

Note from the Attorney General's Office:

1963 Op. Att'y Gen. No. 63-470 was disapproved by
1972 Op. Att'y Gen. No. 72-037.

SYLLABUS:

1. Where death results in one county from casualty or suspicious circumstances occurring in another county, the coroner within whose jurisdiction the injury causing death occurred is authorized to conduct the inquest and the inquest must be held in that county. (Syllabi two and three, Opinion No. 37, Opinions of the Attorney General for 1923, are hereby overruled.)

2. The finding of a body, where the circumstances of the death are unknown, may give the coroner within whose jurisdiction the body is found authority to start an inquiry into the cause of death.

Columbus, Ohio, August 21, 1963

Hon. George Cleveland Smythe
Prosecuting Attorney
Delaware County
Delaware, Ohio

Dear Sir:

I have your request for my opinion which reads as follows:

“Where death results in one county from casualty or suspicious circumstances happening in another county, which county coroner has jurisdiction and the duties imposed by Chapter 313, R.C.?”

This same question was considered in Opinion No. 37, Opinions of the Attorney General for 1923. Syllabi two and three of said Opinion are as follows:

“2. Jurisdiction of coroner limited to county. Inquest to be held by coroner in whose county body is found. The body is ‘found’ in the county where it is ascertained to be. Coroner cannot follow body into another county and there hold an inquest.

“3. Where person is injured by unlawful act in one county and is removed to another county and there dies as a result of such unlawful act, the coroner in the county in which such person dies has jurisdiction and is required to hold inquest.”

The Attorney General’s conclusions were based on *State ex rel. Brown v. Bellows et al.*, 62 Ohio St., 307, and more specifically, on an interpretation of Section 2856, General Code, which read as follows:

“When informed that the body of a person whose death is supposed to have been caused by unlawful or suspicious means has been found within the county, the coroner shall appear forthwith at the place where the body is, issue subpoena for such witnesses as he deems necessary, administer to them the usual oath, and proceed to inquire how the deceased came to his death, whether by violence from any other person or persons, by whom, whether as principals or accessories before or after the fact, and all circumstances relating thereto. The testimony of such witnesses shall be reduced to writing, by them respectively subscribed except when stenographically reported by the official stenographer of the coroner, and with the finding and recognizances hereinafter mentioned if any, returned by the coroner to the clerk of the court of common pleas of the county. If he deems it necessary, he shall cause such witnesses to enter into recognizance, in such sum as may be proper, for their appearance at the succeeding term of the court of common pleas of the county to give testimony concerning the matter. The coroner may require any and all such witnesses to give security for their attendance, and if they or any of them neglect to comply with his requirements, he shall commit such person to the prison of the county, until discharged by due course of law. A report shall be made from the personal observation of the corpse; statements of relatives, of other persons having adequate knowledge of the facts, and such other sources of information, as may be available or by autopsy if such autopsy is authorized by the prosecuting attorney of the county.”

(Emphasis added)

Due to subsequent legislative changes in the governing statutes, Syllabi two and three of Opinion No. 37, Opinions of the Attorney General for 1923, are no longer valid.

In 1945, Section 2856, General Code, was repealed. In 1953, the legislature reenacted most of the provisions of said section as Section 313.17, Revised Code. However, the legislature significantly, for purposes of your inquiry, deleted the words “when informed that the body of a person whose death is supposed to have been caused by unlawful or suspicious means has been found within the county.”

The result of the above mentioned deletion is that Section

313.17, Revised Code, is brought into harmony with the common law which was the apparent intention of the legislature. 50 Ohio Jurisprudence 2d, Statutes, Section 214, page 187, states the following:

“In the interpretation of statutes, it is presumed that the legislature knew the state of the common law.”

In applying the principle that the legislature was cognizant of the state of the common law on this subject, when it deleted the opening and pertinent words of Section 2856, General Code, in the 1953 reenactment (Section 313.17, Revised Code) I refer to 13 American Jurisprudence, Coroners, Section 10, page 111:

“Under the common law, only the coroner within whose jurisdiction the injury causing death has been received has authority to hold the inquest, and the inquest must be held in that county. The reason for this rule is that a sufficient indictment cannot be taken in any county other than that in which the mortal stroke has been given. Thus, where a man receives a mortal stroke in one county and dies in another, it is customary to remove his body to the first county and there the coroner of that county will take the inquisition. * * *

“The finding of a body, where the circumstances of the death are unknown, may give the coroner within whose jurisdiction the body is found authority to start an inquiry into the cause of death, but if the body is sent to another county for interment, the coroner of the latter county has no jurisdiction.”

It must be presumed that the legislature intended that the proper place for holding the coroner's inquest would be in the county where the injury or acts causing death occurred and not the county wherein the body was found.

It is my opinion and you are hereby advised that where death results in one county from casualty or suspicious circumstances occurring in another county, the coroner within whose jurisdiction the injury causing death occurred is authorized to conduct the inquest and the inquest must be held in that county. (Syllabi two and three, Opinion No. 37, Opinions of the Attorney General for 1923, are hereby overruled.)

The finding of a body, where the circumstances of the death

are unknown, may give the coroner within whose jurisdiction the body is found authority to start an inquiry into the cause of death.

Respectfully,
WILLIAM B. SAXBE
Attorney General