Coroners—Jurisdiction—Fees—Witnesses—Inquests.

Before the coroner may legally hold an inquest the body of the deceased person must be within his jurisdiction, and this regardless of where the lethal injury was received. The witnesses attending a hearing held by the coroner outside of his jurisdiction, in compliance with a subpoena, are entitled to their fees.

November 25, 1927.

J. F. Sullivan, Esq.,
Deputy County Attorney,
Butte, Montana.

My dear Mr. Sullivan:

You have requested my opinion on the following question:

"Can the coroner of Silver Bow County legally hold an inquest and collect the fees for so doing where the lethal injury was received in Silver Bow County, but before the coroner had an opportunity to hold an inquest the body was removed to an adjoining county? Are the witnesses attending such inquest, in obedience to a subpoena issued by the coroner, entitled to witness fees from Silver Bow County?"

You have expressed as your opinion that under the provisions of section 12381, R. C. M. 1921, before the coroner can legally hold an inquest, the body of the deceased person must be within his jurisdiction, and this, regardless of where the lethal injury was received, and that for this reason the claim of the coroner for holding an inquest under the circumstances above stated should not be allowed by Silver Bow county, citing as authorities for your conclusion:

13 C. J. 1248 (subdivision 16);

Reg v. Hind, 5 Q. B. 944;

State v. Bellows, 56 N. E. 1028;

Fayette County v. Batton, 108 Pac. 591.

I am in full accord with your opinion in this matter, and the authorities cited.

You further state that it is your opinion that the witnesses are entitled to recover their fees from Silver Bow county, and cite as authority the general provision of law as stated in 13 C. J. 1259, note 44, and with this I am also in full accord; and for the further reason that these witnesses in attending the inquest were obeying a subpoena issued by a duly authorized officer of Silver Bow county.

Very truly yours,

L. A. FOOT,

Attorney General.