., the coroner has jurisdiction of cases of persons supposed to have come to their death by violence or casualty. In the case of O'Donnell vs. Wells, 21 S.W. (2d) 762, l.c. 765, the Supreme Court of Missouri declared that "In cases calling for an inquest it would be the duty of the attending physician to notify the coroner."

Provision (2) is as follows:

> "2. All suicides or homicides and all cases in which exists a reasonable suspicion as to cause of death, such as: deaths due to bullet wounds, stab wounds, cutting instruments, blunt force, suffocation or strangulation by violence, burns, electrical shocks, poisons, abortions infanticides, and unexpected natural deaths."

We believe that this provision contemplates in most instances cases which a coroner has a duty to investigate, certainly suicides and homicides. However, we do not think this would always be so in cases of "unexpected natural deaths." In these cases, we believe that the same rule and reasoning would prevail as in those arising under Provision (1). In the case of Young vs. Pulaski County, 85 S.W. 229, the court, in speaking of jurisdiction of coroners, said, l.c. 229:

> " * * * Lord Denman, speaking as Chief Justice of the Court of Common Pleas, said: 'The mere fact of a body lying dead does not give the coroner jurisdiction, nor even the circumstance that the death was sudden; there ought to be a reasonable suspicion that the party came to his death by violent or unnatural means (citing authorities). The coroner must therefore, before he summons

> a jury, make some inquiry; and if, on that inquiry, he finds that the circumstances which occasioned the death happened out of his jurisdiction, and that there is reasonable suspicion of murder or manslaughter, he ought to abstain from summoning a jury.' * *"

Provision (3) is as follows:

> "3. All accident cases, or cases which are the result of external violence of any kind, the period covering same being one year and a day."

The Missouri statute concerning the jurisdiction of coroners embraces deaths by violence or casualty. In most cases arising under Provision (3), the coroner would have jurisdiction of the case in order to determine the criminal liability of any person or persons responsible for the death.

Provision (4) is as follows:

> "4. All cases which die of any disease in which an accident or external violence acted as a contributory cause of death."

Here again we believe that such cases are within the purview of the statute directing the coroner to take inquests in deaths by violence or casualty. This is so because it is the nature of the coroner's duty for him to assist in ascertaining whether or not the criminal laws have been violated. Even though the direct cause of death may be from disease, if external violence or casualty was a contributory cause, there might still exist a possibility of criminal prosecution of the one responsible for the casualty or external violence.

We will forego a discussion of Provision (5) at this time as we will go into it extensively later in the opinion.

Provision (6) is as follows:

> "6. The Coroner will consider as Coroner's Cases, all such hospital cases which, after a careful detailed examination proves that they cannot be satisfactorily diagnosed, and will consider with his Chief Physician whether necropsy is necessary."

We believe that the cases provided for under Provision (6) might well be considered coroners' cases in the absence of certain limiting circumstances. If the attending physicians secure the permission for an autopsy and are enabled by performing same to determine the cause of death, the coroner would not necessarily have jurisdiction of such cases. His jurisdiction would depend upon the facts and circumstances preceding and following the death and upon the apparent cause of death. If the death was caused by violence or casualty, of course jurisdiction would attach, subject to limitations outlined above. As for consideration as to whether necropsy is necessary, it is well to point out that the coroner has no authority to perform an autopsy except in connection with an inquest. Prenshaw vs. O'Connell, 150 S.W. (2d) 489; Patrick vs. Employers' Mutual Liability Insurance Company, 118 S.W. (2d) 125.

Provision (7) is as follows:

> "7. All Hospitals must furnish a detailed Autopsy report to the Coroner's office within five days, whenever a Post has been granted."

We assume that Provision (7) means autopsy reports in coroners' cases. We do not believe that it would be necessary for hospitals to report on autopsies in cases where the result shows that death was due to natural causes and not a result of violence or casualty.

We come now to a consideration of Provision (5), which reads as follows:

> "5. **UNDER NO CIRCUMSTANCES IS A PHYSICIAN OR HOSPITAL PERMITTED TO ISSUE A DEATH CERTIFICATE ON A CASE COMING UNDER THE JURISDICTION OF THE CORONER.**"

The coroner has certain duties relative to the certification of death certificates in cases referred to him by the local registrar as those in which the circumstances suggest that the death was caused by other than natural causes. This duty is imposed upon the coroner by a provision of the Uniform Vital Statistics Act found in Laws of Missouri, 1947, Volume II, page 241, which reads as follows:

> "If the circumstances suggest that the death or stillbirth was caused by other than natural causes, the local registrar shall refer the case to the coroner for investigation and certification."

It is very important that the law relative to certification of deaths be strictly followed as property rights of individuals may be involved, because in certain cases death certificates are relied upon to make a prima facie case where the question involved is the cause of death. Because of this, we will attempt to set out the rule relative to the determination of the proper person to certify a death certificate.

The Uniform Vital Statistics Act, subsections (2) and (3) of Section 14, Laws of Missouri, 1947, Volume II, page 241, provides as follows:

> "(2) In preparing a certificate of death or stillbirth the person in charge of interment shall obtain and enter on the certificate the personal data required by the division from the persons best qualified to supply them. He shall present the certificate of death to the physician last in attendance upon the deceased or to the coroner having jurisdiction who shall thereupon certify the cause of death according to his best knowledge and belief. He shall present the certificate of stillbirth to the physician, mid-wife or other person in attendance at the stillbirth, who shall certify the stillbirth and such medical data pertaining thereto as he can furnish.
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> "(3) Thereupon the person in charge of interment shall notify the appropriate local registrar, if the death occurred without medical attendance, or the physician last in attendance fails to sign the death certificate. In such event the local registrar shall inform the local health officer and refer the case to him for immediate investigation and certification of the cause of death prior to issuing a permit for burial, cremation or other disposition of the body. When the local health officer is not a physician or when there is no such officer, the local registrar may complete the certificate on the basis of information received from relatives of the deceased or others having knowledge of the facts. If the circumstances suggest that the death or stillbirth was caused by other than natural causes, the local registrar shall refer the case to the coroner for investigation and certification."

The language used in the above sections is similar to the language in Sections 9766, and 9767, R. S. Mo. 1939, both repealed by the bill enacting the Uniform Vital Statistics Act. The courts have not as yet interpreted the above provisions of the new act. However, several cases arose under Sections 9766 and 9767. From the law and these cases, we believe that the following rules for the certification of death certificates should be followed when applicable:

(1) If the diseased dies with a physician in attendance, that physician should sign the death certificate.

(2) In the event of a stillbirth, the physician, midwife or other person in attendance at the stillbirth, should certify the stillbirth and furnish such medical data as is available.

(3) If the death occurs without medical attendance, the local registrar should inform the local health officer and refer the case to him for investigation and certification of the cause of death.

(4) When the local health officer is not a physician or when there is no such officer, the local registrar himself shall complete the certificate.

(5) If the circumstances suggest that the death or stillbirth was caused by other than natural causes, the local registrar shall refer the case to the coroner for investigation and certification.

However, it should be noted that in cases arising under (3), (4) and (5) above, the signing of the death certificate should be done by those named officers only in the absence of a physician last in attendance (or in the event that such physician fails to sign the death certificate).

In the case of O'Donnell vs. Wells, 21 S.W. (2d) 762, the Supreme Court of Missouri said, l.c. 765:

> "Defendant insists the medical certificate must be made and signed by the attending physician. Plaintiff thinks the coroner was authorized by section 5803, Rev. St. 1919, to make and sign said part of the certificate of death. 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. This chapter directs the coroner to perform no duty in aid of the registration of births and deaths.
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> "Defendant's contention must be sustained. It is clear the lawmakers had in mind the best information obtainable, for they provided in section 5802, Rev. St. 1919, that the medical certificate of the death certificate must be made and signed by the attending physician. They not only commanded the attending physician to make and sign the medical certificate but provided he would be guilty of a misdemeanor if he failed or refused to do so. Section 5817, Rev. St. 1919. In cases calling for an inquest it would be the duty of the attending physician to notify the coroner. It would then be the duty of the coroner to hold an inquest under chapter 48 (sections 5916-5957), Rev. St. 1919. 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 the case at bar, there was an attending physician, and he did not make and sign the medical certificate. It was made and signed by the deputy coroner who was not an attending physician. * * * * "

From the above, it can be seen that Provision (5) would not necessarily be true in every instance. The coroner has jurisdiction of deaths caused by violence or casualty, yet the attending physician, if any, would be the proper person to certify the cause of death. Moreover, we wish to make it clear that the determination of the proper person to sign a death certificate does not in any manner limit the authority

of the coroner. He still has a duty to perform in cases of death by violence or casualty and should be notified in all such instances. We believe it well at this time to point out the provision of the law concerning the duty of the local registrar to inform the coroner of cases where the circumstances suggest that a death or stillbirth was caused by other than natural causes. This duty is imposed upon the registrar by the provision of the Uniform Vital Statistics Act, supra, and the act further provides a penalty if he should neglect or refuse to refer the case to the coroner. Section 38 (3), Laws of Missouri, 1947, Volume II, page 246, reads as follows:

> "Except where a different penalty is provided in this section, any person who violates any of the provisions of this act or neglects or refuses to perform any of the duties imposed upon him by this act, shall be fined not more than $100."

Respectfully submitted,

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APPROVED:

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JRB:VLM