J Forensic Sci, Jan. 1974, Vol. 19, No. 1

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The Passing of Lay Coroners

In 1945 a committee of the American Medical Association (AMA) published a report [*1*] deploring the condition of the coroner service throughout the United States. The AMA report stated that "medicine participates less effectively in the administration of justice in the United States than it does in any comparable country in the world." Although the medical profession throughout the country was aware of the situation already, there was apparently no follow-up nor any change instituted as a result of that report. Presumably the obstacles to reforming the situation seemed invulnerable, for the offices of coroners in most states were imbedded in the state's constitution as were those of county boards, sheriffs, county clerks, prosecutors, and various others. These minor offices, along with the other dull and minor posts that appeared periodically on local ballots, failed almost completely to attract the attention or scrutiny of typical voters. Voters, in the course of marking a paper ballot or pulling little levers on a voting machine, came to such minor offices and voted for all the Democrats or all the Republicans without being able, as they left the polls, to tell you the names of the candidates. The sovereign people have their own royal notion of what is interesting or relatively important in their daily lives, and have taken this attitude toward the great lists of minor offices ever since the era of Andrew Jackson. They are not to be sneered at for being so sensible as to bestow their attention on nearer and dearer matters of private concern; however, this condition left the selection of minor offices to the ticket makers of the two major political parties in each county, a group trivial in numbers and concerned with self interest and party interest in distributing these minor jobs to loyal party members. In perhaps half the 3000-odd counties of the United States, a single party has held, and still holds, consecutive control for generations on end. The situation excluded selection of professionals, since the coronership, like the other county offices, was sure to be awarded to a local aspirant.

The National Municipal League (NML), founded in 1894, was dedicated originally to the rescue of American cities from the political gangs which had seized control of the local wings of one or another of the national parties. The gangs were riding higher in those days than they are now, although there is still need for further reform. The NML program focused on shortening the ballots—"the short ballot doctrine"—in order to simplify the voter's task of self-government. They believed that not more than five officers should ever be presented to voters on one election day, and the League excluded from that little list, offices of minor importance. Like coroners!

The League enlarged its target in 1920 to include the similar problems in state governments and, in 1956, in county governments, by introducing its Model County Charter.[1]

Received for publication 30 Jan. 1973; revised manuscript received 28 March 1973; accepted for publication 17 April 1973.

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This document proposed a simplified structure for counties similar to that of its famous Model Council-Manager Charter for cities (which is now in successful operation in a majority of our cities over 10,000 population, and is still spreading).

Before 1956 a separate, piecemeal attack on the coroner situation in nearly every state was made possible by the fact that lively state medical associations were well aware of the problem and could be addressed and equipped to secure legislative improvement in their respective jurisdictions.

Preparation of a model coroner law, as an addition to the League's list of other such models, was indicated. It was found that three states (Massachusetts, Virginia, and Maryland) had a good system where determining the cause of death in medically unattended cases was the responsibility of an appointed, medically qualified person. In Massachusetts one of these appointees, the late Richard Ford, M.D. (whose equipment and service in Harvard Medical School served the whole state), assumed this creative task and produced the League's "Model State Medico-Legal Investigative System" pamphlet [*2*], which has remained unchanged since its first printing in 1951. In 1954 it was rewritten to legal text as the Model Post-Mortem Examinations Act [*3*] and published by the National Conference of Commissioners on Uniform State Laws. [It is time that both documents were reexamined by the National Association of Medical Examiners (NAME) and the American Academy of Forensic Sciences (AAFS).] The pamphlet was issued as a joint report of the National Municipal League and the American Medical Association (Criminal Law Section) among a list of nine appropriate national organizations, headed by alphabetical chance in the latest printing by AAFS.

Specific field information was completely lacking, but the League was on intimate working terms with the professors of political science in universities and addressed them in each state with a questionnaire. Without any expense beyond that of the correspondence, the League secured competent answers which were published together under the title "Coroners of 1953." Its revelations of inadequacy were not unexpected, in the light of modern forensic sciences, but now the inadequacies were documented. The publication produced appropriate excitement among many of the state medical societies, who were encouraged to enlist cooperation from the state bar associations and other civic groups to prepare and push legislation.

"Coroners of 1953," issued and updated under the title of "Coroners" [*4*], in looseleaf mimeographed form, describes the service in each state. Each state chapter, with a few exceptions, carries additional stories of specific legislative progress as accumulated in the years since.

The pages from the current edition concerning Utah are condensed here as a sample campaign:

> *Legal Basis* (1953)—Statutory and home rule. Inquests are by any justice of the peace, elective for four-year terms, with aid of a physician or chemist if the Board of County Commissioners permits the expense thereof.
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> *Qualifications*—None.
>
> *Compensation*—Small and varied.
>
> *Authority*—To empanel a coroner's jury when the coroner determines an inquest is justified; jury determines cause of death.
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> *Pathological Service*—Available in Salt Lake City, but is rarely requested.
>
> *Comment*—"Recently a rural practitioner confided that he knew of at least a half a dozen homicides in his county, but the lack of a system providing for complete medical investigation and his previous experiences with coroner's juries prevented him from risking his reputation

by placing such confidential information before a lay panel. This is not an isolated circumstance in Utah; in fact, it occurs not infrequently."

Efforts to Change

1951–2—A bill patterned after the Maryland law and the Model Medico-Legal Investigative System proposed by the National Municipal League was drafted. All interested groups were asked to make suggestions and criticisms. "Incorporation of many suggestions made by Dr. Richard Ford of Harvard, Dr. S. R. Gerber of Cleveland and Dr. Russell S. Fisher of Baltimore, makes our proposed medical examiners system the best and the most practicable for the state of Utah," a local pathologist reported.

"After minor alterations suggested by the morticians, the Legislative Council Sub-Committee for Health Code unanimously recommended our proposed bill favorably. In spite of this, as soon as the bill was placed before the legislature in 1953, the morticians descended upon the state capitol *en masse*. Innuendoes, accusations and wild distortions of fact were hurled at the medical profession by members of this special lobby. We were accused of proposing the medical examiners system to provide the medical college with bodies for experimentation. Other morticians felt we were violating the 'God given and constitutional rights of man.' One funeral director stated that morticians were more qualified to decide which cases should be investigated than a medical examiner. Our proposed legislation died in committee.

"This initial defeat while unexpected, was certainly not surprising. Our experience has shown us that the legislators, morticians and, above all, the public, must be educated before this type of legislation will be favorably considered. Plans are already under way to familiarize these groups with our proposed medical examiners' system before the legislative session in 1955."

1959—The State Medical Society introduced a bill for a state-wide medical examiner system with support of Governor George D. Clyde in his annual message. It failed, "embalmed by the morticians."

1965—The 1965 session responded to the leadership of Dr. Richard A. Call of Provo and the Utah State Medical Association. Despite defeats in every legislative session since 1959, they persisted to secure passage of a bill providing for the creation of a five-member state medical examiner commission, appointed by the governor and empowered to appoint and oversee a State Medical Examiner. The latter was given authority to set up, at convenient locations, a system of deputy medical examiners qualified as physicians and pathologists. The initial appropriation, though small for an adequate state-wide serivce, provided for a central pathological laboratory. An unusual provision gave the county attorney or the county physician power to order the medical examiner or his deputy to conduct an autopsy or cooperate in an investigation.

1966—Effect of the 1965 law was delayed in 1966 by inadequate appropriations ($40,000 for two years). Dr. Call began to serve as Acting State Medical Examiner.

1967—Dr. Call moved to the chairmanship of the Medical Examiner's Commission and Dr. James T. Weston, highly qualified, became State Medical Examiner.

1969—It was reported Dr. Weston, the State Medical Examiner, had established a competent and modern service.

A complete history and methodology of state progress, entitled "Chronology," is available from the League. Another publication, "Best States for a Murder," is also available, and cites Alabama, Idaho, Indiana, Mississippi, Montana, Nebraska, South Dakota, West Virginia, and Wyoming as the states in which the function is still lodged in elective county officers, handpicked by the activists of the locally dominant political party. West Virginia is included because it established the Model Law in 1963, but has not yet appropriated funds to implement it! A similar delay occurred in Kentucky from 1968 until 1972; under an inadequate appropriation, installation there is now being attempted.

In a second group of states the population is only partially covered by medical examiners on a geographic basis. In California medical examiners cover about 55 percent of the state, including the great cities. In Colorado 24 percent of the state is covered, in Georgia 18 percent, in Hawaii 80 percent, in Minnesota 25 percent, in Missouri 34 percent, in Nevada 52 percent, in New York 80 percent, in North Dakota 22 percent, in Pennsylvania 15 percent, in South Carolina 8 percent, in Texas 35 percent, in Washington 35 percent, and in Wisconsin 25 percent. In all these states, there is more to accomplish. The medical examiners already serving in these various states have worked to gain support for a medical examiner's system either directly or through the state medical society. Difficult cases in counties not covered by the existing system often are referred to the urban medical examiners for consultation. In some cases, the sparse population of certain counties has no other way of obtaining these services.

Except to obtain news for its "Chronology," the National Municipal League's current practice is to ignore the situation in states which are partially covered, since the spread to the remaining areas is almost automatic. There are active forces at work and cases of partial progress. Piecemeal progress occurs thanks to the existence of optional county laws, whereby individual counties can arrange to abolish their elected coroners and appoint medical examiners.

The efforts of the League have appropriately ceased in those states where political reform interest has been exhausted. Including the three original model states (Massachusetts, Virginia, and Maryland) those states include: Alaska, Arizona, Arkansas, Connecticut, Delaware, Florida, Illinois, Iowa, Kansas, Kentucky, Maine, Michigan, New Hampshire, New Jersey, New Mexico, North Carolina, Oklahoma, Oregon, Rhode Island, Tennessee, Utah, Vermont, and West Virginia.

The League's file of the entire 20-year effort were utilized when the National Association of Medical Examiners was organized. Milton Helpern found there his initial mailing list of possible members, and it is always available for further improvement. With adequate staffs, NAME can correspond with these same people to determine the help needed to improve legal and scientific standing of each state's services. Members in each state could be separately listed, mobilized, and encouraged to influence the state medical society and the state bar association to promote full model services for every state medical examiner.

The way is paved for qualified medical men to perform the medical examiner's function. They can be brought in across state lines (like school superintendents and city managers) and may be promoted from smaller areas to more important ones, making possible lifelong careers as local and state medical examiners.

The National Association of Coroners, which passed a resolution praising the beginning of this effort, has had its tombstone joyfully portrayed on the cover of *The Prosecutor* [5], the magazine of the National District Attorneys Association.

The National Municipal League will soon have so little left to do that it will leave the irreducible remnant of the task to posterity.

The basic legal and political obstructions which kept the state medical examiner's function in the hands of local elective politicos have been massively breached.

References

[1] "Relationship of Medicine and Law," The American Medical Association, Chicago, Ill., 1945.
[2] "Model State Medico-Legal Investigative System," Richard Ford, Ed., National Municipal League, Inc., 47 E. 68th St., New York, 1951. (Available for 75¢.)

[3] "Model Post-Mortem Examinations Act," National Conference of Commissioners on Uniform State Laws, 1155 E. 60th St., Chicago, Ill., 1954.
[4] "Coroners: A State-by-State Symposium," formerly "Coroners of 1953," National Municipal League, 47 E. 68th St., New York, 1972. (Available for $2.00.)
[5] Childs, Richard S., "What's Been Happening to Coroners," *The Prosecutor, Journal of the National District Attorneys Association*, Chicago, Ill., July–Aug. 1971.

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