

No. 78

CORONERS, Authority to Hold Inquest

Held: Coroner may hold an inquest only when he has reasonable ground to suspect death was caused by suicide or was the result of an act of another by criminal means.

April 9, 1941.

Mr. J. Miller Smith
County Attorney
Lewis and Clark County
Helena, Montana

Attention: Mr. E. M. Hall
Chief Deputy

Dear Mr. Smith:

You have called my attention to conflicting opinions given by former attorneys general on the question of when a coroner should hold an inquest. The opinions are found in 2, Opinions of the Attorney General, 200; and 17, Opinions of the Attorney General, 152.

The statute under which the question arises is Section 12381 of the Revised Codes of Montana, 1935, the pertinent portion of which provides:

"12381. Coroner to Summon Jury to Inquire Into Cause of Death.

When a coroner 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 the act of another by criminal means, . . . he must inquire into the cause of the death."

Under the latter opinion the view was taken that "it was mandatory that a coroner hold an inquest where a person has been killed or committed suicide."

In the former opinion it was determined that the coroner was justified in holding an inquest only when he had reasonable grounds to suspect that the death was caused by suicide, or was the result of an act of another by criminal means.

We agree with you in your opinion that the conclusion reached in the former opinion (2, Opinions of the Attorney General, 200) is sound. It is supported by the following authorities, construing an almost identical statute:

Morgan v. San Diego County, 3 Cal. App. 454, 86 Pac. 720;

Huntly v. Zurich General Accident & Liability Insurance Co. (Cal.), 280 Pac. 163.

The opinion found in 17, Opinions of the Attorney General, 152, should, as it pertains to this matter, be overruled. We think that, if the Coroner has reasonable grounds to suspect that the death or killing of a person was of such a nature as to indicate the possibility of death by the hand of the deceased or through the instrumentality of some other person by criminal means, he must hold an inquest. Only in such cases is an inquest warranted.

Sincerely yours,

JOHN W. BONNER,
Attorney General