

Opinion No. 44-4618

November 30, 1944

BY: C. C. McCULLOH, Attorney General

TO: Mr. C. R. Sebastian, State Comptroller, Santa Fe, New Mexico

We are in receipt of your letter of November 29, 1944, in which you ask whether a fee of \$ 5.00 is allowed for each body where an inquest is held in a case involving several victims, or whether the \$ 5.00 fee covers the accident and is not based on the number of persons killed.

The answer to your question depends upon the meaning of the word "inquest" since Section 38-1901 of the New Mexico 1941 Compilation provides a fee of \$ 5.00 to the Justice of the Peace for holding an inquest on the body of a dead person. Inquests are provided for by Sections 38-1701 to 38-1704 inclusive of the 1941 Compilation. The former section provides in part:

"It shall be the duty of each Justice of the Peace * * * to inquire into and investigate the death of any human being * * *."

Section 38-1703, setting forth the form of the verdict, provides in part that:

"Whenever the cause of the death of any person shall have been ascertained * * * the verdict of the jury shall be in the following form:

We, the undersigned Justice of the Peace and jury, who sat upon inquest held this --- day of /--, 19 --, **on the body of** (name of the deceased person) * * * find that the deceased came to his death by reason of (here insert the cause of death and by whom the crime was committed, if ascertained.)"

In view of the foregoing, it is apparent that the inquest is an examination into the cause of the death of a single individual. Thus, even though several persons died in a common tragedy, an inquest and verdict must be had as to each individual even though the inquest be held simultaneously. This is further borne out by the language of Section 38-1901 Supra since it provides a fee for holding an inquest on the body of a dead person.

In view of the foregoing, it is my opinion that the Justice of the Peace would be entitled to a fee of \$ 5.00 per day for each inquest held by him, and that if several persons were killed in a common tragedy, a separate inquest must be had for each of such persons.

Trusting the foregoing sufficiently answers your inquiry, I am

By ROBERT W. WARD,

Asst. Atty. General