

Opinion No. 14.**Coroners—Fees.**

HELD: 1. Coroners can collect \$5.00 per day for inquest and \$5.00 additional for investigations although done on the same day and in the same case.

2. The duty of the coroner upon an inquest is to go to the place where the body is and if interred to exhume the same, summon a jury and conduct a hearing. The duties of an investigation require a preliminary inquiry to determine the necessity of an inquest.

3. The number of days' pay in investigations in counties of first, second and third class is unlimited. In other counties investigations are limited to one day's pay. The maximum number of days' pay in holding an inquest shall not exceed two at the rate of \$5.00 per day.

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

My Dear Mr. Brown:

You have submitted the following questions for my opinion:

"1. Can a County Coroner charge and collect a \$5.00 per diem fee for holding an inquest and an additional \$5.00 per diem fee for the investigation of the same case and on the same day?

"2. If so, what are the coroner's duties when making an investigation, and what are his duties in holding an inquest?

"3. Would the following claim of a coroner be lawful or would it be excessive, particularly as to the last two items, the date and person deceased being the same for both items?

"Jan. 4, 1938, investigation of death of John Smith, \$5.00; Jan. 5, 1938, investigation of death of John Smith, \$5.00; Jan. 6, 1938, investigation of death of John Smith, \$5.00; Jan. 7, 1938, investigation of death of John Smith, \$5.00; Jan. 7, 1938, inquest into death of John Smith, \$5.00. \$25.00."

Chapter 9, L. 1937, provides that the coroner is entitled to collect and receive for his own use the following fees:

"For each day or fraction of day engaged in making an investigation

relative to a death, whether an inquest is later held or not, the sum of five dollars (\$5.00), provided, that not more than one day's fees shall be charged for making an investigation in any one case; except in counties of the first, second and third class;

"For each day or fraction of day engaged in holding an inquest, five dollars (\$5.00), provided, that not more than two days fees shall be charged for holding an inquest in any one case."

The above provisions segregate investigations from inquests, but they do not exclude an investigation from being made on the same day as the inquest. For each day of making an investigation, or fraction thereof, not exceeding one day, except in counties of the first, second and third class, for any one case the coroner receives \$5.00. For each day of holding an inquest, not exceeding two days, the coroner receives \$5.00 per day. The fee for an investigation is additional to the fee for an inquest. While investigations are segregated from inquests, the day upon which either can be made or held is not segregated. It follows that a coroner can hold an investigation and inquest on the same day and charge \$5.00 for each.

Chapter 9, supra, distinguishes between an inquest and an investigation. Sections 12381 to 12393 specify the duties of the coroner upon an inquest. Generally such duties are to go to the place where the body is, and, if interred cause it to be exhumed, summon a jury, subpoena witnesses, issue warrants, and conduct a hearing. An investigation presupposes preliminary inquiry into the cause of the death to determine the necessity of holding an inquest. Often an investigation will obviate the necessity of an inquest and the added cost incident thereto.

The charges made by the coroner, as illustrated by your third question, would be appropriate if the county were of the first, second or third class, because no maximum limitations of the number of days to investigate are fixed in such counties. In other class counties pay for only one day's investigation is allowed. In any class county the maximum charge for an inquest cannot exceed two days at the rate of \$5.00 per day.