

2. Such officers are entitled to the statutory compensation when serving as jurors at coroner's inquests.

April 22, 1938.

Mr. W. A. Brown  
State Examiner  
Capitol Building  
Helena, Montana

Dear Sir:

You have asked if officers of the United States, the State of Montana, or any county, incorporated city or town within the limits of the State of Montana are entitled to witness fees when testifying at coroner's inquests or serving as jurors at coroner's inquests.

Section 4936, Revised Codes of Montana, 1935, provides that such officers shall not be entitled to witness fees in criminal cases. A coroner's inquest is essentially a criminal proceeding (13 C. J. 1245), and has always meant a judicial investigation into the cause of death (People v. Coombs, 14 N. Y. Crim. 17), and the coroner is required to hold an inquest "when he is informed that a person has been killed or has committed suicide or has died under such circumstances as to afford a reasonable ground to suspect that his death has been occasioned by act of another by criminal means." (Section 12381, R. C. M. 1935.)

It is my opinion that a coroner's inquest is included within the category of criminal cases, as that phrase is used in Section 4936, and the enumerated officers would not be entitled to witness fees for testifying at said inquest. But Section 4936 merely applies to witness fees.

Jurors' fees for coroner's inquests are prescribed by Section 4935, R. C. M. 1935. Said Section 4935 does not contain the exception contained in Section 4936. If such officers waive their exemptions and serve as jurors at a coroner's inquest, they would be entitled to compensation as provided by statute.

**Opinion No. 272.**

**Coroner's Inquest—Officers—Witness Fees—Jurors' Fees.**

HELD: 1. Officers of the United States, the State of Montana, or any county, incorporated city or town, are not entitled to witness fees for testifying at coroner's inquests.