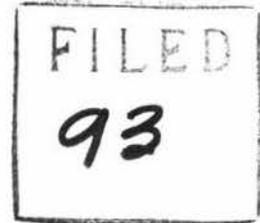


STATE HIGHWAY PATROL: Coroner not authorized to issue blanket
CORONERS: order requiring state patrol to leave
dead bodies at scene of accident until
his arrival.

December 15, 1948



Colonel Hugh H. Waggoner
Superintendent
Missouri State Highway Patrol
Jefferson City, Missouri

Dear Colonel Waggoner:

This is in reply to your letter of recent date requesting
an opinion of this department and reading as follows:

"In connection with our duties in the
handling of accidents, tornados, and other
similar occurrences, we are many times
confronted with the problem of making
proper disposition of bodies in those
cases where there are fatalities.

"We shall appreciate an opinion from
your department as to whether under the
present law, a police officer when called
to the scene of such a tragedy is required
to keep the body or bodies at the scene
until such time as the coroner may arrive.
We are aware of the provisions of Section
13231, page 990, of the 1945 Session Acts,
and would like your interpretation as to
where the inquest should be held.

"Under this section, would a coroner, who
may also be an undertaker, be authorized
to issue blanket instructions that all
bodies be left at the scene until such
time as he arrives and directs final
disposition?"

The office of coroner was created by the Laws of Missouri, 1945,
page 1404, Section 1. Being a statutory officer the coroner can
exercise only such powers as are specifically prescribed by the acts
of the Legislature. The rule is set out in 46 C.J., Officers, Sec.
287, page 1031 as follows:

"The powers and authority of public officers are fixed and determined by the law. Subject to such limitations as may be imposed by the constitution, the legislature with power to create an office may prescribe its powers, and may from time to time increase or diminish them. * * * *"

The above rule is recognized in Lamar Township vs. City of Lamar, 261 Mo. 171, l.c. 189 and is as follows:

"Officers are creatures of the law, whose duties are usually fully provided for by statute. In a way they are agents, but they are never general agents, in the sense that they are hampered by neither custom nor law and in the sense that they are absolutely free to follow their own volition. * * * They are trustees as to the public money which comes to their hands. The rules which govern this trust are the law pursuant to which the money is paid to them, and the law by which they in turn pay it out. * * * The law which fixes his duties is his power of attorney; if he neglect to follow it, his cestui que trust ought not to suffer. In fact, public policy requires that all officers be required to perform their duties within the strict limits of their legal authority."

This rule is also followed in the Missouri case of Charles E. Anthony v. County of Jasper, 101 U.S. 693, 25 L.Ed 1005, where the court said at page 1008:

"The authority of a public agent depends on the law as it is when he acts. He has only such powers as are specifically granted; and he cannot bind his principal under powers that have been taken away, by simply antedating his contracts. * * *

Section 13231, Mo. R. S. A. Laws of Missouri, 1945, page 990, relating to the duties of coroners in the case of death by violence, prescribes 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 in 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."

It is clear from a reading of the above section, as well as other sections contained in chapter 91, R. S. Mo. 1939, as amended, applicable to the office of coroner, that the statutes make no provision or direction that a dead body be left at the scene of an accident or similar occurrence until a coroner's jury is summoned and an inquest held at that place, but said statutes provide that when the coroner is notified that a person has come to his death by violence or casualty he shall make out a warrant in which is directed the time and place of the inquest. The law does not contemplate that the dead body be retained at the scene of the accident or similar occurrence until and at such time as an inquest can be held at that place.

The rule is found in 13 Corpus Juris, Coroners, Section 16, page 1248, as follows:

"An inquest is properly held in the territory of the coroner in whose jurisdiction the body is found, without regard to where the death occurred or where the injury was received. * * * *"

See also 18 Corpus Juris Secundum, Coroners, Section 16, page 296.

Thus it necessarily follows that a coroner does not have the authority under the existing statutes to issue blanket instructions that all dead bodies be left at the scene of the accident or similar occurrence until such time as the coroner arrives and directs final disposition of the body.

CONCLUSION

Therefore, in view of the foregoing, it is the opinion of this department that a coroner does not have authority to issue blanket instructions to members of the state highway patrol that all dead bodies be left at the scene of an accident or similar occurrence

Colonel Hugh H. Waggoner

- 4 -

until the coroner arrives and directs final disposition of the body.

Respectfully submitted,

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APPROVED:

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