Joseph Baker Grindon, A Compendium of the Law of Coroners (London, 1850)

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	5 & 6 Wm 4	c 76	Municipal Corporation reform act
1836	6 & 7 Wm 4	c 89	Medical Witnesses -
	6 & 7 Wm 4	c 105	Borough Coroners may appoint Deputies
1837	7 Wm & 1 Vict	c 68	Expences of holding Inquests
1843	6 & 7 Vict	c 12	For the more convenient holding of Coroners Inquests and as to power to hold where Cause of Death arose out of their Jurisdiction
1843	6 & 7 "	c 83	Duties of Coroners & Deputies
	6 & 7 "	c 85	Improving the Law of Evidence
1844	7 & 8 "	c 92	Election of " &c. 1 sec 6 Compensation to Reg v Lechmere Law Times Feby 1/57. page 385
	9 & 10 "	c 62	Abolition of Deodands -
1845	9 & 10 "	c 100	Regulation of Steam Navigations & for requiring Men going beside to carry Boats.
1848	11 & 12 "	c 70	for better Regulation of &c & for limiting No. of passengers in Steam Vessels
1850	13 & 14 "	c ~~100~~ 13	Coal Mines - 18 & 19 Vict. c 108 - 4th Aug. 1855
	14 & 15 "	c 99	Sale of Arsenic
	14 & 15.	c 100	Amendment of the Law of Evidence
			Abolition of Forfeiture Improving Criminal Justice S 4
			form of Indictment &c S 30. Inquisition

J. A. Sellers.
A Derby Coroner
Rochdale
1850

A

COMPENDIUM

OF THE

LAW OF CORONERS,

WITH

Forms and Practical Instructions.

BY

JOSEPH BAKER GRINDON, ESQ.,

CORONER OF BRISTOL.

LONDON:
JOHN CROCKFORD, 29, ESSEX STREET, STRAND.

1850.

CONTENTS

Coal Mines Holidays 1 & 40
13 & 14 v c 100 — 78 & 14 v c 108
20 & 24 v c 151 s 20 — 242

PRECEDENTS.

INTRODUCTION.

FROM the year 1761, when *Umfreville's Lex Coronatoria* was written, until 1822, when I published a new edition of that work, there appears to have been nothing printed upon the subject, except a short abstract by Impey, and similar short abstracts in *Burn's Justice* and *Williams' Justice*. Since 1822, several good books have appeared, particularly one by *Jervis* in 1829, and one by *Sewell* in 1834 (the latter embracing the subject of medical jurisprudence). The numerous alterations effected since the latter period render a new work necessary, but having no hope of improving upon the existing publications, except by adding the more recent alterations in the law, and the moderate amount of information derived from my own experience, I have thought it better not to incumber the work with the history of disused laws, or with any more than a sketch of the laws relating to homicide, and to say nothing on the subject of forensic medicine. The Practice is

all the reader will expect or value in a work written by a Coroner, everything else may be passed over as a mere repetition of what the Coroner is or is supposed to be already acquainted with from higher authorities. The object has been to provide a portable as well as useful book on the *practical duties* of a Coroner.

According to the tables and calculations of the Registrar General, the number of deaths annually in England is about nineteen in a thousand, and of these one person in twenty dies a sudden or violent death: (5 *Law Times*, 506.) (In crowded cities, manufacturing and mining districts, the proportion of deaths is much greater, the deaths amounting in some places to upwards of three per cent. of the population, and the number of inquests necessarily held being from six to even ten out of every hundred deaths.) It is believed that although deaths by personal violence have diminished, poisoning, the violence called accidental, and the resulting dangers, have increased within the present century, which may be ascribed to the number of deadly poisons now so accessible in every chemist's shop, the introduction of the new force of steam, the redoubled activity of traffic, travelling, navigation, agriculture, manufactures and mining operations. Science itself creates new instruments of death; but if these instruments be brought to light by coroners' inquests, described accurately, and placed fully before the public, science will find no difficulty in discovering remedies, or rendering less harmful the new and

striking, as well as the old and obscure, causes of violent death which have made little noise, but have been in operation from time immemorial in every county of the kingdom.—(From a *Circular to Coroners from the Registrar General.*)

Complaints have occasionally been made of the great increase of the Coroners' claims on the county stock, but nothing is said of the causes, viz., the different statutes ordering payment of medical men, jurors, witnesses, &c., the increased difficulty of evading inquests since the establishment of registration; the vigilance of the police, and the activity of the public press; nor ought the modern incentives to murder be forgotten, viz., life assurance, money clubs, burial societies, the circumscribed means of legitimate profit in almost every branch of business, the general spirit of speculation, and the consequences resulting from disappointed hopes, &c. In the city of Bristol, the number of inquests gradually increased from ninety-one, in the year 1836 (when the coroner's jurisdiction was greatly extended under the Municipal Reform Act) to 243 in the year 1847. In the year 1841, it was considered that a statistical account of the inquests held in Bristol, with some calculations founded upon the Registrar General's reports, might afford useful information to the Coroners of other large towns; and the following appeared in the Bristol newspapers of that year. From the alteration in the form of the Registrar General's reports, a similar sketch has not since been practicable.

By the first Report of the Registrar General (1839), it appears that the average number of deaths, by violence, throughout England and Wales, amounted to 6.813, about $6\frac{3}{4}$ per cent. on the whole number of deaths; and in the second report (1840), the number was increased to 7.234, about $7\frac{1}{4}$ per cent.

In Wales, with the counties of Monmouth and Hereford, the proportion of violent deaths is considerably greater.

In the first report it appears that the violent deaths in the Metropolis were ..	about	$4\frac{3}{4}$ per cent.
Birmingham	„	$6\frac{1}{4}$ „
Manchester	„	$8\frac{1}{2}$ „
Leeds	„	$9\frac{1}{4}$ „
County of Somerset ..	„	$7\frac{1}{2}$ „
Increased in the second report to above		$8\frac{3}{4}$ „

Out of 123 cases of death from starvation and cold throughout the kingdom, inquests were held in only 77 cases; and the reports do not show what particular cases of sudden death, or of death by intemperance, privation, or neglect, had been the subjects of the coroners' inquiry. It may therefore be inferred that inquests were held (and properly held) in many cases not described as deaths by violence.

The Registrar General's Reports do not afford sufficient data from which the number of deaths, within the district of Bristol, can be ascertained; but, taking the population at 120,000, and the average number of deaths, from all causes, to be $2\frac{1}{2}$ per cent. per annum, it will appear that about 3,000 persons die annually within the district of Bristol.

The inquests held in Bristol in—

1837	amounted to ..	133	or about	$4\frac{1}{2}$	per cent.
1838	„ „ ..	160	„ „	$5\frac{3}{4}$	„
1839	„ „ ..	171	„ „	6	„
1840	„ „ ..	221	„ „	7	„

The cause of the progressive increase is not to be ascribed to any increase in the number of violent deaths, but to the increased means of detection, viz., the establishment of an active police, and their greater experience in their duties; the payment of witnesses; the improved registration of deaths, &c., &c.

The total number of inquests held in Bristol, in the year 1840, was 221, viz.—males, 150; females, 71.

The verdicts may be classed as—

Accidental death	124
Death by intentional violence	19
Natural death, under suspicious circumstances	55
Cause of death not proved	23
	221

OR MORE PARTICULARLY:—

Murder	2
Manslaughter	5
Felonious suicide	3
Suicide by lunatics	9
Drowned, or found in the water	31
Accidents by fire	36
Other accidents	57
Infants found dead	8
Natural death under suspicious circumstances	55
Causes of death not proved	15
Total number	221

Of the above number 20 lives were lost through the immediate effects of intoxicating liquors, viz.:—

Killed in drunken quarrels	4
Killed through being intoxicated	2
Killed by accident through intoxication ..	7
Died suddenly from disease, the immediate effect of liquor	7
Total number	20

Time.		Time.	
In January ..	15	In July ..	18
February ..	19	August ..	19
March ..	24	September ..	12
April ..	18	October ..	15
May ..	15	November ..	22
June ..	25	December ..	19
	116		221

Medical evidence was given in 109 cases, and *post mortem* examinations were made in 38 cases. The total expense of inquests was 513*l.* 10*s.* 2*d.*, and the average expense of each inquest 2*l.* 6*s.* 5*d.*

In conclusion I trust that this little volume will prove to be serviceable to my brother Coroners and of some interest to the Legal Profession.

J. B. GRINDON.

BRISTOL,
December, 1849.

If and when any loss Coal Mines of life shall occur
Notice to be sent by letter by Post by Owner or Agent
to them 24 Hours next after such loss of life to one of Her Majesty's
Principal Secretaries of State ~~and to Inspector~~ causing the Death by accident
and also to Inspector under a Penalty not
less than 10 or exceeding 20£. Sec 9

S. 10 Every Coroner holding an Inquest on the
Body of any person whose death may have
been occasioned by accident in a Coal
Mine shall (unless some person be present
on behalf of one of Her Majesty's principal
Secretarys of State to watch the proceedings
on such Inquest or Notice of such Inquest
Accidents
shall have been sent 4 clear days at the least
previously thereto through the post Office by
Letter addressed to one of such Secretaries of
State and the Sending of the same proved
to the Satisfaction of the Coroner) adjourn
such Inquest and by Letter sent two
days at the least before the holding of
such adjourned Inquest through the post
Office addressed to one of such Secretaries
of State give Notice to such Secretary
of the time and place of the holding
of the same Sec 10

~~13 & 14 Vict c 100~~ = 1850
18 & 19 Vict c 108 = 1855

THE

LAW AND PRACTICE

OF

CORONERS.

OF CORONERS.

CORONERS are of three kinds:—First, by virtue of office; secondly, by charter, commission or statute (5 & 6 Will. 4, c. 76, s. 62); thirdly, by election.

1. The Lord Chief Justice of the Court of Queen's Bench is the principal coroner of England: (4 Co. Rep. 5.) The other judges of that court are sovereign coroners (4 Inst. 173): and there are still some officers of franchises who, by virtue of their offices, exercise the duties of coroner also.

2. Coroners by charter, &c., are the coroners of particular lords of liberties (Mad. Ex. 287, a), and of corporations or boroughs.

London and the Cinque Ports have their own coroners. The dean and chapter of Westminster appoint a coroner for the city and liberty of Westminster. The wardens of the Stannaries of Cornwall are coroners. The coroner of the Admiralty has jurisdiction in cases of death "out of great ships in the main streams in great rivers below the

bridges near to the sea" (St. 15 Rich. 2, c. 3); but the county coroner has a concurrent jurisdiction in great rivers within the bodies of counties, or where a man may see from side to side; and the statute does not extend to deaths in small vessels: (2 Hale, 15, 16, 54.) In those cases the coroner who is first may take the inquisition, and the other has lost his opportunity: (Str. 1097.) The 1st section of 6 & 7 Vict. c. 12, leaves the jurisdiction of the Admiralty coroner as it stood before the passing of that act, and does not prevent the county coroner from holding an inquest upon the body of a person lying dead within the county, but found dead in a river where there is a deputy coroner for the jurisdiction of the Admiralty: (*Reg.* v. *Hinde*, 12 L. T. 193.)

The coroner of the king's house, usually called the coroner of the verge is associated with the coroner of the county in holding inquests within the verge: (2 Hawk. c. 9, s. 16.)

By 33 Hen. 8, c. 12, inquisitions upon persons slain within any of the king's palaces or houses, or any other house at such time as His Majesty shall be there, shall be taken by the coroner of the household without the assistance of the county coroner.

By stat. 5 & 6 Will. 4, c. 76 (the Municipal Corporation Reform Act, which directs that certain officers, including the then coroners, should cease to hold office after the 1st of May, 1836), s. 62, it is enacted, that the council of every borough in which a separate court of quarter sessions shall be holden, shall, within ten days next after the grant of the said court shall have been signified to the council of such borough, elect a coroner for so long as he shall well behave himself in his office, and on every vacancy by death, resignation or removal, within ten days after such

vacancy shall have occurred, and none thereafter shall take any inquisition which belongs to the office of coroner within such borough, save only the coroner so from time to time to be appointed: and when so elected, the coroner is *not a corporate officer*. Per Patteson, J., in *Reg.* v. *Grimshaw* (11 Jur. 965; 16 L. J. 385.)

3. Coroners by election, or county coroners. By stat. 3 Edw. 1, c. 10, it is provided, that "through all shires sufficient men shall be chosen to be coroners of the most legal and most wise knights," &c. In some counties there are six, in some four or two, in some but one (2 Inst. 175); no statute limits the number of coroners in the English counties, but in each of the twelve counties in Wales, in Cheshire, &c., there are only two coroners by stat. 33 Hen. 8, c. 13, and 34 & 35 Hen. 8, c. 26. In 1787, on an application from the freeholders of Staffordshire, Lord Thurlow ordered writs to issue for the election of two additional coroners.

The usual course is to issue the writ for the election of an additional coroner on a representation made by the magistrates at the quarter sessions: (*Re Coroner of Salop*, 3 Swanst. 181.)

The coroner of the county is chosen by virtue of the writ *de coronatore eligendo* directed to the sheriff, whose proceedings are guided by stat. 7 & 8 Vict. c. 92, and when chosen his office does not determine on demise of the king: (2 Inst. 175.)

Freeholders only can vote at the election of a coroner, but the value of the freehold is immaterial if it be not fraudulent or colourable. Purchasers of redeemed land-tax may vote by 42 Geo. 3, c. 116, s. 154.

By stat. 14 Edw. 3, c. 8, none shall be chosen coroner if he have not land in fee in the same county sufficient to answer all people; so a coroner

ought to be of sufficient ability and knowledge to do his office (2 Inst. 176), therefore, he shall be discharged, if he have not land in the same county: (*Reg.* 177 b, F. N. B. 163, 164, n.) And where he cannot answer the dues in respect of his office, the county, as his superior, shall answer for him: (2 Inst. 175; 4 Inst. 114.) So he shall be discharged, if he be otherwise unfit (*Reg.* 117, F. N. B. 163, n.), as if he be a common trader (2 Inst. 32), or occupied in business, which is incompatible with the office of a coroner (*Reg.* 177 a, F. N. B. 163, n.); or if he dwell in the extreme parts of the county, so that he cannot conveniently exercise his office (*Reg.* 177 b, F. N. B. 164, n.); or if he be incapacitated by age, paralysis, &c., or elected sheriff or verderer (*ibid.*), or confined twelve months in prison (1 Jac. & W. 451); or for using corrupt influence with the jury, as inducing them to return a verdict of *died by the visitation of God*, to prevent proceedings against a person charged with killing the deceased: (*Rex* v. *Coates*, E. T. 1809.)

A freeholder of the county having a place in the county where he has a right to reside is capable of being elected coroner: he will not be removed from the office, because he has also a residence in a town comprised within the ambit of the county, but not being part of the county, which has been his more usual place of abode: (*Re Coroner of Notts.*, 7 L. J. 61, Chan.)

Quære, whether a coroner will be removed on account of his more usual place of abode being in a town situate within the ambit of the county, but not part of the county when no inconvenience has arisen from the circumstance: (*ibid.*)

Upon the occurrence of a vacancy some candidate for the office applies for the writ *de coronatore eligendo*. This application is founded upon an

affidavit of the death (or othe rcause of vacancy.) The undertaker usually makes the affidavit, which must be sworn before a Master in Chancery. A petition is then prepared, which may be in the following form :—

To the Right Honourable the Lord High Chancellor of Great Britain.

The humble Petition of the undersigned on behalf of themselves and other freeholders of the county of .

Sheweth,—That A. B., Esquire, late one of the coroners of the said county of , and acting for the district of , in the said county, departed this life on the day of 18 , as by the affidavit annexed appears. And that it will be for Her Majesty's service, and the general good of the said county, to have a proper person elected coroner in the room and stead of the said A. B., deceased. Your petitioners therefore most humbly pray your lordship's order that the cursitor of the said county of do make out a writ *de coronatore eligendo* for the election of a new coroner for the said county of , in the said district of , in the room and stead of the said A. B., deceased. And your petitioners shall ever pray, &c.

This petition is to be signed by freeholders only: magistrates and persons of distinction in the county.

The petition and affidavits are to be left with the clerk of the crown. The writ will then be sealed and delivered to the sheriff.

The sheriff's duty is defined by stat. 7 & 8 Vict. c. 92, of which sect. 1 repeals stat. 58 Geo. 3, c. 95, intituled *An Act to regulate the Election of Coroners for Counties;* and by sect. 2, it is enacted, that

when and as often as it shall seem expedient to the justices of any county that such county should be divided into two or more districts for the purposes of this act, or that any alteration should be made of any division theretofore made under this act, it shall be lawful for the said justices, in general or quarter sessions assembled, to resolve that a petition shall be presented to Her Majesty, praying that such division or alteration be made, and thereupon to adjourn the further consideration of such petition until notice thereof shall be given to the coroner or coroners of such county as hereinafter provided.

Sect. 3. That the clerk of the peace shall give notice of any such resolution to every coroner for such county, and of the time when the petition will be taken by the said justices into consideration, and the justices shall confer with every such coroner, who shall attend the meeting of the justices for that purpose, touching such petition, having due regard to the size and nature of each proposed district, the number of the inhabitants, the nature of their employments, and such other circumstances as shall appear to the justices fit to be considered in carrying into execution the provisions of this act; and such petition, with a description of the several proposed districts, and of the boundaries thereof, with the reasons upon which the petition is founded, shall be certified to Her Majesty under the hands and seals of two or more of the justices present when such petition shall be agreed to, and the clerk of the peace for such county shall forthwith give or send a true copy of such petition, certified under his hand, to every coroner for such county.

Sect. 4. That it shall be lawful for Her Majesty, if she shall think fit, with the advice of the Privy Council, after taking into consideration any such

petition, and also any petition which may be presented to her by any coroner of the same county concerning such proposed division or alteration, or whenever it shall seem fit to Her Majesty to direct the issue of a writ *de coronatore eligendo*, for the purpose of authorizing the election of an additional coroner above the number of those who have been theretofore customarily elected in such county, to order that such county shall be divided into such and so many districts, for the purposes of this act, as to Her Majesty, with the advice aforesaid, shall seem expedient, and to give a name to each of such districts, and to determine at what place within each district the court for the election of coroner for such district shall be holden as hereinafter provided, and every such order shall be published in the *London Gazette*.

Sect. 5. That the justices in general or quarter sessions assembled shall assign one of such districts to each of the persons holding the office of coroner in such county, and upon the death, resignation or removal of any such person, each of his successors, and also every other person thereafter elected into the office of coroner in such county, shall be elected to and shall exercise the office of coroner, according to the provisions of this act, and shall reside within the district in and for which he shall be so elected, or in some place wholly or partly surrounded by such district, or not more than two miles beyond the outer boundary of such district.

Sect. 6. That whenever it shall appear to Her Majesty, with the advice aforesaid, and shall be set forth in the said order in council, that any such county has been customarily divided into districts for the purpose of holding inquests during the space of seven years before the passing of this act, and it shall seem expedient to Her Majesty, with the advice aforesaid, that the same division

of the same county be made under this act, each of such districts shall be assigned to the coroner usually acting in and for the same district before the passing of this act, but if it shall appear expedient to Her Majesty, with the advice aforesaid, that a different division of such county be made, and any such coroner shall present a petition to Her Majesty, praying for compensation to him for the loss of his emoluments arising out of such change, it shall be lawful for Her Majesty, with the advice aforesaid, to order the Lord High Treasurer or Commissioners of Her Majesty's Treasury to assess the amount of compensation which it shall appear to him or them ought to be awarded to such coroner, and the amount of such compensation shall be paid by the treasurer of the county to such coroner, his executors or administrators, out of the county rate.

Sect. 7. That such justices so assembled as aforesaid shall order a list to be prepared by the clerk of the peace for their respective counties of the several parishes, townships or hundreds, as the case may be, in each and every of the several districts into which the respective counties shall be divided under the authority of this act, specifying in such list the place within each district at which the court for the election of coroner is to be holden, and also the place or places at which the poll shall be taken, inserting the parishes, townships and places for each of such polling-places, and shall cause such order to be enrolled among the records of the county.

Sect. 8. That all isolated or detached parts of counties shall be considered, for the purposes of this act, as forming a part of that county, riding, or division respectively whereby such isolated or detached parts shall or may be wholly surrounded, but if any such isolated or detached part shall be

surrounded by two or more counties, ridings, or divisions, then as forming part of that county, riding, or division with which such isolated or detached part shall have the longest common boundary.

Sect. 9. That from and after the time when any county shall have been so as aforesaid divided, every election of a coroner for any such district shall be held at some place within the district in which he shall be elected to serve the office of coroner; and that every person to be so elected shall be chosen by a majority of such persons residing within such district as shall at the time of such election be duly qualified to vote at the elections of coroners for the said county.

Sect. 10. That from and after the division of any counties as aforesaid into coroners' districts, upon every election to be made of any coroner or coroners for any county, the sheriff of the county where such election shall be made shall hold a court for the same election at some convenient place within the district for which the election of coroner shall take place, on some day to be by him appointed, which day shall not be less than seven days nor more than fourteen days after the receipt of the writ *de coronatore eligendo;* and in case the said election be not then determined upon the view, with the consent of the electors there present, but that a poll shall be demanded for determination thereof, then the said sheriff, or in his absence his under-sheriff, shall adjourn the same court to eight of the clock in the forenoon of the next day but one, unless such next day but one shall be Saturday or Sunday, and then of the Monday following; and the said sheriff, or in his absence the under-sheriff, with such others as shall be deputed by him, shall then and there proceed to take the said poll in some public place or places

by the same sheriff, or his under-sheriff as aforesaid in his absence, or others appointed for the taking thereof as aforesaid; and such polling shall continue for two days only, for eight hours in each day; and no poll shall be kept open later than four of the clock in the afternoon of either of the said days.

Sect. 11. That for more conveniently taking the poll at all elections of coroners under the authority of this act the poll for the election of the coroner in each district shall be taken at the place to be appointed for holding the court for such election, and at such other places within the same district as may for the time being be appointed by the quarter sessions.

Sect. 12. That at every contested election of coroner for any district of the said county the sheriff, under-sheriff, or sheriff's deputy shall, if required by or on the behalf of any candidate on the day fixed for the election, and, if not so required, may, if it shall appear to him expedient, cause a booth or booths to be erected for taking the poll at the court or principal place of election, and also at each of the polling places within the district hereinbefore directed to be used for the purposes of such election, and shall cause to be affixed on the most conspicuous part of each of the said booths the names of the several parishes, townships, and places for which such booth is respectively allotted; and no person shall be admitted to vote at any such election in respect of any property situate in any parish, township, or place except at the booth so allotted for such parish, township, or place, and if no booth shall be allotted for the same, then at any of the booths for the same districts, and in case any parish, township, or place, or part of any parish, township, or place, shall happen not to be included in

any of the districts, the votes in respect of property situate in any parish, township, or place, or any part of any parish, township, or place so omitted, shall be taken at the court or principal place of election for such district of the said county.

Sect. 13. For the more due and orderly proceeding in the said poll, that the said sheriff, or in his absence the under-sheriff, or such as he shall depute, shall appoint such number of clerks as to him shall seem meet and convenient for the taking thereof, which clerks shall take the said poll in the presence of the said sheriff or his under-sheriff, or such as he shall depute; and before they begin to take the said poll every clerk so appointed shall by the said sheriff or his under-sheriff, or such as he shall depute as aforesaid, be sworn truly and indifferently to take the same poll, and to set down the names of each elector, and the place of his residence, and for whom he shall poll, and to poll no elector who is not sworn, if required to be sworn by the candidates or either of them; and which oaths of the said clerks, the said sheriff or his under-sheriff, or such as he shall depute, shall have authority to administer; and the sheriff, or in his absence his under-sheriff, as aforesaid, shall appoint for each candidate such one person as shall be nominated to him by each candidate to be inspector of every clerk who shall be appointed for taking the poll; and every elector, before he is admitted to poll at the same election, shall, if required by or on behalf of any candidate, first take the oath hereinafter mentioned, which oath the said sheriff, by himself or his under-sheriff, or such sworn clerk by him appointed for taking the said poll as aforesaid, shall have authority to administer; (that is to say,)

"I swear [*or, being one of the people called*

Quakers, or entitled by law to make affirmation, solemnly affirm], that I am a freeholder of the county of and have a freehold estate consisting of lying at within the said county; and that such freehold estate has not been granted to me fraudulently or colourably on purpose to qualify me to give my vote at this election; and that the place of my abode is at [*and, if it be a place consisting of more streets or places than one, specifying what street or place*]; that I am twenty-one years of age, as I believe; and that I have not been before polled at this election [*adding, except in cases of solemn affirmation*] So help me GOD."

Sect. 14. That every elector or other person who shall wilfully and falsely take the said oath or affirmation hereby appointed to be taken by the electors as aforesaid shall for every such offence incur the penalties by law inflicted on persons guilty of perjury; and every person who shall unlawfully and corruptly procure or suborn any freeholder or other person wilfully and falsely to take the said oath or affirmation in order to be polled, shall for every such offence incur such pains and penalties as are by law inflicted on persons guilty of subornation of perjury.

Sect. 15. That the poll clerks shall, at the close of the poll, enclose and seal their several books, and shall publicly deliver them so enclosed and sealed to the sheriff, under-sheriff, or sheriff's deputy presiding at such poll, who shall give a receipt for the same; and every such deputy who shall have received any such poll books shall forthwith deliver or transmit the same so enclosed and sealed, to the sheriff, or his under-sheriff, who shall receive and keep all the poll books unopened until the reassembling of the court on the day next but one after the close of the poll, unless

such next day but one shall be Sunday, and then on the Monday following, when he shall openly break the seals thereon, and cast up the number of votes as they appear on the said several books, and shall openly declare the state of the poll, and shall make proclamation of the person chosen, not later than two of the clock in the afternoon of the said day.

Sect. 16. That all the reasonable costs, charges, and expenses which the said sheriff, or his under-sheriff or other deputy, shall expend or be liable to in and about the providing of poll books, booths, and clerks (such clerks to be paid not more than one guinea each for each day), for the purpose of taking the poll at any such election, shall be borne and paid by the several candidates at such election in equal proportions.

Sect. 19. That every coroner elected under the authority of this act, although such coroner may be designated as the coroner for any particular district of a county, and may be elected by the electors of such district, and not by the freeholders of the county at large, shall for all purposes whatsoever, except as hereinafter mentioned, be considered as a coroner for the whole county, and shall have the same jurisdiction, rights, powers, and authorities throughout the said county as if he had been elected one of the coroners of the said county by the freeholders of the county at large.

Sect. 20. That, except as aforesaid, every coroner for any county, or any district thereof, or his deputy, after he shall, in pursuance of the provision of this act, have been assigned to or elected by the electors of any particular district, shall, except during illness or incapacity or unavoidable absence as aforesaid of any coroner for any other district, or during a vacancy in the office of coroner

for any other district, hold inquests only within the district to or for which he shall have been assigned or elected: provided always, that the coroner who shall, by himself or deputy, hold any inquest in any other district save that to which he shall have been assigned or elected as aforesaid, shall, in his inquisition to be returned on such inquest, certify the cause of his attendance and holding such inquest, which certificate shall be conclusive evidence of the illness or incapacity or unavoidable absence as aforesaid of the coroner in whose stead he shall so attend, or of there being a vacancy in the office of coroner for the district in which such inquest shall be holden.

Sect. 23. And whereas by an act passed in the sixth year of the reign of Her Majesty Queen Victoria, intituled *An Act for the more convenient holding of Coroners' Inquests*, it was enacted, that for the purpose of holding coroners' inquests every detached part of a county, riding, or division shall be deemed to be within that county, riding, or division by which it is wholly surrounded, or where it is partly surrounded by two or more counties within that one with which it has the longest common boundary: and whereas as to some such detached parts of counties, ridings, or divisions, there were at the time of the passing of the last-mentioned act coroners appointed expressly for and having jurisdiction in such detached parts only, and doubts have arisen whether such last-mentioned coroners were superseded by such last-mentioned act; be it therefore enacted, that as to every such detached part of any county for which at the time of the passing of the said last-mentioned act there was a coroner appointed for and acting in such detached part, such last-mentioned coroner shall (if now living and not having resigned, or been removed from his office otherwise than by

the operation of the said act) continue to hold and exercise his former office and jurisdiction within such detached part for so long a time and in such manner as such coroner would have held and exercised the said office and jurisdiction if the said last-mentioned act had not passed.

Sect. 25. That no coroner of the Queen's household and the verge of the Queen's palaces, nor any coroner of the Admiralty, nor any coroner of the city of London and borough of Southwark, or of any franchises belonging to the said city, nor any coroner of any city, borough, town, liberty, or franchise which is not contributory to the county rates, or within which such rates have not been usually assessed, shall be entitled to any fee, recompense, or benefit given to or provided for coroners by this act; but that it shall be lawful for all such coroners as are last mentioned to have and receive all such fees, salaries, wages, and allowances as they were entitled to by law before the making of this act, or as shall be given or allowed to them by the person or persons by whom they have been or shall be appointed.

Sect. 26. That the provision of this act touching the allowance for the travelling expenses of coroners shall be deemed and taken to extend to coroners appointed and acting for the jurisdiction of the Cinque Ports, anything hereinbefore contained to the contrary notwithstanding.

Sect. 27. That nothing in this act contained touching the divisions of counties into districts, or the appointment or election of coroners, shall extend to the county of Chester, or any county palatine, city, borough, town, liberty, franchise, part, or place, the appointment or election of coroner whereof takes place by law otherwise than under the writ *de coronatore eligendo.*

Sect. 28. That in construing this act the word

"county" shall be taken to mean county, riding, or division of a county in and for which a separate coroner hath been customarily elected; and that in the counties of York and Lincoln all things hereinbefore directed to be done by and with respect to the justices in general or quarter sessions assembled, and by their clerk, shall be done by and with respect to the justices of the said counties of York and Lincoln in general gaol sessions assembled, and by their clerk.(1)

After the election the oaths of office, &c., are to be taken in open court before the sheriff;(2) the coroner will then be in full possession of his office, but he must not omit to make and subscribe the declaration required by stat. 9 Geo. 4, c. 17, which is most conveniently done at the next quarter sessions, and must be done within six months. Every coroner should be *intimately* acquainted with the laws relating to homicide, with the rules of evidence, with the best forms of inquisitions, and of all other documents concerning the office,

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(1) Upon removal of a coroner for misconduct, &c., the practice is to issue both the writ *de coronatore exonerando* and that *de coronatore eligendo* at the same time, though the former must be first executed, and no notice of the issuing need be given to the party removed. He may have a commission to inquire whether the cause assigned for the removal be true, but he cannot traverse it: (1 J. & W. 454.)

(2) The Coroner's Oath of Office:—

You shall swear that you will well and truly serve our Sovereign Lady the Queen's Majesty, and her liege people, in the office of coroner, and as one of Her Majesty's coroners of this county of . And therein you shall diligently and truly do and accomplish all and every thing and things appertaining to your office after the best of your cunning, wit, and power, both for the Queen's profit, and for the good of the inhabitants within the said county, taking such fees as you ought to take by the laws and statutes of this realm, and not otherwise. So help you GOD.

and should have a sufficient knowledge of medical jurisprudence to enable him to examine medical witnesses with proper advantage. He should attentively study Hale's Pleas of the Crown, Hawkin's Pleas of the Crown, Foster's Crown Law, Russell on Crimes, Archbold's Criminal Law, Taylor on Evidence, Wills on Circumstantial Evidence, and the most approved reports on criminal law; as well as Paris and Fonblanque, Beck and Dunlop, or Taylor on Medical Jurisprudence. He should also be present at *post mortem* examinations until he has familiarized himself with the general appearances and terms of art applicable to each case, and has acquired facility in distinguishing between the marks occasioned by violence and those caused by disease or natural decay. He should also attend lectures on medical jurisprudence, as connected with violent and sudden death, and trials of homicides, to exercise his knowledge of the law of evidence and the manner of examining witnesses.

When the coroner considers himself competent to the performance of his duties, he should keep up his knowledge by a regular and attentive study of such statutes as may relate to his office and duties, *when published at the end of every session of Parliament*, and one of the best periodical reports on the criminal law, *as soon as possible after publication.*

DEPUTY CORONERS.

By 6 & 7 Will. 4, c. 105, s. 6, every borough coroner, in case of illness or unavoidable absence, may appoint a deputy, being a barrister or attorney, on the certificate of the mayor or two justices of

the borough that such appointment is necessary, &c., and such deputies only hold office during the existence of the disability, viz., illness or absence.

By 6 & 7 Vict. c. 83, every coroner of any county, city, riding, liberty, or division, is directed "by writing, under his hand and seal, to nominate and appoint from time to time a fit and proper person, such appointment being subject to the approval of the Lord High Chancellor, Lord Keeper or Lords Commissioners of the Great Seal, to act for him as his deputy in the holding of inquests, and all inquests taken and other acts performed by any such deputy coroner shall be deemed to be the acts of the coroner by whom such appointment was made: provided that a duplicate of such appointment shall be forthwith transmitted to the clerk of the peace of the county, &c., to be filed among the records of such county, &c.: provided also that no such deputy shall act for any such coroner as aforesaid except during the illness of the said coroner, or during his absence for any lawful or reasonable cause: provided also that every such appointment may at any time be cancelled and revoked by the coroner who made the same:" (see Appendix.)

THE CORONER'S DUTIES.

The coroner's duty is either ministerial or judicial, and however extensive such duty may have been in the earlier periods of English history, it is now reduced to the following points:—

To hold inquests on the bodies of persons dying by violence, whether accidental or otherwise, and in cases of sudden death under circumstances of suspicion, and upon all persons dying in prison; to

prepare and make return of his inquisitions; and to apprehend persons charged with murder or manslaughter, and to bind over prosecutors and witnesses according to law. ✗

To hold inquisitions of treasure trove, and to return the same: (Brit. 5; 2 Hawk. P. C., c. 9, s. 36.)

To inquire of the wrecks of the sea, of sturgeons and of whales; to attack and let to mainprize the finders, and to secure the findings to the Queen's use.

To execute the Queen's writs in case of disability on the part of the sheriff: (4 Inst. 271.)

To pronounce judgment of outlawry: (Wood's Inst. 64, c. 1.)

To attend at the trial of prisoners charged by his inquisitions (*Re Unwin*, Car. C. L. 17, Q. B. 1827), and in court to deliver to the proper officer all inquisitions of *felo de se*, and at the quarter sessions for the purpose of delivering his accounts (the latter attendance being for his own accommodation he is not compellable to attend): (9 L. J. 102, M. C.) By 5 & 6 Will. 4, c. 76, every borough coroner shall, on or before the 1st of February in every year, make and transmit to one of Her Majesty's Principal Secretaries of State a return in writing of all inquests held by him in the year ending the 31st of December preceding. As a conservator of the peace he may cause felons to be apprehended, and suspected persons (Fitz. Inst. 163; Mir. c. 1, s. 18; Brit. 6; 1 Salk. 347; 2 Hawk. P. C. 107), and he may bind any one to keep the peace who makes an affray in his presence: (1 Bac. Abr. 491.) Under the authority of an expression in the Mirror, c. 1, s. 12, some coroners have lately held inquests in cases of suspected *arson*, and the public feeling has been strongly expressed in favour of such proceedings, but as no

✗ It is essential to Homicide of which the Law takes cognizance that the party die of the Injury done within one year and a day thereafter

legal decision has been given upon the subject, and as the practice of holding such inquests has long been disused, and as Coke, 4 Inst. 271, 2 Hale's Hist. 65, and 2 Hawk. c. 9, s. 35, expressly say, that the coroner can only take an inquest upon the death of man, not for other felony, *and as no statute provides for the expenses,* it is probable that the practice will not be continued, unless revived by legislative enactment. An attempt to introduce a bill in the House of Commons in 1849, to legalize inquests on fires, was discountenanced by the Attorney-General, on the ground of the expense it would entail upon the county, intimating that 52,000 fires took place annually in England.

The general duties of a coroner are defined in Britton in a kind of paraphrase on the statute 4 Edw. 1, c. 2, *De officio coronatoris.* The following quotations are sufficient in this place.

"It is our pleasure that so soon as any felony or misadventure do happen, or treasure be found unlawfully hidden in the earth, or rape of women, or breaking out of prison, or man dangerously wounded, or other accident happening, that the coroner do immediately, upon notice, issue his mandate to the sheriff or bailiff of the place where the accident shall happen, to summon the four next towns, or more if need be, by a certain day, to be and appear before him at the same place, by whom he may inquire of the truth of the casualty:" (Brit. c. 1, s. 5.)

"And upon his coming, let him swear the inquests upon the Holy Gospels, to declare the truth of the articles which upon our behalf he shall give them in charge and require of them, and in such case, and also in the sheriff's court, and at the view of franc pledge, and in the office of our escheators and in our presence and before our steward and in the eyre of our justices, it is our pleasure that the

jury do inquire, though our writ come not:" (Brit. c. 1, s. 6; see 2 Inst. 43; Fleta, L. 2, c. 3, s. 12.)

"Then let the coroner and jurors take view of the body, and the wounds and the cuts, or if any have been strangled or burnt, or by other violence come to his death; and as soon as can be after the view, let the body be interred; and if the coroner do find the body interred before a view be had, let the coroner thereof make inrollment, yet nevertheless not to omit taking up the body and causing it to be openly viewed and by the inquest:" (Brit. c. 1, s. 7.)

"In respect of those who have been summoned and come not to the coroner's inquest, our will is that they be amerced at the coming of our justices at the next assizes in the county, if such defaults be found of record in the coroner's rolls; but neither our coroners nor our escheators, nor our inquirers specially assigned shall amerce any for any default:" (Brit. c. 1, s. 8; Stat. Marl. c. 18; 2 Inst. 136. But see 7 & 8 Vict. c. 92, s. 17, as to fines.)

"When the coroner shall have a sufficient number of men by whom he may sufficiently make his inquests, let him in the first place inquire whether the killing was by felony or misadventure:" (Brit. c. 1, s. 9.)

"If by felony, whether it was committed in or out of the house or in a tavern, or at a wake or other assembly; let it then be inquired who was present, both old and young, males and females, who were principals, and who accessary; also of the force and command, or of the consent, or of the receiving of the felons knowingly:" (Brit. c. 1, s. 8.)

"Let the coroner also inquire of the manner of the killing, with what weapon, and of all the

circumstances, and let the sheriff immediately attach those who shall be charged or indicted by his inquest, if they be found, and if they be not found let the coroner inquire who have fled or withdrawn themselves upon the occasion; and let the sheriff thereupon seize their lands into our hands, and keep possession, but without removing any bailiff or other minister on our part until they be convict by judgment, or purged and acquit of the felony:" (Brit. c. 1, s. 12.)

"Afterwards let the coroner seize all their chattels into our hands, and by good inquest appraise them, as well the chattels of villains who have fled and are suspected."

"If the felony be committed out of the dwelling-house, let the coroner then inquire of the first finder of the body, and attach him or them, as well women as men, young as old, and deliver them by pledges, until our coming into the county, or in the eyre of our justices, and let the coroner enter and inroll their names and the names of the pledges:" (Brit. c. 1, s. 24.)

Bail.

"We also forbid and prohibit all coroners, upon pain of imprisonment and heavy ransom, that they do not take any inquest of felony or misadventure, or do any other matters belonging to their office, by the *procurement of friends*, or set aside a jury at the challenge of either party; or by himself, his clerk or others belonging to him, do take or suffer anything to be taken for the doing of his office, or crave, alter, or use any fraud in his rolls, or suffer it to be done:" (Brit. c. 1, s. 25.)

"If the coroner find that any one hath come to his death by misadventure, let him then inquire by what accident, whether by drowning or by a fall, or by killing without other prepensed malice, or was felon of himself. If the accident happen by drowning, let it be inquired whether it was in

the sea or in fresh water, or in a well, moat, or ditch, and how the person became drowned, also from what vessel he fell, and who first found the body. If the drowning was in a well, let it be inquired who owned the well:" (Brit. c. 1, s. 26.)

"If the death happen by a fall, let it be inquired whether it was from a mill, a house, a horse, or a tree:" (Brit. c. 1, s. 27.)

"If from a mill, what things were then moving in the mill, who owned the mill, and the value of the utensils then moving. In the same manner let it be inquired of horses, houses, trees, and carriages:" (Brit. c. 1, s. 28.)

"If the accident happened by a killing (without other prepensed felony), let it be then inquired whether it was done by man or woman, or by beast or other thing:" (Brit. c. 1, s. 29.)

"If a man, whether by himself or by another; if by another, whether the misadventure was occasioned by chance or from necessity to avoid death:" (Brit. c. 1, s. 30.)

"If the accident be occasioned by a beast, let the inquiry be whether by a dog or other beast, and whether the beast was instructed or set on, or encouraged thereto or not, and by whom, and so of all the circumstances:" (Brit. c. 1, s. 31.)

"Concerning those drowned in fountains and wells, our pleasure is the inquiry be in like manner as of the others, and that the coroners do let to mainprize the first finders, and insert their names, and the names of the pledges:" (Brit. c. 1, s. 33.)

"Of those who shall come to their death by carriages, mills, or such like means, let the coroner make his inquest and enrolment, in manner above set forth in respect to persons drowned:" (Brit. c. 1, s. 34.)

"If the inquiry be of a wounding, let the weapon

be inquired into, and the length and depth of the wound:" (Brit. c. 1, s. 39.)

"It also belongs to their office to inquire of ancient treasure found in the earth, of wreck of the sea, of sturgeons and of whales, when he shall have notice thereof, and to attach and let to mainprize the finders, and those who design or secrete them, and to enrol and record their names and secure their findings to our use:" (Brit. c. 1, s. 42.)

"Lastly, it is our pleasure that our sheriffs and bailiffs be attendant upon our coroners, and obedient to their orders and mandates:" (Brit. c. 1, s. 43.)

The stat. 4 Edw. 1, c. 2, being in affirmance only of the common law, the coroner is neither restrained nor excused from the execution of any branch of his office not mentioned in the statute: (3 Inst. 52.)

By 1 & 2 P. & M. c. 13, s. 5, he may inquire of accessories before the fact, but he cannot inquire of accessories after the fact: (2 Hawk. c. 9, ss. 26, 27.)

He ought also to inquire of the death of all persons dying in prison that it may be known whether they died by violence or any undue severity (3 Inst. 52, 91); and by stat. 4 Geo. 4, c. 64, s. 11 (General Gaol Act), no prisoner is to sit upon a coroner's jury. During the prevalence of the cholera in 1849, many inquests were held upon persons dying suddenly from that disease, and the General Board of Health, in a circular to coroners of the 4th of June, 1849, said, "The occurrence of deaths known or suspected to be from epidemic disease, that is, disease produced by causes which are preventible, and the prevention of which may have been charged as a special duty on some particular officer, implies a probable culpability on

the part of some person or other, and therefore forms a proper subject of legal investigation," &c. There is no doubt those investigations were often attended with highly beneficial effects; nay, that in some instances they were the means of stopping the progress of the disease, but the jealous parsimony with which the coroners are said to be treated in some counties, has probably prevented the interference of the coroner in many cases where a trivial expense might have saved valuable lives.

As conservator of the peace, the coroner has power to apprehend felons or persons present at the death, or suspected of guilt, and without such power guilty persons would often escape (Mir. c. 1, s. 13; Brit. 6; 2 Hawk. P. C. 107); and he may apprehend any felon within the county without warrant: (2 Hale's Hist. 88; 4 Blac. Com. 292.)

Coroners are exempt from such offices as are inconsistent with their duty, and are not liable to serve on juries (F. N. B. 167); and (per Gaselee, J.) are not liable to arrest in the performance of their duty, or in going to, remaining at, or returning from such duty.

FEES, INQUEST EXPENSES, ETC.

By 3 Hen. 7, c. 1, it is enacted, that a coroner shall have for his fee upon every inquisition taken upon the view of a body slain 13*s.* 4*d.* of the goods and chattels of the slayer; and if he have no goods, of such amerciaments as shall fortune any township to be amerced for the escape of the murderer.

By 25 Geo. 2, c. 29, it is enacted, that for every inquisition not taken upon the view of a body

dying in a gaol or prison, which shall be duly taken in England by any coroner or coroners in any township or place contributing to the rates directed to be levied by 12 Geo. 2, c. 29, the sum of twenty shillings; and for every mile which he or they shall be compelled to travel from the usual place of his or their abode to take such inquisition, the further sum of ninepence, over and above the said sum of twenty shillings, shall be paid to him or them out of the moneys arising from the rates above mentioned, by order of the justices of the peace in their general or quarter sessions assembled, for the county, riding, division, or liberty where such inquisition shall have been taken, or the major part of them, and which order they are directed to make without fee or reward.

By sect. 2, it is enacted, that for every inquisition which shall be taken upon the view of a body in any gaol or prison in England by any coroner or coroners of a county, so much money not exceeding the sum of twenty shillings shall be paid to him or them, as the justices of the peace in their general or quarter sessions assembled for the county, riding, or division wherein such gaol or prison is situate, or the major part of them, shall think fit to allow, as a recompense for his or their labour, pains, and charges in taking such inquisition, to be paid in a like manner, by order of the said justices, or the major part of them, out of the moneys aforesaid.

By stat. 5 & 6 Will. 4, c. 76, borough coroners are entitled to similar fees of twenty shillings for each inquest duly taken, and ninepence per mile for travelling expenses, *beyond the first two miles*, to be paid by order of the court of quarter sessions, addressed to the borough treasurer.

By stat. 1 Vict. c. 68, s. 1, it is enacted, that the justices of the peace for every county, riding,

division, or district in England and Wales, in general or quarter sessions assembled, shall, at the general or quarter sessions of the peace to be holden next after the passing of this act, or at some subsequent general or quarter sessions; and the town council of every borough having a coroner shall, at the quarterly meeting of such council, which shall be holden next after the passing of this act, or at some subsequent quarterly meeting thereof, make or cause to be made a schedule of the several fees, allowances, and disbursements which on the holding of any inquest on any dead body within such county, riding, division, district, or borough, may be lawfully paid and made by the coroner holding such inquest (other than the fees payable to medical witnesses under and by virtue of an act passed in the last session of Parliament, intituled *An Act to provide for the Attendance and Remuneration of Medical Witnesses at Coroner's Inquests*); and it shall be lawful for such justices in general or quarter sessions assembled, and for such town council at any such quarterly meeting as aforesaid, from time to time, to alter and vary such schedule as to such justices and town council respectively may seem fit; and the said justices and town council respectively shall cause a copy of every such schedule to be deposited with the clerk of the peace of such county, riding, division, district, or borough, and one other copy thereof to be delivered to every coroner acting in and for such county, riding, division, district, or borough as aforesaid; and whenever any inquest shall be holden on any dead body, the coroner holding the same shall immediately after the termination of the proceedings advance and pay all expenses reasonably incurred in and about the holding thereof, not exceeding the sums set forth in the said schedule, and which sums so advanced and

paid shall be repaid to the said coroner in manner hereinafter mentioned: provided always, that until such schedule as aforesaid shall have been made, the coroner shall advance and pay, at his discretion, all reasonable expenses of holding every inquest within the limits of his jurisdiction, and shall be repaid the amount thereof, in the same manner as if the sums so paid had been included in a schedule duly made according to the provisions of this act.

Sect. 2. That so much of the said act passed in the last session of Parliament as directs the coroner to make out an order on the churchwardens and overseers of the parish in which any death shall have happened for payment of the remuneration or fee payable under the provisions of that act to any medical practitioner, and as directs such churchwardens and overseers to pay the same out of the funds collected for the relief of the poor of such parish, shall be and the same is hereby repealed, and in lieu thereof the coroner shall, immediately after the termination of the proceedings at any inquest, advance and pay such remuneration or fee to every medical witness summoned under the provisions of the said act, and the amount thereof shall be repaid to the said coroner in manner hereinafter mentioned.

Sect. 3. That every coroner acting in and for any county, riding, division, or district shall within four months after holding any inquest, cause a full and true account of all sums paid by him under the provisions of this act, including all sums paid to any medical witness as aforesaid, to be laid before the justices of the peace of such county, riding, division, or district in general or quarter sessions assembled, or at any adjournment thereof; and every coroner of any borough shall, within four months after holding any inquest, cause a full

and true account of all sums paid by him under the provisions of this act, including as aforesaid, to be laid before the town council of such borough; and all such accounts shall be accompanied by such vouchers as under the circumstances may to such justices or council respectively seem reasonable; and such justices or council respectively may, if they shall think fit, examine the said coroner on oath as to such account, and on being satisfied of the correctness thereof such justices or council respectively shall make an order on the treasurer of the said county, riding, division, or district, or of the said borough (as the case may be) for payment to the said coroner not only of the sum due to him on such account, but also of a sum of six shillings and eightpence for every inquest holden by him as aforesaid, over and above all other fees and allowances to which he is now by law entitled; and the treasurer of any county, riding, division, or district on whom any such order shall be made shall, out of the moneys in his hands arising from the county rates, and the treasurer of any borough on whom any such order shall be made shall, out of the moneys in his hands on account of the borough fund, pay to the said coroner the sum mentioned in such order, without any abatement or deduction whatever; and every such treasurer shall, on passing his accounts, be allowed all sums which he shall pay in pursuance of any such order as aforesaid.(1)

A *mandamus* to the justices to allow an item in the coroner's accounts was refused, because the justices were of opinion that there was no ground to suppose that the deceased had died any other than a natural, though a sudden, death, and, *there-*

(1) For the scale of inquest expenses used in the city of Bristol see Appendix.

fore, that the inquisition *had not been duly* taken, and the court saw no reason for interfering with that judgment: (*Rex* v. *Justices of Kent*, 49 Geo. 3; 11 East.) In this case the deceased dropped down dead while in the act of buying furniture.

The Court of Queen's Bench, on *mandamus*, held that the decision in *Rex* v. *Justices of Kent* (11 East,) was correct, viz., that the justices were to judge whether the inquisition was duly taken, and there was no reason for imparting to them that they had exercised their judgment with any undue bias, but the court also held that the coroner was entitled to be reimbursed the expenses he had paid attending this inquest, and that the sessions had no power to disallow them: (*Reg.* v. *Justices of Carmarthenshire*, 10 A. & E. 796.)

A coroner going one journey on the same day to hold three inquisitions at the same place is not entitled to 9*d.* per mile as upon three journeys: (*Rex* v. *Justices of Warwickshire*, 8 Dow. & Ry. 147.)

By 1 Vict. c. 68, the justices in sessions and the town council in boroughs shall make a schedule of the fees, allowances, and disbursements to be paid on inquests, and the coroner shall pay the same immediately after the inquest: (sect. 2.) Coroners to pay medical witnesses according to 6 & 7 Will. 4, c. 89, s. 3. Coroner to be repaid out of the county rates or borough fund, with 6*s.* 8*d.* for each inquest, over and above all fees, &c. to which he is by law entitled.

By stat. 7 & 8 Vict. c. 92, s. 21, the justices are empowered to order the payment of the allowances for travelling to any coroner who shall show to their satisfaction that he has been compelled to travel for the purpose of taking an inquisition,

but which in the exercise of his discretion he deemed to be unnecessary and declined to take.

By sect. 22, in all cases where any writ, process, or extent shall be directed to, and executed by, any coroner in the place or stead of any sheriff, such coroner shall have and receive such and the same poundage, fees, or other compensation or reward for executing the same as the sheriff, if he had executed the same, would have been entitled to receive for so doing, and shall also have such and the same right to retain, and all other remedies for the recovery of the same, as the sheriff would have had in whose place and stead such coroner shall have been substituted; and if the fees or compensation payable to the sheriff shall at any time after the passing of said act be increased by act of Parliament or otherwise, in every such case the coroner shall be entitled to such increased fees or compensation.

By sect. 23, Coroners of detached parts of counties to continue to hold office and exercise jurisdiction (if not removed) in the same manner as if 6 & 7 Vict. c. 12, had not passed.

By sect. 24 provision is made for payment for inquests so held, and by sect. 25, it is provided that no coroner of the Queen's household or of the verge, or Admiralty, or of London or Southwark, or their franchises, nor any coroner of any city, borough, town, liberty, or franchise not contributing to the county rates shall be entitled to any fee, recompense or benefit under said act.

Notwithstanding the express exception contained in sect. 25, it is apprehended that any other coroner than the county coroner, who shall be required to perform any of the ministerial duties above referred to, may make a fair and reasonable charge for his services, and probably may consider that any fees which are fair and reasonable, when paid to the sheriff or county coroner

must be equally fair and reasonable if paid to the coroner of a borough, and a coroner may take the customary payment of one penny from every town that comes to the *eyre*, for it is a payment due in respect of his office, and not for doing his office: (2 Inst. 176.)

From the preceding observations it will be seen that the coroner is not justified in making any charge whatever in respect of an inquest *super visum corporis*, except only the charges of 1*l.* 6*s.* 8*d.* authorized by the statutes referred to, and in some (but very rare) cases, the fee of 13*s.* 4*d.* under the statute 3 Hen. 7, c. 1. It is said that some coroners in remote districts insist on receiving fees from the relations of the persons on whose bodies they hold inquests, but this conduct if known would inevitably expose them to the danger of removal from office.

LIABILITIES.

Coroners are liable to punishment for misconduct or neglect of duty. By 3 Hen. 7, c. 1, a coroner shall not be remiss, but shall duly make inquisition on persons slain, and return the same at the next gaol delivery on the pain of 5*l.* By 1 Hen. 8, c. 7, if he shall not himself endeavour to do his office upon any person dead by misadventure, he shall forfeit 40*s.* The coroner of Lichfield was committed for deceiving the jury by a false inquisition: (Str. Rep. 69.) In *Lord Buckhurst's case* (1 Keb. 280, pl. 81), the coroner was discharged and fined 100*l.* for keeping the inquisition in his pocket to favour the criminal, instead of returning it at the assizes. The court will discharge a coroner for using corrupt influence with a jury: (*Rex* v. *Coates*, E. T. 1809.) Confinement in prison for twelve months is good cause

for removal (1 J. & W. 451), although the duty had been done by another coroner. Coroners may also subject themselves to a criminal information, or to an indictment for misconduct, or in their ministerial character to an action for escape, for a false return, or to an attachment, or the court may exercise a summary jurisdiction over them.

OF THE CORONER'S COURT AND JURY, ETC.

The coroner's court is a court of record: (4 Inst. 271.) It is a misdemeanor to interrupt or obstruct the coroner or his jury in the view or inquiry (Calth. M. S.); and no action will lie against him for any act done in the exercise of his judicial functions: (1 Lord Raym. 454; 6 B. & C. 611.) The coroner may commit any person who obstructs or impedes him in the performance of his duty, and may refuse to permit the interference of any one, *semble*, even, of counsel learned in the law: (1 B. & C. 37, per Bayley, J.) The latter power should be exercised (if at all) with great discretion; in many cases the attendance of counsel may be highly useful, and may assist in the discovery of facts which would otherwise remain concealed; and the object of the coroner is to discover the facts, not to establish a case against an individual, or to send a party for trial upon imperfect evidence: on the other hand, it must be admitted that in some cases inquests have been protracted to an unreasonable length of time, and it has been suggested that they might have been concluded much earlier, and quite as satisfactorily, if the coroner and jury had managed the business without the assistance of counsel. In exercising the power of exclusion, the coroner should only be

influenced by his desire to promote the objects of justice, no personal feeling should be permitted to operate; this, as well as other unpleasant duties, should be performed fearlessly and firmly. If counsel are not in attendance, the coroner and jury will be saved much trouble by at first rejecting the interference of any other persons: (see 6 B. & C. 611; 2 D. & R. 86.) The inquest is usually held in some tavern or public-house near the spot where the body lies. The constables in attendance at the inquest are frequently inexperienced in their duties; and the juries often consist of persons who then see a dead body for the first time—from these circumstances it results that the coroner is often exposed to much physical inconvenience, and must take upon himself the duties of superintending the *minutiæ* of the inquest to a greater extent than is expected from any other judicial officer, and must prevent the obtrusion to which he will find himself continually exposed; this, however, ought not to extend to the exclusion of persons conducting themselves with propriety. The county coroner has usually to depend upon the service of the parish constables or police officers, but in cities and boroughs more satisfactory arrangements are generally made for his accommodation. The coroner's court is open; every person has a right of access to it (3 T. R. 722), subject to the coroner's right to exclude: (6 B. & C. 611.)

The coroner's jury is summoned by the constable to whom the warrant is directed, and must consist of at least twelve good and lawful men[x] of the county, city, &c., not aliens, convicts, or outlaws. Within the Queen's palaces or houses they must be composed of yeomen, officers of the household; within the verge, of the same class of persons as county jurors. In cases of suspected murder or manslaughter, it is useful to have fifteen or seven-

and so it should appear on the Inquisition
2 Hale's P C 132 Same page 12 - Humphrainville 170

teen jurymen; in cases of accident twelve will be sufficient. No qualification by estate is required, but the jurors should be housekeepers, and indifferent to the subject of investigation, and although they are not challengeable, yet the coroner should avoid swearing in any one likely to be challenged from any cause whatever.× Members of town councils are exempt from serving on juries by the Municipal Reform Act, and custom officers and their clerks by 9 Geo. 4, c. 76, s. 2. By the Gaol Act, 4 Geo. 4, c. 64, s. 11, no prisoner is to sit on a coroner's jury.

Post Masters and their Officers exempt by the 1st Vict c 33 s 12 — " " "
Factory Inspectors are exempt — "

PROCEEDINGS UPON AN INQUEST SUPER VISUM CORPORIS.

Upon receiving notice from the legal peace officers of the parish or place in which the body is lying, the coroner should inquire whether the party died by violence or under any circumstances of suspicion, because if the party died (however suddenly) without violence or suspicion, the coroner's fees may be disallowed by the justices: (11 East, 229; *Reg.* v. *The Justices of Carmarthenshire*, 9 L. T. 267.) The carelessness and ignorance of some parish officers render these inquiries essential. By stat. 6 & 7 Vict. c. 12, the coroner only in whose jurisdiction the body is lying dead shall hold the inquest; for that purpose he will give his mandate to the constable or appointed officer of the place where the body lies, to summon a jury, consisting of twelve men at least, who, after being sworn (or if Quakers, Moravians, or Separatists, affirmed) (3 & 4 Will. 4, c. 49; and 1 & 2 Vict. c. 77), viewing the body and hearing the evidence, are to make an inquisition: (2 Hale, 59, s. 52.)

× They are not challengeable by either party Mirr c 1 s 13 - Brit 5 But Umphronville says p 165 an objection properly made may be admitted - Vide Skin 45 pl 16 -

The inquest must not be held on a Sunday: (9 Coke, 66, b.) It need not be held in the place where the body is viewed: (2 Hawk. c. 9, s. 25.)

On attending at the place appointed for the inquest, the coroner will demand the warrant from the officer charged with its execution. The return of the names of the persons summoned ought to be indorsed on the warrant, and signed by the officer. When the coroner has ascertained that at least twelve of the persons summoned are present, he will desire the officer to open the court, which is done in these words:—

"Oyez! Oyez! Oyez! All manner of persons who can give any information, on behalf of our sovereign lady the Queen, touching the death of A. B., draw near and give your attendance."

Then,

"You good men of this county (or city or borough), summoned to appear here this day to inquire for our sovereign lady the Queen when, how, and by what means A. B. came to his death, answer to your names as you shall be called, every man at the first call, under the pain and peril that shall fall thereon."

The coroner will then call over the jurymen's names; the first called is considered to be the foreman. There is seldom any difficulty in obtaining a jury, but if such case occur, and the coroner find it necessary to make an example of the absent party, he will direct the attendant officer to repeat

"You good men who have been already severally called, and have made default, answer to your names and save your peril."

The defaulter will be called three times, and then the coroner will examine the return on the

back of his warrant, to ascertain that no error has been committed by the summoning officer, and will swear the officer as to due service of the notice, and such other particulars as the case may require; he will then (by virtue of 7 & 8 Vict. c. 92, s. 17, see Witnesses) fine the defaulter not exceeding 40*s.*, and proceed according to the statute.

When a deputy coroner of a borough is acting, he must here read the certificate under 6 & 7 Will. 4, c. 105: (Appendix.)

The coroner will then desire a medical witness, if any, and a witness who can also identify the body, to accompany the jury to the place where the body lies, and *in the presence of the deceased* the coroner will address the jury as follows:—

"Gentlemen of the jury,—Attend to your foreman's oath, for the same oath which he is about to take on his part, you and each of you are bound to observe and keep on your parts."

FOREMAN'S OATH.

"You shall diligently inquire, and true presentment make, of all such matters and things as shall be here given you in charge on behalf of our sovereign lady the Queen, touching the death of A. B., here lying dead. You shall present no man from hatred, malice, or ill-will, nor spare any through fear, favour, or affection, but a true verdict give according to the evidence, and to the best of your skill and knowledge. So help you GOD."

When the foreman is sworn, the remainder of the jury may be sworn, three or four at a time, thus:—

"The same oath which A. B., your foreman upon this inquest, hath now taken before you on

his part, you and each of you are severally well and truly to observe and keep on your parts. So help you GOD."

Any Quaker or Moravian summoned on the jury will repeat these words, instead of the oath, and without the Testament:—

"I, *C. D.*, being one of the people called Quakers, or Moravians, (or, having been one of the people called Quakers), do solemnly, sincerely, and truly affirm and declare, that I will well and truly inquire on behalf of the Queen, how and by what means A. B., here lying dead, came to his death, and will return a true verdict according to the evidence."

A Separatist's affirmation must be in the following words:—3 & 4 Wm c 82

"I, *A. B.*, do, in the presence of ALMIGHTY GOD, solemnly, sincerely, and truly affirm and declare, that I am a member of the religious sect called Separatists, and that the taking of any oath is contrary to my religious belief, as well as essentially opposed to the tenets of that sect, and I do also, in the same solemn manner, affirm and declare," &c. 3 & 4 Wm 4 c 49.

When the jury are all sworn and affirmed, as the case may be, the coroner will give permission to those persons whose attendance is not required to leave the court. He will then take care that the jurors are conveniently seated (separately from the bystanders), and will briefly acquaint them with the object of their meeting. The coroner and jury will carefully and minutely examine the body and the clothes, and in case of doubt or suspicion, the place where the body lies, or where the injury was sustained, or death took place, the access, furniture, fastenings, &c. It is recom-

X Autumn Assize April 1855.
Baron Platt refuses to receive in evidence the statement of any prisoner taken on oath. Therefore persons in custody should not be sworn

mended that the jury be sworn in the presence of the body, on account of the additional solemnity attending an oath taken under such circumstances, although stat. 6 & 7 Vict. c. 83, declares that no inquisition shall be void because the coroner and jury did not all view the body at one and the same instant, provided they all viewed the body at the first sitting of the inquest. A view of the body before the jury are sworn is not considered to be a view by either coroner or jury. After the body has been viewed, if the coroner be satisfied that no further view will be required, he may give an order for the burial, under 6 & 7 Will. 4, c. 86: (see the words of the statute in the chapter on witnesses; and for the form of summons see Appendix.) If a *post mortem* examination be required, the coroner, by virtue of 6 & 7 Will. 4, c. 89, will summon a surgeon for that purpose (see Appendix), unless he can procure the attendance of the surgeon without the ceremony of a summons, which is almost invariably the case. The witness who is to prove the identity should point out the body to the surgeon. The coroner will then proceed to take evidence, the officer having first said these words:—

"All persons who can give evidence on behalf of our sovereign lady the Queen touching the death of A. B., are desired to come forward, and they shall be heard."

On the appearance of each witness the coroner will take down his name, abode, and occupation, and then administer the following oath:—

"The evidence you shall give to this inquest, on behalf of our sovereign lady the Queen, touching the death of A. B., shall be the truth, the whole truth, and nothing but the truth. So help you GOD."

* The Coroner Trinity Term 1849 has no right to receive any Statement not given on oath. and no feeling of tenderness towards any individual should be allowed to interfere with his being examined on Oath. Ld Chief Baron Pollock - Wakley & Healey Roots

By stat. 4 Geo. 4, c. 64, s. 4, the coroner, upon inquisition for manslaughter, murder, or as an accessory to murder before the fact, shall put in writing the evidence, or so much thereof as shall be material, and shall have authority to bind by recognizance all such persons as know or declare anything material touching, &c., to appear at, &c., and to prosecute and give evidence, &c.; and the coroner shall certify and subscribe such evidence and recognizance, and also the inquisition, and shall deliver the same to the proper officer of the court in which the trial is to be before, or at the opening of the court (sect. 5); in default, &c., such court may set such a fine as the court shall think meet; sect. 6 applies to all jurisdictions. By 6 & 7 Will. 4, c. 86, s. 25, the coroner's jury shall inquire the name, sex, age, rank, or profession, time, place, and cause of death, for the purpose of registration.

The evidence given by each witness should be read over to him, and he should be required to sign his information (per Gurney, B.), and at the bottom of each sheet of depositions the coroner must sign his name and office (without the latter the depositions cannot be used in case of the coroner's death.)

× If an adjournment be found necessary the jurors must enter into a recognizance which the coroner will take as follows:—

"You severally acknowledge to owe to our sovereign lady the Queen the sum of 10*l.* each to be levied upon your goods and chattels for Her Majesty's use, upon condition that if you and each of you do personally appear here again (or at an adjourned place) on Monday next the 21st day of June instant, at ten of the clock in the forenoon, precisely, then and there to make further inquiry on behalf of our said sovereign lady the Queen,

× In case of Accidents happening in coal Death by
of the Coroner that the Owner or Agent of such
always at the least before the holding of such In
of State or some person be present on behalf of
adjourned & the Coroner must by Letter 2 days at

touching the death of A. B., of whose body you have had the view, the recognizance to be void or else to remain in full force. Are you content?" *Answer*, "Yes."

The jury may then be adjourned by a few words from the coroner. The officer making proclamation as follows:—

"Oyez! Oyez! Oyez! All manner of persons who have anything more to do at this court before Her Majesty's coroner for this county may now depart home and give their attendance here again on Monday next, being the 21st day of June instant, at ten o'clock in the forenoon, precisely. GOD save the Queen."

A memorandum of this adjournment and recognizance should be entered by the coroner at the foot of the depositions thus: "adjourned to ten o'clock, 21st June inst., at same place; jurors bound in 10*l*. J. B. G., Coroner."

On re-assembling after adjournment the officer will say:—

"Oyez, &c. All manner of persons who have anything more to do at this court before the Queen's coroner for this county on this inquest now pending touching the death of A. B., and adjourned to this time and place, draw near and give your attendance; and you gentlemen of the jury who have been empannelled and sworn upon this inquest, severally answer to your names and save your recognizances."

The coroner will then make such address to the jury as the case may require.

It frequently happens that counsel attend coroners' inquests either on behalf of the friends of deceased or of persons suspected, but it is highly inconvenient and improper to permit the inter-

Mines unless it be proved to the satisfaction
Colliery has sent Notice of such Accident to
In quest to one of Her Majesty's principal Secretaries
of such Secretary of State the Inquest must be
by least before the holding of such adjournment inform

ference of *any other* than counsel, and the coroner has ample power to restrain it: (*Barnett* v. *Ferrand*, 6 Barn. & Cress. 611.) When reporters are present in cases of murder and manslaughter, it is proper to inform them that their publication of a full report of the proceedings (although the coroner cannot restrain them from it) is illegal and discountenanced by the judges as calculated to prejudice the public mind, and is without the coroner's authority or countenance: (*R.* v. *Clement*, 4 B. & A. 218.)

When all the evidence has been taken, the coroner will sum up the case by reading the evidence and explaining the law, and any difficulties in the evidence, and the jury will consider their verdict; if necessary they will withdraw for that purpose, and the constable will then be sworn as follows:—

"You shall well and truly keep the jury upon this inquiry without meat, drink, or fire; you shall not suffer any person to speak to them, nor you yourself, unless it be to ask them if they have agreed on their verdict, until they shall be agreed. So help you God."

The coroner will take care that no paper or writing, *including notes of evidence taken by any of the jury*, be referred to by the jury, except such as have been previously given in evidence: (Trials per Pais, 357.)

Twelve jurymen must agree in their verdict, and when they have agreed, the foreman will announce the verdict to the coroner, who will then prepare his inquisition. Where a juryman is taken suddenly ill, even in capital cases, the jury may be discharged, and the prisoner tried by a fresh one: (4 Taun. 309.) To prepare the inquisition, recognizances, commitment, &c., will occupy some

hours, and it is usual to adjourn for three or four hours, as the jury cannot assist in the business, (although it is said that the documents should be prepared and signed without adjournment.) In cases of murder, manslaughter, and *felonia-de-se* the inquisition must be upon parchment with seals, in other cases, by stat. 6 & 7 Vict. c. 83, s. 2, it may be on paper and without seals. The inquisition must be signed by the coroner and jury. An inquisition taken by a deputy coroner is framed as if the principal coroner were present, but signed "A. B., coroner by C. D., his deputy duly appointed:" (*Reg.* v. *Perkins*, 14 L. J. Rep. N. S. part 2, fo. 216.) The jury should write their names without abbreviations: (*R.* v. *Evett*, 6 B. & C. 247.) If two jurymen bear the same name, some means of distinguishing them (as their residence or trades) should appear in the inquisition. If any are unable to write, their marks should be attested: (3 C. & P. 602; *semble* by the coroner.) The inquisition being completed, the coroner will bind over the witnesses (by recognizance in 40*l.* each), viz., all those who prove any material fact against the party accused, but not those who are called for the purpose of exculpating him (*Reg.* v. *Taylor and West*, 9 C. & P. 672), to appear and prosecute; or if they refuse, he may commit them for contempt: (2 Hawk. P. C. c. 46, s. 17.) Persons who are willing to give evidence before the coroner, often object to be bound over to prosecute, and as it frequently happens that the nearest friends of the deceased party are in humble circumstances, it is found very conducive to the ends of justice to require the attorney (if any) acting for the prosecution to enter into the recognizance to prosecute; if no attorney has been employed, then some attorney who regularly attends the assizes should be requested to be the prosecutor;

the fees allowed upon prosecutions are too insignificant to induce any attorney to conduct the prosecution, unless he has other business at the assizes. He will then commit the prisoner for trial, if in custody, or issue a warrant for apprehension and commitment if at large; then pay the jury, witnesses, tavern-keeper, and constables as directed by 1 Vict. c. 68: (see the chapter on fees and expenses.) The jury may then be discharged. The coroner will immediately give notice to the registrar of the name, sex, age, profession, time, and cause of death, under 6 & 7 Will. 4, c. 86. If the prisoner apply to a judge for bail, the coroner will probably have to make a return to a *certiorari*, and will perhaps be served with a rule to show cause why the prisoner should not be bailed, or why the trial should not take place in some other county, &c., to which rule the coroner will appear or not as circumstances require; *the county stock is not responsible for the coroner's expenses.*

It is the duty of the officer charged with the records of the court not to produce a record but upon competent authority:* (Lord Ellenborough, 14 East, 302; 1 Man. & Ry. 280.)

By 6 & 7 Will. 4, c. 114, s. 3, parties charged with offences are entitled to copies of the depositions on payment of three halfpence for every ninety words (but not to copies of their own statements). The coroner is usually applied to by the prosecutor for copies of the depositions, inquisition, and recognizances, preparatory to the brief; the charge is 3*s.* 6*d.* per brief sheet. The coroner must deliver his inquisition, depositions, and recognizances to the proper officer of the court in which the trial is to be, before or at the opening of the court: (7 Geo. 4, c. 64, s. 4.) It should be done some time before the assizes, but

* which at the Old Bailey is obtained upon application to the Court and with respect to the general records of the Realm upon application to the Attorney General

at latest on the commission day, to give the judge time to read the depositions previous to his charge to the grand jury. If the person charged be not taken into custody before the assizes, the coroner will notwithstanding return his inquisition, depositions, and recognizances to the judge of assize, by whom they will be transmitted to the crown office, and the person charged will, when taken, be tried at a future assize, or outlawed if not taken, and the prosecutor should either prefer his bill of indictment according to his recognizance or apply to the judge to respite the recognizance of himself and the witnesses, which recognizances will otherwise be estreated.

The coroner must attend the trial of his inquisition, or he will be liable to a fine, but his attendance at the assizes is not often required after he has answered to his name on the rota, unless he has inquisitions for trial, or writs, or *tales* to return through disability of the sheriff.

The coroner is incompetent to act as an attorney for the prosecution or defence: (stat. 7 & 8 Vict. c. 92, s. 18.)

From the preceding observations it will appear that upon every inquest, however short or commonplace, the coroner must go through the following forms, viz.; first, make proclamation; second, enter the names of the jurors on the inquisition (and if a deputy coroner of a borough under stat. 6 & 7 Will. 4, c. 105, read the deputation aloud); third, administer the oath to the jurors before view, or more properly in view (*super visum corporis*); fourth, administer the oaths to the witnesses and take down their depositions in writing, and get them signed, and sign them as coroner; fifth, when all the witnesses are examined, state the substance of the evidence to the jury, and inform them of the law applicable to the case, and ask

for their verdict; sixth, enter the verdict in the inquisition, according to one of the forms applicable to the case, or as near as may be; seventh, the coroner and jury will then sign the inquisition; eighth, the coroner will then sign and deliver to the friends of the deceased an order for burial; ninth, the coroner will give the constable a notice to the registrar; and, tenth, the coroner will pay the jury, witnesses and tavern-keeper, and dismiss the jury, making proclamation as at first. The following documents will be required:

One warrant for the summoning officer.
Twelve summonses (or more) for jurymen.
One summons for each witness (if required).
— sheets of paper for depositions.
One Inquisition.
One order for burial (under 6 & 7 Will. 4, c. 86).
One notice to the registrar (under 6 & 7 Will. 4, c. 86).

But in some cases the coroner may have to issue a formal summons for a surgeon, under 6 & 7 Will. 4, c. 89, and many summonses for other witnesses, to write many sheets of depositions, to prepare a recognizance to prosecute and to give evidence, and warrants to apprehend or detain, and commit for trial. At every quarter sessions the county coroner will deliver to the court an abstract of all the inquisitions taken since the preceding sessions, with particulars of mileage and of inquest expenses, and will then receive an order for payment.

In boroughs the coroner must render two accounts; one of them (under 5 & 6 Will. 4, c. 76, s. 62) to the court of quarter sessions, containing particulars of his inquisitions and of mileage (if any); the other to the town council,

× A Minister of the Church of England refusing to read the Burial Service on a Body interred under the Authy of a Coroner Order is liable to be suspended for 3 months under the 68th Canon of the Church

containing particulars of his inquest expenses, under 1 Vict. c. 68. For the first, the court will make an order for payment on the treasurer; for the second, the town council, at a general meeting, will make the order for payment.

Before the 1st of February in every year the borough coroner is required (by stat. 5 & 6 Will. 4, c. 76, s. 63) to make a return to one of the secretaries of state of all inquests held by him in the year ending the 31st of December preceding.

MELIUS INQUIRENDUM.

If the inquisition be quashed, either for uncertainty or misconduct in the coroner or jury, or defect of any kind, a new inquiry may be made by leave of the Court of Queen's Bench; but if there be any imputation on the coroner he will not be permitted to interfere again. In that case a *melius inquirendum* will be directed to commissioners, who will inquire without viewing the body: (2 Hale, 59, 69; Carth. 72; Salk. 190.)

The party must die of the injury within one year and a day.

EVIDENCE, WITNESSES, AND INQUISITIONS

OF HOMICIDE.

Homicide, or the killing of any human creature, is either free from legal guilt (if the circumstances are such as to render it justifiable or excusable), or it is felonious: (4 Stephen's Blackstone, 97.) The stat. 9 Geo. 4, c. 1, s. 10, having taken away all punishment and forfeiture for homicide where no felony is committed, a few words only will be devoted to such homicide as is not felonious.

Justifiable homicide may arise from the public execution of a malefactor, after legal sentence by a competent authority, and in the legal manner, or in the advancement of public justice, as:—

1. Where an officer, or his assistant, in the due execution of his office, either in a criminal or civil case, arrests, or attempts to arrest a party who resists, and is consequently killed in the struggle.
2. In case of a riot or rebellious assembly, the officers endeavouring to disperse the mob are justifiable in killing them, both at common law and by the Riot Act, 1 Geo. 1, c. 5.
3. Where the prisoners in a gaol assault the gaoler or officer, and he in his defence kills any of them.
4. Where an officer, or his assistant, in the due execution of his office, arrests, or attempts to arrest a party for felony, or a dangerous wound given, and the party having notice thereof, flies, and is killed by such officer or assistant in the pursuit.

5. Where, upon such offence as last described, a private person, in whose sight it has been committed, arrests or endeavours to arrest the offender, and kills him in resistance or flight, under the same circumstances as above mentioned with regard to the officer; but in this latter case, if the private person kills, on suspicion only, it is not justifiable.

In all these cases there must be an apparent necessity, or it is not justifiable: (*ibid.*)

Such homicide is justifiable as is committed for the prevention of any forcible and atrocious crimes —as an attempt at robbery or murder, or to break into a house in the night, or to burn it. This reaches not to any crime unaccompanied with force, as picking pockets or breaking open any house in the day-time, unless it carries with it an attempt at robbery: (*ibid.*)

When death is committed on the principle of self-preservation, as where two persons being shipwrecked and getting on the same plank, but finding it insufficient to save both, one of them thrusts the other from it, whereby he is drowned, this is also justifiable. Excusable homicide is of two sorts, either by inadvertence or in self-defence on a sudden affray. Homicide by inadvertence is, where a man doing a lawful act, without any intention of hurt, unfortunately kills another, as where a man is at work with a hatchet, and the head thereof flies off and kills a stander by, or where a person is shooting at a mark, for the act is lawful, and the effect is merely accidental. To whip another's horse, whereby he runs over a child and kills him, is held to be accidental in the rider, but manslaughter in the person who whipped the horse: (4 Stephen, 102.) In general, if death ensue from mere accident, without negligence or culpability of any kind, it is excusable.

Homicide in self-defence is that whereby a man may protect himself from an assault or the like in the course of a sudden brawl, by killing him who assaults him—this is called chance medley; but it must appear that the slayer had no other probable means of escaping from his assailant. It is difficult to distinguish this species of homicide from manslaughter, but if the slayer hath not begun to fight, or having begun declines or endeavours to decline further struggle, and being closely pressed by his antagonist, kills him to avoid his own destruction, this is homicide excusable by self-defence (Fost. 277); but the party assaulted must flee as far as he can: (1 Hale's P. C. 483.) Under this excuse of self-defence the principal civil and natural relations are comprehended; therefore, master and servant, parent and child, husband and wife, killing an assailant in the defence of each other respectively are excused. In every case the party killing the other must have carefully avoided every sign of malice, and is only excused by the necessity.

The above homicides are no longer punishable, the stat. 9 Geo. 4, c. 81, s. 10, having taken away all punishment and forfeiture where there is no felony.

Felonious homicide is the killing of a human being of any age or sex without justification or excuse. This may be done either by killing oneself or another person.

OF SUDDEN DEATH WITHOUT APPARENT VIOLENCE.

Notwithstanding the express words of Bracton (*de Corona*), and of other ancient writers on pleas

of the Crown, that the coroner is to investigate all cases of sudden death (in order to ascertain whether such death was occasioned by poison or unapparent violence), it is now held that where there is no ground for supposing that the deceased died from any other than natural causes, however sudden, the coroner ought not to interfere: (11 East, 229.) But if a person die in gaol, although it may be notorious that his death is natural, yet an inquest must be held: (Fleta, 1, c. 26, s. 5; Hale's P. C. 170.) It would seem that on the same principle an inquest should be held on every person dying in a lunatic asylum, but it is not the custom to hold inquests in such cases. If, however, any suspicion exist, the coroner should hold an inquest. Suspicion will exist where the party dies in a house of ill fame, or in a public-house, for his liquor may have been drugged, or he may have chosen that place to poison himself, (no unusual circumstance), in a void house, or retired or unfrequented place, or on board a ship, or in a boat, or alone in a railway carriage, or where he has threatened to destroy himself, or has been threatened by others; where the place of his death presents any unusual or noisome character, as the smell of charcoal, brimstone, &c.; where the body has been robbed or secreted; but the coroner, in every case of this kind, should inquire into particulars before he holds the inquest, or the magistrates may afterwards refuse to allow his expenses: (11 East, 229.) In the case last referred to, Lord Ellenborough said, that there were many instances of coroners having exercised their office in the most vexatious and oppressive manner, by obtruding themselves into private families, to their great annoyance and discomfort, without any pretence of the deceased having died otherwise than by natural death. This case, which has been confirmed by subsequent

cases, establishes the right of the justices in sessions to determine whether inquests have been duly held or not; and there can be little doubt that coroners sometimes refuse to hold inquests from the apprehension that the justices may refuse to pay for them. In some counties the justices have carried this exercise of their power so far that it is scarcely to be doubted that murders have been committed with impunity in consequence of it. The chief causes of sudden death, without culpability or unusual accident, are, apoplexy, the bursting of an aneurism, or other derangement of organs upon whose integrity and healthiness the continuance of life depends (Smith For. Med. 31); but there are some cases of death which evade the minutest inspection, such as certain affections of the heart, some disorders that attack the stomach or supervene in the brain (*ib.*); but as the coroner's duty is to ascertain whether the death was occasioned by the intention of the deceased, or the agency of others, if once it can be discovered that neither of those causes produced the death, the object of his inquiry and public justice are satisfied. Persons dying suddenly are frequently found to have wounds or lacerations, which are at first supposed to have been occasioned by intentional violence, but are ultimately discovered to be very slight, and insufficient to cause death. A person overtaken with a fit of apoplexy, may fall against some sharp and hard substance, by which an extensive wound may be occasioned.

A man was found at midnight insensible, and without his hat, in an obscure alley leading to the river Avon; he was conveyed to the Bristol Hospital, where he died in a few minutes; he had no watch, or money, or other articles of value about his person; and the most sinister conjectures were formed by the public. On the inquest it appeared

that he had left his watch at home; that he had expended the small sum of money with which he left home; that the night was very windy, many broken tiles were blown into the alley, and his hat had been blown into the river, and on an inspection of his skull, an extensive fracture was discovered, which had probably been occasioned by a fall of a tile upon his head whilst he was walking up the alley in pursuit of his hat.

On another occasion, an eminent surgeon found a man lying on the ground in the agonies of death, at twelve o'clock at night, within a few yards of the residence of the chief magistrate of Bristol; the populace loudly complained of the laxity of the police in suffering murder to be committed at the very door of a magistrate; but on internal inspection it was clearly proved that the man died from apoplexy.

In case of death by starvation, a medical inspection should take place to ascertain the fact. A man died suddenly, and the jury, without medical evidence, returned a verdict of death by starvation; but it was proved that the man died on the steps of a barber's shop, where he had gone to be shaved, and that he had a penny in his pocket to pay the barber; it was thought by some that if the hunger of the deceased had been very pressing, he would have used the penny to purchase food, and that the evidence of the wife, upon which the verdict was returned, was exaggerated to raise compassion.

A young woman died suddenly, with no mark of violence, in the house of a man who was suspected of seducing her, and public prejudice was clamorous against him. On examining the head, a large tumour was found on the brain, the result of an accidental blow from a stone, received some months before her death.

In 1838 a man was found dead at the foot of a limekiln, where it was supposed he had slept, and been suffocated; and there being proof that he had slept there before, that he had not been robbed, and no mark of external injury appearing, the jury returned a verdict of death from asphyxia, without requiring a *post mortem* examination, although the medical witness said, that from certain appearances, he thought there might have been some violence used. After the inquest the body was opened, and the skull was found to be extensively fractured: the man had probably fallen from the top of the limekiln.

In the same year a young man got into a drunken fray at a public-house, and was beaten, knocked down, and severely kicked, but afterwards walked into Bristol, a distance of nearly two miles. He then partook of some beer and went to bed. In the night he had occasion to go down stairs, but he was heard to fall down the stairs, and was found insensible on the floor at the bottom, and died before the morning. His death was attributed by his friends to the injuries received at the public-house, but on a medical examination, his skull was found to be extensively fractured, and the surgeon said the fracture must have been caused by the fall down stairs, as it was impossible the man could have walked two miles after such a fracture.

In cases of death by lightning, by cold, by the effects of noxious vapours, by hunger, by drinking cold water or other cold liquors, or by intoxication, there are usually witnesses who can prove the facts; but in these, as well as in all other cases, but *most imperatively in every case in which a criminal charge is likely to be substantiated*, it is most essential to obtain the opinion of a surgeon, after the examination of *all the cavities* of the body, for it frequently happens on the trial

that the surgeon is the first witness called by the judge. The surgeon should be directed to examine the whole of the body externally, and not only the supposed seat of injury, but the head, chest and abdomen, internally, even when sufficient cause of death may be apparent upon examination of one portion of the body.

When the death is supposed to have been occasioned by poison, a chemical analysis of the contents of the stomach will be amongst the means of detection first resorted to. This should be made by a chemist of known ability.

In the case of Mary Burdock, convicted of the wilful murder of Clara Ann Smith, at the Bristol Gaol delivery, in April, 1835, the evidence given by Mr. Herapath was considered a master-piece of chemical testimony: it should be observed that the corpse was exhumed after being fourteen months buried. The evidence was in these words:—

William Herapath.—I am a lecturer in chemistry and chemical toxicology at the Bristol Medical School. I was applied to on Monday last, the 22nd of December, 1834, to examine the body of the deceased. I undertook to do so, and to analyse the contents of the stomach. I was present during the whole of the time of the disinterment, and the taking out of the viscera. I received the viscera in St. Augustine's churchyard from the hands of Doctor Riley and Mr. Kelson, the medical gentlemen employed. I placed separately in two clean basins, which had been carefully wiped by myself, the stomach and duodenum in one, and the intestinal canal in the other: the stomach was whole, there was no orifice, and no loss of any of its contents worth noticing. I tied up the basins, with their contents, in a cloth, and gave them to a man to carry

to the Medical School. I never lost sight of him the whole way. The appearance of the body in the churchyard was such as to lead me to believe it had been under the influence of an antiseptic; the body was, generally speaking, rapidly passing to a state of animal soap, or *adipocire;* the stomach and intestinal canal were in an unusual state of preservation, so much so, in fact, that upon seeing the viscera opened, I exclaimed, "This looks like the effects of arsenic"—as it is a well known fact, that that poison has the effect of preserving the parts contiguous to it, and tends to assist the changing the other parts into *adipocire.* Upon receiving the parts I invited all those who were interested in the case to accompany me, as I intended to operate in public. The solicitor, and three medical gentlemen employed by the accused, accompanied me, with many others, to my own theatre at the Medical School, where I put a new deal board on the lecturing table, and placed on it the stomach which was still entire, with the exception of two small cuts, which must have been made in taking it from the body; I slit it open with the scissors, and found a great portion of it thickly covered with a yellow pasty matter, looking like wet clay; all the apparatus used by me was either entirely new or had been carefully cleansed by myself previously. As I was strongly inclined to think this powder was sulphuret of arsenic, I proceeded to treat it as such; I separated a small portion of the yellow substance with the spatula, absorbed the moisture on blotting paper, and then dried it; I mixed it with a certain portion of carbonate of soda and charcoal, both well dried, and put the whole into a reducing tube, and immediately sublimed metallic arsenic; this metallic arsenic I made the subject of the other experiments; first, I

heated it, allowing the air to enter the tube, and it became oxydized and sublimed into a white crust; this formed the second test of the presence of arsenic; I then introduced two drops of water into the tube containing the whole crust, and with heat dissolved it: these two drops were made the subjects of two experiments. Into one I put a minute portion of ammonia, sulphate of copper, and immediately found the green precipitate of scheele, or arsenite of copper; into the other drop I put a minute portion of the ammoniacal nitrate of silver, and the yellow precipitate of the arsenite of silver fell. I had thus four tests of the presence of arsenic; it only remained to be brought back to its original state by passing a stream of sulphuretted hydrogen through the arsenious acid; this I did, and obtained the beautiful yellow of the sulphuret of arsenic. I have gone through these experiments four different times, and all with the same results. I next attempted to discover what quantity of the yellow substance there was left in the stomach; there was nothing of any importance in the stomach besides; I inverted the stomach into water, and washed its internal surface; I allowed the yellow powder to subside, and filtered the fluid so as to separate the yellow matter; and in doing so, I found that certain portions adhered to the internal surface of the stomach itself; the quantity collected could not be well separated from the filtering paper, on account of the animal matter; the nearest estimate by weighing and counterpoising an equal sized piece of paper, gave seventeen grains as the weight of the substance and animal matter. To get rid of the animal matter, I introduced (taking away four grains for the purpose of other experiments) the paper and its contents into a flask with nitric and muriated acids, and boiled it till everything was

either decomposed or dissolved, except the fibres of the paper; and next filtered and extracted the whole of the fluid, and then precipitated the arsenic by means of sulphuretted hydrogen: the thirteen grains yielded me four grains of sulphuret of arsenic. There are but two metals that will give the yellow precipitate with sulphuretted hydrogen; the one is cadmiun which is exceedingly rare, scarcely ever to be met with in this country; I have about half an ounce of it, which I should think is more than there is in all the kingdom besides; the other is the peroxide of tin, which is also scarce, and is not used at all as an artice of commerce or medicine, and in this case could not possibly exist. (Mr. H. then showed to the jury the matter which had been taken from the stomach, and which had produced the yellow precipitate or sulphuret of arsenic; and also specimens in sealed tubes, of the action of all the other tests; the stomach itself was also exhibited, and the yellow spots were very apparent, and some of the yellow matter still adhered to its coats.) I believe there is no well authenticated case of how much sulphuret of arsenic will destroy life; the quantity will differ with the proportion of the materials used in its manufacture; native orpiment is not so poisonous as the factitious; it is possible that it might have been swallowed in the form of white oxide, or arsenious acid; arsenic is in common called "white" or "yellow" arsenic, and would be sold by druggists under those names; white arsenic is chemically called arsenious acid, and yellow arsenic, sesqui-sulphuret of arsenic: they are both poisonous but not equally so; white is the most poisonous; all compounds of arsenic are poisonous: the operation of each are nearly similar. I have never seen a stomach operated upon by arsenic before; should think the yellow

spots caused by the rapid operation of the arsenic suspended abruptly by death; if they had taken place after death they would in my opinion have been as generally extended as the sulphuret itself; both sorts of arsenic are very cheap; I have not the slightest doubt of the nature of the poison found in the stomach. I could stake my existence on the fact of the presence of arsenic in the stomach and intestinal canal; cannot say in what state the arsenic was taken; the process of decomposition sometimes produces sulphuretted hydrogen, which would convert white arsenic into orpiment; that found in the stomach is orpiment; cannot positively say in this case whether sulphuretted hydrogen had been produced, because *adipocire* was formed, and the decomposition of the body did not proceed as is usual. I am certain arsenic could not have been introduced after death, as the stomach was whole when it came into my possession. My attention was first arrested by seeing a small drop of yellow matter oose from the stomach; the great quantity of yellow substance in the stomach struck me at once that I should find a mineral poison. I observed no bile in the stomach; there was nothing of importance in the stomach; if there had been bile I must have seen it; I am certain there was no bile. Sulphuretted hydrogen might enter into the stomach from other parts of the body, although there was no orifice: I think the yellow spots were produced during life; I have not seen many stomachs that have received poison, I have frequently the contents of stomachs sent to me to analyse; in the stomachs I have analysed I have never met with any arsenic; this is the first and I hope it will be the last. This matter in the paper and the tube are both from the stomach; it is the same as is sold in the shops for yellow arsenic;

should think that with the four grains I reserved, and what adhered to the coats of the stomach, with what I worked off, would yield five and a half or six grains of the pure sulphuret of arsenic from the stomach alone.

Other witnesses proved that four grains of arsenic were sufficient to occasion death; but it is remarkable that none of the medical witnesses had ever seen a case of death from arsenic. Since the above case a considerable number of murders have been committed by the same means, and the experience of Mr. Herapath, in such analyses as the above, has been very considerably increased.

It has been said that inquests should be held soon after the death, and on the whole body, not on detached portions, but however proper the general principle may be, it will be found in practice that frequent exceptions will be most conducive to the interests of justice. The above case of Mrs. Burdock, and several subsequent cases of a similar character, are proofs that lapse of time should not be allowed; and the case of Mr. Paas, who was murdered, cut up and burnt by Cook; the case of Mrs. Brown, murdered, cut up and the pieces of her body concealed in places very remote from each other, by Greenacre, and other such cases show that the coroner should act on his own judgment, and when the motive is good his conduct will be approved.

SUICIDE, OR, FELONIA DE SE.

If a man at the age of discretion and *compos mentis* kill himself, or commit any unlawful act, the consequence of which is his own death, he is

termed *felo de se;* and by stat. 4 Geo. 4, c. 52, it is enacted, that the "coroner shall give directions for the private interment of the remains of persons *felo de se*" (without any stake being driven through the body) "in the churchyard or burial place of the parish or place in which such remains might be interred, if the verdict of *felo de se* had not been found, &c., such interment to be made within twenty-four hours from the finding of the inquisition, and to take place between nine and twelve at night. Nothing herein contained to authorize the performing any of the rites of Christian burial, nor to alter the laws except as to the interment as above." A *felo de se* forfeits all chattels, real and personal, which he had in his own right, all chattels real which he had in right of his wife, or jointly with her, all bonds and other personal things in action belonging solely to himself, all entire chattels in possession to which he was entitled jointly with another, on any account except that of merchandize, and a moiety of such joint chattels as may be severed (1 Hawk. P. C. 27, s. 7); but the forfeiture does not extend to possession *in autre droit*, as executor, administrator, or guardian (Plowd. 261; Jervis, 114), neither is the blood of a *felo de se* corrupted, nor his lands of inheritance forfeited, nor his wife barred of her dower: (*ib.*) The forfeiture is not vested, until the self-murder be found by inquisition: (Jervis, 114.) An inquisition of *felonia de se* should be drawn and completed in all respects with as much care as an inquisition of murder, and an inventory of the chattels, &c. forfeited should be annexed. (In practice this very rarely occurs. There has been no case of finding the goods of a *felo de se* in Bristol during at least thirty years past; the feelings of the public are opposed to it.) In the investigation of cases of self-destruction there are three points to be noticed;

first, that the party was fourteen years of age, or upwards: secondly, that he was not a lunatic or idiot. The question of insanity must be determined by circumstances duly to be weighed and considered, lest on the one side there be a kind of inhumanity towards the defect of human nature, or on the other side too great an indulgence given to great crimes: (1 Hale, 30.) Juries are usually satisfied with very slight evidence of insanity; in fact, verdicts of felonious suicide are rarely returned except in some few instances of utter friendlessness and poverty. Thirdly, it should above all be ascertained that the death was occasioned by the act of the deceased alone, intentionally, unassisted and unprovoked by any other person, and to assist in this discovery the coroner and jury should see the place in which the death took place, that they may be enabled to judge from the appearance what degree of credit is to be given to the witnesses. An accurate search should be made for the instrument of death, or for the bottle, &c. in case of poison. The coroner should inquire whether any disease might have occasioned the death, leaving appearances similar to those on the dead body. Whether the deceased could have inflicted the injury on himself? Whether the fatal result took place from a cause that in another case would have been of little or no consequence? Whether the deceased swallowed poison by mistake; or took a stronger dose of dangerous medicine, such as laudanum, prussic acid, &c. than was proper. Whether every thing proper was done for the recovery of the deceased, or might he not have recovered had proper treatment been pursued. And in certain cases, particularly such as hanging and drowning, it has been matter of inquiry, whether the person was killed in the manner alleged, or first deprived of life, and then placed in that situation in order to baffle suspicion. The

latter inquiry was pursued in the case of Mr. Cowper, a barrister, charged with the murder of Sarah Stout, by first strangling, and then throwing her into a mill stream; and in the more recent case of Abraham Thornton, indicted for the murder of Mary Ashford, whom he had ravished, and whose dead body was found in a pond. In case of death by hanging or strangling, the jury will notice the situation of the place, the knot, the height, the size, and strength, of the ligature, &c. An idle young man in a drunken frolic said he would hang himself, and was soon afterwards found dead, hanging from the beam of an outhouse, at the end of a skittle-alley: on a close examination it appeared that he had not made a slip knot to the rope, but there was a crack in the beam in which the knot had accidentally become fixed, and from that and other circumstances it was clearly shown that he only intended to frighten his family, and not to destroy himself. The hands should be examined, to ascertain whether resistance was probable, or whether any attempt had been made to escape. The nature of the marks of violence upon the person; the state of the dress, whether buttoned, or open, &c., and whether torn, bloody, &c. In death by poison, the jury will endeavour to ascertain what the individual last swallowed, and, if he vomited, to secure the rejected contents of the stomach for chemical test. They should also ascertain where the poison was procured, the strength of the drops remaining in the bottle, cup, or glass, the size of the vessel, the time elapsed since swallowing the poison, the calling for assistance, and the kind of assistance rendered; the habits of the deceased, particularly in the use of laudanum, or other dangerous medicines, and any peculiarities in his constitution. If the presence of poison is only proved or asserted by tests, the

closest inquiry should be made as to the extent and conclusiveness of those tests. In general there is little difficulty in discovering the presence of mineral poisons, even when the body is in a putrid or utterly decayed state; but vegetable and animal poisons are often very difficult of detection. In death by cutting the throat, the exact state and situation of the body when discovered, the exact extent and character of the wound, whether jagged or otherwise, the state of the hands, and arms, and spot where the instrument of death was discovered, with marks of blood about the clothes, and particularly on the hands and arms. In the case of Sellis, who made a murderous attack with a sabre upon the Duke of Cumberland, and afterwards lay on his bed and cut his own throat, the evidence of Sir Everard Home proved the facts stated from the circumstance of sprinkles of arterial blood being discovered on the duke's bed-furniture, and also from sprinkles of arterial blood being found on the wrist of Sellis' coat, which he had taken off and hung up, so far from the bed that his own blood could not reach it: (Smith's Forensic Medicine, 284.) In cases of death by falling from a window, or from any great height, it is often impossible to ascertain whether the death was intentional or accidental; because, when it is intentional the party usually takes care that no witnesses shall be at hand. There can be little doubt that cases have frequently occurred, in which embarrassed persons, or persons whose lives have been largely assured, have died under circumstances which, although apparently accidental, have left no doubt in the minds of their friends. In death by drowning it should be inquired, whether the deceased had business near the place; whether he had been observed to act with any singularity previously to the death; whether he

had his watch, pocket-book, and the usual contents of his pockets with him at the time; whether he had deposited any articles of value, either at home or in other custody immediately before the act; whether letters had lately been written by deceased, and their contents; whether the body exhibit signs of resistance about the hands, feet, knees, &c.; whether any former attempt at suicide had been made; whether any particular disappointment or apprehension existed; and the inquest should be adjourned to give the friends of the deceased an opportunity of attending and giving evidence. Many of the foregoing questions are suggested in Smith's Forensic Medicine.

If a woman take poison with intent to procure miscarriage, and die of it, she is guilty of self-murder, whether she was quick with child or not, and a person who furnished her with the poison for that purpose will, if absent when she took it, be an accessary before the fact (*Rex* v. *Russell*, M. C. C. 356; and see stat. 9 Geo. 4, c. 31, ss. 3, 11, 12.)

MURDER.

If a man of sound memory, and of the age of discretion, kill any reasonable creature *in rerum naturæ*, and under the Queen's peace, by malice *prepense* or aforethought, either expressed by the party, or implied by law, he is guilty of murder: (3 Inst. 47, 51; 1 East P. C. 214.) The excepted cases of unsound memory, want of discretion, &c. are described under the head Infancy, &c. All homicide is presumed to be malicious, and amounting to murder, until the contrary appear from circumstances of alleviation, excuse, or justification: (4 Blac. Com. 201.) Where one

man's death is occasioned by the hand of another, it behoves that other to show from evidence, or by inference, from the circumstances of the case, that the offence is of a mitigated character, or does not amount to the crime of murder: (*Rex* v. *Greenacre*, 2 C. & P. 35.) Malice in its legal sense denotes a wrongful act done intentionally, without just cause or excuse: (10 B. & C. 268.) Malice means any wicked intention of the mind: (Best, J., 2 B. & C. 268.) But there must be some external violence, or corporeal damage, to constitute an offence at law: mere unkindness is not sufficient (1 Russell on Crimes, 619); but if a man do an act, the consequence of which probably may be, and eventually is, death, it is murder (4 Blac. Com. 197); as where a man carried his sick father against his will in a severe season from one town to another, by reason whereof he died (1 Hale, 431); or where a harlot left her child in an orchard covered only with leaves, where it was killed by a kite (*ib.*); or where a child was placed in a hogstye, where it was drowned (1 East P. C. 226.) Where a child was shifted from parish to parish, until it died from want of care and sustenance. To constitute the crime of murder, it is not necessary that death should be caused by direct violence, it is sufficient if the act done apparently endanger life, and eventually prove fatal (Hawk. C. 1, c. 31, s. 4); and if the wound itself be not mortal, but by improper application become so, and it can be clearly shown that the medicine and not the wound was the cause of the death, the party who inflicted the latter will not be criminal. But where the wound was adequate to produce death, it will be no excuse to show that, had proper care been taken, a recovery might have been effected: (1 Hale, 428.) Where a wound is inflicted under circumstances where im-

mediate death would make the person inflicting it guilty of murder: *quære*, is he guilty of murder if the death ensue from an operation thought necessary, and performed by competent medical advisers, who considered that the wound was dangerous? *Semble*, per Erle, J., and Rolfe, B., that he is; and that, therefore, evidence is not admissible to show that the medical men were wrong in their opinion, and that the operation was unnecessary; and that the deceased might have lived had it not been performed: (*Reg.* v. *Pym*, 6 L. T. 500.) The death must occur within a year and a day, and the day on which the wound was given is the first day: (4 Blac. Com. 197.) It is murder to go deliberately with a horse used to kick, or to discharge a gun amongst a multitude of people: (1 Hawk. c. 29, s. 12.) So, if a man resolve to kill the next person he meet, and do kill him, it is murder, although he knew him not, for it is universal malice: (4 Blac. Com. 200.) No provocation, however great, will extenuate or justify homicide, where there is evidence of express malice (Fost. 132; 1 Russell on Crimes, 437; 1 East P. C. 288.) The most grievous words or gestures, or trespass against lands or goods, will not justify the killing another, unless an intention to do some great bodily harm is otherwise manifested: (1 Hale, 453.)

If a drunken man kill another, it is murder, for the drunkenness is voluntary: (Plowd. 19; 1 Inst. 247.)

In all cases where a man wilfully administers poison to another (1 Hale, 455), or lays poison for him, and either he or another is killed by it (*ibid.* 411), the law implies malice, although no particular enmity can be proved. If, however, it were administered by mistake, or laid with an innocent intention, it is merely homicide by misadventure.

If a man has a beast that is used to do mischief, and he, knowing it, suffers it to go abroad, and it kills a man, this is by some considered murder, and by others manslaughter.

And many cases will be found in which the only ingredient wanting to increase the crime into murder, is malice either express or implied.

A felon killing a person endeavouring to arrest him upon hue and cry, is guilty of murder: (1 Hale P. C. 464.)

One of a press-gang, acting without authority, killed a man impressed, and it was held to be murder: (1 East P. C. 316.) To make the press legal, the officer to whom the commission is directed, should be present: (1 Doug. 207.)

A sentinel killing a man, without apprehension of great danger, is guilty of murder: (1 Russell on Crimes, 510.)

If a magistrate keep blank warrants, and deliver one to an officer, who fills it up, and on the arresting a person be killed, it is murder: (8 T. R. 454.)

If a gamekeeper be shot by one of a gang of poachers, it will be murder in all, unless any separated themselves: (3 Car. & P. 390, 394.)

To kill a man in a duel amounts to the crime of deliberate murder: (3 East, 581.)

Even in the case of a sudden quarrel, where the parties immediately fight, the case may be attended with circumstances which amount to murder: (Petersdorff Abr. 493.)

If a person labour under a disease, which, in the course of nature might end his life in half a year, and another give him a wound or hurt, which hastens his death by irritating and provoking the disease, this is murder, or other homicide, according to the circumstances: (1 Hale, 428.) As where the deceased laboured under asthma,

and his landlord stopped the chimney of deceased's room, and the smoke brought on a fit of the asthma, which occasioned instant death: (*Shipp's case* at Bristol, Oct. 1828.)

He who kills another at his desire or command is guilty of murder: (R. & R. C. C. 523; *Reg.* v. *Alison*, 8 C. & P. 418.)

Forcing a person to do an act which is likely to produce his death, and which does produce it, is murder (1 Russ. 426); and threats may constitute such force: (*ibid.*)

If a man encourage another to kill himself, he so abetting him is guilty as principal (R. & R. C. C. 523; 8 C. & P. 418.)

Killing an officer will amount to murder, though he had no warrant, if he has a charge of felony, and is known to be an officer: (M. C. C. R. 334.)

Accidental homicide may be murder if it happen in the prosecution of any illegal act, as in carrying away furniture to avoid a distress: (*Rex* v. *Hodgson*, 1 Leach C. C. 6.)

If a master, by premeditated negligence or harsh usage, cause the death of his apprentice, it is murder: (*Rex* v. *Self*, 1 Leach C. C. 137; 1 East P. C. 226.)

Quære, whether, if a mother-in-law, on perceiving a fault committed by her daughter-in-law in some work she was doing, throw a child's stool at her and kill her, and then conceal her death and hide the body, it is murder or manslaughter: (*Rex* v. *Hasel*, 1 Leach C. C. 368.)

Even blows previously received will not extenuate homicide upon deliberate malice and revenge, especially where it is to be collected from the circumstances that the provocation was sought for the purpose of colouring the revenge: (*Rex* v. *Mason*, 1 East P. C. 239.)

As an assault, though illegal, will not reduce the crime of the party killing the person assaulting him to manslaughter, when the revenge is disproportionate and barbarous, much less will such personal restraint and coercion as one man may lawfully use towards another, form any ground of extenuation: (*Rex* v. *Willoughby*, 1 Russ. C. & M. 437.)

Where gamekeepers have secured two poachers, and they, having surrendered, called to a third, who came up and killed one of the gamekeepers; this is murder in all, though the two struck no blow, and though the gamekeepers had not announced in what capacity they had apprehended them: (*Rex* v. *Whithorne*, 3 C. & P. 394, Vaughan.)

Under 9 Geo. 4, c. 69, s. 2, a gamekeeper, &c., may apprehend poachers, though there are three or more, and found armed; for though sect. 2 only authorizes apprehending for what are offences under sect. 1, and when there are three or more armed, they are punishable under sect. 9; yet what is punishable under sect. 9, is nevertheless an offence under sect. 1, though the circumstances of aggravation make it liable to a greater punishment; and if the gamekeeper, &c., be killed in the attempt to apprehend, the offender will be guilty of murder, though the gamekeeper had previously struck the offender or any of his party, if he struck in self-defence only, and to diminish the violence illegally used against him, and not individually to punish: (*Rex* v. *William Ball*, M. C. C. R. 330.)

If a gamekeeper attempting lawfully to apprehend a poacher be met with violence, and in opposition to such violence, and in self-defence, strike the poacher, and then is killed by the poacher, it will be murder: (*Rex* v. *James Ball*, M. C. C. R. 333.)

A gamekeeper, or other person, lawfully autho-

rized under 9 Geo. 4, c. 69, s. 2, may apprehend a party found offending under that act, without calling on them to surrender, if the circumstances be such as to constitute notice of his purpose: (*Rex* v. *Payne*, M. C. C. R. 378.)

If the servant of the owner of property find a party actually committing an offence against stat. 7 & 8 Geo. 4, c. 29 (the Larceny Act), and apprehend him under sect. 63 of that act, and, while taking the party to a magistrate, such party kill him, this will be murder; but if the servant either did not see him in the actual commission of the offence, or be taking him to any other place than before a magistrate, it will not be murder: (*Rex* v. *Curran*, 3 C. & P. 397, Vaughan.)

Officers of justice, as constables, policemen, &c., are under the special protection of the law, and to kill one of them is murder, in cases where to kill another person would only be manslaughter. x

In order to render the killing of an officer of justice, whether he be authorized in right of his office or by warrant, to amount to murder upon his interference in an affray, it is necessary that he should have given some notification of his being an officer, and of the intent with which he interfered: (*Rex* v. *Gordon*, 1 East P. C. 315, 352.) But a small matter will amount to due notification.

Killing an officer will amount to murder, though he had no warrant, and was not present when any felony was committed, but takes the party upon a charge only, and though such charge does not in terms specify all the particulars necessary to constitute the felony: (*Rex* v. *Ford*, 1 Russ. C. & M. 504.)

Killing an officer who attempts to arrest a man will be murder, though the officer had no warrant, and though the man had done nothing for which he was liable to be arrested, if the officer has a

x If a police constable on being sent for late at night to clear a Beer Shop do so and one of the persons on leaving the House and being told to go away refuse to do so and not threatning violence the police constable is justified in laying hands on him to remove him if he cut the constable with a Knife with Intent to do grievous Bodily Harm this is a capital Offence and the fact of the o

charge against him for felony, and the man knows the individual to be an officer, though the officer do not notify to him that he has such a charge: (*Rex* v. *Woolmer*, M. C. C. R. 334.)

And nine judges (four *contrà*) held that a watchman could legally arrest a prisoner without saying that he had a charge of robbery against him, though the prisoner had, in fact, done nothing to warrant the arrest, and that if death ensued it would be murder: (*ib.*)

And it would be no excuse for killing an officer that he was proceeding to handcuff the party who was in his possession upon a charge of felony: (*ib.*)

An attachment issued and signed by the county clerk in his own cause is a legal process, and if the officer be resisted and killed in the execution of it, such homicide will be murder: (*Rex* v. *Baker*, 1 Leach C. C. 112.)

Quære, whether a woman, who in a transport of passion kills a peace officer who is about to take the man she cohabits with to prison, under a warrant which turns out to be illegal, is guilty of murder or manslaughter: (*Rex* v. *Adey*, 1 Leach C. C. 206.)

If a ship's sentinel shoot a man because he persists in approaching the ship, when he has been ordered not to do so, it will be murder unless such an act was necessary for the ship's safety: (*Rex* v. *Thomas*, 1 Russ. C. & M. 510.)

Semble, that where guns are fired by one vessel at another vessel, and those on board her generally, those guns are to be considered as shot at each individual on board her: (*Rex* v. *Bailey*, R. & R. C. C. 1.)

If a person be impressed who is not a proper object of impressment, or if the impressment be made without any legal warrant, it is lawful for the party to make resistance, and if the death of

any of the parties concerned ensue, it is murder: (*Rex* v. *Dixon*, 1 East P. C. 313.)

If A. stand with an offensive weapon in the door-way of a room, wrongfully to prevent J. S. from leaving it, and others from entering, &c., C. who has a right in the room, struggles with him to get his weapon from him, upon which D., a comrade of A., stabs C., it will be a murder in D. if C. dies: (*Rex* v. *Longden*, R. & R. C. C. 228.)

In a case of death by stabbing, if the jury are of opinion that the wound was given by the prisoner while smarting under a provocation so recent and so strong that prisoner might be considered as not being at the moment the master of his own understanding, the offence will be manslaughter; but if there had been, after the provocation, sufficient time for the blood to cool and for reason to resume its seat before the mortal wound was given, the offence will amount to murder; and if the prisoner displayed thought, contrivance, and design in the mode of possessing himself of the weapon, and again replacing it immediately after the blow was struck, such exercise of contrivance and design denotes rather the presence of judgment and reason than of violent and ungovernable passion: (*Rex* v. *Hayward*, 6 C. & P. 157.)

If two persons fight, and one overpower the other and knock him down, and put a rope round his neck and strangle him, this will be murder: (*Rex* v. *Shaw*, 6 C. & P. 372.)

A servant of Mr. C. attempted to apprehend A., who was out at night poaching in a wood, and he was killed by A. Mr. C. was neither the owner nor the occupier of the wood, nor the lord of the manor, he having only the permission of the owner to preserve game there:—Held, that this was manslaughter only in A.: (*Rex* v. *Addis*, 6 C. & P. 388.)

A married woman cannot be convicted of the murder of her illegitimate child, three years old, by the omitting to supply it with proper food, unless it is shown that her husband supplied her with food to give to the child, and that she wilfully neglected to give it: (*Rex* v. *Saunders*, 7 C. & P. 277.)

A count charged a married woman with the murder of her illegitimate child of three years old, by omitting to supply it with sufficient food, and also by beating. It was not shown that the husband had supplied her with food to give to the child.—Held, that this count could not be supported: (*ibid.*)

Where a person, *in loco parentis*, inflicts a corporal punishment on a child, and compels it to work for an unreasonable number of hours, and beyond its strength, and the child dies, the death being of consumption, but hastened by the ill-treatment, it will not be murder but only manslaughter in the person inflicting the punishment, although it was cruel and excessive and accompanied by violent and threatening language, if such person believed that the child was shamming illness, and was really able to do the quantity of work required: (*Rex* v. *Cheeseman*, 7 C. & P. 455.)

If a person receive a blow, and immediately avenge it with any instrument he may happen to have in his hand, and death ensue, this will be only manslaughter, provided the fatal blow is to be attributed to the passion of anger arising from the previous provocation: (*Rex* v. *Thomas*, 7 C. & P. 817.)

The law requires two things; first, that there should be the provocation; and, second, that the fatal blow shall be clearly traced to the passion arising from that provocation. Therefore, if from the circumstances it appear that the party, before

any provocation given, intended to use a deadly weapon towards any one who might assault him, this would show that a fatal blow given afterwards ought not to be attributed to the provocation, and the crime would therefore be murder: (*ibid.*)

If a man be drunk, this is no excuse for any crime he may commit. But where provocation by a blow has been given to a person who kills another with a weapon which he happens to have in his hand, the drunkenness of the prisoner may be considered on the question whether the prisoner was excited by passion or acted from malice. As, also, it may be on the question whether expressions used by the prisoner manifested a deliberate purpose, or were merely the idle expressions of a drunken man: (*ibid.*)

In order to reduce killing a person to the crime of manslaughter, there must not only be sufficient provocation, but the jury must be satisfied that the fatal blow was given in consequence of that provocation. If A. had formed a deliberate design to kill B., and after this they meet and have a quarrel, and many blows pass, and A. kill B., this will be murder, if the jury are of opinion that the death was in consequence of previous malice, and not of the sudden provocation: (*Reg.* v. *Kirkham*, 8 C. & P. 115.)

If a person, being in possession of a deadly weapon, enter into a contest with another, intending at the time to avail himself of it, and in the course of the contest actually use it and kill the other, it will be murder; but if he did not intend to use it when he began the contest, but used it in the heat of passion in consequence of an attack made upon him, it will be manslaughter. If he used it to protect his own life, or to protect himself from such serious bodily harm as would give him a reasonable apprehension that his life was

in immediate danger, having no other means of defence, and no means of escape, and retreating as far as he can, it will be justifiable homicide: (*Reg.* v. *Smith*, 8 C. & P. 160.)

If a father see a person in the act of committing an unnatural offence with his son, and instantly kill him, it seems that it will be only manslaughter, and of the lowest degree; but if he only hear of it, and go in search of the person, and meeting him strike him with a stick, and afterwards stab him with a knife, and kill him, in point of law it will be murder: (*Reg.* v. *Fisher*, 8 C. & P. 182.)

In a case of killing, whether the blood has time to cool or not, is a question for the court, and not for the jury; but it is for the jury to find what length of time elapsed between the provocation received and the act done: (*ibid.*)

A grand jury have no authority by law to ignore a bill for murder, on the ground of insanity, although it appear clearly, from the testimony of the witnesses as examined by them on the part of the prosecution, that the accused was in fact insane; but if they believe the acts done, if they had been done by a person of sound mind, would have amounted to murder, it is their duty to find the bill, otherwise the court cannot order the detention of the party during the pleasure of the crown, as it can either on arraignment or trial, under the stat. 39 & 40 Geo. 3, c. 94, ss. 1, 2: (*Reg.* v. *Hodges*, 8 C. & P. 195.) × B. Alderson.

If two persons mutually agree to commit suicide together, and the means employed to produce death only take effect upon one, the survivor will in point of law be guilty of the murder of the one who died: (*Reg.* v. *Alison*, 8 C. & P. 418.)

On an indictment for the murder of an aged and infirm woman, by confining her against her

× consequently under similar circumstances a Coroners Jury must ~~commit~~ find a Verdict of wilful Murder & commit

will, and not providing her with meat, drink, clothing, firing, medicines, and other necessaries, and not allowing her the enjoyment of the open air, in breach of an alleged duty; if the jury think that the prisoner was guilty of wilful neglect, so gross and wilful that they are satisfied he must have contemplated her death, he will be guilty of murder; but if they only think that he was so careless, that her death was occasioned by his negligence, though he did not contemplate it, he will be guilty of manslaughter: (*Reg.* v. *Marriott*, 8 C. & P. 425.)

On a trial for murder, every person who was present at the time of the transaction which gave rise to the charge, ought to be called as a witness on the part of the prosecution, for even if they give different accounts the jury should hear the evidence, and draw their own conclusions as to the truth; therefore, where the widow and daughter of the deceased were present at the time the fatal blow was supposed to have been given, and the widow was examined as a witness, the judge directed the daughter to be called by the counsel for the prosecution, although she had been brought to the assizes by the other side, and her name was not on the back of the indictment: (*Reg.* v. *Holdin*, 8 C. & P. 606.)

On a trial for murder, it appeared that three surgeons had examined the body of the deceased, and that there was a difference of opinion among them. Two of them were called for the prosecution, but the third was not; and as his name was not on the back of the indictment, the counsel for the prosecution declined calling him, though he was in court. The judge directed him to be called, and he was examined by his lordship, at the conclusion of the case for the prosecution: (*ibid.*)

A., who was insane, collected a number of

persons together, who armed themselves, having a common purpose of resisting the lawfully constituted authorities. A. having declared that he would cut down any constables who came against him, A., in the presence of C. and D., two of the persons of his party, afterwards shot an assistant of a constable, who came to apprehend A. under a warrant:—Held, that C. and D. were guilty of murder, as principals in the first degree; and that any apprehension that C. and D. had of personal danger to themselves from A., was no ground of defence for continuing with him after he had so declared his purpose; and also, that it was no ground of defence, that A. and his party had no distinct or particular object in view when they assembled together and armed themselves: (*Rex* v. *Tyler*, *ib.* 616.)

The apprehension of personal danger does not furnish any excuse for assisting in doing any act which is illegal: (*ibid.*)

When, upon a previous arrangement, and after there has been time for the blood to cool, two persons meet with deadly weapons, and one of them is killed, the party who occasions the death is guilty of murder, and the seconds also are equally guilty; and with respect to others shown to be present, the question is, did they give their aid and assistance by their countenance and encouragement of the principals in the contest? Mere presence will not be sufficient; but if they sustain the principals either by advice or assistance, or go to the ground for the purpose of encouraging and forwarding the unlawful conflict, although they do not say or do anything, yet if they are present, assisting and encouraging by their presence at the moment when the fatal shot is fired, they are, in law, guilty of the crime of murder: (*Reg.* v. *Young*, 8 C. & P. 644.)

If a person do any act towards another who is helpless, which must necessarily lead to the death of that other, the crime amounts to murder; but if the circumstances are such that the person would not have been aware that the result would be death, that would reduce the crime to manslaughter, provided that the death was occasioned by an unlawful act, but not such an act as showed a malicious mind: (*Reg.* v. *Walters*, 1 Car. & M. 164.)

If a woman left her child, a young infant, at a gentleman's door, or other place where it was likely to be found and taken care of, and the child died, it would be manslaughter only; but if the child were left in a remote place, where it was not likely to be found, *e.g.*, on a barren heath, and the death of the child ensued, it would be murder: (*ibid.*)

A police officer found N. with potatoes under his shirt, which had been very recently dug from the ground, and apprehended him. The policeman called O. to assist him; O. did so; and a rescue being attempted, O. was going away, and was struck by A., who went away, and O. was afterwards killed by other persons who attempted the rescue:—Held, that the police officer had no right to apprehend N., and that the killing of O., therefore, did not amount to murder; and that, on an indictment for murder, A. could not be convicted of an assault: (*Reg.* v. *Phelps*, 1 C. & M. 180.)

Held, also, that a person charged to aid a constable, and who does so, is protected *eundo, morando, et redeundo:* (*ibid.*)

A., B., and C. were indicted for murder: in the first count as principals in the first degree; and in the second count A. was indicted as a principal in the first degree, and B. and C. as principals in the

second degree; and the grand jury ignored the first count as to B. and C., and found a true bill on the second against all:—*Semble*, that B. & C. might be convicted on the second count as principals in the murder, although A. was acquitted: (*ibid.*)

If a person, being attacked, should, from an apprehension of immediate violence—an apprehension which must be well grounded and justified by the circumstances,—throw himself for escape into a river, and be drowned, the person attacking him is guilty of murder: (*Reg.* v. *Pitts*, 1 C. & M. 284.)

An indictment for murder by poisoning, which charges that the prisoner did administer the poison to the deceased, who took and swallowed it, by means of which taking and swallowing the deceased became mortally sick, and "of the said mortal sickness died," is good, without also stating that the deceased died of the poisoning: (*Reg.* v. *Sandys*, 1 C. & M. 345.)

A prisoner was tried for the murder of her child, E. S., by poison. E. S. died on the 25th of September. On the 14th of October following, another child of the prisoner, named M. A. S., died under suspicious circumstances, and the prisoner was examined on oath at the coroner's inquest held on M. A. S., and signed her deposition, in which she made a statement as to the death of E. S. Whether this deposition was receivable in evidence on the trial of the prisoner for the murder of E. S., *quære?* (*ibid.*)

Where two persons go out to fight a deliberate duel, and death ensue, all persons who are present encouraging and promoting that death, will be guilty of murder; and the person who acted as the second of the deceased in such duel may be convicted of murder, on an indictment charging

him with being present, aiding and abetting the person by whose act the death of his principal was occasioned: (*Reg.* v. *Cuddy*, 1 Car. & Kir. 210.)

The seconds in a prize-fight may be indicted as principals, although neither of the principals is included in the indictment: (*Reg.* v. *Skeats and Biles*, 7 L. T. 433.)

(As to medical practitioners, see MANSLAUGHTER, p. 91.)

INFANTICIDE.

This is often found to be more difficult of proof than any other kind of murder.

In cases of suspected infanticide, the coroner's first inquiry should be directed to the place in which the body was found, with all the circumstances attending the finding. The state of the body as to clothing, filth or blood, should be closely observed; every wound and discolouration should be carefully noticed; the head turned to detect the state of the cervical vertebræ; the mouth opened, and the position of the tongue examined; the neck should also be closely observed, as well as the appearance of the umbilical cord; and then the opinion of a surgeon should be taken as to the cause of death.

It may be proper to observe that the old hydrostatic test (by immersion of a portion of the lungs in water) is no longer considered evidence that the child was born alive.

To convict of child murder, the jury must be satisfied that the child was born alive; not merely that it breathed in the progress of its birth: (5 Car. & P. 329, 539.) Where the indictment, in such a case, states the child to have been born

A child in ventre de sa mère cannot now be the subject of murder Reg v West 2 Cox Crim Cas. 500.

a bastard, the proof that it was so lies on the prosecutor; but evidence that the prisoner told a person that she had only mentioned her being with child to the father of it, who had lately got married, was held to be sufficient proof of the allegation: (*ibid.*)

The deceased was a child twelve days old. It was not suggested that it had been baptized, but the prisoner, its mother, had said that she should like to have the child named "Mary Anne;" and, on another occasion, "Little Mary." The prisoner's master, who was the father of the child, had stated to one of the witnesses for the prosecution that he was a Baptist. The indictment alleged the child to be "a certain female child, whose name to the jurors was unknown." The prisoner was convicted, and the fifteen judges held the conviction right: (*Rex* v. *Smith*, *ib.*)

A prisoner was charged with the murder of her newborn child, by cutting off its head:—Held, that in order to justify a conviction for murder, the jury must be satisfied that the entire child was actually born into the world in a living state; and that the fact of its having breathed is not a decisive proof that it was born alive, as it may have breathed and yet died before birth: (*Rex* v. *Sellis*, *ib.* 850.)

If a child has been wholly produced alive, and has an independent circulation of its own, it is murder to kill it, although still attached to the mother by the umbilical cord: (*Reg.* v. *Trittor*, 1 Car. & M. 650.) The fifteen judges held the conviction right.

If a person engaged in a felonious attempt to procure abortion, does an act which causes the premature birth of a child, at a period when it cannot maintain an existence separate from and independent of the mother, for any considerable

time, and the child being born alive, afterwards die in consequence of its premature birth, the person so acting is guilty of murder: (*Reg.* v. *West*, 2 Cox's Crim. Cas. 500.)

An indictment charged the murder of "Eliza Waters." It appeared that the deceased was the illegitimate child of the prisoner, whose name was Ellen Waters; and a witness said, on the trial, "The child was called Eliza. I took it to be baptized, and said it was Eleanor Waters's child:" —*Semble*, that it was not sufficient proof that the surname of the deceased was Waters: (*ibid.*)

A married woman cannot be convicted of the murder of her illegitimate child, three years old, by the omitting to supply it with proper food, unless it is shown that her husband supplied her with food to give to the child, and that she wilfully neglected to give it: (*Rex* v. *Saunders*, *ib.* 277.)

A count charged a married woman with the murder of her illegitimate child, of three years old, by omitting to supply it with sufficient food, and also by beating. It was not shown that her husband had supplied her with food to give to the child:—Held, that this count could not be supported: (*ibid.*)

Where a person, *in loco parentis*, inflicts corporal punishment on a child, and compels it to work for an unreasonable number of hours, and beyond its strength, and the child dies, the death being of consumption, but hastened by the ill treatment, it will not be murder, but only manslaughter in the person inflicting the punishment, although it was cruel and excessive, and accompanied by violent and threatening language, if such person believed that the child was shamming illness, and was really able to do the quantity of work required: (*Rex* v. *Cheeseman*, *ib.* 455.)

Inoculation of children producing small pox of which children die illegal and party guilty of Manslaughter 3 & 4 Vic c 29 - Reg v Squires of Burstock - Dorset - L^d Denman -

It is murder to cause the death of an infant of tender years, unable to provide food for and take care of itself, by not providing sufficient food and nourishment, whether such infant be child, apprentice or servant (or stranger, 8 C. & P. 433), whom the party is obliged by duty or contract to provide for: (*R.* v. *Squires*, 1 Russ. C. & M. 426.)

An indictment against a woman for manslaughter, in neglecting to supply an infant of tender age with sufficient food, is bad if it does not state a duty in the person to supply the child with food; but if the indictment charge that the deceased was imprisoned by the party accused, that sufficiently shows the duty to supply food: (*Reg.* v. *Edwards*, 8 C. & P. 611; see also as to statement of duty, *Rex* v. *Saunders*, 7 C. & P. 277.) A count charging a married woman with the death of a child failed because it was not proved that her husband had given her food to give to the child.

OF PRINCIPAL AND ACCESSARY, ETC.

Coroners have only to inquire of principals and of accessaries before the fact. He who proceeds, counsels, commands or directs the killing of another, if absent at the time of killing, is an accessary to murder before the fact (1 H. P. C. 615; stat. 7 Geo. 4, c. 64; 9 Geo. 4, c. 31); and by stat. 11 & 12 Vict. c. 46, s. 1, it is enacted, that an accessary before the fact may be indicted, tried, convicted and punished in all respects as if he were a principal felon.

He who counsels another to give poison, if absent, is only an accessary before, &c.; but he who actually gives, or lays the poison, is a principal, though absent when taken: (1 Hale, 435, 436, 615; 3 Inst. 49.)

In manslaughter there can be no accessary

before the fact, nor in a killing *per infortunium*, nor in a *se defendendo*, for the quarrel or bare homicide is presumed to be always sudden, and there is no judgment of death in the case; but if advice, command or deliberation appear, it is murder: (1 Hale, 437, 615, 616.)

All who are present aiding and assisting are equally principals with him who gave the stroke, and in the interpretation of law, it is the stroke of all present aiding and assisting, and they are all principals, though in the second degree, and all shall be arraigned and receive judgment, if convicted, though he who actually gave the stroke do not appear: (Hale from Plowd. 97, 100; 9 Co. 67; 2 Hawk. P. C. 312, s. 7.)

To make an abettor in homicide a principal, he must be present, and also aiding and abetting; but if only procuring and abetting, and absent, he is only accessary before, but not principal, unless in some cases of poisoning: the terms are often confounded. If he be present, but neither aiding nor abetting, he is neither principal nor accessary, for an innocent man may be casually present. There must be an original unlawful intent or design to do an unlawful act, which is principally to be regarded, and the killing must be pursuant to the original unlawful intent: (1 Hale, 439.) The participation must be *felonious participation* in the design, not participation in the act only: (1 East P. C. 257; *R.* v. *Plumer*, Kel. 109.)

A. and B., intending to fight, choose their seconds. A. takes C. and B. takes D. A. kills B. In this case C. is principal in the second degree, as aiding and abetting A., who did the act; but D. never abetted A. to kill B., but was of the party of B., who was killed. D., therefore, is not a principal, or guilty of murder: (Hale, 442, 452; but see *Rex* v. *Perkins*, 4 C. & P. 537.)

Words which sound in bare permission will not make one to be accessary, as A. saying, "I will kill J. S.," and B. saying, "You may do your pleasure for me." If A. accordingly kill J. S. this will not make B. accessary to the killing: (Hale, 442, 452.)

In some cases both may be absent, and yet both may be principals; as, if A. hire B. to lay or mingle poison for C. B. does it accordingly, and C. is poisoned. Here B., though absent, is principal, and A. is only accessary; but if A. were present at the laying or mingling of the poison, and C. is poisoned, they are both principals, though both absent at the taking, for they are both equally acting in the poisoning: (Hale, 616; Keyl. 52, 53.)

It is not essential that there should have been any direct communication between an accessary before the fact and the principal felon. It is enough if the accessary direct an intermediate agent to procure another to commit the felony; and it will be sufficient even if the accessary does not name the person to be procured, but merely directs the agent to employ some person: (*Rex* v. *Cooper*, 5 C. & P. 535.)

By 7 Geo. 4, c. 64, accessaries before the fact may be tried as such, or as for a substantive felony, by any court before whom the principal may be tried, although the offence be committed on the sea or abroad; and if the offence be committed in different counties, the accessary may be tried in either. Accessary before the fact may be tried after conviction of the principal, though the latter be not attainted.

A count in an indictment charged A. with the murder of B., and also charged C. and D. with being present aiding and abetting A. in the commission of the murder. It appeared that A. was

an insane person:—Held, therefore, that C. and D. could not be convicted on this account.

A., who was insane, collected a number of persons together, who armed themselves, having a common purpose of resisting the lawfully constituted authorities. A. having declared that he would cut down any constable who came against him, A., in the presence of C. and D., two of the persons of his party, afterwards shot the assistant of a constable who came to apprehend A. under a warrant:—Held, that C. and D. were guilty of murder as principals in the first degree, and that any apprehension that C. and D. had of personal danger to themselves from A. was no ground of defence for continuing with him after he had so declared his purpose; and also, that it was no ground of defence that A. and his party had no distinct or particular object in view when they assembled together and armed themselves. The apprehension of personal danger does not furnish any excuse for assisting in doing any act which is illegal: (*Reg.* v. *Tyler and Price*, 8 C. & P. 616.)

When, upon a previous arrangement, and after there has been time for the blood to cool, two persons meet with deadly weapons, and one of them is killed, the party who occasions the death is guilty of murder, and the seconds also are equally guilty; and with respect to others shown to be present, the question is, did they give their aid and assistance, by their countenance and encouragement of the principals in the contest? Mere presence will not be sufficient, but if they sustain the principals either by advice or assistance, or go to the ground for the purpose of encouraging and forwarding the unlawful conflict, although they do not say or do anything, yet if they are present, assisting and encouraging by their presence at the moment when the fatal shot

is fired, they are in law guilty of the crime of murder: (*Reg.* v. *Young and Webber*, 8 C. & P. 644; see *Reg.* v. *O'Brien and others*, 2 Car. & Kir. 115, as to form of indictment.)

Upon the trial of an accessary in murder, the principal not then being upon his trial, evidence is admissible of statements made by the principal in the absence of the accessary, prior to the act charged as the murder, tending to show that it was done with malice; but statements of the principal, in the absence of the accessary, describing the occurrence, are not admissible: (*ibid.*)

If a woman take poison with intent to procure miscarriage, and die of it, a person who furnished her with the poison for that purpose, will, if absent when she took it, be an accessary before the fact: (*Rex* v. *Russell*, M. C. C. 356; and see stat. 9 Geo. 4, c. 31, ss. 3, 11, 12.)

OF FLIGHT AND FORFEITURE.

Forfeiture always attends flight; and it is a part of the coroner's duty (*but has long ceased to be his practice*) to inquire of each. The flight is a probable cause of suspicion and the prisoner's guilt, until the contrary appear. The forfeiture, in case of death, will relate to the time of flight, not to the time of the inquest: (1 Hale, 362, 710.) Flight, by the principal or accessary before the fact, in murder, found by the coroner, is attended with forfeiture of the goods of the offender.

By stat. 7 & 8 Geo. 4, c. 28, s. 5, where any person shall be indicted for treason or felony, the jury shall not be charged to inquire concerning his lands or goods, nor whether he fled for such treason or felony.

MANSLAUGHTER.

Manslaughter is the unlawful and felonious killing of another without any malice express or implied, as where, upon a sudden quarrel, two persons fight and one kills the other, or where a man provokes another by some personal violence, and the other immediately kills him.

But to reduce the crime from murder to manslaughter, the assault must be violent (Fost. C. L. 292; *Rex* v. *Lynch*, 5 C. & P. 324); and however great the provocation, if sufficient time has elapsed for the passion to subside, the crime will be murder: (1 Hale, 451; *Rex* v. *Mason*, 1 East P. C. 239.)

If a man illegally restrained of his liberty kill another, it is manslaughter: (2 East P. C. 233; 6 T. R. 122.)

Killing another in the act of adultery is manslaughter: (1 Vent. 259.)

If the instrument causing death be not likely to endanger life, and there be no intention to kill, it will be manslaughter: (1 Leach C. L. 368.)

As, where a master struck his servant with a clog, because it was not properly cleaned: (1 Ld. Raym. 142.)

What is an instrument likely to endanger life is a question for the jury: (1 Leach C. L. 378.)

If a pickpocket be thrown into a pond, with the view of ducking him, and he be drowned, it is manslaughter only: (1 Stark. P. C., c. 31, s. 38.)

If a father take up his son's quarrel, and in the heat of passion kill another, it is manslaughter: (Fost. C. L. 294.)

If a party kill another (although a constable) who endeavours to arrest him illegally, it will only amount to manslaughter: (1 R. & M. 80; 1 Leach C. L. 206.)

To make a person killing one of a press-gang guilty of murder, the venture must be with authority, or it is only manslaughter: (Fost. C. L. 154.)

In a case of illegal arrest, if a private person interfere and is killed, it is manslaughter: (2 Ld. Raym. 1296.)

Where an officer arresting acts improperly, and is killed, it is manslaughter: (1 Vent. 216.)

By 6 Geo. 4, c. 108, s. 14, commanders of vessels employed to prevent smuggling, and authorized to fire, &c., are indemnified from any indictment, &c.

A person may be guilty of manslaughter by constant system of privation and ill-treatment: (1 East P. C. 226.) As a mother by neglecting her sucking child: (*Reg.* v. *Edwards*, Gloucester Assizes, August, 1838.)

At the Bristol Gaol Delivery, 1822, before Sir Charles Wetherell, recorder, J. S. and his wife were convicted of manslaughter, having intentionally stopped the flue of a room in which W. B., then mortally sick of an asthma, lodged, whereby the smoke aggravated the asthma, and caused his immediate death.

Where persons employed about their lawful occupations, whence danger may probably arise, neglect the ordinary precautions, and death ensue, it will be manslaughter at least: (12 Petersdorff, 550.)

If after an interchange of blows on equal terms one of the parties suddenly, and without premeditation, snatches up a deadly weapon, and kills the other, it is said to be manslaughter only: (*Rex* v. *Anderson*, 1 Russ. C. & M. 447, per Bayley, J.)

But otherwise, if the deadly weapon has been used from the first: (Lew. C. C. 173.)

Death caused by up-and-down fighting is murder: (*Rex* v. *Thorpe*, Lew. C. C.)

A person set to watch a yard is not justified in shooting even a thief, unless he has reason to believe his own life in danger: (*Rex* v. *Scully*, 1 C. & P. 319.)

The killing of a person in an affray by another who was in a violent passion at the time, is manslaughter: (*Rex* v. *Rankin*, R. & R. C. C. 43.)

A father beat his son for theft so severely with a rope, that he died; and it was held to be manslaughter only: (1 East P. C. 261.)

A party causing the death of a child by giving it spirituous liquors is guilty of manslaughter: (3 C. & P. 211.)

It was held to be no excuse for killing a man who was out at night dressed in white as a ghost, that he could not otherwise be taken: (*Rex* v. *Smith*, 1 Russ. C. & M. 459.)

All persons who, even by their presence encourage a fight from which death ensues, are guilty of manslaughter: (6 C. & P. 103.)

If a person *bonâ fide* and honestly exercising his best skill to cure a patient, perform an operation which causes the patient's death, he is not guilty of manslaughter; and it makes no difference whether he be a regular surgeon or not, nor whether he has had a regular medical education or not: (*Rex* v. *Van Butchell*, 3 C. & P. 629.)

To charge such person, he must be guilty of criminal misconduct, arising from the grossest ignorance, or the most criminal intention: (*Rex* v. *Williamson*, 3 C. & P. 635 (the case of prolapsed uterus torn away); *Rex* v. *St. John Long*, 4 C. & P. 398, 423.)

Any person licensed or not, who deals with the health of Her Majesty's subjects is bound to have

producing small pox by inoculation illegal 30 & 31 Vict c 29 & if child dies parts guilty of manslaughter - Reg v Sykes 2 Denman - Bakers Case p 264

competent skill, and to treat his patient with care, attention and assiduity, and if a patient die for want of either, the person is guilty of manslaughter: (*Rex* v. *Spiller*, 5 C. & P. 333; Lew. C. C. 172, 181.)

Administering unwholesome pills, which occasioned death, was held to be manslaughter. The person administering being grossly ignorant, the remedy dangerous, and medical assistance being procurable: (*Rex* v. *Webb* (vendor of Morison's pills), 1 Mood. & Rob. 403.)

See p. 216 post

The captain and pilot of a steam-boat were both indicted for the manslaughter of a person who was on board of a smack, by running the smack down. The running down was attributed, on the part of the prosecution, to improper steerage of the steam-boat, arising from there not being a man at the bow to keep a look-out at the time of the accident. It was proved that there was a man on the look-out when the vessel started about an hour previous. According to one witness, the captain and pilot were both on the bridge between the paddle-boxes; according to another, the pilot was alone on the paddle-box:—Held, that, under these circumstances, there was not such personal misconduct on the part of either as to make them guilty of felony: (*Rex* v. *Allen and Clarke*, 7 C. & P. 153.)

To make a captain of a steam-vessel guilty of manslaughter, in causing a person to be drowned, by running down a boat, the prosecutor must show some act done by the captain; and a mere omission on his part in not doing the whole of his duty is not sufficient. But if there be sufficient light, and the captain of a steamer is either at the helm, or in a situation to be giving the command, and does that which causes the injury, he is guilty of manslaughter: (*Rex* v. *Green*, 7 C. & P. 156.)

Where a mother, being angry with one of her children, took up a small piece of iron, used as a poker, and on his running to the door of the room which was open, threw it after him, and hit another child, who happened to be entering the room at the moment, in consequence of which he died:—It was held to be manslaughter, although it appeared that the mother had no intention of hitting the child with whom she was angry, and only intended to frighten him: (*Rex* v. *Conner*, 7 C. & P. 438.)

If the driver of a carriage be racing with another carriage, and from being unable to pull up his horses in time, the first-mentioned carriage is upset, and a person thrown off it and killed; this is manslaughter in the driver of that carriage: (*Rex* v. *Timmins*, 7 C. & P. 499.)

A lad, as a frolic, without any intention to do any harm to any one, took the trap-stick out of the front part of a cart, in consequence of which it was upset, and the carman who was in it, putting in a sack of potatoes, was pitched backward on the stone, and killed:—Held, that the lad was guilty of manslaughter: (*Rex* v. *Sullivan*, 7 C. & P. 641.)

The evidence against a prisoner charged with manslaughter was, an admission on his part, that, unfortunately, he was the man who shot the deceased, and the fact that on their coming together, apparently not in ill-humour, from the South Metropolitan Cemetery, where the prisoner was a watchman, but with which the deceased had no connexion, the prisoner said to the deceased, "Now, you mind, don't let me see you on my premises any more." At the time this was said, the wound had been given, of which the deceased eventually died:—Held, that in point of law, the

see below

If each of two persons be driving a Cart at a dangerous and furious rate and they be inciting each other to drive at so a dangerous and furious rate along a turnpike Road and one of the Carts runs over a man and kills him each of the two persons is guilty of manslaughter and it is no ground of defence that the death was partly caused by the negligence of the deceased himself or that he was either deaf or dumb at the time Rex v Swindall 2 Car & K 230

evidence was sufficient to sustain the charge: (*Rex* v. *Morrison*, 8 C. & P. 22.)

A master is not, by the general law, bound to provide medical advice for his servants; but the case is different with respect to an apprentice: a master is bound, during the illness of his apprentice, to provide him with proper medicines: (*Reg.* v. *Smith*, 8 C. & P. 153.)

An iron founder, being employed by an oilman and dealer in marine stores to make some cannon, to be used on a day of rejoicing, and afterwards to be put into a sailing-boat; after one of them had burst, and been returned to him in consequence, sent it back in so imperfect a state, that, on being fired, it burst again, and killed a third person:—Held, that the maker was guilty of manslaughter: (*Rex* v. *Carr*, 8 C. & P. 163.)

Persons on board a ship are necessarily subjected to something like a despotic government, and it is extremely important that the law should regulate the conduct of those exercising dominion over them. Therefore, in a case of manslaughter against the captain and mate of a vessel, by accelerating the death of a seaman, really in health, but who, they allege, they believe to be a skulker, the question will be in determining whether it is a slight or an aggravated case, whether the phenomena of the disease were such as would excite the attention of reasonable and humane men; and in such case if the deceased be taken on board after he was discharged from a hospital, it is important to inquire whether he was sent on board by the surgeon of the hospital as a person in a fit state of health to perform the duties of seaman: (*Reg.* v. *Leggett*, 8 C. & P. 191.)

A party, who was charged with murder, made a statement before the coroner at the inquest that

was taken down, the paper purported that the statement was made *on oath*:—Held, that on the trial of the party for murder, this statement was not receivable, and that parol evidence was not admissible to show that no oath had in fact been administered to the prisoner: (*Reg.* v. *Wheeler*, 8 C. & P. 250.)

On an indictment for the murder of an aged and infirm woman, by confining her against her will, and not providing her with meat, drink, clothing, firing, medicines and other necessaries, and not allowing her the enjoyment of the open air, in breach of an alleged duty; if the jury think that the prisoner was guilty of wilful neglect, so gross and wilful, that they are satisfied he must have contemplated her death, he will be guilty of murder; but if only they think that he was careless—that her death was occasioned by his negligence, though he did it, he will be guilty of manslaughter: (*Reg.* v. *Marriott*, 8 C. & P. 425.)

The killing of a man on the highway is not justifiable homicide, unless there was an intention on the part of the person killed to rob or murder, or do some dreadful bodily injury to the person killing; or, in other words, the conduct of the party must be such as to render it *necessary*, on the part of the party killing, to do the act in self-defence: (*Reg.* v. *Bull*, 9 C. & P. 22.)

All struggles in anger, whether by fighting or wrestling, or any other mode, are unlawful, and death occasioned by them is manslaughter at least: (*Reg.* v. *Canniff*, 9 C. & P. 359.)

Those who navigate the river Thames improperly, either by too much speed, or by negligent conduct, are as much liable, if death ensues, as those who cause it on a public highway on land, either by furious driving or negligent conduct: (*Reg.* v. *Taylor*, 9 C. & P. 672.)

In a case of manslaughter, it is the duty of the coroner to bind over all those witnesses who prove any material fact against the party accused, and not those who are called for the purpose of exculpating him: (*ibid.*)

However, if the coroner bind over all the witnesses on both sides, no blame is imputable to the clerk of indictments if he require them all to be put on the back of the bill, and examined before the grand jury: (*ibid.*)

A prisoner who is tried for manslaughter on the coroner's inquisition may be convicted of an assault under the 11th sect. of the stat. 1 Vict. c. 85: (*Reg.* v. *Pool*, 9 C. & P. 728.)

An indictment for manslaughter stated in the first count, that the deceased was the apprentice of the prisoner, and that it was the duty of the prisoner to provide the deceased with proper nourishment, medicine, &c., and charged the death of deceased to be from neglect, &c. The second charged that the deceased, "so being such *apprentice as aforesaid*," was killed by the prisoner by over-work and beating. No evidence was given of any indenture, but a witness proved that the prisoner told him that the deceased was his apprentice:—Held, that this was sufficient proof of the allegation of the apprenticeship in the second count, but not of that in the first count: (*Reg.* v. *Crompton*, 1 C. & M. 597.)

Semble, if A. killed B. under provocation of a blow not sufficiently violent in itself to render the killing manslaughter, but the blow be accompanied by very aggravating words and gestures, that will be but manslaughter in A.: (*Reg.* v. *Sherwood*, 1 Car. & Kir. 556.)

Where husband and wife are separated by common consent, the husband granting the wife a stipulated allowance, which is regularly paid, he

is not bound to supply her with shelter; but if he knows, or be informed that she is without shelter, and refuses to provide her with it, in consequence of which her death ensues, *semble*, that he is guilty of manslaughter (even though the wife be labouring under disease, which must ultimately prove fatal), if it can be shown that her death was accelerated for want of the shelter, which he had denied: (*Reg.* v. *Plummer*, 1 Car. & Kir. 600.)

OF INFANCY, INSANITY, IDIOCY, CIVIL SUBJECTION, ETC.

Infancy.—Infants are incapable of committing any crime, unless in cases where they show a consciousness of doing wrong, and a discernment between good and evil: (4 Steph. Blac. 115.) Under seven years of age an infant cannot be guilty of felony (1 Hale P. C. 27); but he may at eight: (Dalton's Justice, c. 147.) Also under fourteen, though an infant shall be *primâ facie* adjudged to be *doli incapax* (4 C. & P. 236), yet if it appear to the court and jury that he was *doli capax*, and could discern between good and evil, by strong and pregnant evidence of a mischievous discretion, he may be convicted and suffer death. After fourteen he is presumed to be *doli capax:* (4 Steph. Blac. 76; *R* v. *Eldershaw*, 3 C. & P. 395.) Where a child between seven and fourteen years of age is indicted for felony, two questions are to be left to the jury, first, whether he committed the offence; and, secondly, whether at the time he had a guilty knowledge that he was doing wrong: (*R.* v. *Owen*, 4 C. & P. 236.)

Insanity and idiocy.—Every person at the age

of discretion is, unless the contrary be proved, presumed to be sane, and to be accountable for his actions. But if there be an incapacity, or defect of the understanding, as there can be no consent of the will, so the act cannot be culpable. This species of nonvolition is either natural, accidental, or affected; it is either perpetual or temporary, and may be reduced to three general heads: 1. *A nativitate vel dementia naturalis;* 2. *Dementia accidentalis vel adventitia;* 3. *Dementia affectata.* The first, or *dementia naturalis*, is idiocy, or natural fatuity. The second is either partial or *monomania*, as insanity upon one particular subject; or total, permanent, usually called madness; or temporary, usually called lunacy: (3 Bac. Abr. 86; Archbold Crim. Law, 12.) The third, or *dementia affectata*, or acquired madness, is the frenzy or insanity produced by voluntary drunkenness, and will not excuse the commission of any crime: (1 Hale, 32; Co. Litt. 247; Hawk. c. 1, s. 6.) Upon the subject of madness, many cases have been decided, from which it is difficult to extract any precise rule: (Archbold Crim. Law, 12, 13.) It seems clear, however, that, to excuse a man from punishment upon the ground of insanity, it must be proved distinctly that he was incapable of distinguishing right from wrong at the time he did the act, and did not know it to be an offence against the laws of God and nature: (see *R.* v. *Offord*, 4 C. & P. 168.) If there be a partial degree of reason, a competent use of it sufficient to have restrained those passions which produced the crime; if there be thought and design, a faculty to distinguish the nature of actions, to discern the difference between moral good and evil; then he will be responsible for his actions: (1 Russ. 12.) Whether the prisoner were sane or insane at the time the act was committed, is a

question of fact triable by the jury, and dependent on the previous and contemporaneous act of the party. Upon a question of insanity, a witness of medical skill may be asked whether such and such appearances proved by other witnesses are, in his judgment, symptoms of insanity; but it is very doubtful whether he can be asked if, from the testimony given, the act with which the prisoner is charged is, in his opinion, an act of insanity; for that is the point to be decided by the jury: (*R.* v. *Wright*, R. & R. 456; see also *R.* v. *Searle*, 2 M. & M. 75; Archbold Crim. Law, 13.)

If upon the trial of any person for treason, murder, or felony (see *R.* v. *Little*, R. & R. 430), his insanity at the time of the commission of the offence is given in evidence and the jury acquit him, the jury must be required to find specially whether he was insane at the time of the commission of the offence, and declare whether he was acquitted on account of such insanity; and if the jury find that he was insane at the time of the commission of the offence, the court must order him to be kept in strict custody, in such manner as to the court shall seem fit, until the king's pleasure be known; and the king may order the confinement of such person during pleasure: (39 & 40 Geo. 3, c. 94, s. 1.) And if any person indicted for any offence is insane, and upon arraignment is found so to be by a jury lawfully impaneled for that purpose (that is, by a jury returned by the sheriff *instanter*, in the nature of an inquest of office), so that he cannot be tried upon such indictment; or if, upon the trial of any person so indicted, he appear to the jury charged in the indictment to be insane, the court may order that finding to be recorded, and that he be kept in custody till His Majesty's pleasure is known. In the practice of coroners' inquests it may be noticed

that in cases of self-destruction there is always a tendency in juries to admit the plea of insanity, but where the death of another is caused by the act of a person said to be lunatic, it is now usual to leave the plea of mental derangement to be dealt with by a superior court.

Civil subjection, &c.— The same sound principle which excuses those who have no mental will in the perpetration of an offence, protects from the punishment of the law those who commit crimes in subjection to the power of others, and not as the result of an uncontrolled free action proceeding from themselves: (4 Bl. Com. 27; 1 Hale, 43.) Thus, if A., by force take the hand of B., in which is a weapon, and therewith kill C., A. is guilty of murder, but B. is excused; but if merely a moral force be used, as threats, duress of imprisonment, or even an assault to the peril of his life, in order to compel him to kill C., it is no legal excuse: (1 Hale, 434; 1 East P. C. 225.) This protection also exists in the public and private relations of society; public, as between subject and prince, obedience to existing laws being a sufficient extenuation of civil guilt before a municipal tribunal; and private, proceeding from the matrimonial subjection of the wife to the husband, from which the law presumes a coercion, which in many cases excuses the wife from the consequence of criminal misconduct. The private relations which exist between parent and child, and master and servant, will not, however, excuse or extenuate the commission of any crime of whatever denomination; for the command is void in law, and can protect neither the commander nor the instrument: (1 Hale, 44, 516; Archbold Cr. Law, 14.) Nor is the wife protected in crimes which are *mala in se*, and prohibited by the law of nature, nor in such as are heinous

in their character, or dangerous in their consequences; and therefore if a married woman be guilty of treason, murder, or offences of the like description, in company with, and by coercion of, her husband, she is punishable equally as if she were sole: (1 Hale, 45, 47, 48; Hawk. c. 1, s. 11; 4 Bl. Com. 29; 1 St. Tr. 28.)

DEODANDS.

Before the statute 9 & 10 Vict. c. 62, every personal chattel accidentally occasioning the death of any reasonable creature was forfeited to the king, applied to pious uses, and distributed in alms, and such chattel was said to be deodand; but, by the above statute deodands were abolished: (Hale P. C. 419; Fleta, lib. 1, c. 25.)

OUTLAWRY, CIVIL PROCESS, ETC.

In outlawry the coroner is the judge, but he must be personally present, and if he fail to attend is subject to fine and imprisonment (Brit. 21, *b.*); and to pronounce and subscribe judgment is herein the only act of his office, and he has nothing else to do: (1 Rol. R. 266, pl. 38.)

The entry of the judgment, except in London, has always been *per judicium coronatorum*, which without the writ of *exigi facias* the coroner has no authority to exercise or pronounce. The outlawry is a conviction and attainder of the offence charged in the indictment, and as the award of the *exigent* gives the forfeiture of the goods, so

the outlawry gives that of the lands. The bare judgment of outlawry by the coroner until returned of record (Gilb. C. B. 159, c. 17; 1 Inst. 128, a, 288, b), is no attainder, nor gives any escheat; it must therefore be returned by the sheriff with the writ of *exigi facias*, and that return indorsed; the writ is the warrant for the outlawry, and without it the coroners have no power to pronounce the judgment. Upon an inquisition taken before the coroner and returned before the justices of gaol delivery, they cannot make process of outlawry, but the inquisition is to be certified unto B. R., and thence process of outlawry is to be issued: (2 Rol. Abr. 96.)

When a writ is directed to the coroners, it must be executed in all their names, but all judicial acts done by one alone are good; as where one coroner in the name of all pronounces judgment of outlawry in the county court, it is good; and judgment given by one judge is good, though the rest be absent. The act of one coroner shall not prejudice his colleague: (8 Mod. 192.) The names of the coroners need not be subscribed to the judgment of outlawry; if it appear on the record that the judgment of outlawry was given by them it is sufficient: (*Rex* v. *Yandall*, 4 Term. Rep. 542.) The demand of the party must be at five county courts, successively held one after the another, without any court intervening: (Brit. 21, a; 2 Hale, 37, 56, &c.)

Civil process, &c.—In case of disability in the sheriff from any cause whatever, the processes usually directed to that officer are directed to the coroner, and the latter is then the immediate officer of the court in place of the sheriff, and may do all such lawful acts as the sheriff might have done if not under challenge or incapacity; and *per* Hob. 85, he may take the *posse comitatus*. When

a process has been directed to the coroner the sheriff cannot afterwards intromit, act or intermeddle in that cause (Cro. Eliz. 894, pl. 11), and the execution shall be directed to the coroners even though a new sheriff be appointed in the mean time: (Com. Dig. Officer, 9, 13.) If one of the several coroners of a county be interested in the cause the writ will be executed by the unchallenged coroners. The coroners are not the proper officers of the court in any other case but where the sheriff is absolutely improper, not where there is no sheriff at all; and if the sheriff die, the coroner cannot execute the writ, but the under-sheriff shall: (1 Salk. 152; 3 Geo. 1, c. 15, s. 8.) When coroners are empowered only to act ministerially, as in the execution of process directed to them, upon the default or incapacity of the sheriff, all their acts will be void wherein they do not all join: (2 Hawk. c. 9, s. 45; see Outlawry.) If only one coroner of the county out of several remain alive, and a writ be directed to the coroners, the survivor cannot either execute or return the writ till another be elected: (Hale, 56; F. N. B. 163; Cro. J. 383.)

The same challenges which may be made to the sheriff, may also be made to the coroners, and if all the coroners be challenged the *venire* may be awarded to *elisors*. When *elisors* are once appointed neither sheriff nor coroner can afterwards intromit in the same cause. If there be two sheriffs, and one only is interested, the writ should be directed to the other, and not to the coroner: (5 M. & S. 144.)

Although one coroner may execute the writ the return must be in the name of all: (2 Hawk. P. C. c. 9, s. 45.) By 6 Geo. 4, c. 50, pp. 14, 15, coroners, &c., are to return juries from jury-book, &c.; and by sect. 52, the qualifications of jurors

on writs of inquiry before coroners of counties must be similar to those of jurors at *Nisi Prius.* By sect. 53, coroners may impose fines on defaulters in any county not exceeding *5l.*, to be certified to the clerk of the peace, who shall enrol and estreat, &c. In striking a special jury the coroner is not bound to take the jurors as they occur on the sheriff's books, but is to make an impartial selection: (*Rex* v. *Wooller*, 1 B. & A. 193.)

In *Rex* v. *Dolby*, B. R., the coroner returned a special jury, but a *tales* being required it was returned by one coroner only; the return was held insufficient. In the same case the court held that it is not incumbent on the coroner to select the talesmen from the bystanders; they may be selected from persons previously appointed to be in attendance in the expectation that a *tales* would be required (3 Dow. & Ry. 311); but by 6 Geo. 4, c. 50, s. 37, the sheriff or coroner shall, at the command of the court, return such men duly qualified (or talesmen) as shall be present or can be found to serve, preferring the common jury panel if sufficient: (see Appendix for Forms of Returns, &c.)

By 6 Geo. 4, c. 50, s. 14, it is enacted, that every sheriff, upon the receipt of every such writ or *venire facias*, and precept for the return of jurors, shall return the names of men contained in the jurors' book for the then current year, and no others; and that where process for returning a jury for the trial of any of the issues aforesaid shall be directed to any coroner, elisor, or other minister, he shall have free access to the jurors' book for the current year, and shall in like manner return the names of men contained therein, and no others: provided always, that if there shall be no jurors' book in existence for the current

year, it shall be lawful to return jurors from the jurors' book for the year preceding.

By sect. 15, it is enacted, that every sheriff or other minister to whom the return of juries for the trial of issues before any court of assize or *Nisi Prius*, in any county of England, except the counties Palatine, may belong, shall, upon his return of every writ of *venire facias* (unless in causes intended to be tried at the bar; or in cases where a special jury shall be struck by order or rule of court) annex a panel to the said writ, containing the names alphabetically arranged, together with the places of abode and additions, of a competent number of jurors named in the jurors' book, and that the names of the same jurors shall be inserted in the panel annexed to every *venire facias* for the trial of all issues at the same assizes or sessions of *Nisi Prius*, in each respective county, which number of jurors shall not in any county be less than forty-eight nor more than seventy-two, unless by the direction of the judges appointed to hold the assizes or sessions of *Nisi Prius* in the same county, or one of them, who are, and is hereby empowered, by order under their or his hands or hand, to direct a greater or less number, and then such number as shall be so directed shall be the number to be returned; and that in the writ of *habeas corpora juratorum* or *distringas*, subsequent to such writ of *venire facias*, it shall not be requisite to insert the names of all the jurors contained in such panel, but it shall be sufficient to insert in the mandatory part of such writs respectively, "the bodies of the several persons in the panel to this writ annexed named," or words of the like import; and to annex to such writs respectively panels containing the same names as were returned in the panel to such *venire facias*, with their places of abode and additions;

and that for making the returns and panels aforesaid, and annexing the same to the respective writs, the ancient legal fee, and no other, shall be taken; and that the men named in such panels, and no others, shall be summoned to serve on juries at the then next court of assizes or sessions of *Nisi Prius* for the respective counties named in such writs.

The 17th section provides for returns of jurors in the counties Palatine; the 18th section for jurors in Wales. The 19th section directs that the sheriff, or other minister to whom the return of jurors for the trial of causes in any county in England (except the counties Palatine) may belong, shall cause to be made out an alphabetical list of the names of all the jurors contained in the panels to the several writs of *venire facias* annexed as aforesaid, with their respective places of abode and additions; and the sheriff, or other minister to whom the return of jurors for the trial of causes in any county Palatine, or in any county in Wales, may belong, shall cause to be made out, in like manner, a list of all the jurors so summoned, in such respective counties as aforesaid; and every such sheriff, or other minister, shall keep such list in the office of his undersheriff or deputy for seven days at least before the sitting of the next court of assize or *Nisi Prius*, or the next court to be holden for any county Palatine, or the next court of great sessions in any county in Wales; and the parties in all causes to be tried at any such court of assize or *Nisi Prius*, or court of any county Palatine or great sessions, and their respective attornies, shall, on demand, have full liberty to inspect such list without any fee or reward to be paid for inspection.

By sect. 23, in civil or criminal cases, where

jurors are to view, the sheriff (or coroner) is to nominate if the parties do not agree.

By sect. 52, no man shall serve as a juror upon any writ of inquiry unless qualified as a juror upon trials at *Nisi Prius*. Sect. 53 gives power to fine jurors for nonattendance, to be certified to the clerk of the peace, &c.: (see page 104.) By sect. 32 the statute does not apply to the juries on coroners' inquests.

TREASURE TROVE.

Treasure trove, is where any money or coin, gold, silver, plate, or bullion, is found hidden in the earth, or other private place, the owner thereof being unknown; in which case the treasure belongs to the king, or to some other (as the lord of the manor, by the king's grant, or prescription); but if he that hid it be known, or afterwards found out, the owner and not the king is entitled to it: (1 Black. Com. 225.)

Also if it be found in the sea, or on the surface of the earth, it doth not belong to the king but the finder, if no owner appears: (1 Black. Com. 225.)

So that it seems it is the hiding, not the abandoning it, that gives the king a property: (*ibid.*)

This difference arises from the different intentions which the law implies in the owner. A man that hides his treasure in a secret place, evidently doth not mean to relinquish his property, but reserves a right of claiming it again when he sees occasion; and if he dies and the secret also dies with him, the law gives it to the king in part of his royal revenue: (*ibid.*)

But a man that scatters his treasure into the

sea or upon the public surface of the earth, is construed to have absolutely abandoned his property and returned it into the common stock, without any intention of reclaiming it; and therefore it belongs, as in a state of nature, to the first occupant or finder, unless the owner appear and assert his right; which then proves that the loss was by accident, and not with an intention to renounce his property: (*ibid.*)

Anciently this prerogative was thought to be of that consequence to the crown, that it is said the concealing of treasure trove was punished with death; but it is now only punishable with fine and imprisonment: (3 Inst. 133; 1 Hale Hist. 506.)

By stat. *de officio coronatoris*, 4 Edw. 1, it is enacted, that the coroner upon information shall go to the places where treasure is said to be found, and inquire who were the finders, and likewise who is suspected thereof; "and that may be well perceived, when a man lives riotously, haunting taverns, and has done so for long time;" thereupon he may be attached for this suspicion by four, or six, or more pledges, if he be found.

OF EVIDENCE.

By 7 Geo. 4, c. 64, s. 4, it is enacted, that every coroner upon any inquisition before him taken, whereby any person shall be indicted for manslaughter or murder, or as an accessary to murder before the fact, shall put in writing the evidence given to the jury before him, or as much thereof as shall be material; and shall have authority to bind by recognizance all such persons as know or declare

anything material touching the said manslaughter or murder, or the said offence of being accessary to murder, to appear at the next court of oyer or terminer, or gaol delivery, or superior criminal court of a county Palatine or great sessions, at which the trial is to be, then and there to prosecute or give evidence against the party charged; and every such coroner shall certify and subscribe the same evidence, and all such recognizances, and also the inquisition before him taken; and shall deliver the same to the proper officer of the court in which the trial is to be, before or at the opening of the court.

If any justice or coroner shall offend in anything contrary to the true intent and meaning of these provisions, the court to whose officer any such examination, information, evidence, bailment, recognizance, or inquisition ought to have been delivered, shall, upon examination and proof of the offence in a summary manner, set such fine upon every such justice or coroner as the court shall think meet.

Sect. 6. These provisions apply to all coroners.

The evidence in the coroner's court is to be governed by the same rules as in other courts of criminal jurisdiction, but as the coroner and his jury are usually unacquainted with the facts under investigation, and have frequently to extract them from very ignorant or very reluctant witnesses, and the interrogating jurors are not always acquainted with the rules of evidence, it sometimes happens that questions are put and answers given and used by the jury to influence their verdict, which, being illegal, must not appear on the face of the depositions as taken down by the coroner for the judge's use on the trial. The usual evidence before the coroner consists, 1st. Of the dead body of the deceased, which must be carefully

examined and *its identity proved;* 2nd. Of witnesses to the fact; or, where such witnesses are wanting, 3rd. Circumstantial or presumptive evidence; 4th. Of the confession or admission of suspected persons; 5th. Of the declarations made by persons in apprehension of approaching death; 6th. Of written documents: the latter rarely come before a coroner's jury, but it sometimes happens that letters or memoranda found in the pockets of, or written by, persons who have destroyed themselves, are produced either as evidence of sanity or insanity: if received in evidence, it should be upon proof of the hand-writing, and, if without date, of the time when written; in every case they must be looked upon as a very apocryphal species of proof.

The depositions should be taken with great accuracy, and as nearly as possible in the words used by the witnesses, and read over and signed by them, and by the coroner. If a child be the witness, his capacity to take an oath should appear (2 C. & Kir. 319, per Wilde, C. J.); for if any of the witnesses should die before the trial, the prosecutor will be entitled to read his evidence from the deposition against the prisoner at the trial. The coroner must hear evidence as well against the king's interest as for it (1 Hale, 415; *Rex* v. *Scorey,* 1 Leach. 40); but he need not bind over witnesses for the accused party: (9 C. & P. 672.)

The depositions before the coroner are evidence in an action for damages if the witness be dead or beyond sea: (*Sith* v. *Brown,* 9 C. & P. 601.)

When a magistrate asks a prisoner whether he has anything to say in his defence, he should at the same time state to him that he is not to expect any favour by confessing, but that all he says will be taken down, and may be used in evidence against

him at the trial; also, if any threat have previously been holden out to him, the magistrate ought to caution him not to be influenced by it; after which, it should be left entirely to the prisoner's own discretion, whether he will make any statement or not; he should not be pressed to do so, nor dissuaded from doing it: (*R.* v. *Green*, 5 Car. & P. 312.) The prisoner's statement ought not to be taken till the evidence against him is gone through: (4 C. & P. 566; see also stat. 11 & 12 Vict. c. 42, ss. 17, 18, Examinations before Justices.) A prisoner is not entitled under stat. 6 & 7 Will. 4, c. 114, s. 3, to a copy of his own statement made before the magistrates: (*Reg.* v. *Aylett*, 8 C. & P. 669.) Where it appeared that the statement of the prisoner was obtained from him in answer to questions put to him by the magistrate, Littledale, J., allowed it to be read (*R.* v. *Ellis*, Ry. & M. N. P. C. 432); but although a confession thus obtained may in strictness be read in evidence, yet such a mode of obtaining it is not very commendable and should be avoided. If any inducement by promise of favour or threat be held out to the prisoner, as by telling him that he had better tell all he knew (*R.* v. *Kingston*, 4 Car. & P. 387), or that he had better tell where he got the property (*R.* v. *Dunn*, 4 Car. & P. 543); you had better split, and not suffer for all of them (*R.* v. *Thomas*, 6 Car. & P. 570), or the like, any confession the prisoner may have thereby been induced to make, cannot be given in evidence against him. But nothing short of a threat, or of a promise of favour with respect to the offence charged against the prisoner will have this effect. Where a confession was obtained of a boy of fourteen years of age, by questions put to him by the constable who apprehended him, and at a time when the boy had not had food for

nearly a day, a majority of the judges held that the confession was receivable in evidence: (*R.* v. *Thornton*, R. & M. 27.) Where a man committed for murder, was visited by the chaplain of the gaol, who in a long and very earnest discourse with him, upon the necessity of repentance, and of confessing his sins, wrought so much upon the man's mind that in a subsequent interview with the gaoler, the prisoner said that he would tell him all about it; the gaoler told him not to say anything which he wished the magistrates not to know, as it would be his duty immediately to tell them of it; the prisoner said that he wished it, and then gave the details of the murder; the judges were unanimously of opinion that this confession was receivable in evidence: (*R.* v. *Gilham*, R. & M. 186.) Where a constable told a prisoner, "If you will tell where the property is, you shall see your wife," Patteson, J., held that this was not such an inducement as to exclude the evidence of what the prisoner said: (*R.* v. *Lloyd*, 6 Car. & P. 393.) And where a threat or promise is used, it must appear to have been holden out by some person concerned in the apprehending, examining, or prosecuting the prisoner, or by the person to whom the confession is made. Thus, where, upon a man being apprehended for larceny, several of his neighbours admonished him to tell the truth, and consider his family, and he thereupon made a confession to the constable; the judges held this confession to be receivable in evidence, because the inducement to confess was not holden out or sanctioned by any person who had any concern in the business: (*R.* v. *Row*, R. & R. 153.) Upon the trial of a girl for the murder of a bastard child, it appeared that a woman who was present when the surgeon was attending her, mentioned that she had advised her to confess, and the girl

then made a confession to the surgeon. Park, J., and Hullock, B., held that the confession was receivable in evidence, because the inducement to confess was holden out by a person who had no authority whatever to do so; if it had been by the constable or prosecutor, or the like, it would be otherwise: (*R.* v. *Gibbson*, 1 Car. & P. 97; and see *R.* v. *Tyler*, *ib.* 129.) But where a girl being apprehended for the murder of her child, was left by the constable in the custody of a woman, who told her that she had better tell the truth, otherwise it would be upon her, and the man would go free; upon which she made a confession to the woman. Park and Taunton, JJ., held this confession not receivable, as it was made in consequence of an inducement held out to the prisoner by a person who had her in custody: (*R.* v. *Enoch*, 5 Car. & P. 539.) And where the committing magistrate told a prisoner that if he would make a disclosure, he would do all he could for him, and the prisoner afterwards made a disclosure to the turnkey of the gaol, Park, J., held that it was not receivable in evidence after the promise holden out by the magistrate, more especially as the turnkey had not given any previous caution to the prisoner: (*R.* v. *Cooper*, 5 Car. & P. 535.) But if, after an inducement by threat or promise has been holden out to a prisoner to confess, and before any confession actually made, the prisoner be undeceived as to the promise or threat, and assured that he has nothing to hope from the one or fear from the other, any confession he makes afterwards will be receivable in evidence. Where a man committed for murder, was told by a magistrate, that provided he was not the person who struck the fatal blow, he would use all his endeavours and influence to prevent any ill consequences to him if he would disclose all he knew

of the murder; and the magistrate wrote upon the subject to the Secretary of State; but upon learning from him that mercy could not be extended to the prisoner, he informed the prisoner of it; afterwards the prisoner made a confession before the coroner, but he was previously told by him that any confession or admission he should make would be given in evidence against him, and that no hope or promise of pardon could be held out to him. Littledale, J., held clearly that this confession was receivable in evidence: (*R.* v. *Cleeves*, 4 Car. & P. 221.) So upon trial of a girl for administering poison, it appeared that she was threatened by her mistress that if she did not tell all about it that night, a constable would be sent for the next morning, to take her before the magistrates; and she made a statement accordingly, which the judge refused to receive in evidence; but it appeared also that the constable was actually sent for the next morning and took her into custody, and that whilst on the way to the magistrates, in his custody, she made another confession to him. Bosanquet, J., held this latter confession to be admissible in evidence, for at the time the prisoner made it, the inducement was at an end: (*R.* v. *Richards*, 5 Car. & P. 318.) So where constables had induced a prisoner to confess, by telling him that his companion had split, and he might as well do so; but afterwards, upon this appearing before the magistrates who took the examination, he informed the prisoner that his confessing would do him no good, but that he would be committed to prison to take his trial. Denman, C. J., held that a confession by the prisoner to the magistrate, after this caution, was receivable in evidence: (*R.* v. *Howes*, 3 Car. & P. 404.)

But even in cases where the confession of a

prisoner is not receivable in evidence, on account of its having been obtained by means of some threat or promise, any discovery made in consequence of it may be proved, and in such a case the counsel for the prosecution is merely allowed to ask the witness, whether in consequence of something he heard from the prisoner he found anything, and where, &c., and the witness in answer can only give evidence of the fact of the discovery. In one case, indeed, the judges are reported to have gone further. The case was thus: the prisoner was indicted for stealing a guinea and two bank notes for 5*l.* each; the prosecutor in his evidence was about to state a confession of the prisoner, but admitting that he had previously told the prisoner it would be better for him to confess, Chambre, J., who tried the case, would not allow the confession to be given in evidence; but he allowed the prosecutor to prove, "that the prisoner brought him a guinea and a 5*l.* bank note, which he gave up to the prosecutor as the guinea and one of the notes that had been stolen from him;" and a majority of the judges (Lord Ellenborough, Mansfield, Macdonald, Heath, Grose, Chambre, and Wood) held, that this evidence was properly receivable: (*R.* v. *Griffin*, R. & R. 150.) On the very same day the judges decided another case, which was thus: the prisoner was indicted for stealing money to the amount of 1*l.* 8*s.*; when he was apprehended, the prosecutor went to him, and asked him what he had done with his money, which he had taken out of his pack, saying at the same time, that "he only wanted his money, and if the prisoner gave him that, he might go to the devil if he pleased;" the prisoner thereupon took 11*s.* 6½*d.* out of his pocket, and said it was all he had left of it. A majority of the judges held, that this was not receivable in evidence; three were

of a different opinion, Lord Ellenborough *dubitante*: (*R.* v. *Jones*, R. & R. 151.)

It is scarcely possible to reconcile these two cases, in both the act of the prisoner was induced by the prosecutor's promise; in both the property was found; in both the delivering up of the property was accompanied by what in effect amounted to a confession of the theft; in the one case indeed the prisoner described the money given up as some of the money which had been stolen from the prosecutor, without saying that he stole it; in the other, the words of the prisoner, connected with the question asked of him, amounted to an implied admission that he took the money; but if this be the distinction intended to be established by these cases, it must be owned that it seems rather a subtle one, as there are few juries that would not readily infer, from the admission of the prisoner in the first case, that he was the party who stole the money, and the jury in that case, in fact, convicted the prisoner on that evidence. There is another case on the same subject, decided at a later period; the former cases were decided in 1809, the following case in 1822; the prisoner was indicted for stealing several gowns and other articles; he was induced by promise of the prosecutor to confess his guilt, and after that confession he took the officer to a particular house, as the house where he had disposed of the property, and pointed out the person there to whom he had delivered it; that person denied having received it, and the property was never found; the confession was not admitted in evidence, but the taking of the officer to the house above mentioned was, and the prisoner was convicted. Bayley, J., who tried the prisoner, entertaining a doubt whether the latter evidence was properly receivable, submitted the matter to the judges,

who held that it was not, and that the conviction therefore was wrong; that "the confession was excluded, because being made under the influence of a promise, it could not be relied on; and the acts of the prisoner under the same influence not being confirmed by the finding of the property, were open to the same objection; the influence which might produce a groundless confession:" (*R.* v. *Jenkins*, R. & R. 492.) The above case of *R.* v. *Jones* proves that the finding of the property makes no difference. There is no doubt that if the goods in *Jenkin's case* had been found at the house, the officer might prove that he found them there in consequence of something he learned from the prisoner; but whether that would also let in evidence of the prisoner's act in accompanying the officer to the house, and of what he said upon that occasion, is another question. If a confession be given in evidence before the magistrates, they should ascertain whether an inducement had been holden out to the prisoner to make it; and if anything of that kind appeared from the testimony of the witnesses, they should take care to have it inserted in the depositions, in order that the judge may be aware of it at the trial. Care must be taken that the prisoner be not examined on oath, otherwise his examination cannot be read. But where a prisoner was thus sworn by mistake, it being supposed that he was a witness, and, upon the mistake being discovered, the magistrate ordered the deposition to be destroyed, cautioned the party, and then took his examination, Garrow, B., held this latter examination to be receivable in evidence: (*R.* v. *Well*, 4 Car. & P. 564.) Where a statement made by a prisoner upon oath at a time when he was not under any suspicion was tendered in evidence, Vaughan, B., held it to be admissible: (*R.* v. *Tubby*, 5 Car. & P. 530.)

But in another case, upon a trial for administering poison, where it appeared that the prisoner and several other persons were examined upon oath before a magistrate upon the subject, no specific charge had been at that time made against any person, but in the result the prisoner was committed for the offence, Gurney, B., refused to receive in evidence what the prisoner stated upon that occasion. The above case of *R.* v. *Tubby*, was cited, and he admitted that he was disposed to agree with that decision, and mentioned a case of *R.* v. *Walker*, for forgery of a will, tried at the Old Bailey, where the prisoner's affidavit in the Ecclesiastical Court was read in evidence against him; but he distinguished *R.* v. *Tubby* from the present case, for here the examination was taken at the time the prisoner was committed: (*R.* v. *Lewis*, 6 Car. & P. 161.) Another distinction perhaps might with propriety be taken, namely, between a case where the oath is merely voluntary, as the affidavit in *Walker's case* above mentioned, and where the party is in strictness bound by his oath to speak the whole truth, as in an examination before a magistrate, or the like.

After the examination of a prisoner is taken, he should be asked to sign it, and if he refuse to do so, what he says upon the occasion should be set down at the foot of the examination.

It is not necessary to call the magistrate or his clerk to prove the due taking in writing a prisoner's confession: (*Rex* v. *Hopes*, 7 C. & P. 136.)

Where a magistrate has signed the examination of a prisoner under 7 Geo. 4, c. 64, in order to allow it to be read on the trial, it is sufficient to prove the hand-writing of the magistrate, and to show that the examination is that of the particular prisoner: (*Rex* v. *Foster*, 7 C. & P. 148.)

If a prisoner's examination before a magistrate conclude "taken and sworn before me," and under that be the magistrate's signature, it is not receivable in evidence; and the judge will neither allow the magistrate's clerk to prove that in fact it was not sworn, nor will be received as parol evidence of what the prisoner said: (*Rex* v. *Rivers*, 7 C. & P. 177.)

A statement made by a prisoner when he is drunk, is receivable in evidence; and, *semble*, that if a constable gave him liquor to make him so, in the hope of his saying something, that will not render the statement inadmissible, but it will be matter of observation for the judge in his summing up: (*Rex* v. *Spilsbury Ferrall, &c.*, 7 C. & P. 187.)

If a prisoner, during the examination of the witnesses against him before the magistrate, make an observation, parol evidence may be given of such observation, if the magistrate's clerk prove that he only took down the evidence of the witnesses, and the statement of the prisoner after the evidence against him was concluded: (*ibid.*)

A magistrate returned with the depositions, that the prisoner said—"I decline to say anything."—Held, that, under these circumstances, a witness for the prosecution should not be allowed to give evidence of the terms of a confession which, he stated, the prisoner made in the presence of the magistrate, and while under examination: (*Rex* v. *Walter*, 7 C. & P. 267.)

A. being in the custody of a constable, on a charge of felony, was taken by the constable to an inn, where the innkeeper, in the hearing of the constable, held out an inducement to A. to confess; and A., in the hearing of the constable, made a confession to the innkeeper, which, at the

trial, the constable was called to prove. *Semble*, that this confession was not receivable in evidence: (*Rex* v. *Pountney*, 7 C. & P. 302.)

A witness stated that a prisoner charged with felony asked him if he had better confess, and the witness replied that he had better not confess; but that the prisoner might say what he had to say to him, for it should go no further. The prisoner made a statement.—Held, that it was receivable in evidence on the trial: (*Rex* v. *Thomas*, 7 C. & P. 345.)

On a prisoner being taken before a magistrate on a charge of forgery, the prosecutor said, in the hearing of the prisoner, that he considered the prisoner as the tool of G., and the magistrate then told the prisoner to be sure to tell the truth; upon this the prisoner made a statement.—Held, that this statement was receivable in evidence: (*Rex* v. *Court*, 7 C. & P. 486.)

A prosecutor said to the prisoner, "I should be obliged to you if you would tell us what you know about it, if you will not, we of course can do nothing."—Held, that this was such an inducement to confess as would exclude what the prisoner said: (*Rex* v. *Partridge*, 7 C. & P. 551.)

The prisoner's statement, taken down on the examination before the magistrate, may be proved without calling either the magistrate or his clerk. It is no objection to the giving in evidence the prisoner's statement before the magistrate, that it was made in answer to questions put by the magistrate, if it was read over to him, and he said it was correct: (*Rex* v. *Rees*, 7 C. & P. 568.)

A constable, who apprehended a prisoner, asked him what he had done with the tap he had stolen from the prosecutor's premises; and said, "you had better not add a lie to the crime of theft."

Held, that a confession made to the constable was not receivable in evidence: (*Rex* v. *Shepherd*, 7 C. & P. 579.)

A prisoner's statement on his examination before a magistrate, may be given in evidence (if neither the magistrate or his clerk is in court) on proof by a witness who was at the examination of the handwriting of the magistrate to the depositions returned to the court; and also that it was taken down in writing and read over to the prisoner: (*Rex* v. *Reading*, 7 C. & P. 649.)

There is a difference of opinion amongst the judges whether a confession made to a person who has no authority, after an inducement held out by that person, is receivable in evidence: (*Rex* v. *Spencer*, 7 C. & P. 776.) What the wife of a person charged with felony says in his presence and hearing is admissible in evidence on the trial: (*Rex* v. *Bartlett*, 7 C. & P. 832.)

It is no objection to a prisoner's statement made before the magistrate being receivable in evidence, that a part of it was in answer to questions put by the magistrate: (*ibid.*)

The evidence against a prisoner charged with manslaughter was an admission on his part, that, unfortunately, he was the man who shot the deceased; and the fact that, on their coming together, apparently not in ill humour, from the South Metropolitan Cemetery, where the prisoner was a watchman, but with which the deceased had no connexion, the prisoner said to the deceased, "Now, you mind, don't let me see you on my premises any more." At the time this was said, the wound had been given, of which the deceased eventually died:—Held, that the evidence was sufficient to sustain the charge: (*Rex* v. *Morrison*, 8 C. & P. 22.)

A party who was charged with murder made a

statement before the coroner at the inquest, which was taken down. The paper purported that the statement was made on oath:—Held, that on the trial of the party for murder, this statement was not receivable, and that parol evidence was not admissible to show that no oath had, in fact, been administered to the prisoner: (*Reg.* v. *Wheeley*, 8 C. & P. 250.)

A girl was indicted for the murder of her child, aged sixteen days. She was proceeding from Bristol to Landoga, and she was seen near Tintern with the child in her arms at six, P.M.; she arriving at Landoga between eight and nine, P.M., without the child. The body of a child was afterwards found in the river Wye, near Tintern, which appeared not to be the child of the prisoner:—Held, that the prisoner must be acquitted, and that she could not by law either be called upon to account for her child, or to say where it was, unless there was evidence to show that her child was actually dead: (*Reg.* v. *Hopkins*, 8 C. & P. 591.)

A magistrate returned at the end of the depositions against a prisoner in a case of felony, "The prisoner being advised by his attorney, declines to say anything." It appeared at the trial, that the depositions had been taken and signed by the witnesses on the 14th of November, but that on the 10th of November minutes had been taken of the evidence, and the prisoner had made a statement which was taken down in writing by the magistrate's clerk:—Held, that this statement might be proved on the part of the prosecution, by the clerk who took it down; as whatever a prisoner has said is evidence, though the magistrate may have neglected his duty in not returning it with the depositions: (*Reg.* v. *Wilkinson*, 8 C. & P. 662.)

The Court of Queen's Bench will not grant a *habeas corpus* to take a prisoner committed for

trial before a coroner's inquest, without a very clear case of necessity: (*Reg.* v. *Cock*, 5 L. T. 214.)

In the case of *Reg.* v. *Davis*, for murder, tried before Mr. Justice Erskine at the Gloucester Assizes, April, 1839, it appeared that the information of the deceased man, and the prisoner's admissions duly taken before a magistrate in the presence of the prisoner, had been impounded by the coroner, and were delivered to the judge with the coroner's proceedings. It was objected by Mr. Maclean for the prisoner that such informations, &c. ought to have been delivered into court by the magistrate, and not by the coroner, but on their identity being proved by the magistrate's clerk, the objection was overruled.

DYING DECLARATIONS.

To make a dying declaration good evidence, the deceased must be under the impression of inevitable death—it is not sufficient that he thought he should not ultimately recover: (*Rex* v. *Van Butchell*, 3 C. & P. 629.) A dying declaration of a child under four years of age is inadmissible: (*ib.* 598.) A person who was told by the surgeon that she would never recover, said, that she "hoped he would do what he could for her for the sake of her family;" he again told her that there was no chance of her recovery:—Held, that this showed such a degree of hope in her mind as to render a statement then made inadmissible as a declaration *in articulo mortis:* (4 C. & P. 544.)

In order to render a declaration *in articulo mortis* admissible in a case of manslaughter, it is not necessary to prove expressions of the deceased, that he was in apprehension of almost immediate

death, but the judge will consider from all the circumstances whether the deceased had or had not hope of recovery: (6 C. & P. 386; 7 C. & P. 187.) Any hope of recovery, however slight, will render a dying declaration inadmissible (6 C. & P. 157.) If the person express an opinion that she shall not recover, and make a declaration, and at a subsequent part of the same day ask a person whether he thinks she will "rise again," such hope renders the previous declaration inadmissible: (7 C. & P. 238.) It is no objection that a dying declaration is in answer to questions put: (*ib.*) If a declaration *in articulo mortis* be taken down in writing and signed by the party making it, the judge will neither receive a copy of the paper in evidence, nor will he receive parol evidence of the declaration: (7 C. & P. 231.) Declarations made by a person who believes that his death is approaching, although he may have some hope left in his own mind, are admissible as dying declarations: (*Reg.* v. *Pym*, 6 L. T. 500.) Where the deceased having said that he thought he should die made a statement, and two or three days afterwards expressed his belief that he should recover, and he lived some days after:—Held, that the statement was inadmissible: (*Reg.* v. *Taylor*, 3 Cox's Crim. Cas. 84.)

MEDICAL EVIDENCE.

By stat. 6 & 7 Will. 4, c. 89, s. 1, it is enacted, that whenever upon the summoning or holding of any coroner's inquest it shall appear to the coroner that the deceased person was attended at his death, or during his last illness, by any legally qualified medical practitioner, it shall be lawful for the coroner to issue his order in the form marked (A)

in the schedule thereunto annexed, for the attendance of such practitioner as a witness at such inquest; and if it shall appear to the coroner that the deceased person was not attended at, or immediately before his death, by any legally qualified medical practitioner, it shall be lawful for the coroner to issue such order for the attendance of any legally qualified medical practitioner, being at the time in actual practice in or near the place where the death has happened, and it shall and may be lawful for the coroner, either in his order for the attendance of the medical witness, or at any time between the issuing of such order and the termination of the inquest, to direct the performance of a *post mortem* examination, with or without any analysis of the contents of the stomach or intestines, by the medical witness or witnesses who may be summoned to attend at any inquest; provided that if any person shall state upon oath before the coroner that in his or their belief the death of the deceased individual was caused partly or entirely by the improper or negligent treatment of any medical practitioner, or other person, such medical practitioner or other person shall not be allowed to perform or assist at the *post mortem* examination of the deceased.

By sect. 2, it is enacted, that whenever it shall appear to the greater number of the jurymen at any coroner's inquest, that the cause of death had not been satisfactorily explained by the evidence of the medical practitioner, or other witness or witnesses who may be examined in the first instance, such greater number of the jurymen are hereby authorized and empowered to name to the coroner in writing any other legally qualified medical practitioner or practitioners, and to require the coroner to issue his order in the form hereinbefore mentioned for the attendance of such last-men-

tioned medical practitioner or practitioners as a witness or witnesses, and for the performance of a *post mortem* examination, with or without an analysis of the contents of the stomach or intestines, whether such an examination had been performed before or not; and if the coroner having been thereunto required shall refuse to issue such order, he shall be deemed guilty of misdemeanor, and shall be punishable in like manner as if the same were a misdemeanor at common law.

By sect. 3, it is enacted, that when any legally qualified medical practitioner has attended upon any coroner's inquest in obedience to any such order as aforesaid, the said practitioner shall for such attendance at any inquest in Great Britain be entitled to receive such remuneration or fees as mentioned in the table marked (B) in the schedule thereunto annexed; and for any inquest held in Ireland the said practitioner shall be paid in the manner provided by the laws in force in that part of the United Kingdom; and the coroner is hereby required and commanded to make, according to the form marked (C) in the schedule thereunto annexed, his order for the payment of such remuneration or fee when the inquest shall be held in Great Britain, and such order may be addressed and directed to the churchwardens and overseers of the parish or place in which the death has happened, and such churchwardens and overseers, or any one of them, is and are hereby required and commanded to pay the sum of money mentioned in such order of the coroner to the medical witness therein mentioned out of the funds collected for the relief of the poor of the said place.

By sect. 4, it is provided, that no order of payment shall be given, or fee or remuneration paid to any medical practitioner for the performance of any *post mortem* examination which may be in-

stituted without the previous direction of the coroner.

By sect. 5, it is enacted, that when any inquest shall be holden on the body of any person who has died in any public hospital or infirmary, or in any building or place belonging thereto, or used for the reception of the patients thereof, or who has died in any county or other lunatic asylum, or in any public infirmary or other public medical institution, whether the same be supported by endowments or by voluntary subscriptions, then and in such case nothing therein contained shall be construed to entitle the medical officer whose duty it may have been to attend the deceased person as a medical officer of such institution as aforesaid, to the fees or remunerations herein provided.

By sect. 6, it is enacted, that where any order for the attendance of any medical practitioner as aforesaid shall have been personally served upon such practitioner, or where any such order not personally served shall have been received by any medical practitioner in sufficient time for him to have obeyed such order, or where any such order has been served at the residence of any medical practitioner, and in every case where any medical practitioner has not obeyed such order, he shall for such neglect or disobedience forfeit the sum of 5*l.* sterling, upon complaint thereof made by the coroner or any two of the jury before any two justices having jurisdiction in the parish or place where the inquest under which the order issued was held, or in the parish where such medical practitioner resides; and such two justices are thereby required upon such complaint to proceed to the hearing and adjudication of such complaint, and if such medical practitioner shall not show to the said justice a good and sufficient cause for not having obeyed such order, to enforce the said

penalty by distress and sale of the offender's goods, as they are empowered to proceed by any act of Parliament for any other penalty or forfeiture.

By sect. 7, the act not to extend to Scotland.

N.B.—The form of payment prescribed by sect. 3 is repealed by stat. 1 Vict. c. 68, s. 1, which requires the coroner to pay all witnesses immediately after the inquest.

The coroner should never dispense with medical evidence, and a *post mortem* examination in cases of murder or manslaughter, and must take care that the medical witness can identify the body.

The fees are 1*l.* 1*s.* for evidence without *post mortem* examination, or 2*l.* 2*s.* for evidence with *post mortem* examination, including *analysis*, if made.

Jurors and WITNESSES.

Jurors not attending may also be indicted or presented at the Sessions. See p. 21 — P 2 — or at the next gaol delivery 2 Hales PC 62

By 7 & 8 Vict. c. 92, s. 17, it is enacted, that if any person having been duly summoned as a juror or witness to give evidence upon any coroner's inquest, as well of liberties and franchises contributing to the county rates, as of counties, cities and boroughs, shall not, after being openly called three times, appear and serve as such juror or appear and give evidence on such inquest, every such coroner shall be empowered to impose such fine upon every person so making default as he shall think fit, not exceeding forty shillings; and every such coroner shall make out and sign a certificate containing the Christian name and surname, the residence and trade or calling of every such person so making default, together with the amount of the fine imposed and the cause of such fine, and shall transmit such certificate to the clerk of the peace for the county, riding, division or place in which such defaulter shall reside on or before

the first day of the quarter session of the peace then next ensuing, and shall cause a copy of such certificate to be served on the person so fined, by leaving it at his residence twenty-four hours at the least before the first day of the said next quarter session of the peace; and every such clerk of the peace shall copy the fine or fines so certified on the roll on which all fines and forfeitures imposed at such quarter session of the peace shall be copied, and the same shall be estreated, levied and applied in like manner, and subject to the like powers, provisions and penalties in all respects, as if such fine or fines had been part of the fines imposed at such quarter session: provided always, that nothing herein contained shall be construed to affect any power now by law vested in the coroner for compelling any person to appear and give evidence before him on any inquest or other proceeding, or for punishing any person for contempt of court in not so appearing and giving evidence, or otherwise.

committm^t for contempt 1 Chitty C L 164 It is said that a witness refusing to sign his examination may be committed. but see Hemings Case 2 Leach 996

All persons who believe in a God, the avenger of falsehood, ought to be received as witnesses. By 7 Vict. c. 85, no person offered as a witness shall be excluded by reason of incapacity from crime or interest from giving evidence, notwithstanding previous conviction; and this applies to the coroner's court as well as to all others; but infidels who believe not that there is a God, or in a future state of rewards and punishments, cannot be received in any case (Phillips on Evid. 23); nor can any infant who is not of discretion to understand the nature and obligation of an oath (2 Hawk. c. 46, s. 27); but children of any age may be examined if of sufficient discretion to distinguish between good and evil: (2 Str. 700; 1 Atk. 29.) Lunatics may be examined during a lucid interval (2 Chitty's Burn's Just. 78), and

persons deaf and dumb, through an interpreter: (1 Leach, 408.) One of the jurors may give evidence, but it must be upon oath as any other witness: (Kel. 12.) The evidence of peers must be upon oath: (1 Salk. 278.) The dying declarations of a wife are *ex necessitate* admissible against the husband in a charge of murder (Jervis, 235); and, *semble*, that in treasure trove the claimant *ex necessitate* may be a witness; but, *quære.* The second in a duel cannot be compelled to give evidence against the principal: (2 Leach C. L. 747.) All the witnesses must be sworn according to the religion they profess, as Jews upon the Pentateuch, with their hats on, Mahometans upon the Koran. The correct and proper course is to ask the witness before he is sworn whether he considers the oath he is about to take obligatory upon his conscience: (*The Queen's case*, 2 Brod. & Bing. 284.)

By 9 Geo. 4, c. 32, s. 1, a Quaker or Moravian required to give evidence in a criminal case may, instead of an oath, take an affirmation in these words: "I, A. B., do solemnly, sincerely and truly declare and affirm." And by 3 & 4 Will. 4, c. 82, Separatists may affirm in these words: "I, A. B., do, in the presence of Almighty God, solemnly, sincerely and truly affirm and declare that I am a member of the religious sect called Separatists, and that the taking of any oath is contrary to my religious belief as well as essentially opposed to the tenets of that sect, and I do also in the same solemn manner affirm and declare," &c. By 1 & 2 Vict. c. 77, it is enacted, that any person who *shall have been* a Quaker or a Moravian may make solemn affirmation and declaration in lieu of taking an oath, such affirmation or declaration to be in the words following:—

"I, A. B., having been one of the people called

Quakers (or one of the persuasion of the people called Quakers, or of the united brethren called Moravians, as the case may be), and entertaining conscientious objections to the taking of an oath, do solemnly, sincerely and truly declare and affirm."

By 1 & 2 Vict. c. 105, it is enacted, that in all cases in which an oath may lawfully be and shall have been administered to any person either as a juryman or a witness, or a deponent in any proceeding, civil or criminal, in any court of law or equity, in the United Kingdom, or on appointment to any office or employment, or on any occasion whatever, such person is bound by the oath administered, provided the same shall have been administered in such form, and with such ceremonies as such person may declare to be binding, and every such person in case of wilful false swearing may be convicted of the crime of perjury in the same manner as if the oath had been administered in the form and with the ceremonies most commonly adopted.

As to the caution to be given by a justice of the peace to an accused person making a statement, see stat. 11 & 12 Vict. c. 42, s. 19.

OF THE INQUISITION.

As any deviation from rule may be sufficient to nullify the inquisition, the coroner ought to be perfectly able to prepare that important document before he enters upon the duties of an inquest, or if doubtful of his ability, should submit the draft to counsel.

An inquisition is an indictment proceeding from the coroner and his jury, as an indictment may be considered an inquisition found by the grand jury. The same accuracy of form and expression are

required in each, and in many cases the most important words, viz., the finding of the jury, are *verbatim* the same in the indictment and the inquisition; it may therefore be taken for granted that any new and improved form of indictment for homicide will, in most cases, be a fit precedent for an inquisition; but it is in all cases best to be guarded by established precedents, such as are to be found in all good books of practice: (see *Reg.* v. *Stokes*, 2 Car. & Kir. 536.)

The inquisition should contain a plain, brief and intelligible narrative of the offence committed according to recognized words of art; but except in particular cases, where precise technical expressions are required to be used, there is no rule that other words shall be employed than such as are in ordinary use, or that in indictments or other pleadings, a different interpretation is to be put upon them than they bear in ordinary acceptation; and if where the meaning is ambiguous, it be sufficiently marked by the context, or other means, in what sense the words are intended to be used, additional words may be rejected as surplusage, and no objection can be made on the ground of repugnancy, which only exists where a sense is annexed to words which is either absolutely inconsistent therewith, or being apparently so, they are not accompanied by anything to explain or define them: (5 East, 244.) As where an indictment charged murder by "cutting the throat," and it was proved that the jugular vein was divided, although a surgeon swore that what he should call the throat was not cut, the indictment was held good: (*Rex* v. *Edwards*, 6 C. & P. 401.) So, "suffocation by placing the hands on the mouth of deceased" is proved if the jury are satisfied that any violent means were used to stop respiration: (*Rex* v. *Waters*, 7 C. & P. 250.) Every allegation must be stated positively; and

not by way of recital, inference or argument, or the like: (Jervis, 265.) A statement in the disjunctive is not sufficiently positive, because it is uncertain which allegation is relied upon: (*ib.*) Thus an indictment stating that the party murdered, or caused to be murdered; or that he wounded or murdered; conveyed or caused to be conveyed, &c.; is bad for uncertainty, and the same if it charge a party in two different characters in the disjunctive: (*ib.*) An inquisition for manslaughter charged that A. and B. in and upon C. did make an assault, and that A. with a certain stick *or* staff which he had and held, and B., with a certain stick *or* cane which he had and held, the said A. feloniously, &c. then and there did strike and beat in and upon the head of him the said A., "thereby then and there giving him" divers mortal wounds, &c.:—Held, bad, as not sufficiently showing to whom the word "giving" referred; and, *semble*, that the charging the blows to be given in the alternative with a stick *or* staff is also bad: (*Reg.* v. *Jones*, 1 Car. & Kir. 243.) The manner of death, and the means by which it was effected, must be particularly set out, and an omission in this respect is not aided by a general conclusion that the defendant so murdered, &c. (*Rex* v. *Sharrom*, 1 East P. C. 341, 421); and, therefore, if a person be indicted for one species of killing, as poisoning, he cannot be convicted on evidence of a totally different species of death, as by shooting (*ib.*); but if the means of death agree in substance with that charged, it is sufficient (*ib.*) It is not necessary to make any averment which is not required to be proved: (6 & 7 Vict. c. 83, s. 2.)

Quis, quando, ubi, quid, cujus, quomodo, quare, are said to include every necessary quality of an inquisition.

The inquisition consists of the following parts, and should be written without figures or abbreviations.

1. *The venue* in the margin, which is also repeated in the body of the inquisition, as "City and County of Bristol, to wit" (or Admiralty of England) (Jervis, 247.) By 6 Vict. c. 11, s. 2, every detached part of a county shall for the purpose of inquests be deemed to be within the county, &c. with which it has the longest common boundary; and by the same statute, s. 1, the coroner only within whose jurisdiction the body is shall hold the inquest.

2. *The place* (Dyer, 69; Cro. Jac. 276) *and time* of holding the inquisition (2 Saund. 291; 1 T. R. 316; 7 C. & P. 806), as, "An inquisition indented, taken for our Sovereign Lady the Queen at the house of Frances Paradise, known by the name or sign of the 'Bell,' situate in the parish of Bedminster, in the city and county of Bristol, this 31st day of July, in the year of our Lord, 1849, and in the thirteenth year of the reign of our Sovereign Lady Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith." If adjourned from the first place to another, it should be mentioned (though this objection was overruled at Gloucester Lammas Assizes, 1846, by Platt, B.) The first day of sitting is considered to be the day of holding the inquest; the year of the Queen is essential: (3 Mod. 80.)

3. *Before whom*, with the coroner's *title of office.* "Before me, A. B., gentleman, Her Majesty's coroner for the said city and county," to show that the coroner has jurisdiction in the case: (6 & 7 Vict. c. 83, s. 2. Venue.)

4. "*Upon view of the body* of A. B." or "of a person unknown" (6 C. & P. 151), "then and

there lying dead:" (*R.* v. *Evett*, 6 B. & C. 247; 1 East P. C. c. 5, s. 114, p. 345; 1 Russell on Crimes, 677.) The identity must be proved. A bastard must not be described by his mother's name till he has gained that name by reputation: (R. & R. 358; 6 C. & P. 151; see 137.) No addition is necessary (2 H. P. C. 182), but a name of dignity, as peer, baronet, or knight, is necessary: (Jervis, 251; 6 & 7 Vict. c. 83, s. 2. Designation.)

5. *Upon the oath* of all the jurors (*vide* Sid. 140); and the word "oath" is sufficient, although some of the jury should be Quakers (6 & 7 Vict. c. 83, s. 2); twelve at least, naming all (6 B. & C. 247), if a name in the body of the inquisition is different from the name signed, it is bad: (7 C. & P. 541.) If two of the same name, some means of distinction should be used, as the residence or the trade: (although in 7 C. & P. 538, it is held not to be essential.) By 6 & 7 Vict. c. 83, s. 2, provision is made for curing these defects in inquisitions.

6. "*Good and lawful men of the city and county aforesaid, who being then and there duly sworn and charged to inquire on behalf of our said Lady the Queen, how and by what means the said A. B. came to his death, do upon their oath aforesaid present and say.*" The above may be considered the usual introduction to the inquisition, and it is convenient to keep printed forms for use in common cases.

7. "*That on the thirtieth day of June in the year aforesaid*" (the omission of the word "of" is not essential) (3 C. & P. 414). The day must be stated as accurately as possible, but the hour need not be stated. The time need not be stated, if time is not the essence of the offence: (6 & 7 Vict. c. 83, s. 2.)

8. "*At the parish aforesaid in the city and county aforesaid.*" The place must be accurately stated as a ward, parish, hamlet, borough, manor, castle,

forest, or other known place out of a town: (Jervis, 261.) If a city or town contain two or more parishes, the parish must be stated; if a parish contain two or more towns, the town must be stated (*ib.*); the county or district co-extensive with the coroner's jurisdiction must also be stated, and must be the same as in the margin (*ib.*); but see 6 & 7 Vict. c. 83, s. 2.

9. "*John Downs, late of the parish of St. Mary, Redcliff, in the city and county aforesaid, labourer.*" The party charged should, if he be known, be described by his Christian and surname; if there be any doubt, he should be described with an *alias;* if unknown, he may be described as "a certain person to the jurors aforesaid unknown," adding, if possible, some description: (R. & R. 409; Jervis, 254.) He must also be described by his addition, viz., his estate, degree, or mystery, and his town or hamlet or place, and county: (Jervis, 257.) The prosecutor was termed in the indictment J. N. B. Esquire; it was proved that his name was J. N. B., but no evidence was given that he was an esquire:—Held, that the court would take notice that esquire was an addition and not part of the name, and that it was immaterial that such addition should be proved as laid: (*Reg.* v. *Keys and two others*, 8 L. T. 539.)

10. "*Not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil.*" These words, although generally used, are considered immaterial.

11. "*With force and arms.*" The omission of these words in indictments is aided by 7 Geo. 4, c. 64, s. 20, but that statute does not apply to coroners' inquisitions; the words, however, are not essential (2 Starkie P. C. c. 23, s. 85); and are provided for by 6 & 7 Vict. c. 83, s. 2.

12. "*In and upon one Thomas Stone,*" or in and

upon "a certain male child without a name," or to the jurors aforesaid unknown: (6 C. & P. 151.) An indictment charged the murder of "Eliza Waters;" deceased was the illegitimate child of Eleanor Waters, the prisoner. Witness said on the trial "The child was called Eliza, I took it to be baptized, and said it was Eleanor Waters' child."—*Semble*, not sufficient proof that the surname of deceased was Waters: (*Rex* v. *Waters*, 7 C. & P. 250.) An indictment against a married woman for the murder of her legitimate child, stated that she "in and upon a certain infant, male child of tender age, to wit, of the age of six weeks, and not baptized, feloniously, wilfully, &c., did make an assault."—Held, that this description was not sufficient, as it neither stated the name of the child, nor stated it to be to the jurors unknown: (*Reg.* v. *Biss*, 8 C. & P. 773.)

An illegitimate child six weeks old was baptized on a Sunday, and from that day till the following Tuesday was called by its name of baptism and its mother's surname.—Held, to be sufficient evidence to warrant the jury in finding that the deceased was properly described by those names in an indictment for murder: (*Reg.* v. *Evans*, 8 C. & P. 765.)

13. "*In the peace of God and of our said Lady the Queen, then and there being.*" This is usual but unnecessary, particularly since 6 & 7 Vict. c. 83.

14. "*Feloniously, wilfully and of his malice aforethought did make an assault.*" All these words are essential in an inquisition of murder, and the omission of either will reduce the charge to manslaughter; the word "*feloniously*" is sufficient in inquisitions of manslaughter, but in murder and *felonia de se* the whole averment must be used.

15. "*And that the said John Downs, with a certain drawn sword made of iron and steel.*" The means of killing must be distinctly shown, and it is usual to describe the component parts of the instrument of death, though not essential. A certain sharp instrument to the jurors unknown is sufficient: (*Rex* v. *Groundsell*, 7 C. & P. 708.)

16. "*Which he the said John Downs, then and there held in his right hand,*" or in "*both his hands.*" These words are usual; but it is not necessary to prove which hand held the weapon.

17. "*Him the said Thomas Stone in and upon the left breast of him the said Thomas Stone, did then and there strike, stab, and penetrate.*" The true place of the wound is required, "about the breast" is bad, for it may mean in the neck, arms, &c.

If the death be occasioned by any weapon, the name and description of that weapon ought to be stated, yet if it appear that the party was killed by a different weapon, the difference is immaterial if they produce the same sort of mischief: (*Rex* v. *Sharwin*, 1 East P. C. 341, 421.)

So if a death be laid to be by one sort of poisoning, and it turn out to be by another; but some or other must be alleged in the indictment, which ought to be as near the truth as possible: (*ib.*)

In a case where the death proceeded from suffocation, by the swelling up of the passage of the throat, and such swelling proceeding from wounds occasioned by forcing things into the throat; it was held that the statement might be that the things were forced into the throat, and the deceased thereby suffocated, and that it was not necessary to mention the immediate cause of suffocation; namely, the swelling

of the throat: (*Rex* v. *Tye*, 1 Russ. C. & M. 470; R. & R. C. C. 345.)

An indictment for murder, which states the death to be by striking and beating the deceased with a piece of brick, is not supported by proof that the prisoner knocked him down with his fist, and that the death was caused by the deceased striking his head by falling on a piece of brick in consequence of the blow: (*Rex* v. *Kelly*, Car. Cr. Law, 75; R. & M. C. C. 113; Lew. C. C. 193; *Rex* v. *Wrigley*, Lew. C. C. 127.)

So an indictment charging the death to be by the prisoner striking and beating the deceased upon the head, is not supported by proof that he knocked him down by a blow upon the head, and that he was killed by a mortal wound received by falling on the ground: (*Rex* v. *Thompson*, Car. Cr. Law, 75; R. &. M. C. C. 139; Lew. C. C. 194.) In *Reg.* v. *Warman* (2 Car. & Kir. 196), Alderson, B., said "It is sufficient if the mode of death is substantially proved as laid; the death is sufficiently shown to have arisen from a stroke feloniously given by an instrument held by the prisoner, and whether that stroke produced the death by inflicting a wound or a bruise is unimportant."

Where three persons had been convicted upon an indictment for murder, by striking upon the head with stones, it is not a ground of motion in arrest of judgment, that no number of stones is charged in the indictment, nor is the statement that the stones were "held by the prisoners in their right hands," sufficient ground for such a motion, as being too general and indefinite; and it seems that a sentence to a certain extent ungrammatically constructed, in that part of such an indictment which stated the manner of killing, is not a sufficient objection on which to arrest the

judgment, if from the whole tenor of the charge the statement be sufficiently clear to furnish an intelligible description of the manner of committing the offence: (*Rex* v. *Dale*, 13 Price, 172; 9 Moore, 19; 1 R. & M. C. C. 5.)

An inquisition for murder, charging that prisoner upon a new-born female child did make an assault, and the said new-born child with "both her hands, in a certain piece of flannel of no value, then and there feloniously, wilfully, and of her malice aforethought, did wrap up and fold, by which means of wrapping up and folding the said new-born female child in the piece of flannel aforesaid, she, the said new-born female child, was then and there suffocated and smothered, of which said suffocation, &c.," she instantly died, is good, although the inquisition does not go on to allege that the flannel was folded over the child's mouth, or enclosed the head or the like: (*Rex* v. *Huggins*, 3 C. & P. 414.) An indictment against a woman for manslaughter in neglecting to supply an infant of tender age with sufficient food, is bad if it does not state a duty in the prisoner to supply the child with food; but if the indictment charges that the person not supplied with food was imprisoned by the party accused, that sufficiently shows the duty to supply food: (*Reg.* v. *Edwards*, 8 C. & P. 611.)

18. "*And that the said John Downs, with the sword aforesaid, did then and there give unto him the said Thomas Stone, in and upon the left breast of him the said Thomas Stone, one mortal wound of the breadth of one inch, and of the depth of four inches.*" This is the usual and most approved form.

An indictment for murder, which states wounds as contributing to the death, need not state their length, depth, or breadth (*Rex* v. *Morley*, 1 R. &

M. C. C. 97); whether the wounds be one or more (6 C. & P. 371); it must state that the prisoner gave the deceased a mortal wound: (*Rex* v. *Lad*, 1 Leach C. C. 96.) It is not necessary to describe the form, &c., of bruises (*Rex* v. *Turner*, Lew. C. C. 177), nor to allege the causes merely natural which conduced to the death, but only the act charged, if that act hastened the death: (*Rex* v. *Webb*, 1 Moo. & Rob. 405.)

19. "*Of which said mortal wound he the said Thomas Stone then and there died.*" If several wounds and several poisons, &c., it is sufficient to say generally that he died of "*the different wounds*," or "*several poisons above mentioned;*" for probably the whole together caused the death. A. was charged with suffocating B. by placing both her hands about the neck of B.—Held, that A. might be convicted on this indictment if B. was suffocated in any manner either by A. or any other person in her presence, she being privy to the commission of the offence. The phrase "about the neck," in an indictment for murder, is good, and is not open to the same objection as "about the breast:" (*Rex* v. *Culkin*, 5 C. & P. 121.)

A. was indicted for the manslaughter of B. by a blow of a hammer. No proof was given of the striking of any blow, only of a scuffle between the parties. The appearance of the injury was consistent with the supposition either of blow with a hammer, or of a push against the lock or key of a door.—Held, that if it was occasioned by a blow with a hammer, or any other hard substance held in the hand, it was sufficient to support an indictment; but otherwise if it was the result of a push against the door: (*Rex* v. *Martin*, 5 C. & P. 128.)

Indictment on stat. 43 Geo. 3, c. 58. The first

count stated that A., with a certain pistol, feloniously, wilfully, unlawfully, and of his malice aforethought intending to kill and murder him, and that B. and C. were aiding and abetting A. Another count stated that an unknown person, feloniously, wilfully, maliciously, and unlawfully did shoot at D. with intent feloniously, wilfully, and of his malice aforethought to kill and murder him, and that A., B., and C. were aiding and abetting the said unknown person, the felony aforesaid, in manner and form aforesaid, to do and commit, and were then knowing and privy to the committing of the said felony; without alleging that they were feloniously present aiding, &c. The jury acquitted B. and C., and found A. guilty generally, but afterwards added that he was not the person who fired the pistol:—Held that he was well convicted on this indictment: (2 Marsh. 466; 3 Price, 145.)

20. "*And so the jurors aforesaid, upon their oath aforesaid, do say that the said John Downs, him the said Thomas Stone, in manner and by the means aforesaid, feloniously, wilfully, and of his malice aforethought did kill and murder.*" This concluding averment does not require time or place: (7 C. & P. 538.)

21. "*Against the peace of our said Lady the Queen.*" These words were formerly essential (1 Hale, 130; 2 Hale, 188; 2 Hawk. 242); but are no longer so by 6 & 7 Vict. c. 83, s. 2.

22. "*Her crown and dignity:*" usual but unnecessary: (2 Hawk. 243.)

An inquisition of *felo de se* only differs from an inquisition of murder in the assault being laid "*himself upon himself.*"

An inquisition of murder may be made to serve for manslaughter by striking out the words "*not having the fear of God,*" &c., the "*malice afore-*

thought," and the word "*murder*" concluding with "feloniously did kill and slay:" (Archbold Crim. Law, 373.)

Where the death is not immediate, or if it take place in a different place from the stroke, &c., those facts must appear in the inquisition.

If an indictment have an interlineation and a caret at the proper place where the interlined words are to come in, the court will take notice of the caret, and read the indictment correctly: (7 C. & P. 319.) The words "*thereby then and there*" are of infinite service in inquisitions, and being liberally used save much circumlocution.

It is unnecessary to make any observation on inquisitions where the death is unattended with felony, a mere statement of facts is sufficient, and attention to the precedents will afford all the information required.

By stat. 6 & 7 Vict. c. 83, s. 2, it is unnecessary to affix seals to or to write upon parchment any other inquisitions than those for murder or manslaughter.

An inquisition to which is affixed a printed stamp opposite the signatures of the coroner and jurymen respectively, and concluding with the usual averment, that it was given under their hands and seals is sufficient: (*Reg.* v. *Sheats and Biles*, 7 L. T. 433.)

An inquisition was stated to have been held on the 15th of June, and by adjournment, on several successive days; but it purported to have been signed and sealed on the day first aforesaid:—Held, sufficient (*ib.*), and that the allegation of the adjournments were unnecessary: (*ibid.*)

The principal was described in the inquisition as Thomas Williams, otherwise John Williams, omitting the word "called:" *Quære* (per Erle, J.,

and Platt, B.), whether the inquisition was bad for uncertainty: (*ib.*)

A count in an indictment charged A. with the murder of B., and also charged C. and D. with being present, aiding and abetting A. in the commission of the murder. It appeared that A. was an insane person:—Held, therefore, that C. and D. could not be convicted on this count: (*Rex* v. *Tyler*, 8 C. & P. 616.)

By stat. 6 & 7 Vict. c. 83, s. 2, it is enacted, that no inquisition found upon or by any coroner's inquest, nor any judgment recorded upon or by virtue of any such inquisition, shall be quashed, stayed, or reversed for want of the averment therein of any matter unnecessary to be proved, nor for the omission of the words, "with force and arms," or of the words "against the peace," or of the words "against the form of the statute," nor for the omission or insertion of any other words or expressions of mere form or surplusage, nor for the insertion of the words "upon their oaths," instead of the words "upon their oath," nor for omitting to state the time at which the offence was committed, when time is not the essence of the offence, nor for stating the time imperfectly, nor because any person or persons mentioned in any such inquisition is or are designated by a name of office or other descriptive appellation, instead of his, her, or their proper name or names, nor by reason of the noninsertion of the names of the jurors in the body of any such inquisition, or of any difference in the spelling of the names of any of the jurors in the body of any such inquisition, and the names subscribed thereto, nor because any juror or jurors shall have set his or their mark or marks to any such inquisition, instead of subscribing his or their name or names thereto,

nor because any such mark or marks is or are unattested, provided the name or names of such juror or jurors is or are set forth, nor because any juror or jurors has or have signed his or their Christian name or names by means of an initial or partial signature only, and not at full length, nor because of any erasures or interlineations appearing in any such inquisition, unless the same shall be proved to have been made therein after the same was signed, nor for want of a proper venue, where the inquest shall appear or purport to have been taken by a coroner of or for the county, riding, city, borough, liberty, division or place in which it shall appear or purport to have been taken, nor (except only in cases of murder or manslaughter) for or by reason of any such inquisition not being duly sealed or written upon parchment, nor by reason of any such inquisition having been taken before any deputy instead of the coroner himself, nor because the coroner and jury did not all view the body at one and the same instant, provided they all viewed the body at the first sitting of the inquest; and in all or any of such cases of technical defect as hereinbefore mentioned, it shall be lawful for any judge of either Her Majesty's courts at Westminster, or any judge of assize or gaol delivery, if he shall so think fit, upon the occasion of any such inquisition being called in question before him, to order the same to be amended in any of the respects aforesaid, and the same shall forthwith be amended accordingly.

13 & 14 Vict c 115 Act to consolidate & amend the Laws relating to Friendly Societies 15th Augt 1850 — — — — —

I hereby certify that I have held an Inquest on the Body of
late of
and that the Jury have returned the following verdict

And it does not appear to me that he has been deprived of life by means of any person beneficially interested in obtaining Burial Money from any Society -

=

7 & 8 Vict c 92 s 17-

I the undersigned James Haslam Sellers the duly appointed Deputy of Thomas Hesmond Dunn one of Her Majesty's Coroners for the County of Lancaster do certify pursuant to the directions of the Statute in that behalf made and provided that a Fine of forty Shillings is imposed by me on
of in the said County
for his default after being openly called three times in not appearing and serving as a Juror upon the Coroners Inquest now held before me at the House of in the said County he the said having been duly summoned as such Juror upon the said Inquest given under my hand this day of in the year of our Lord 1852

J. H. Sellers

PRECEDENTS.

1. Warrant to summon a Jury.

To the superintendent of police, and to all constables and peace officers in and for the county of .

} By virtue of my office these are, in Her
to wit. } Majesty's name, to charge and command you, that on sight hereof you summon twenty-four able and sufficient men, of the parish of , personally to be and appear before me on the day of instant, at of the clock in the forenoon, at the house of known by the name or sign of the in the said parish of in the said county of , then and there to do and execute all such things as shall be given them in charge, on behalf of our Sovereign Lady the Queen, concerning the death of *P. Q.* And you are also to attend at the time and place above mentioned, to make a return of those you shall so summon. And further, to do and execute such other matters as shall be then and there enjoined you. And have you there this warrant.

Given under my hand and seal this day of 18 .

A. B. (L.S.)
Coroner.

Or the following:

To the police officers of the city and county of particularly in the parish of .

City and county of } By virtue of my office, I
, to wit. } hereby require, that on sight hereof you summon fifteen[1] sufficient men, of the said city and county, personally to appear before me, on the day of instant, at of the clock in the noon, at the house of called the in , in the said city and county, then and there to inquire on Her Majesty's behalf, touching the death of . And that the summoning officer attend at the same time and place, with this warrant, and the names of the persons summoned indorsed thereon.

Given under my hand and seal this day of 18 .

J. B. (L. S.)
Coroner.

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2. SUMMONS FOR JURYMEN.

} By virtue of a warrant under the hand
to wit. } and seal of *A. B.*, gent., one of Her Majesty's coroners for the said county, you are hereby summoned personally to be and appear before him as a juryman, on the day of instant, at of the clock in the noon precisely, at the house of known by the sign of the in the parish of in the said county, then and there to inquire on Her Majesty's behalf, touching the death of *P. Q.*, and further to do and execute such other matters and things as shall be then and there given you in charge,

(1) There being no difficulty in obtaining an additional number of jurymen in large towns, it is seldom necessary to summon more than twelve in the first instance.

and not to depart without leave. Thereof fail not at your peril.

Dated the day of 18 .

H. S.

Constable of the said parish of

To Mr. *E. B.* of the parish of in the county of carpenter.

[The above to be served personally or left with some of the family, at the dwelling-house of each juryman. The persons summoned should be householders, able to write their names.]

Indorsement on the Warrant when returned to the Coroner by the summoning Officer.

The execution of this warrant appears by the panel thereto annexed. The answer of

E. B.

[Then follows a list of persons summoned.]

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3. Summons for a Witness.

} Whereas I am credibly informed you
to wit. } can give evidence on behalf of our Sovereign Lady the Queen, touching the death of *A. B.*, now lying dead in the parish of in the said county of . These are, therefore, by virtue of my office, in Her Majesty's name, to charge and command you personally to be and appear before me, at the dwelling-house of *C. D.*, known by the sign of , in in the said parish of , at of the clock in the evening, on the day of instant, then and there to give evidence and be examined on Her Majesty's behalf, before me and my inquest, touching the premises. Hereof fail not, as you will answer the contrary at your peril.

Given under my hand the day of 18 .

To Mr. *M. N.*, &c.

J. B.

Coroner.

4. Proclamation to be made by the Officer on opening the Court.

Oyez! oyez! oyez! You good men of this county [*or* city *or* borough, *as the case may be*], summoned to appear here this day to inquire for our Sovereign Lady the Queen, when, how, and by what means *A. B.* came to his death, answer to your names as you shall be called, every man at the first call, upon the pain and peril that shall fall thereon.

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5. Proclamation when there is a Deficiency of Jurymen.

You good men who have been already severally called and have made default, answer to your names and save your peril.

---

6. Coroner's Caution to the Jury.

Gentlemen,—Attend to your foreman's oath, for the oath *A. B.* your foreman upon this inquest is about to take on his part, is the oath you are severally to observe and keep on your parts.

---

7. Foreman's Oath.

You shall diligently inquire and true presentment make of all such matters and things as shall be here given you in charge, on behalf of our Sovereign Lady the Queen, touching the death of *A. B.*, now lying dead, of whose body you shall have the view; you shall

present no man from hatred, malice or ill-will, nor spare any through fear, favour or affection, but a true verdict give according to the evidence and the best of your skill and knowledge.

So help you GOD [*kiss the Testament.*]

---

8. OATH.

[To be administered to the other jurymen, three or four at a time. Quakers, Moravians and Separatists affirm separately, and after the others.]

The same oath which *A. B.*, your foreman upon this inquest, hath now taken before you on his part, you and each of you, are severally well and truly to observe and keep on your parts.

So help you GOD [*kiss the book.*]

AFFIRMATION.—"I, *A. B.*, being [*or by* 1 & 2 Vict. c. 77, 'having been'] one of the people called Quakers, do solemnly, sincerely and truly affirm, that I will inquire on behalf of the Queen, how and by what means *N. N.* came by his death, and will return a true verdict according to the evidence."

Dº by Separatists vide p. 39 ante — 3
3 & 4 W. 4 c. 82 — — — — — — — —

9. SUMMONS FOR THE ASSISTANCE OF A SURGEON UNDER 6 & 7 WILL. 4, c. 89, s. 1.

[This form is scarcely ever required in practice; medical men usually attending on a request from the coroner.]

Coroner's inquest at upon the body of .

By virtue of this my order as coroner for , you are required to appear before me and my jury, at on the day of , 18 , at o'clock in the noon, to give evidence touching the death of [*and then add where the witness is required to make or assist*

in making a post mortem examination, and make or assist in making a *post mortem* examination of the body, with *or* without an analysis, *as the case may be*, and report thereon at the said inquest.]

To , surgeon [*or* M. D., *as the case may be.*]

(Signed)

Coroner.

---

10. Proclamation for the Attendance of Witnesses.

All persons who can give evidence on behalf of our Sovereign Lady the Queen, when, how, or by what means *A. B.* came to his death, come forth, and you shall be heard.

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11. Oath of Witnesses.

The evidence you shall give to this inquest on behalf of our Sovereign Lady the Queen, touching the death of *A. B.*, shall be the truth, the whole truth, and nothing but the truth.

So help you God.

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12. Oath of Interpreter.

You shall well and truly interpret unto the several witnesses here produced, on behalf of our Sovereign Lady the Queen, touching the death of *A. B.*, the oath that shall be administered unto them, and also the questions and demands which shall be made to the witnesses by the court or the jury concerning the matters of this inquiry, and you shall well and truly interpret the answers which the witnesses shall thereunto give, according to the best of your skill and ability.

So help you God.

---

13. A Jew's Oath

Is similar to that of a Christian, but the Jew swears on the Pentateuch with his hat on, and concludes,

"So help me Jehovah."

---

14. Order for Burial.

[Forms are supplied by the Registrar-General on application.]

(Pursuant to the act of 6 & 7 Will. 4, c. 86, to be given by the coroner to the undertaker or other person having charge of the funeral.)

I , coroner of , do hereby order the burial of the body now shown to the inquest jury as the body of .

Witness my hand this day of , 18 .

J. B.,
Coroner.

[N.B.—The undertaker or other person receiving this order must deliver it to the minister or officiating person who shall be required to bury or perform any religious service for the burial of the dead body.]

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15. Depositions of Witnesses.

[On a sheet of foolscap paper.]

City and county of } Informations of witnesses se-
, to wit. } verally taken and acknowledged on behalf of our Sovereign Lady the Queen, touching the death of , at the house of known by the sign of the in the parish of in the said city and county of , on the day of , in the year of the reign of our Sovereign Lady Queen Victoria, before me , Gentleman, Her Majesty's coroner for the said city

and county, at an inquest then and there held on view of the body of the said , then and there lying dead as follows, *to wit.* [*The evidence should be taken down in the first person, as* On the first of January instant, at eight o'clock in the morning, "I saw," &c., not "the witness saw."] or sworn

Taken and acknowledged ~~the day of 18~~ before me

all the above informations were severally taken and acknowledged ~~the day of 18~~ before me

~~16.~~ INQUISITION.

City and county of } An inquisition indented taken
, to wit. } for our Sovereign Lady the Queen, at the house of , known by the name or sign of the , situate in the parish of , within the city and county of , this day of , in the year of our Lord 18 , and in the year of the reign of our Sovereign Lady Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland, Queen, defender of the faith, before me, , Gentleman, Her Majesty's coroner for the said city and county, on view of the body of , then and there lying dead, upon the oath of [*jurors' names at full length*], good and lawful men of the said city and county, who being then and there duly sworn and charged to inquire for our said Sovereign Lady the Queen, when, how, and by what means the said came to his death, do, upon their oath present and say:— That , late of the parish aforesaid, in the city and county aforesaid, labourer, on the day of , in the year aforesaid, at the parish aforesaid, in the city and county aforesaid, with force and arms in and upon the said , in the peace of God, and of our said Lady the Queen, then and there being, feloniously did make an assault, and that the said with both his hands, him the said did then and there in and upon the head, nose, and both temples of him the said , feloniously strike and beat. And that the said by the striking and beating aforesaid, did then and there give unto him the said divers mortal bruises in and upon

the said head, nose, and both temples of him the said , and that the said by the striking and beating aforesaid, did also then and there cause a mortal effusion of blood upon the brain of the said , of which said several mortal bruises and mortal effusion of blood the said then and there languished, and languishing did live until the day of , in the year aforesaid, on which said day of , in the year aforesaid, at the parish aforesaid, in the city and county aforesaid, the said of the several mortal bruises and effusion of blood aforesaid, did die, and so the jurors aforesaid upon their oath aforesaid, do say that the said , him the said , in manner and by the means aforesaid, feloniously did kill and slay, against the peace of our said Lady the Queen, her crown and dignity.

In witness whereof, the said coroner and jurors have hereunto set their hands and seals the day and year first above written.

[To be written on parchment fourteen inches wide, and signed and sealed by the coroner, and at least twelve of the jurors, without abbreviation, in cases of murder or manslaughter; but by 6 & 7 Vict. c. 83, s. 2, may be written on paper, and without seals *in all other cases.*]

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17. Recognizance.

[To be written on parchment fourteen inches wide, and signed by the coroner but not by the witnesses.]

City and county of } *A. B.*, of No. 6, street, , to wit. } in the said city of , widow; *C. D.*, of No. 1, street, in the county of , spinster, as mainpernor of *E. F.*, of the same place, spinster, an infant; *G. H.*, of No. 2, street, in the city of aforesaid, butcher, as mainpernor of *H. H.*, of the same place, spinster, his daughter; and *I. J.*, of No. 3, street aforesaid, in the said city, surgeon, do severally acknowledge to owe to our Sovereign Lady the Queen the sum

of forty pounds each, of lawful money of Great Britain, to be levied on their several goods and chattels, lands or tenements, by way of recognizance, to Her Majesty's use, in case default shall be made in the condition following:—The condition of this recognizance is such, that if the above named *A. B.*, *C. D.*, *E. F.*, *G. H.*, *H. H.*, and *I. J.*, do severally personally appear at the next assizes to be holden in and for the county of , and if the said *A. B.* shall then and there prefer, or cause to be preferred, to the grand jury a bill of indictment against *A. A.*, late of the parish of , in the said city and county of , labourer, and now in custody for feloniously killing and slaying *M. B.*, late of the said parish and city and county aforesaid, late the husband of the said *A. B.*, and if the said *C. D.*, *E. F.*, *G. H.*, *H. H.*, and *I. J.*, do then and there severally personally appear to give evidence on such bill of indictment to the said grand jury, and in case the said bill of indictment shall be returned by the grand jury a true bill, then if they the said *A. B.*, &c., do severally appear at the said assizes, and the said *A. B.* shall then and there prosecute, or cause to be prosecuted, the said *A. A.* on such indictment, and the said *A. B.*, &c., do then and there severally give evidence to the jury that shall pass on the trial of the said *A. A.*, touching the premises; and in case the said bill of indictment shall be returned by the grand jury not found, that then they do severally personally appear at the said assizes to be holden as aforesaid, and then and there prosecute and give evidence to the jury that shall pass on the trial of the said *A. A.* upon an inquisition this day taken before me, Her Majesty's coroner for the said city and county of , on view of the body of the said *M. B.*, late the husband of the said *A. B.*, and not depart the court without leave, then this recognizance to be void, otherwise to remain in full force.

Taken and acknowledged this day of , 18 , before me,

W. Y.
Coroner.

18. Commitment for Manslaughter.

[Written on paper and under seal.]

City and county of } Whereas, by an inquisition
, to wit. } taken before me, , Her Majesty's coroner for the said city and county, on the day of 18 , on view of the body of , lying dead in the parish of , in the said city and county, stands charged with *feloniously killing and slaying*(1) the said . These are, therefore, by virtue of my office, in Her Majesty's name, to charge and command you, or any of you, forthwith, safely to convey the body of the said to Her Majesty's gaol in and for the said city and county, and safely to deliver the same to the keeper of the said gaol, and these are likewise, by virtue of my said office, in Her Majesty's name, to will and require you the said keeper, to receive the body of the said into your custody, and safely to keep in the said gaol until shall be thence discharged by due course of law. And for your so doing this is your warrant.

Given under my hand and seal this day of 18 .

J. B. (L.S.)
Coroner.

To the police officers and other of Her Majesty's officers of the peace for the city and county of ; and also to the keeper of Her Majesty's gaol there.

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19. Warrant to apprehend a Person for Murder.

[Written on paper and under seal.]

} Whereas, by an inquisition taken be-
to wit. } fore me, one of Her Majesty's coroners for the said county of , this day of ,

---

(1) In cases of murder "*with the wilful murder of.*"

at the parish of , in the said county of , on view of the body of *A. B.* then and there lying dead, one *C. D.*, late of the parish aforesaid, in the county aforesaid, labourer, stands charged with *the wilful murder* of the said *A. B.* These are, therefore, by virtue of my office, in Her Majesty's name, to charge and command you, some or one of you, without delay, to apprehend and take into custody the said *C. D.*, and to convey him to the gaol of the said county, and safely to deliver him to the keeper of the said gaol, that he may be dealt with according to law. And for your so doing this is your warrant.

Given under my hand and seal the day of 18 .

J. B. (L.S.)
Coroner.

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20. WARRANT OF DETAINER FOR MURDER.

[Written on paper and under seal.]

to wit. } Whereas you have in your custody the body of *C. D.*, and whereas by an inquisition taken before me, one of Her Majesty's coroners for the said county of , the day and year hereunder written, at the parish of , in the said county, on view of the body of *A. B.*, then and there lying dead, he, the said *C. D.*, stands charged with *the wilful murder* of the said *A. B.* These are, therefore, by virtue of my office, in Her Majesty's name, to charge and command you to detain and keep in your custody the body of the said *C. D.* until he shall be thence discharged by due course of law. And for your so doing this is your warrant.

Given under my hand and seal the day of 18 .

J. B. (L.S.)
Coroner.

To the keeper of Her Majesty's gaol of , in the said county.

21. To bury a Felo de se, under 4 Geo. 4, c. 52.

[Written on paper.]

} Whereas, by an inquisition taken
to wit. } before me, one of Her Majesty's coroners for the said county of , this day of , in the year of the reign of Her Majesty Queen Victoria, at the parish of , in the said county of , on view of the body of *A. B.*, then and there lying dead. The jurors, in the said inquisition named, have found that the said *A. B.* feloniously, wilfully, and of his malice aforethought, killed and murdered himself. These are, therefore, by virtue of my office, to will and require you to cause the body of the said *A. B.* to be buried in the churchyard of your parish within twenty-four hours from this time, and between the hours of nine and twelve at night. And for your so doing this is your warrant.

Given under my hand and seal this day of 18 , at o'clock in the noon.

W. B. (L.S.)
Coroner.

To the churchwardens and constables of the parish of , in the county of .

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22. To take up a Body interred, supposed to have died by violence.

City and county of } Whereas complaint hath been
, to wit. } made to me, Her Majesty's coroner for the said city and county of , that *B. C.* was buried in the churchyard of your parish in or about the month of , 18 , and that the said *B. C.* died not of a natural but a violent death, and no inquest hath been held upon the said body. These are, therefore, by virtue of my office, in Her Majesty's name, to charge and command you, that you forthwith cause the body of the said *B. C.* to be disinterred,

and give me notice when the same is ready for inspection, that I and my jury may view the same and proceed according to law.

Dated this day of , 18 .

J. B. (L.S.)
Coroner.

To the minister, churchwardens, and overseers of the parish of , in the city and county of .

[N.B.—In this case the coroner ordered disinterment fourteen months after the burial; a verdict of wilful murder was returned, and the murderess was committed and executed for the crime. Had the jury returned a verdict of natural death the coroner might have been censured for interfering after so great a lapse of time without the authority of the court, which, in this case, the friends of the deceased declined to incur the expense of applying for.]

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23. Warrant against a Witness for Contempt of Summons.

[On paper.]

to wit. } Whereas I have received credible information that *A. B.*, of the parish of A., in the said county of , can give evidence on behalf of our sovereign Lady the Queen, touching the death of *C. D.*, now lying dead in the said parish of A., in the county aforesaid; and whereas the said *A. B.* (having been duly summoned to appear and give evidence before me and my inquest touching the premises, at the time and place in the said summons specified, of which oath hath been duly made before me) hath refused and neglected so to do, to the great hinderance and delay of justice. These are, therefore, by virtue of my office, in Her Majesty's name to charge and command you, or one of you, without delay to apprehend and bring before me, one of Her Majesty's coroners for the said county, *now sitting at the* , *in*

the parish aforesaid, by virtue of my said office, the body of the said *A. B.*, that he may be dealt with according to law. And for your so doing this is your warrant.

Given under my hand and seal this day of 18 .

M. N. (L.S.)
Coroner.

To all constables and other Her Majesty's officers of the peace in and for the county of .

Or, if necessary, add "and also to *J. K.*, my special officer for this purpose.

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24. WARRANT OF COMMITMENT OF A WITNESS REFUSING TO GIVE EVIDENCE AFTER BEING APPREHENDED FOR A CONTEMPT OF SUMMONS.

[On paper.]

to wit. } Whereas I heretofore issued my summons under my hand, directed to *E. F.*, requiring his personal appearance before me, one of Her Majesty's coroners for the said county of , at the time and place in the said summons mentioned, to give evidence and be examined on Her Majesty's behalf touching the death of *A. B.*, then and there lying dead, of the personal service of which said summons, oath hath been duly made before me; and whereas the said *E. F.*, having neglected and refused to appear, pursuant to the contents of the said summons, I thereupon afterwards issued my warrant, under my hand and seal, in order that the said *E. F.*, by virtue thereof, might be apprehended and brought before me, to answer the premises; and whereas the said *E. F.*, in pursuance thereof, hath been apprehended and brought before me, now duly sitting by virtue of my office, and hath been duly required to give evidence and be examined before me and my inquest on Her said Majesty's behalf, touching the death of the said *A. B.*; yet the said *E. F.*, notwithstanding, hath wilfully and absolutely refused to give evidence and be examined touching the premises, or to give

sufficient reason for his refusal, in wilful and open violation and delay of justice. These are, therefore, by virtue of my office, in Her Majesty's name, to charge and command you, or one of you the said constables, headboroughs, and others Her Majesty's officers of the peace in and for the said county of , forthwith to convey the body of the said *E. F.* to the keeper of the gaol at , in the said county, and safely to deliver the same to the keeper of the said gaol there; and these are likewise, by virtue of my said office, in Her Majesty's name, to will and require you the said keeper to receive the body of the said *E. F.* into your custody, and him safely to keep in the said gaol until he shall consent to give his evidence and be examined before me and my inquest on Her Majesty's behalf, touching the death of the said *A. B.*, or until he shall be from thence discharged by due course of law. And for your so doing this is your warrant.

Given under my hand and seal this day of 18 .

J. B. (L.S.)
Coroner.

To the constables, headboroughs, and others of Her Majesty's officers of the peace in and for the said county of , and also to the keeper of the gaol in the said county.

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25. To commit a Person who has been examined before the Coroner's Inquest, and after signing his Information refuses to enter into a Recognizance to appear and give Evidence at the Assizes.

[On paper.]

} Whereas, upon an inquisition this day
to wit. } taken before me, one of Her Majesty's coroners for the said county of , at the parish of A., in the said county, on view of the body of *C. D.*, then and there lying dead, one *J. S.*, late of the parish aforesaid, in the county aforesaid, labourer, was, by my inquest then and there sitting, found guilty of the

wilful murder of the said *C. D.* And whereas one *E. F.*, of the parish and county aforesaid, baker, was then and there examined, and gave information in writing before me and my inquest touching the premises, and which said information he, the said *E. F.* then and there before me and my inquest duly signed and acknowledged, and by which said information it appears that the said *E. F.* is a material evidence on Her Majesty's behalf against the said *J. S.* now in custody, and charged by my said inquest with the said murder, and the said *E. F.* having wilfully and absolutely refused to enter into the usual recognizances for his personal appearance at the next assizes, to be holden for the said county of , at , in the said county, and then and there to give evidence on Her Majesty's behalf against the said *J. S.* touching the premises, to the great hinderance and delay of justice. These are, therefore, by virtue of my office, in Her Majesty's name, to charge and command you or one of you the said constables and others Her Majesty's officers of the peace in and for the said county, forthwith to convey the body of the said *E. F.* to the gaol at , in the said county, and safely to deliver the same to the keeper of the said gaol; and these are likewise, by virtue of my said office, in Her Majesty's name, to will and require you the said keeper to receive the body of the said *E. F.* into your custody, and him safely to keep in the said prison until he shall enter into such recognizance before me, or before one of Her Majesty's justices of the peace for the said county, for the purpose aforesaid, or in default thereof, until he shall be from thence otherwise discharged by due course of law. And for your so doing this is your warrant.

Given under my hand and seal this day of 18 .

J. B. (L.S.)
Coroner.

To the constables and others Her Majesty's officers of the peace in and for the county of , and also to the keeper of the gaol at , in the said county.

26. Certiorari.

Victoria, by the grace of God Queen of the United Kingdom of Great Britain and Ireland, defender of the faith, To , gentleman, coroner for the city and county of , greeting. We being willing, for certain reasons, that all and singular informations, examinations, depositions and inquisitions taken by or before you touching the commitment of to the custody of the keeper of our gaol at in and for our said city and county, on a charge of manslaughter, as is said, be sent by you before our right trusty and well beloved Thomas Lord Denman, our Chief Justice assigned to hold pleas before us, do command you that you do send under your seal before our said chief justice, at his chambers in Serjeant's Inn, Chancery Lane, London (or before such other justices as may then be in attendance) immediately after the receipt of this writ, all and singular the said informations, examinations, depositions and inquisitions, with all things touching the same, as fully and perfectly as they have been taken by you and now remain in your custody or power, together with this our writ, that we may cause further to be done thereon what of right and according to the law and custom of England we shall see fit to be done.

Witness, Thomas Lord Denman, at Westminster, the day of , in the year of our reign.

By the court.

Lushington.

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27. Return to the Certiorari.

[Indorsed.]

The execution of this writ appears in certain schedules hereunto annexed.

The answer of (L.S.)
Coroner.

[The original depositions, inquisition and recognizance to be attached to the *certiorari* with tape,

and delivered at the Crown Office, from whence, without further interference on the part of the coroner, they will in due course be delivered to the judge of assize for the trial. The coroner's charge for the return is £1, in addition to the carriage or postage.]

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28. MAGISTRATE'S CERTIFICATE TO WARRANT THE APPOINTMENT OF A DEPUTY CORONER IN A BOROUGH, UNDER STAT. 6 & 7 WILL. 4, C. 105, S. 6.

City and county of } Whereas *J. B. G.*, coroner for
, to wit. } the said city and county, hath satisfied us, *that he is under the necessity of absenting himself from the said city and county for a few weeks*(1); we do, therefore, certify that it is necessary that a deputy coroner be appointed to act for the said city and county during the absence [*or* illness] of the said *J. B. G.*, and no longer.

Witness our hands and seals this day of 18 .

J. K. H.
Mayor.

Or, *A. B.* Two justices of the said
C. D. city and county.

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29. THE DEPUTATION.

City and county of } I, *J. B. G.*, Her Majesty's
, to wit. } coroner for the said city and county, do by virtue of the statute 6 & 7 Will. 4, c. 105, hereby appoint , Esq., Barrister-at-law [*or* , gentleman, one of the attorneys of Her Majesty's Court of Queen's Bench at Westminster] to

(1) Or, "*that he is at present ill, and unable to execute the duties of his office*," &c.

act for me as deputy coroner for the said city and county for the holding of inquests during my unavoidable absence [*or* during my illness], and no longer.

As witness my hand and seal the day of 18 .

J. B. G. (L.S.)
Coroner.

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30. APPOINTMENT OF A DEPUTY CORONER FOR A COUNTY, CITY, RIDING, LIBERTY OR DIVISION, UNDER STAT. 6 & 7 VICT. C. 83, S. 1.

[Original and duplicate to be written on parchment without stamp.]

City and county of , to wit. } By virtue of an act passed in the sixth and seventh years of the reign of Her Majesty Queen Victoria, intituled, "An Act to amend the Law respecting the Duties of Coroners," I, , Her Majesty's coroner for the said city and county, do hereby nominate and appoint , of the city of , gentleman, to act for me as my deputy, in the holding of inquests within the said city and county of .

As witness my hand and seal this day of 18 .

J. B. (L.S.)
Coroner.

[The above appointment is subject to the approval of the Lord High Chancellor, Lord Keeper or Lords Commissioners of the Great Seal, and a duplicate thereof must be forthwith transmitted to the Clerk of the Peace for the county, city, riding, liberty or division in which such coroner shall reside, to be filed among the records of such county, &c. The Chancellor will only approve a barrister, attorney or surgeon as deputy; and a testimonial of competency, &c., signed by a few magistrates, should be presented with the appointment. Lord Chancellor's clerk's fee 1*l.* 1*s.*]

31. Return of a Venire and Distringas.

[With the panel or parchment annexed.]

On the top of the panel is to be written—"The names of the jurors to try the issues between *A. B.*, plaintiff, and *C. D.*, defendant, in a plea of debt" (or as it may be expressed in the writ); then put in the names, residences and trades of twenty-four jurors, as taken from the sheriff's list, and numbered from one to twenty-four. At the bottom of the panel is to be written—"Each of the jurors aforesaid is separately attached by his pledges.—John Doe and Richard Roe."

J. B.
Coroner.

On the back of the *venire* and *distringas*, or *habeas corpora* is to be written—"The execution of this writ appears by the panel hereunto annexed. The answer of *A. B.* and *C. D.*
Coroners."

The panel attached to the *venire* is on paper, that to the *distringas* or *habeas* on parchment.

N.B.—If a special jury case, and *tales* ordered, the coroner must add the *tales* to the panel of special jurors. The *tales* to be taken from the common jury panel 6 Geo. 4, c. 50, s. 13. These, as ministerial acts, must be returned in the names of all the unchallenged coroners, although one alone may do it.

	£	*s.*	*d.*	£	*s.*	*d.*
Fees on returning *venire* and *habeas*, common jury				0	15	6
Ditto, special jury:—						
Twenty-four summonses	1	4	0			
Officer summoning	2	8	0			
Returning special *ha. cor. juratorum*	0	14	0			
Attending in court	1	1	0			
				5	7	0

Writs of Inquiry.

Where a writ of inquiry is executed by the coroner, being a judicial proceeding, it is done by one alone; the method is the same as when taken by the sheriff, the name only of the officer being varied, but the return of the writ must be in the name of all.

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32. The Jurymen's Oath on a Writ of Inquiry.

You shall well and truly assess the damages for the plaintiff on this writ of inquiry, according to the evidence.

So help you God [*kiss the book.*]

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33. The Witnesses' Oath.

The evidence which you shall give, touching this writ of inquiry, to the court and jury sworn, shall be the truth, the whole truth, and nothing but the truth.

"So help," &c.

The inquisition and return are similar to the sheriff's in all respects, adding the names of all the coroners, unless it be in the case of a challenge, and then only in the names of the coroners unchallenged.

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34. The Form of pronouncing Judgment in Outlawry.

"*A. B.* being five times exacted to answer to our sovereign Lady the Queen, according to the tenor of this writ, and not appearing, the coroners of this county, by virtue of their office, do pronounce him outlawed."

Of a woman—"Do pronounce her waived."

35. Coroner's Account for the Quarter Sessions.

Date.	Place.	Name, Age, and Occupation.	Verdict.	Room.	Jury.	Witnesses.	Officers.	Miles from Coroner's Residence.
1849.								
July 21 ..	Dundry	John Fox, 26, carpenter	Accidentally killed by the kick of a horse	5	12	7	7	21
August 15	Brislington..	Charles Cox, 17, shoemaker	Accidentally drowned	5	12	5	6	22
" 19	Whitchurch	Thomas King, 10	Accidentally burnt	5	12	6	7	23

	£	s.	d.
Total number of inquests, 66, at 1*l*.....			
Total number of miles, 340, at 9*d*.....			
Total inquest expenses paid			
Fee of 6*s*. 8*d*. on each of the above 76 inquests			

A. B., Coroner.

*** No particular form of account is required by the statute, but it should embrace everything necessary to satisfy the justices, and the forms required by them differ materially, some insisting on proof (*by a witness*) of the payment of inquest expenses.

36. Form of the Coroner's Roll.

Date.	Parish.	Name.	Age.	Occupation.	Verdict.	Influenced by liquor.	* Medical or Hospital Evidence, or *post mortem* Examination.
1849. Sept. 1st	St. James.	J. N.	15	Carpenter's apprentice.	Accidentally drowned by falling from a boat into the river Frome.	——	Hospital, *post mortem* examination.
Sept. 2nd	St. Thomas.	C. W.	69	Shoemaker	Accidentally killed by a beam falling on his head.	Liquor.	Medical, evidence.

*** By omitting the age, and particulars as to liquor and medical evidence, this form will do to return to the Secretary of State, as directed by the statute, before the 1st February every year.

37. Schedule of Inquest Expenses used in the City of Bristol.

	£	*s.*	*d.*
To each of the jury	0	0	8
To each of the jury upon every sitting after adjournment	0	0	8
To every witness requiring payment, except medical witnesses	0	0	8
To every witness for every attendance on adjournment	0	0	8
For the use of the inquest room in ordinary cases	0	2	6
For the use of the inquest room in extra-ordinary cases, to be judged of by the coroner, not exceeding	0	10	0
For the room in which the body is placed in ordinary cases	0	2	6
For the room in which the body is placed in extraordinary cases (to be decided as above) not exceeding	0	10	0
To every witness requiring payment who shall reside out of the limits of the city and county of Bristol, not exceeding	0	5	0
For the expenses attending the disinterment of any dead body by order of the coroner, any sum not exceeding	1	0	0
For expenses incurred in relation to inquests upon dead bodies found in the water, any sum not exceeding	0	10	0

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38. General Caption applicable to all Inquisitions.

Somersetshire, } An inquisition indented, taken for
to wit. } our Sovereign Lady the Queen, at the house of *A. B.*, known by the name or sign of the "Pelican," situate in the parish of Chew Magna, in the county of Somerset, this first day of October, in

the year of our Lord one thousand eight hundred and thirty-nine, and in the second year of the reign of our Sovereign Lady Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland, Queen, defender of the faith, before me, *R. U.*, gentleman, one of the coroners of our said Lady the Queen for the said county, on view of the body of John Short, then and there lying dead, upon the oath of James Williams, Thomas Fowler, John King, William Veats, Richard Fowler, John Nott, Joseph Gibbs, William Morgan, Jacob Hale, Octavius Waters, Silas Bartlett, and William Dale, good and lawful men of the said county, who being then and there duly sworn and charged to inquire for our said Sovereign Lady the Queen, how and by what means the said *J. S.* came to his death, do upon their oath aforesaid present and say.

GENERAL CONCLUSIONS.

39. Murder.

And so the jurors aforesaid, upon their oath aforesaid, do say that the said James Stout, him the said John Short, in manner and by the means aforesaid, feloniously, wilfully, and of his malice aforethought, did kill and murder, against the peace of our said Lady the Queen, her crown and dignity.

In witness whereof the said coroner and jurors have hereunto set their hands and seals the day and year first above written.

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40. Manslaughter.

That the said James Stout, him the said John Short, in manner and by the means aforesaid, feloniously did kill and slay, against the peace of, &c.

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41. Suicide (felonious).

That the said John Short, in manner and by the

means aforesaid, feloniously, wilfully, and of his malice aforethought, did kill and murder himself, against the peace, &c.

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42. Suicide of a Lunatic.

That the said James Stout, in manner and by the means aforesaid, not being of sound understanding, but lunatic as aforesaid, did kill himself

In witness, &c.

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43. Accident.

That the said James Stout, in manner and by the means aforesaid, accidentally, casually and by misfortune came to his death, and not otherwise.

In witness, &c.

VERDICTS.

44. MURDER, with a Poker.

That James Stout, late of the parish aforesaid, in the county aforesaid, labourer, on the day of , in the year aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, in and upon the said John Short, in the peace of God and of our said Lady the Queen, then and there being, feloniously, wilfully, and of his malice aforethought, did make an assault, and that the said James Stout, with a certain iron poker, which he the said James Stout then and there had and held in both his hands, him the said John Short in and upon the head of him the said John Short, then and there divers times feloniously, wilfully and of his malice aforethought, did strike and beat, and that the said James Stout did thereby then and there give unto him the said John Short in and upon the top of the head of him the said John Short divers mortal bruises, of which said mortal bruises he the said John Short then and there died. And so the jurors aforesaid, upon their oath aforesaid, do say that, &c. [*Usual conclusion.*]

45. By Shooting.

That *C. D.*, late of the parish and county aforesaid, gentleman, on the thirty-first day of October, in the year aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, in and upon the said *A. B.*, in the peace of God, and of our said Lady the Queen, then and there being, feloniously, wilfully, and of his malice aforethought, did make an assault, and that the said *C. D.* a certain pistol, of the value of 10*s.*, charged and loaded with gunpowder and a leaden bullet, which he the said *C. D.* then and there had and held in his right hand, and against the head of him the said *A. B.*, did then and there shoot off and discharge, by means whereof he the said *C. D.* feloniously, wilfully, and of his malice aforethought, did then and there give unto him the said *A. B.* with the leaden bullet aforesaid, so as aforesaid shot off and discharged out of the pistol aforesaid, by force of the gunpowder aforesaid, in and upon the head of him the said *A. B.* one mortal wound, penetrating the brain of him the said *A. B.*, of which said mortal wound he the said *A. B.* then and there died. [*General conclusion.*]

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46. By Strangling.

That *C. D.*, late of the parish of St. Andrew, Holborn, in the said county, single woman, on the fourth day of February, in the year aforesaid, with force and arms, at certain chambers, situate in Furnival's Inn, in the parish and county aforesaid, in and upon the said *A. B.*, in the peace of God, and of our said Lady the Queen, then and there being, feloniously, wilfully, and of her malice aforethought, did make an assault, and that the said *C. D.* a certain linen handkerchief about the neck of her the said *A. B.*, then and there feloniously, wilfully, and of her malice aforethought, did fix, tie, and fasten, and that the said *C. D.* her the said *A. B.* with the linen handkerchief aforesaid, felo-

niously, wilfully, and of her malice aforethought, did then and there choke, strangle, and suffocate, of which said choking, strangling, and suffocation, she the said *A. B.* then and there died. [*General conclusion.*]

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47. With a Cleaver.

That *T. W.*, late of the parish and county aforesaid, butcher, late husband of the said *P. W.*, on the twenty-first day of April, in the year aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, in and upon the said *P. W.*, his said late wife, in the peace of God, and of our said Lady the Queen, then and there being, feloniously, wilfully, and of his malice aforethought, did make an assault at the said *P. W.*, with a certain cleaver, made of iron and steel, of the value of 5*s.*, which he the said *T. W.* then and there had and held in both his hands, and the said *P. W.* in and upon the right side of the head of her the said *P. W.* near the right temple, then and there feloniously, wilfully, and of his malice aforethought, did hit and strike; and that the said *T. W.* with the cleaver aforesaid, did then and there give to her the said *P. W.* in and upon the right side of the head of her the said *P. W.* near the right temple aforesaid, one mortal wound of the length of four inches, and depth of two inches, of which said mortal wound she the said *P. W.* then and there died. [*General conclusion.*]

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48. By giving Poison.

That Mary Burdock, wife of James Burdock, late of the parish of Saint Augustine aforesaid, in the city and county aforesaid, labourer, not having the fear of God before her eyes, but moved and seduced by the instigation of the devil, and of her malice aforethought, contriving and intending her the said Clara Ann Smith with poison feloniously to kill and murder, on the

twenty-fourth day of October, in the year of our Lord 1833, with force and arms, at the parish aforesaid, in the city and county aforesaid, a great quantity of yellow arsenic, being a deadly poison, in a certain quantity of gruel, feloniously, wilfully, and of her malice aforethought, did mix and mingle, she the said Mary Burdock then and there well knowing the said yellow arsenic to be a deadly poison, and that the said Mary Burdock afterwards, to wit, on the same day and year, at the parish last aforesaid, in the city and county aforesaid, the poison aforesaid, so as aforesaid mixed and mingled, feloniously, wilfully, and of her malice aforethought, did give and offer to her the said Clara Ann Smith, to take, drink and swallow down; and that the said Clara Ann Smith, not knowing the poison aforesaid, in the gruel aforesaid, to have been mixed and mingled as aforesaid, afterwards, to wit, on the same day and year aforesaid, at the parish aforesaid, in the city and county aforesaid, the said poison so as aforesaid mixed and mingled by the procurement and persuasion of the said Mary Burdock, did take, drink, and swallow down, and thereupon the said Clara Ann Smith, by the poison aforesaid, so as aforesaid taken, drank, and swallowed down, became then and there sick and distempered in her body, and the said Clara Ann Smith, of the poison aforesaid, and of the sickness and distemper thereby occasioned, did then and there die, &c.

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49. By Forcing a Sick Person into the Street.

That *W. J.*, late of the parish aforesaid, in the county aforesaid, labourer, on the fourteenth day of December, in the year aforesaid, at an unreasonable hour of the night, to wit, about the hour of eleven in the night of the same day, with force and arms, at the parish aforesaid, in the county aforesaid, in and upon the said *E. B.*, then and there being, in the peace of God, and of our said Lady the Queen, and also then

and there being in sickness and weakness of body, occasioned by a fever, and then and there confined to her bed in the dwelling-house of him the said *W. J.*, there situate, feloniously, wilfully, and of his malice aforethought, did make an assault, and that the said *W. J.*, her the said *E. B.* from and out of the said bed, and also out of the said dwelling-house, into the public and open street there, did then and there violently, feloniously, wilfully, and of his malice aforethought, remove, force, and drive, and then and there leave (he the said *W. J.* then and there well knowing the said *E. B.* to be then in extreme sickness and weakness of body, occasioned by the fever aforesaid), by means whereof she the said *E. B.* through cold, and the inclemency of the weather, and for want of due care, and other necessaries requisite for a person in such sickness and weakness as aforesaid, then and there died. [*General conclusion.*]

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50. By throwing to the Ground and Kicking.

That *J. W.*, late of the parish aforesaid, in the county aforesaid, labourer, on the fifteenth day of January, in the year aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, in and upon the said *A. B.* in the peace of God, and of our said Lady the Queen, then and there being, feloniously, wilfully, and of his malice aforethought, did make an assault, and that the said *J. W.* with both his hands, him the said *A. B.* to and upon the ground, then and there, feloniously, wilfully, and of his malice aforethought, violently did cast and throw, and him the said *A. B.* then and there lying upon the ground, with the hands and feet of him the said *J. W.* in and upon the belly, breast, sides and stomach of him the said *A. B.* then and there, divers times did beat, strike and kick; and that he the said *J. W.* did then and there give unto him the said *A. B.*, as well by the said casting and throwing to the ground, as by the beating, striking and

kicking as aforesaid, in and upon the said belly, breast, sides and stomach of him the said *A. B.* divers mortal bruises, of which said mortal bruises he the said *A. B.* from the said fifteenth day of January, in the year aforesaid, until the nineteenth day of the same month, in the same year, at the parish aforesaid, in the county aforesaid, did languish, and languishing did live, on which said nineteenth day of January, in the year aforesaid, he the said *A. B.* of the mortal bruises aforesaid, did then and there die. [*General conclusion.*]

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51. By Starving to Death.

That *G. D.*, late of the parish aforesaid, in the county aforesaid, labourer, of his malice aforethought, contriving and intending him the said *S. L.*, apprentice to him the said *G. D.*, feloniously to starve, kill and murder, on the seventeenth day of December, in the year aforesaid, and continually afterwards until the thirty-first day of the same month, in the same year, with force and arms, at the parish aforesaid, in the county aforesaid, in and upon the said *S. L.* his apprentice as aforesaid, in the peace of God, and of our said Lady the Queen, then and there being, feloniously, wilfully, and of his malice aforethought, did make an assault, and that the said *G. D.* him the said *S. L.* in a certain room in the dwelling-house of him the said *G. D.* there situate, feloniously, wilfully, and of his malice aforethought, did secretly confine and imprison, and that the said *G. D.* from the said seventeenth day of December, in the year aforesaid, until the thirty-first day of the same month, in the same year, at the parish aforesaid, in the county aforesaid, feloniously, wilfully, and of his malice aforethought, did neglect, omit and refuse to give and administer to him the said *S. L.* sufficient meat and drink necessary for the sustenance, support and maintenance of him the said *S. L.* by means of which said confinement and imprisonment, and also for want of such meat and drink as were sufficient and

necessary for the sustenance, support and maintenance of the body of him the said *S. L.*, he the said *S. L.* from the said seventeenth day of December, in the said year, until the said thirty-first day of the same month, in the same year, at the parish aforesaid, in the county aforesaid, did languish and pine, and became greatly consumed and emaciated in his body, and during the time aforesaid did languish, and languishing did live, on which said thirty-first day of December, in the year aforesaid, in the parish and in the county aforesaid, he the said *S. L.* of such confinement and imprisonment, and for want of such due and necessary meat and drink for the sustenance, support and maintenance of his body, did die. [*General conclusion.*]

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52. By throwing a Knife.

That *J. F.*, late of the parish aforesaid, in the county aforesaid, labourer, on the twelfth day of March, in the year aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, in and upon the said *A. B.*, in the peace of God, and of our said Lady the Queen, then and there being, feloniously, wilfully, and of his malice aforethought, did make an assault, and that the said *J. F.* a certain penknife, made of iron and steel, ~~of no value,~~ which he the said *J. F.* then and there had and held in his right hand, to, at and against the said *A. B.* then and there feloniously, wilfully, and of his malice aforethought, did cast and throw, and that by such casting and throwing of the penknife aforesaid, to, at, and against him the said *A. B.* in manner aforesaid, he the said *J. F.* him the said *A. B.* with the penknife aforesaid, in and upon the inside of the right thigh of him the said *A. B.* did then and there strike, stab and penetrate, thereby then and there giving unto him the said *A. B.* with the penknife aforesaid, in and upon the said inside of the said right thigh of him the said *A. B.* one mortal wound, of the

breadth of one inch and of the depth of three inches, of which said mortal wound he the said *A. B.* then and there instantly died.

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53. By Forcing another to Drink to Excess.

That *W. B.*, late of the parish aforesaid, in the county aforesaid, labourer, and *G. B.* late of the same, labourer, on the tenth day of November, in the year aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, in and upon the said *W. F.*, in the peace of God, and of our said Lady the Queen, feloniously, wilfully, and of their malice aforethought, did make an assault, and the said *W. B.* and *G. B.* then and there feloniously, wilfully, and of their malice aforethought, did compel and force him the said *W. F.* then and there against his will, to take, drink and swallow down a great quantity, to wit, three half pints of distilled spirituous liquor, commonly called Geneva; and that the said *W. F.* by the compulsion and force aforesaid of them the said *W. B.* and *G. B.* then and there did take, drink and swallow down a great quantity of the said distilled spirituous liquor, called Geneva, to wit, the quantity of three half pints, by reason of which said drinking and swallowing down of the said great quantity of spirituous liquor called Geneva, in manner aforesaid, by the compulsion aforesaid, and against the will of him the said *W. F.*, he the said *W. F.* then and there became suffocated and choked, therefore then and there instantly died. And so the jurors aforesaid, upon their oath aforesaid, do say that they the said *W. B.* and *G. B.*, him the said *W. F.*, in manner and by means aforesaid, feloniously, wilfully, and of their malice aforethought, did kill and murder, against the peace of our said Lady the Queen, her crown and dignity.

In witness, &c.

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54. Inquisition charging an Accessary before the Fact, together with the Principal.

[*After charging the principal with the offence, and immediately before the conclusion of the indictment, charge the accessary thus*]:—And the jurors aforesaid, upon their oath aforesaid, do further present, that *J. W.*, late of the parish aforesaid, in the county aforesaid, labourer, before the said murder was committed, in form aforesaid, to wit, on the first day of May, in the year aforesaid, at the parish aforesaid, in the county aforesaid, did wilfully, feloniously and maliciously incite, move, procure, aid, counsel, hire and command the said *J. S.* the said murder in manner and form aforesaid, to do and commit, against the peace, &c. &c.

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55. Murder, by Striking with a Stick.

City and county of Bristol, to wit. } An inquisition indented, taken for our Sovereign Lady the Queen, at the house of James Wyatt, known by the name or sign of the "Duke of Marlborough," situate in the parish of Saint James, within the city and county of Bristol, this thirteenth day of February, in the year of our Lord one thousand eight hundred and , and in the year of the reign of our Sovereign Lady Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen defender of the faith, before me, Joseph Baker Grindon, gentleman, coroner of our said Sovereign Lady the Queen for the said city and county, on view of the body of John Butt, then and there lying dead, upon the oath of John Hall Poole, William Evans, Henry Mendham, Joseph Naish, William Ramsey, Benjamin Pollard, Stephen Barton, Charles Tovey, James London, James Hatherby, Thomas Thomas, and Richard Abbott, good and lawful men of the said city and county, who, being then and there duly sworn and

charged to inquire for our said Sovereign Lady the Queen, when, how, and by what means the said John Butt came to his death, do, upon their oath, present and say, that William Davis, late of the parish of Saint James, in the city and county aforesaid, labourer, on the ninth day of February, in the year aforesaid, with force and arms, at that part of the parish of Westbury-upon-Trym which lies within the city and county aforesaid, in and upon the said John Butt, in the peace of God, and of our said Lady the Queen, then and there being, feloniously, wilfully, and of his malice aforethought, did make an assault; and that the said William Davis, with a certain bludgeon, made of wood, ~~of the value of one penny~~, which he the said William Davis in both his hands then and there held, him the said John Butt, in and upon the back of the head of him the said John Butt, then and there feloniously, wilfully, and of his malice aforethought, did hit and strike; and that the said William Davis did thereby, then and there, give unto him the said John Butt, with the bludgeon aforesaid, ~~eight mortal wounds~~, in and upon the said back of the head of him the said John Butt, each of the said wounds being of the length of one inch, and of the depth of one quarter of an inch, of which said mortal wounds the said John Butt, from the said ninth day of February in the year aforesaid, to the seventeenth day of the same month of February, at that part of the parish of Westbury-upon-Trym which lies in the city and county aforesaid, and also at the parish of Saint James aforesaid, in the city and county aforesaid, to wit, in the Bristol Infirmary, in the parish last aforesaid situate, did languish, and languishing did live, on which said thirteenth day of February, in the year aforesaid, at the parish last aforesaid, in the city and county aforesaid, of the said mortal wounds the said John Butt did die. And so the jurors aforesaid, on their oath aforesaid, do say, that the said William Davis, him the said John Butt, in manner and by the means aforesaid, feloniously, wilfully, and of his malice aforethought, did kill and murder, against the peace of our said Lady the Queen, her crown and dignity.

by the striking and beating of him the said John Butt

eight mortal wounds

In witness whereof the said coroner and jury have hereunto set their hands and seals the day and year first above written.

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56. Beating the Head with a Stone.

City and county of Bristol, to wit. } An inquisition indented, taken for our Sovereign Lady the Queen, at the house of Josiah Hawkins, called the "Griffin," situate in the parish of Saint Michael, within the said city and county of Bristol, this eighth day of March, in the year of our Lord one thousand eight hundred and forty-nine, and in the twelfth year of the reign of our Sovereign Lady Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland, Queen, defender of the faith, before me, Joseph Baker Grindon, gentleman, coroner of our said Lady the Queen for the said city and county, upon view of the body of Elizabeth Jefferies, then lying dead in the parish of Saint Augustine the Less, in the said city and county, upon the oath of Joseph Dawbien, Thomas Rowe, Phineas Sims, John George, Charles Watkins, Joseph Huntly, John Nowlan, James Locke, William Youlten, William Yandell, William Pritchard, James Powell, James Sheering, William Henry Harris, and Walter Asher, good and lawful men of the said city and county, who, being then and there duly sworn and charged to inquire for our said Lady the Queen, when, how, and by what means the said Elizabeth Jefferies came to her death, do, upon their oath, present and say, that Sarah Harriet Thomas, late of the parish of Saint Augustine the Less, in the city and county aforesaid, single woman, on the third day of March, in the year aforesaid, with force and arms at the said parish of Saint Augustine the Less, in the city and county aforesaid, in and upon the said Elizabeth Jefferies, in the peace of God, and of our said Lady the Queen, then and there being, feloniously, wilfully, and of her malice aforethought, did make an assault, and that the said Sarah Harriet

Thomas, with a certain stone, which she the said Sarah Harriet Thomas then and there had and held in both her hands, her the said Elizabeth Jefferies, in and upon the top, and also in and upon the left side, of the head, and in and upon the back of the head of her the said Elizabeth Jefferies, then and there feloniously, wilfully, and of her malice aforethought, divers times did hit, strike, and beat; and that the said Sarah Harriet Thomas, with the stone aforesaid, did then and there give to her the said Elizabeth Jefferies, in and upon the top of the head of her the said Elizabeth Jefferies, three mortal wounds, each of the length of one inch and of the depth of half an inch, and also divers mortal bruises, and in and upon the left side of the head of her the said Elizabeth Jefferies, near the left eyebrow of her the said Elizabeth Jefferies, three mortal wounds of the length of three quarters of an inch and of the depth of half an inch, and also divers mortal bruises; and on the back of the head of her the said Elizabeth Jefferies, one mortal wound of the length of one inch and of the depth of half an inch, and also divers mortal bruises, of all which said mortal wounds and mortal bruises she the said Elizabeth Jefferies then and there died. And so the jurors aforesaid, on their oath aforesaid, do say, that the said Sarah Harriet Thomas, her the said Elizabeth Jefferies, in manner and form aforesaid, feloniously, wilfully, and of her malice aforethought, did kill and murder, against the peace of our said Lady the Queen, her crown and dignity.

In witness whereof the said coroner and jurors have hereunto set their hands and seals the day and year first aforesaid.

(For an Inquisition of Murder by Stabbing, *see* p. 135, *et seq.*)

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57. By Cutting the Throat.

That on the first day of November, in the year aforesaid, Louisa Ferris, wife of John Ferris, late of the

parish aforesaid, in the city and county aforesaid, labourer, with force and arms, at the parish aforesaid, in the city and county aforesaid, in and upon the said Patrick White, in the peace of God, and of our said Lady the Queen, then and there being, feloniously, wilfully, and of her malice aforethought, did make an assault, and that the said Louisa Ferris, with a certain razor made of iron and steel, which she, the said Louisa Ferris then and there had and held in both her hands, the throat of him the said Patrick White feloniously, wilfully, and of her malice aforethought, did strike and cut, and that the said Louisa Ferris, with the razor aforesaid, by the striking and cutting aforesaid, did then and there give unto him the said Patrick White, in and upon the said throat of him the said Patrick White, one mortal wound of the length of four inches and of the depth of two inches, of which said mortal wound he the said Patrick White then and there died.

MANSLAUGHTER.

58. By throwing to the Ground and Bruising.

That *C. D.*, late of the parish of Ealing, in the said county, labourer, otherwise called "Devonshire Dick," of the same, on the twenty-fourth day of March, in the year aforesaid, with force and arms, at the parish of Ealing aforesaid, in the county aforesaid, in and upon the said *A. B.*, in the peace of God, and of our said Lady the Queen, then and there being, feloniously did make an assault; and that the said *C. D.*, otherwise called "Devonshire Dick," with both his hands, him the said *A. B.* then and there feloniously did cast to the ground, thereby, then and there, giving unto him the said *A. B.* one mortal bruise, in and upon the lower part of the belly of him the said *A. B.*, under the navel, of which said mortal bruise he the said *A. B.*, at the parish of Ealing aforesaid, in the county aforesaid, and also at the said parish of Acton, in the same

county, from the said twenty-fourth day of March, in the year aforesaid, until the twenty-eighth day of the same month, in the same year, did languish, and languishing did live, on which said twenty-eighth day of March aforesaid, in the year aforesaid, at the said parish of Acton, in the county aforesaid, he the said *A. B.* of the mortal bruise aforesaid did die. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said *C. D.*, otherwise called "Devonshire Dick," him the said *A. B.*, in manner and by means aforesaid, feloniously did kill and slay, against the peace of our said Lady the Queen, her crown and dignity.

In witness, &c.

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59. By throwing to the Ground, Beating and Kicking, etc.

That *C. D.*, late of the parish of Saint Margaret, in the city and liberty of Westminster, in the county aforesaid, labourer, together with divers other persons to the jurors aforesaid as yet unknown, on the nineteenth day of June, in the year aforesaid, with force and arms, at the said parish of Saint Margaret, in the city, liberty, and county aforesaid, in and upon the said *A. B.*, in the peace of God, and of our said Lady the Queen, then and there being, feloniously did make an assault, and that the said *C. D.*, with a certain oaken stick, of no value, which he the said *C. D.* then and there had and held in his right hand, him the said *A. B.*, in and upon the head, shoulders, breast, and stomach of him the said *A. B.*, did then and there divers times feloniously strike and beat, and that the said *C. D.*, and the said divers other persons to the jurors aforesaid as yet unknown, him the said *A. B.* did then and there violently and feloniously cast and throw to the ground, and that the said *C. D.*, and the said divers other persons unknown, him the said *A. B.*, then and there lying upon the ground aforesaid, with the feet of him the said *C. D.*, and also with the feet of the divers other persons unknown, in and upon the

said head, shoulders, breast, and stomach of him the said *A. B.*, then and there feloniously did strike, kick, and trample, thereby then and there giving unto him the said *A. B.* divers mortal bruises in and upon the said head, shoulders, breast, and stomach of him the said *A. B.*, of which said mortal bruises he the said *A. B.*, at the parish of St. Margaret, and also at the parish of Saint Giles-in-the-Fields, in the county aforesaid, and also in a certain hospital, situate in the said parish of Saint Marylebone, first above mentioned, commonly called the Middlesex Hospital, in the county aforesaid, from the said nineteenth day of June in the year aforesaid, until the twenty-fifth day of July in the same year, did languish, and languishing did live, on which said twenty-fifth day of July, in the same year, at the hospital aforesaid, at the said parish of Saint Marylebone, in the county aforesaid, he the said *A. B.*, of the mortal bruises aforesaid, did die. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said *C. D.*, and the said divers other persons to the jurors aforesaid as yet unknown, him the said *A. B.*, in manner and by the means aforesaid, feloniously did kill and slay, against the peace of God and of our said Lady the Queen, her crown and dignity.

In witness, &c.

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60. By Upsetting a Wherry.

That on the day and year aforesaid, at the parish of Saint Stephen, in the city and county aforesaid, the said James Brown was sitting in a certain boat called a wherry, then and there floating upon the river Avon, and that Charles Rake, of the parish of Saint Stephen aforesaid, in the city and county aforesaid, labourer, was then and there in the said boat with the said James Brown; and that the said Charles Rake, in and upon the said James Brown, did then and there feloniously make an assault; and that the said Charles Rake, with both his hands and both his feet, did then and

there feloniously rock and shake the said wherry wherein the said James Brown was then and there sitting as aforesaid, by which said rocking and shaking the said wherry was then and there upset, and the said James Brown thereby then and there cast and thrown out of the said wherry into the river Avon, in the parish of Saint Stephen aforesaid, in the city and county aforesaid, and in the waters of the said river the said James Brown was thereby then and there suffocated and drowned, and of such suffocation and drowning then and there instantly died.

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61. To Charge a Principal in the Second Degree (in Murder.)

[*After stating the offence of the principal in the first degree, and immediately before the conclusion of the inquisition, charge the principal in the second degree thus:*] —And the jurors aforesaid, upon their oath aforesaid, do further present, that *J. W.*, late of the parish aforesaid, in the county aforesaid, labourer, on the day and year aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, feloniously was present aiding, abetting, and assisting the said *J. S.* the murder aforesaid to do and commit, against the peace, &c. [*In an indictment for murder this is inserted immediately before the concluding clause*, "and so the jurors," &c.; *and this clause then charges both the principals in the first and second degree with the murder, thus:*]—"And so the jurors aforesaid, upon their oath aforesaid, do say, that the said *J. S.* and *J. W.* the said *J. N.* in manner and form aforesaid, feloniously, wilfully, and of their malice aforethought, did kill and murder, against the peace," &c.

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62. Homicide (Self-defence).

[Case of the Salisbury Court Rioters, 1716.]

That the said Daniel Vaughan, and divers other persons to the jurors aforesaid as yet unknown, on the twenty-fourth day of July instant, at the parish of Saint Bridget, otherwise Bride's, aforesaid, in the ward aforesaid, being riotously, tumultuously, and unlawfully assembled together, in open breach of the public peace, and terror of His Majesty's good subjects, and having violently, tumultuously, and unlawfully assaulted and báttered the dwelling-house of Robert Read, of the said parish, victualler, with stones, bricks, clubs, and other instruments, with intent to demolish and pull down the said house, and having likewise, in a riotous, tumultuous, and unlawful manner, assaulted the person of the said Robert Read, and other persons then being in the same house, with stones and bricks, and thereby put both him the said Robert Read, and the said other persons then in the said house, in great peril and danger of their lives, and he the said Robert Read, or some other person then in the said house, having caused the proclamation appointed by an Act of Parliament made in the first year of the reign of His present Majesty King George, intituled "An Act for Preventing Tumults and Riotous Assemblies," &c., to be read to them; and that the said Daniel Vaughan, and the other persons unknown, so tumultuously, riotously, seditiously, and unlawfully then and there assembled and gathered together, not dispersing themselves according to the tenor of the said proclamation, but riotously, tumultuously, seditiously, and unlawfully continuing together, in contempt of the said law, and likewise continuing to assault the said house with stones, bricks, clubs, and other instruments, he the said Robert Read, in defence of himself, and for the preservation of his own life and of the lives of the said several other persons then and there being in the house, and also for preventing the destruction of his house and loss of his goods and chattels, a certain gun called a blunderbuss, of the value

of 5*s.*, charged with gunpowder and several leaden bullets, at, to, and against the said Daniel Vaughan and the said other persons unknown, so riotously, tumultuously, seditiously, and unlawfully then and there assembled together, did discharge and shoot off, and that it so happened that one of the said bullets so shot out of the said blunderbuss by him the said Robert Read, as aforesaid, did give unto him the said Daniel Vaughan, one mortal wound, in and upon the left side of his body, near the left pap, of the length of one inch, and depth of six inches, of which said mortal wound he the said Daniel Vaughan, then and there instantly died. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said Robert Read, in defence of himself and property, him the said Daniel Vaughan, in manner and by the means aforesaid, did kill.

In witness, &c.

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63. Homicide (Justifiable), against a Street Robber: (*Vide* Hale, 395.)

That the said *T. B.*, with a certain other man to the jurors aforesaid at present unknown, on the fifth day of October, in the year aforesaid, with force and arms, at the parish of Saint George, Hanover-square, in the county aforesaid, in and upon *R. B.*, esquire, in a certain sedan chair, and in the King's highway, then and there being, feloniously did make an assault, and him the said *R. B.*, in bodily fear and danger of his life did then and there put, and a gold watch and some silver moneys of the goods, chattels, and moneys of him the said *R. B.*, in the King's highway aforesaid, then and there feloniously did steal, take, and carry away, against the peace of our said Lord the King, his crown and dignity. And the jurors aforesaid, upon their oath aforesaid, do say, that after the said *T. B.*, and the said man unknown, had done and committed the felony and robbery aforesaid, they the said *T. B.* and man

unknown, did then and there endeavour to fly and escape from the same, whereupon the said *R. B.*, together with *E. H.* and *R. H.* (the two chairmen who plied with the said sedan chair, and at the time of the committing of the felony and robbery aforesaid were then and there holding the said chair, and forcibly and unlawfully compelled to stand therewith during the committing the same felony and robbery), and also with a certain watchman to the said jurors unknown, called in and taken to their assistance, did then and there pursue, and endeavour to take and apprehend the said *T. B.* and man unknown, for the doing and committing of the said felony and robbery, and that the said *T. B.* in such pursuit was overtaken by them, to wit, at the parish and in the county aforesaid, and they the said *R. B.*, *E. H.*, *R. H.*, and the said watchman unknown, did then and there lawfully and peaceably endeavour to take and apprehend the said *T. B.*, who was then and there peaceably required to surrender himself, in order to be brought to justice for the same felony and robbery, but the said *T. B.*, to prevent his being taken and apprehended, did then and there, with a pistol loaded with gunpowder and a leaden bullet, which he the said *T. B.* had and held in his right hand, menace and threaten to shoot the first man that should attempt to seize him the said *T. B.*, and the said *T. B.* did then and there refuse to surrender himself, and did obstinately and unlawfully stand upon his defence, in open defiance of the laws of this realm, and that upon such endeavour to take and apprehend the said *T. B.*, he the said *T. B.* did then and there discharge and shoot off the said pistol so loaded with gunpowder and a leaden bullet as aforesaid, at and against him the said watchman, and that on the said *T. B.'s* continuing obstinately and unlawfully to resist, and also refusing to surrender himself for public justice, they the said *R. B.*, *E. H.*, and *R. H.*, in order to apprehend and take the said *T. B.* to be brought to justice for the said felony and robbery, and in order to oblige the said *T. B.* to surrender himself for the purposes aforesaid, did then and there justifiably and of inevitable necessity, attack

and assault the said *T. B.*, by reason whereof the said *T. B.* did then and there receive, in such his obstinate and unlawful defence, and before he could be taken and apprehended, divers mortal wounds and bruises, of which said wounds and bruises he the said *T. B.*, at the parish aforesaid, in the county aforesaid, did languish, and languishing did live, and that after the said *T. B.* was so wounded and bruised as aforesaid, he the said *T. B.* was then and there taken and apprehended, and on the day and year last mentioned was lawfully committed to the prison aforesaid, at the parish of Saint James, Clerkenwell, in the county aforesaid, and of such mortal wounds and bruises did then and there also languish, and languishing did live, on which said fifth day of October, in the year aforesaid, within the prison aforesaid, in the parish and county last mentioned, he the said *T. B.*, of the mortal wounds and bruises aforesaid, did die. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said *R. B.*, *E. H.*, and *R. H.*, him the said *T. B.*, in manner and by means aforesaid, in the pursuit of justice, of inevitable necessity, and justifiably, did kill and slay.

In witness, &c.

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64. Chance-medley by Shooting: (*Vide* West. Symb. 151 b, s. 319, Chance-medley by one Shooting at Butts.)

That *C. D.*, late of the parish aforesaid, in the county aforesaid, labourer, on the tenth day of October, in the year aforesaid, at the parish aforesaid, in the county aforesaid, a certain gun of the value of 10*s.* then and there charged with gunpowder and a leaden bullet, which he the said *C. D.* then and there had and held in both his hands, then and there casually and by misfortune, and against the will of him the said *C. D.*, was discharged and shot off, and that the said *C. D.*,

with the leaden bullet aforesaid, then and there discharged and shot out of the said gun, by the force of the gunpowder aforesaid, him the said *A. B.*, in and upon the left breast of him the said *A. B.*, casually, by misfortune, and against the will of him the said *C. D.*, did then and there strike and penetrate, giving unto him the said *A. B.*, then and there, with the bullet aforesaid, out of the gun aforesaid, so as aforesaid shot off and discharged by the force of the said gunpowder, in and upon the said left breast of him the said *A. B.*, one mortal wound, of the breadth of one inch and of the depth of three inches, of which said mortal wound he the said *A. B.* then and there instantly died. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said *C. D.*, him the said *A. B.*, in manner and by the means aforesaid, casually and by misfortune, and against the will of him the said *C. D.*, did kill and slay.

In witness, &c.

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65. Chance-medley, by a Knife.

That the said *A. B.* and one *T. T.*, on the twenty-fifth day of January, in the year aforesaid, being infants under the age of twelve years, and foremast lads on board His Majesty's store-ship "The Broderick," then lying at her moorings in the river Thames, to wit, at Woolwich, in the county of Kent, and then and there being, in the peace of God and of our said Sovereign Lord the King, and in friendship, and wantonly and in play struggling together, and then and there both falling to the ground, it so happened that casually and by misfortune, and against the will of him the said *T. T.*, he the said *A. B.*, then and there fell upon the point of a certain open clasp knife, of no value, which he the said *T. T.* then and there had and held in his right hand, by means of which said falling, he the said *A. B.*, did then and there casually, by misfortune, and against the will of him the said *T. T.*, receive one mortal wound

in and upon the right breast of him the said *A. B.*, of the breadth of one inch and depth of three inches, of which said mortal wound he the said *A. B.*, from the said twenty-fifth day of January, in the year aforesaid, until the fourth day of February in the same year, at Woolwich aforesaid, in the county of Kent aforesaid, and also at the said parish of Saint Mary, Whitechapel, in the said county of Middlesex, to wit, in the London Hospital there, did languish, and languishing did live, on which said fourth day of February, in the year aforesaid, he the said *A. B.*, at the hospital aforesaid, in the parish and in the county aforesaid, of the mortal wound aforesaid, did die. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said *A. B.*, in manner and by the means aforesaid, casually and by misfortune, and against the will of him the said *T. T.*, did come to his death, and not otherwise.

In witness, &c.

LUNACY, &c.

66. Shooting by one in a Delirium.

That the said *A. B.*, *labouring under a grievous disease of the body, to wit, a fever, and by reason of the violence of the said disease, being delirious and out of his mind*, on the twentieth day of September, in the year aforesaid, at the parish and in the county aforesaid, a certain pistol, charged with gunpowder and a leaden bullet, which he the said *A. B.* then and there had and held in his right hand, to and against the head of him the said *A. B.*, *so delirious and out of his mind* as aforesaid, did then and there shoot off and discharge, by means whereof he the said *A. B.* did then and there give unto himself, *so delirious and out of mind as aforesaid*, with the leaden bullet aforesaid, so discharged and shot out of the pistol aforesaid, by the force of the gunpowder aforesaid, in and upon the head of him the said *A. B.*, one mortal wound of the breadth of one

inch and depth of four inches, of which said mortal wound he the said *A. B.* then and there instantly died. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said *A. B. being delirious and out of his mind as aforesaid, by reason of the fever aforesaid*, in manner and by the means aforesaid, did kill himself.

In witness, &c.

NOTE.—If the death be occasioned by any distraction of the mind, and not by disease of body, instead of the words above printed in italics, say, "not being of sound mind, memory, and understanding, but lunatic and distracted."

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67. THROWING OUT OF A WINDOW.

That the said *A. B.* not being of sound mind, memory and understanding, but lunatic and distracted, on the twenty-fifth day of February, in the year aforesaid, from and out of a certain one-pair of stairs window, then and there being in the chamber or apartment of him the said *A. B.*, in the dwelling-house of *C. D.*, situate in Russell-street, in the parish and county aforesaid, did violently cast and throw himself to the ground, to and against the stone pavement of the yard belonging to the said dwelling-house, by means of which said casting and throwing, he the said *A. B.* did then and there receive one mortal wound on the upper part of the head of him the said *A. B.*, of which said mortal wound he the said *A. B.* then and there instantly died. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said *A. B.*, in manner and by the means aforesaid, not being of sound mind, memory and understanding, but lunatic and distracted, did kill himself.

In witness, &c.

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68. The same—Delirium.

That the said *A. B.*, labouring under a grievous disease of the body, to wit, an inflammation in the bowels, and by reason of the violence of the said disease, being delirious and out of his mind, on the first day of January, in the year aforesaid, from and out of a certain two-pair of stairs window, then and there being in the chamber or apartment of him the said *A. B.*, in his own dwelling-house, situate in Charles-square, in the parish and county aforesaid, to the ground did violently cast and throw himself to and against the stone pavement in the street of the said square, by means whereof he the said *A. B.*, so delirious and out of his mind as aforesaid, did then and there receive a violent concussion of the brain, of which said violent concussion he the said *A. B.* then and there instantly died. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said *A. B.*, in manner and by the means aforesaid, being delirious and out of his mind as aforesaid, by reason of the violence of the disease aforesaid, did kill himself.

In witness, &c.

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69. Lunatic Shooting himself.

That the said *A. B.* not being of sound mind, memory and understanding, but lunatic and distracted, on the twentieth day of September, in the year aforesaid, at the parish and in the county aforesaid, a certain pistol charged with gunpowder and a leaden bullet, which he the said *A. B.* then and there had and held in his right hand, to and against the head of him the said *A. B.* did then and there shoot off and discharge, by means whereof he the said *A. B.* did then and there give unto himself, with the leaden bullet aforesaid, so discharged and shot out of the pistol aforesaid, by the force of the gunpowder aforesaid, in and upon the head of him the said *A. B.* one mortal wound of

the breadth of one inch and of the depth of three inches, of which said mortal wound he the said *A. B.* then and there instantly died. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said *A. B.*, not being of sound mind, memory and understanding, but lunatic and distracted, in manner and by the means aforesaid, did kill himself.

In witness, &c.

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70. Cutting his Throat in a Delirium.

That the said *A. B.*, labouring under a grievous disease of body, to wit, the stone in the bladder, and by reason of the violence of the said disease being delirious and out of his mind, on the eleventh day of August in the year aforesaid, at the parish and in the county aforesaid, in the dwelling-house of *C. D.* there situate, with a certain razor, made of iron and steel, which he the said *A. B.* then and there had and held in his right hand, the throat and gullet of him the said *A. B.* did then and there strike, stab and penetrate thereby, then and there giving unto himself the said *A. B.*, so being delirious and out of his mind as aforesaid, with the razor aforesaid, in and upon the throat and gullet of him the said *A. B.* one mortal wound of the length of three inches and of the depth of one inch, of which said mortal wound, he the said *A. B.* then and there instantly died. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said *A B.*, by reason of the disease aforesaid, being delirious and out of his mind as aforesaid, in manner and by the means aforesaid, did kill himself.

In witness, &c.

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71. The same—Stabbing in the Breast.

That the said *A. B.*, on the sixteenth day of June, in the year aforesaid, at the parish and in the county

aforesaid, and for some time before labouring under a grievous disease of body, to wit, the small-pox, did labour and languish, and by reason of the violence of the said disease being delirious and out of his mind, on the said sixteenth day of June, in the year aforesaid, at the parish and in the county aforesaid, with a certain clasp-knife, made of iron and steel, which he the said *A. B.* then and there had and held in his right hand, the left breast of him the said *A. B.* did then and there strike, stab and penetrate, thereby then and there giving unto himself, the said *A. B.* so being delirious and out of his mind as aforesaid, with the clasp-knife aforesaid, in and upon the said left breast of him the said *A. B.*, one mortal wound, of the breadth of half an inch and of the depth of two inches, of which said mortal wound he the said *A. B.* then and there instantly died. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said *A. B.*, by reason of the said disease, being delirious and out of his mind as aforesaid, in manner and by the means aforesaid, did kill himself.

In witness, &c.

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72. Lunatic Stabbing herself in the Belly.

That the said *A. B.*, not being of sound mind, memory and understanding, but lunatic and distracted, on the sixteenth day of May, in the year aforesaid, at the parish of Wanstead, in the county of Essex, with a certain penknife, made of iron and steel, which she the said *A. B.* then and there had and held in her right hand, in and upon the left side of the belly of her the said *A. B.*, near the abdomen, did then and there strike, stab and penetrate, thereby then and there giving unto herself, the said *A. B.* so delirious and out of her mind as aforesaid, with the penknife aforesaid, in and upon the left side of the belly of her the said *A. B.*, near the abdomen aforesaid, one mortal wound, of the breadth of one inch and of the depth of two inches, of which

said mortal wound she the said *A. B.*, from the said sixteenth day of May, in the year aforesaid, until the twenty-ninth of the same month, in the same year, at the parish of Wanstead, in the said county of Essex, and also at the parish of St. Paul, Shadwell, aforesaid, in the county of Middlesex aforesaid, did languish, and languishing did live, on which said twenty-ninth day of May, in the year aforesaid, she the said *A. B.*, of the mortal wound aforesaid, at the said parish of St. Paul, Shadwell, in the county of Middlesex aforesaid, did die. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said *A. B.* not being of sound mind, memory and understanding, but lunatic and distracted, in manner and by the means aforesaid, did kill herself.

In witness, &c.

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73. Lunatic Poisoning herself.

That the said *A. B.* not being of sound mind, memory and understanding, but lunatic and distracted, on the second day of February in the year aforesaid, at the parish and in the county aforesaid, a great quantity of white arsenic, being a deadly poison, into a certain quantity of tea, steeped and infused in hot water, did then and there put and mix, and the said white arsenic, so put and mixed as aforesaid, she the said *A. B.* not being of sound mind, memory and understanding, but lunatic and distracted as aforesaid, did then and there take, drink and swallow down, by means whereof she the said *A. B.* became then and there sick and distempered in her body, and of the poison aforesaid, and of the sickness and distemper thereby occasioned, from the second day of February, in the year aforesaid, until the fifth day of the same month in the same year, at the parish aforesaid, in the county aforesaid, did languish, and languishing did live, on which said fifth day of February, in the year aforesaid, at the parish and in the county aforesaid, she the said *A. B.* of the poison aforesaid, and of the sickness and distemper occasioned thereby, did die.

And so the jurors aforesaid, upon their oath aforesaid, do say, that the said *A. B.* not being of sound mind, memory and understanding, but lunatic and distracted, in manner and by the means aforesaid, did poison and kill herself.

In witness, &c.

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74. Hanging by a Lunatic.

That the said *A. B.* not being of sound mind, memory and understanding, but lunatic and distracted, on the fifth day of July, in the year aforesaid, at the parish aforesaid, in the county aforesaid, one end of a certain piece of small cord into an iron staple fastened into the wainscot in the lodging-room or apartment of him the said *A. B.*, in the dwelling-house of *C. D.*, situate and being in the said parish and county, and the other end thereof about his own neck, did fix, tie and fasten, and therewith did then and there hang, suffocate and strangle himself, of which hanging, suffocation and strangling, he the said *A. B.* then and there instantly died. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said *A. B.* not being of sound mind, memory and understanding, but lunatic and distracted, in manner and by the means aforesaid, did kill himself.

In witness, &c.

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75. Finding of Goods of a Felo de se.

[*Commencement as in the former precedents.*]—Her crown and dignity. And the jurors aforesaid, upon their oath aforesaid, do say, that the said *R. F.*, at the time of the doing and committing of the felony and murder aforesaid, had the goods and chattels specified in the inventory

to this inquisition annexed, which remain in the custody of *C. D.*, who claims the same.

In witness, &c.

An inventory of the goods and chattels of *R. F.* in the inquisition annexed named, who feloniously, wilfully, and of his malice aforethought, did kill and murder himself.

Imprimis.—In the hall—two mahogany tables, six mahogany chairs, &c. &c. [*specifying every article, as well out of doors as in.*] All which said goods and chattels are appraised and valued at the sum of £ [*as the value is.*]

ACCIDENTS, &c.

76. Found Drowned.

That on the day and year aforesaid, at the parish aforesaid, in the city and county aforesaid, the said was found drowned in the river Froome, near the Dial Slip.

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77. Found Dead.

the said man to the Jurors aforesaid unknown

That on the twenty-fifth day of April, in the year aforesaid, at the parish aforesaid, in the city and county aforesaid, that is to say, at the parish of Saint Stephen, in the city and county aforesaid, ~~the said~~ —— was found dead in the river Avon, at Broad Pill. And that the said hadno marks of violence appearing on his Body but how or by what means he came to his death no evidence thereof appeareth to the said Jurors &c.

78. Infant found Dead.

That on the day and year aforesaid, at the parish of

Saint Stephen, in the city and county aforesaid, the said infant was found dead in the river Avon.

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79. ACCIDENTALLY DROWNED. by falling from a Boat

That on the day of , in the year aforesaid, at the parish of Saint Stephen, in the city and county aforesaid, accidentally and by misfortune the said fell out of a boat into the river Avon, and in the waters of the said river was then and there drowned.

---

80. STILL-BORN INFANT FOUND IN THE RIVER.

On the day and year aforesaid, at the parish aforesaid, in the city and county aforesaid, the said infant was found dead in the river Avon, and that the said infant was still-born.

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81. ACCIDENTALLY DROWNED. by falling out of a Canoe Barge

That on the day of , in the year aforesaid, at the parish of Bedminster, in the city and county aforesaid, the said was accidentally drowned by falling out of a canal-barge into the dock, called the Gravel Dock, and in the waters of the said dock was thereby then and there drowned.

---

82. ACCIDENTALLY DROWNED WHILE BATHING.

That on the day of , in the year aforesaid, at the parish of , in the city and county aforesaid, the said was accidentally drowned whilst bathing in the river Avon, near Temple Back.

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83. Drowned by Sinking with a Boat.

That on the day of , in the year aforesaid, at the parish of , in the city and county aforesaid, the said was on board a canal-boat, called the "Hannibal, of Devizes," then and there being deeply laden; and that the Usk steam-packet was then and there passing rapidly up the said river, and that the waves, caused by the rapid motion of the said steam-packet, then and there filled the said canal-boat, and caused the same then and there to sink, and the said then and there sunk in and with the said boat, and was thereby then and there accidentally drowned.

---

84. Burnt.

That on the day of , in the year aforesaid, at the parish aforesaid, in the county aforesaid, the clothes of the said accidentally caught fire, whereby the said was mortally scorched and burnt in various parts of her body, of which and wherefrom the said , on the day and year aforesaid, at the parish of , in the city and county aforesaid, died.

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85. By a Pipe of Wine.

That the said *A. B.*, on the thirteenth day of December, in the year aforesaid, at the parish and in the county aforesaid, being employed to unload a certain cart, then and there laden with two pipes of red wine, it so happened that in striking and unloading the second of the said two pipes, accidentally and by misfortune, the said second pipe, for want of judgment in him the said *A. B.*, forcibly rolled out of the said cart, to and against the person of him the said *A. B.*, and by the force and weight thereof did then and there throw him

the said *A. B.*, to the ground, and that the said second pipe did then and there roll upon and over the breast and head of him the said *A. B.*, by means whereof he the said *A. B.* then and there received one mortal wound on the head of him the said *A. B.*, of which said mortal wound he the said *A. B.*, then and there instantly died.

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86. By a Brewer's Dray.

That the said *A. B.*, on the twenty-first day of January, in the year aforesaid, driving a brewer's dray, drawn by three horses, in a certain highway called Norton-street, in the parish and county aforesaid, and then and there sitting on the shafts of the said dray, it so happened that by a sudden jolt of the said dray, in turning the corner of the said highway, he the said *A. B.*, accidentally and by misfortune, was then and there thrown from the said shafts of the said dray, to and against a post then and there fixed in the ground, at the said corner of the said highway, by means whereof he the said *A. B.* was then and there jambed between the said post and the fore plank of the said dray, and did thereby then and there receive divers mortal bruises on the belly, sides, and back of him the said *A. B.*, of which said mortal bruises he the said *A. B.* then and there instantly died.

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87. By a Dray.

That on the said sixteenth day of January, in the year aforesaid, one *C. D.*, late of the parish and county aforesaid, labourer, being gently and carefully driving a certain brewer's dray, drawn by two horses, in a certain highway called East Smithfield, and being on the right side of his horses, with a rope called a leader in his hand, and then and there turning out of the said

highway in order to go down and under a certain gateway leading from the said highway towards the workhouse of the said parish, in the said county, and also then and there, on the off side of the said dray, and unseen by the said *C. D.*, it so happened that the fore plank of the said dray accidentally and by misfortune pressed to and against the breast of her the said *A. B.*, and by the force and violence thereof jambed her the said *A. B.* between the said fore plank of the said dray and the corner of the said gateway, by means whereof she the said *A. B.* did then and there receive one mortal bruise on her said breast, of which said mortal bruise she the said *A. B.* then and there instantly died.

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88. Suffocated.

That the said *A. B.*, on the twenty-second day of June, in the year aforesaid, at the parish and in the county aforesaid, being intoxicated with liquor, and laying himself down to sleep near to a certain tile-kiln, then and there burning in a certain field commonly called the brick-field, it so happened that accidentally and by misfortune he the said *A. B.*, by the smoke and sulphurous smell arising from the fire in the said tile-kiln, was then and there choked, suffocated, and stifled, of which said choking, suffocating, and stifling, he the said *A. B.* then and there died.

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89. Sudden Death by Fits.

That the said *A. B.*, on the twentieth day of September, in the year aforesaid, being frequently afflicted with epileptic violent fits, was, for the benefit of his health, gently riding on a certain black gelding, in the King's common highway called Paddington-road, in the parish and county aforesaid, and being so riding

* a person liable and subject to violent Fits.

as aforesaid, he the said *A. B.* was then and there suddenly seized with one of his usual fits, and by reason of the violence thereof, he the said *A. B.* then and there fell from the back of the said gelding, to and against the ground in the said highway, and then and there instantly died.

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90. By the Kick of a Mare.

That *W. S.*, on the twenty-ninth day of September, in the year aforesaid, at Yarm, in the county aforesaid, was riding upon a certain mare, then the proper mare of J. K., Esquire, and the said *W. S.* from the back of the said mare then and there casually fell to the ground, and the mare aforesaid then and there struck the said *W. S.* with one of her hinder feet, and thereby then and there gave to the said *W. S.* upon the head of him the said *W. S.* one mortal wound of the breadth of two inches and of the depth of two inches, of which said mortal wound he the said *W. S.*, at Yarm aforesaid, in the county aforesaid, did languish, and languishing did there live from the said twenty-ninth day of September, in the year aforesaid, until the first day of October, in the year aforesaid, on which said first day of October, in the year aforesaid, he the said *W. S.*, at Yarm aforesaid, in the county aforesaid, of the mortal wound aforesaid, died.

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91. Smothered by the Fall of an Old House.

That the said *A. B.*, on the seventh day of December, in the year aforesaid, being in an old and uninhabited house, situate in Phœnix-street, in the parish and county aforesaid, unlawfully taking away of the timber there, it so happened that the said house then and there sunk and fell in, by reason whereof she the said *A. B.* accidentally and by misfortune was, under and by the ruins and

materials thereof, then and there suffocated and smothered, of which said suffocation and smothering she the said *A. B.* then and there instantly died.

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92. By being shut up in a Turn-up Bed.

That the said *A. B.*, on the twenty-second day of April, in the year aforesaid, at the parish and in the county aforesaid, being an infant and placed to sleep in a certain turn-up bed in the dwelling-house of *G. B.*, the father of the said *A. B.* the infant, and *B. M.*, the servant of the said *G. B.*, coming into the said room, and not knowing that the said *A. B.*, the infant, was then and there asleep, or lying in the said bed, the said *B. M.*, accidentally and by misfortune then and there innocently turned up the said bed, by means whereof he the said *A. B.*, the infant, in the said bed and the bed-clothes thereof was then and there suffocated and smothered, of which said suffocation and smothering he the said *A. B.* then and there died.

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93. Suffocated by the Falling in of an Arch.

That the said *A. B.* and *C. D.*, on the twenty-eighth day of July, in the year aforesaid, being employed to strike the centres of a certain bricked arch under the area of a certain house, situate in Wigmore-street, in the parish and county aforesaid, it so happened that in striking of the said centres, the brick-work of the said arch then and there accidentally and by misfortune sunk and fell in, by means whereof they the said *A. B.* and *C. D.* under the ruins and materials thereof were severally suffocated, by which said suffocation they the said *A. B.* and *C. D.* then and there severally died.

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94. Want of Necessaries of Life.

That the said *A. B.*, on the fourteenth day of October, in the year aforesaid, at the parish and in the county aforesaid, departed this life through the inclemency of the weather, and the want of the common necessaries of life.

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95. Death in Prison.

That the said *A. B.* being a prisoner in the New Prison aforesaid, in the parish and county aforesaid, on the twentieth day of April, in the year aforesaid, at the New Prison aforesaid, departed this life, by the visitation of God, in a natural way, that is to say, of a disease called typhus fever.

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96. Suffocated in a Cabin.

That the said *A. B.*, *C. D.*, and *E. F.*, on the twenty-third day of November, in the year aforesaid, being severally on board a certain ship or vessel, called the "William," then lying at her moorings at Green Dock in the river Thames, in the parish and county aforesaid, and they the said *A. B.*, *C. D.*, and *E. F.*, then and there severally going to their cabins, on board the said ship, without effectually taking care to extinguish the fire then and there being in the said ship's stove, it so happened that they the said *A. B.*, *C. D.*, and *E. F.* accidentally and by misfortune, were, in the night, then and there severally suffocated and smothered in their cabins by the smoke and sulphurous smell arising from the said fire confined in

the said vessel, of which said suffocation and smothering they the said *A. B.*, *C. D.*, and *E. F.*, then and there severally died.

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97. Suffocated in the Mud.

That the said *A. B.*, on the second day of February, in the year aforesaid, being on board a certain ship or vessel, called the "Fortune," of Leith, then lying at her moorings near the Hermitage, in the river Thames, in the parish and county aforesaid, he the said *A. B.* accidentally, casually, and by misfortune, fell from the side of the said ship or vessel, into the mud, then and there being in the said river, by means whereof he the said *A. B.* in the mud of the said river was then and there suffocated and smothered, of which said suffocation and smothering, he the said *A. B.* then and there died.

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98. Skull Fractured.

That the said *A. B.* being a mariner on board the ship "Jane," lying at her moorings in the river Thames, in the parish and county aforesaid, on the twentieth day of September, in the year aforesaid, being then and there on a certain rest or stand, called the triangle, and then and there employed in scraping the main mast of the said ship, it happened that the lashing of the block which supported the said triangle then and there broke, by reason whereof he the said *A. B.* then and there accidentally and by misfortune fell from the said triangle upon the deck of the said ship, by means whereof he the said *A. B.* then and there received one mortal fracture on the crown of the head of him the said *A. B.*, of which said mortal fracture he the said *A. B.* then and there ~~instantly~~ died.

99. Apoplexy.

That on the day of , in the year aforesaid, at the parish of , in the city and county aforesaid, the said died suddenly from apoplexy.

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100. Visitation of God.

(The cause of death being natural, but not proved.)

That on the day of , in the year aforesaid, at the parish aforesaid, in the city and county aforesaid, the said died suddenly by the visitation of God.

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101. Intoxication and Epilepsy.

That on the day of , in the year aforesaid, at the parish aforesaid, in the city and county aforesaid, the said died suddenly from the combined effects of intoxication and epilepsy.

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102. Convulsions.

That on the day of , in the year aforesaid, at the parish aforesaid, in the city and county aforesaid, the said died suddenly from convulsions.

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103. Treasure Trove.

Somerset, } An inquisition indented, taken at Crow-
to wit. } combe, in the county aforesaid, on Friday, the nineteenth day of September, in the ninth year of the reign of our Sovereign Lord George the Second, by the grace of God, of Great Britain, France, and Ireland, King, defender of the faith, &c., and in the year of our Lord one thousand seven hundred and thirty-five, by and before me, George Cary, gentleman, one of the coroners of our said Lord the King, within and for the said county, upon making inquiry

of certain treasure trove, lately found in the said mansion-house of Thomas Carew, of Crowcombe aforesaid, Esquire, within the manor of Crowcombe Bickham, in the said county, by virtue of my office, and of the statute in that case made and provided, upon the oaths of (nineteen jurors) good and lawful men of the county aforesaid, who, being charged upon their oath, and heard evidence upon oath, produced to them, do say, that in or about the month of June, in the year of our Lord one thousand seven hundred and twenty-four, Thomas Parker, of Gittisham, in the county of Devon, joiner, in pulling down the said late mansion house of Thomas Carew, Esquire, aforesaid, he the said Thomas Parker being employed by the said Thomas Carew therein, did then and there find, hidden in a vacant place in the wall of the said late mansion house, certain parcels of old silver coin or old silver moneys, contained in several bags, amounting together, in the whole, to the value of 700*l.* and upwards, sterling or current moneys of this realm, and that the said Thomas Carew is the reputed lord of the said manor, and as such entitled to the several royalties thereof, as appears by several ancient records and court rolls, to the said coroner and jurors produced in evidence. And the said jurors do further say, that the said Thomas Parker then and ever since, to the time of the taking this inquisition, concealed his finding the said old silver coin or old silver moneys from the knowledge of the said Thomas Carew, and the said jurors do further say, that the said Thomas Parker is now in full life and living at Gittisham aforesaid, in testimony whereof, as well I, the said coroner, as the jurors aforesaid, have hereunto severally set our hands and seals, day, year, and place, first above mentioned.

Settled by Mr. Justice Chappell, then King's Serjeant.

END OF THE PRECEDENTS.

Statute 6 & 7 Vict. c. 12,

for the convenient holding of inquests.

The provisions of the statute 6 & 7 Vict. c. 12, were omitted by accident in the chapter on the Coroner's Duties (page 18), and are therefore given here.

By 6 & 7 Vict. c. 12, s. 1, the coroner only within whose jurisdiction the body of any person upon whose death an inquest ought to be taken, shall hold the same, although the cause of death did not arise within his jurisdiction; and in the case of any body found dead in the sea, or any creek, river, or navigable canal, within the flowing of the sea, where there is no deputy coroner for the jurisdiction of the Admiralty of England, the inquest shall be holden only by the coroner having jurisdiction in the place where the body is first brought to land.

Sect. 2. For the purpose of holding inquests, every detached part of a county, riding, or division, shall be deemed to be within that county, riding, or division by which it is wholly surrounded, or where it is surrounded by two or more counties, ridings, or divisions, within that one with which it has the longest common boundary.

Sect. 3. If a verdict of murder or manslaughter, or as accessory before the fact, to any murder, be found by the jury at any such inquest, against any person, the coroner holding the said inquest, and the justices of oyer and terminer and gaol delivery for the county, city, district, or place in which such inquest is holden, and all other persons, shall have the same powers respectively for the commitment, trial, and execution of the sentence of the person so charged, as they now by law possess with regard to the commitment, trial, and execution of the sentence upon any person committed and tried within the jurisdiction where the death happened.

Sect. 4 relates to deodands, now abolished.

INDEX.

128.

LONDON:
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* per Bayley Bolland and Bosanquet J.s
Rex v Williamson 3 b & p 635 per L.d Ellenborough
Rex v Shelliber 5 b & p 333 per Bolland and
Bosanquet J.s Rex v Simpson Lew C C 172
per Bayley J. Rex v Ferguson Lew C C 181 per
Tindal C J Rex v Webb 1 Mood & Rob 405
per Lyndhurst C B. — — — — — —

Manslaughter. Mala praxis

Lord Lyndhurst in a recent case laid down the following rule:

In these cases there is no difference between a licensed physician or Surgeon and person acting as physician or Surgeon without license Reg v Webb 1 Mood & Rob 405. In either case if a party, having a competent degree of skill and knowledge makes an accidental mistake in his treatment of a patient through which mistake death ~~[illegible]~~ ensues he is not thereby guilty of manslaughter But if a where proper medical assistance can be had a person totally ignorant of the science of Medicine takes on himself to administer a violent and dangerous remedy to one labouring under disease and death ensues in consequence of that dangerous remedy having been so administered then he is guilty of Manslaughter See Reg v St. John Long 4 C & P 333 per Bayley Bolland & Bosanquet Js. See also Reg v Williamson 3 C & P 635.

A Man may be guilty of manslaughter if notwithstanding he had a competent knowledge of Medicine he be guilty of gross rashness in the application of a remedy or gross negligence in attending his patient afterwards- Reg v St. John Long 4 C & P 398 per Parke & Garrow Js. 4 C & P 423 x

Mala praxis.

Great care should be exercised as to what constituted a gross want of care and skill otherwise there would be no safety for the regular practitioner - The mere question was whether the prisoner had bona fide done what he considered to be most advantageous for the recovery of the patient if so he ~~should not~~ ought not to be tried for manslaughter - Unless the prosecutor made out that the prisoner was really not doing his best there was an end of the case - In the present case it had been shewn that the treatment resorted to by the prisoner had in one or two instances been attended with a beneficial effect If people would employ unqualified persons to dispense Medicines they must take the Consequence -

March Assizes at Liverpool 1850.

Reg v John Winterbottom

Per. Baron Alderson -

Infanticide See p 223 Post

A prisoner indicted for Murder of her Infant child by poison. She purchased a Bottle of Laudanum and directed the person who had the care of the child to give it a tea spoonful every night - That person did not do so but put the Bottle on a Shelf where another child found it and gave part of the Contents to the prisoners child with no evil intent who soon died - Held under the circumstances that the admon of the poison by the child was in point of law an admon by the prisoner as if she had actually administered it with her own hand Reg v Michael 9 Car & p 356

Small Pox.

By 3 & 4 Vict c 29. Inoculation illegal
& see Reg v Squires of Dorset Manslaughter
if death occur. C^d Dunman — — — —
Bakers Coroner p 264. — ———————

Infanticide.

Appearance — Age — evidence obtainable before respiration — evidence from respiration. evidence from certain changes in the Body.

The external general appearance of the Body

If putrified its indication by separation of the epidermis - change of color in the Skin or offensive odour — Its colour Green or Red Atmospheric or Uteral —

The presence of vernix caseosa about the groins axilla or neck denoting (if any) that the child has not been washed or attended to.

The Umbilical cord whether it has been cut torn or lacerated and the length of the portion still attached

The Appearance of Ecchymosis Contusions & their colour or lividity extent and position in different or distinct parts of the Body or not whether presenting the Characters peculiar to wounds and contusions inflicted during life or not - Coagula - Ecchymoses &c

The presence or absence of external foetal peculiarities

Any peculiar marks or Indications of deformity whereby Identity may sometimes be traced —

Infanticide cont.

Uterine Maturity or Age.

Proof of a child being born alive is thrown upon the prosecution and to support Infanticide the whole of the Body of the child must have come from its parent and it must be proved that it was living after its Body had entirely come into the world — Hents Lent assize Baron Parke 1841

Characters to Judge age.

at 6 mos. Length from 9 to 10 Inches. Weight 1 to 2 lbs eyelids agglutinated — pupils closed by Membrana pupillares — testicles in Male not apparent — Brain smooth no convolutions

at 7 mos Length 13 to 14 Inches. Weight 3 to 4 lbs eyelids not adherent membrana pupillares disappearing — Nails imperfectly developed testicles in Male not apparent — Fat deposited in the cellular tissue — Skin covered with a white sebaceous matter

at 8 mos Length 14 to 16 In. Weight 4 to 5 lbs Membrana pupillares absent — Head well covered with Hair. Nails perfectly developed and reach to finger ends. Testicles in Male in the Inguinal Canal.

at 9 mos Length 16 to 18 In. Weight 5 to 9 lbs, Testicles in the Scrotum — Skin pale — features perfect Body well developed. Brain the surface presenting convolutions and cineritious matter begins to shew itself from the 8th Month the Gall Bladder may contain some traces of liquid

resembling Bile - The Meconium occupy all entirely the large Intestines and the Bladder contain Urine but there absence is no proof that the Child was not born alive.

The point of insertion of the Umbilical Cord with respect to the length of the Body affords no certain evidence of the degree of Maturity

Twins are generally less developed than single Children and the Characters given must be taken as an average - The average Weight of a Town Child is not above 5 lb or hardly that

Male Child generally longer and heavier than female.

If Child under 7 Months the Medical presumption is that it was born Dead

If arrived at its full period that it was born alive

An Immature Fœtus - Its different members will be more or less transparent the color of the Skin will be nearly red and transparent - The Bones of the Head soft and the fontanelles very large. The Hair very thin - The Nails either wanting or very soft

When Born alive there has been observed constant sleep an absence of the ordinary Cries of a child - its Movements are feeble and the discharge from the Bowels either wanting or very small in Quantity

Infanticide.

Whether the child has lived to Breathe
Whether it has been Born alive —

1st That obtainable before respiration performed.

In Rex v Brain Judge park says a Child may be born alive and not breathe for some time after its Birth - In Rex v Sellis Judge Coltman says If the Child is alive at the time of the act it is not necessary to constitute Murder that it should have breathed - Respiration is only one proof of life —

High Putrefaction either from the child having died in the Uterus some time before Birth or from having been Born and the Body not discovered until putrefaction far advanced both internally & externally renders the examination and evidence of a Medical practitioner hopeless. The Body can then furnish no proof or evidence of life after Birth and assuming that the lungs preserve their fœtal condition the examination of the internal organs would throw no light on the Case

Putrefaction in the Womb takes place as rapidly as in the air - The Body is flaccid. Skin reddish Brown and not Green as when exposed to the air Epidermis of the feet and hands White & sometimes raised in Blisters - Cellular Membrane filled with a reddish Coloured Serum - Bones moveable readily detached from the soft parts. Where the Body remains some weeks before expulsion it has occasionally

been found saponified & incrusted with phosphate of lime

In Atmospheric putrefaction the Skin is Green

If the Child died in Utero from 48 to 24 Hours before Birth and immediately examined the appearances will closely resemble those met with in the Body of a Child born alive and died in the act of respiring or of one which may have not been born alive but died in the act of Birth. It will in such a case be impossible to say whether it Came into the World alive or dead

The Body of a Still Born Child dead from natural Causes is often covered with lividities and ecchymoses. The fœtal Blood does not Coagulate with the same firmness as in the adult -

Marks of violence in the Body of a Child which died in Utero 24 or 48 Hours before it was Born would not present the characters of Injuries inflicted on the living - There would be no ecchymoses or Coagula of Blood - These Marks altho they may establish that the Child was living or but recently dead at the time they were received cannot shew that the Child was born alive

2nd That obtained after respiration

The proof of the act of respiration is the best and strongest evidence of a Child having lived at or about the time it was Born - It does not however shew that a Child was Born alive -

If the Child have not respired the following -

Appearances will be seen

The Thymus gland as large as the Heart occupies the upper and middle portion of the Cavity and is sometimes of a pale fawn colour at others of a deep livid color but there is no perceptible difference in this organ in new born Children before or after respiration.

The Heart in its pericardium is situated in the lower and middle portion and is rather inclined to the left side

The Lungs are placed quite in the Back of the Chest — In no instance unless congested infiltrated or otherwise diseased do they cover or conceal the pericardium — Color: Blush Red, or deep violet

If the child have fully respired the appearance will be as follows the most striking difference being in the colour and prominence of the lungs

1st. Colour. They are of a light red hue and project forwards. appear to fill the cavity of the Chest and cover and in great part conceal by their anterior Margins the bag of the pericardium. more or less the fill the Cavity according to the length of time the child has lived

If respiration imperfectly established they will be mottled generally about their anterior surfaces & Margins the patches of light red being intermixed with the livid fœtal hue and being slightly raised as if by distension above the general surface of the organs.

The light red changes after a short exposure to the air to a Bright Scarlet — The change of Colour is a usual but by no means a necessary consequence of the enjoyment of life its absence does not furnish positive evidence of still Birth ———

2d Volume When respiration has been perfectly accomplished the volume is so much increased that the Bag of the pericardium is almost Concealed.

3rd Consistency The Lungs before respiration feel like liver or any other soft organs of the Body They are firm under the finger but may be lacerated by violent Compression.
After respiration there is a distinct Sensation of what is termed Crepitus or compressing them ie air is felt within them - Crepitation furnishes presumptive evidence of respiration

4 Weight - The weight of the lungs before respiration is less than after - The average weight before respiration is 6 to 9 grains after 9 27 grains - The increase of weight is due to the additional Quantity of Blood occasioned by its altered Course under the establishment of the respiratory process and this view is Confirmed by the Contraction of the ductus arteriosus and the simultaneous enlargement of the 2 pulmonary arteries

5 Plouquet Test of respiration - viz comparison of the absolute weight of the Lungs with the Weight of the Body increase of Both in ratio This is not a good test

6 Blood in the pulmonary vessels. There always is both before and after respiration therefore this is not worth anything

7 Specific gravity. Greater before respiration than after

Hydrostatic Test. After respiration the lungs will float but although a proof of respiration their sinking is not a positive proof that the Child was not born alive.

The Lungs should be first tried together then separately and afterwards each lobe cut into 12 or 15 different pieces and each piece tried and then compressed and tried again for they may be buoyant from. Putrefaction or from Artificial Inflation and Artificial Inflation is not distinguishable from imperfect respiration except by Compression

The Lungs may sink from Hepatization Scirhus - edema or congestion or Atelectasis (imperfect expansion).

There may be life with partial distension of the Lungs and also with Perfect Atelectasis or entire absence of air —

3rdly That from respiration and That obtained from certain changes in the Body

1 That portion of the Umbilical cord which is contiguous to the abdomen becomes corrugated and separates with or without Cicatrization but this takes 5 or 6 Days therefore its presence is no proof that the Child was not born alive The Umbilical vessels become at the same time Contracted

2 The ductus venosus in the fetus anterior to respiration is found open and containing Blood - In the child which has respired for a certain length of time on the contrary it will be found

collapsed and empty - The whole vessel after a time becomes impervious and is finally converted into a ligament - The period however at which the change takes place varies much in different cases - If it be obliterated it is a proof that the child has lived and respired - On the other hand as it remains open a day or two at least after Birth its being found open is no proof that the Child was born Dead

3 The Ductus Arteriosus - a vessel which passes directly from the pulmonary artery and enters the Aorta just below its Arch -
In the fœtus it will be found open and full of Blood - After Birth it becomes contracted either in the centre or at its aortal termination or obliterated. In the adult it is so perfectly so that by the most careful examination no vestige of it can be found save a cord like adhesion of the Aorta and pulmonic Artery The closure however does not take place sometimes until 2 or 3 weeks after Birth therefore whilst its perfect closure is to be considered a proof of life its being open is no proof that the child has been born dead -

4 The Foramen Ovale becomes obliterated by the closure and depression of the valve and leaves behind it nothing but an Oval depression in the Septum between the Auricles which depression is called the Fossa Ovalis and corresponds to the space occupied in the fœtus by the Foramen Ovale - In the fœtal state

before respiration it is always open and becomes closed only in consequence of the Blood taking a new route through the Lungs when respiration Commences but its closing and obliteration is a gradual process taking sometimes from two to three weeks — The closure therefore is one of the strongest proofs of previous life - its being Open however is no evidence to the Contrary.

5th The pulmonary Blood vessels in the fœtus state are small and contain scarcely any Blood a very small portion going the round of the pulmonary circulation the greater part passing directly through the Foramen Ovale and the Ductus Arteriosus But as soon as respiration is established the whole Mass of Blood passes through the Lungs for the purpose of oxygenation and the pulmonary Blood vessels are accordingly distended and filled with Blood If therefore the blood vessels of the Lungs are filled with Blood it is a Proof that the Child has enjoyed life but as the excess of the Blood after respiration becomes distributed through the Minute Capilliary System and does not remain in the larger trunks the State of the pulmonary vessels furnish no sufficient evidence of want of life

b The State of the Alimentary Canal

Discovery of certain liquids or solids in the Stomach and Intestines such as Blood. Milk or farinaceous or Saccharine Articles of Food — — — — — — — — — — Finis —

Wounds

Ecchymosis. Extravasation or effusion of Blood from ruptured vessels into the surrounding cellular tissue. It is in general superficial affecting only the layers of the Skin and showing itself externally either immediately or in the course of a short time in the form of a deep blue or livid red patch. The former Colour being met with in Ecchymosis slowly produced whilst that ~~latter~~ which is the result of violence is livid or livid red it changes to a violet tint then to Green Yellow and lemon colour during which time it increases in extent and the central portion is always darker than the extremities There is Coagula. The external Causes are the rupture of the vessels

Sugillation - livid patches which occur after death and are owing to the langour of the Capillary Circulation.
The Extravasation is commonly confined to the superficial layers of the true Skin
The Blood is fluid
There is internal Congestion of the vessels

Character of Wounds inflicted during life
1 Marks of Gangrene.
2 Effusion of adhesive or purulent matter
3 Edges swollen & enlarged & cicatrization commenced
The above 3 characters are not commonly found when death has place within 10 or 12 Hours after the Injuries

Inflicted during life cont^d

4 Hemorrhage of an arterial character with the Blood coagulating as it falls on surrounding Bodies

5 Edges of the Wound everted

6 Cellular tissue around deeply reddened by suffused Blood

7 Coagula adhering to the wound provided it has not been interfered with —

Inflicted after Death

1 Absence of Hemorrhage copious

2. Not Blood effused or if there is it is of a venous character proceeding from some divided vein

3 Blood commonly liquid not coagulating

4 Edges soft yielding and destitute of elasticity and therefore not everted but in close approximation

5 Cellular tissue not infiltrated with Blood or only to a very partial extent

6 No Coagula within the wound —

If Wounds are inflicted soon after breath has left the Body and whilst yet warm The distinctions ~~xxx~~ not between them and those inflicted during life are not then so well marked

Incised Wounds cuts or stabs. the person either dies immediately from in which case there is about Hemorrhage from the wounded

Wounds Cont^d

organ or some large vessel or the dies after some time in which case the wound continues to Bleed whilst he lives the longer he survives the more copious being the discharge—
If inflicted after death and whilst the Body is warm nothing of this kind is observable—Unless the weapon shew injured one of the large veins the Hemorrhage is always slight & venous—

Lacerated and Contused Wounds are not often accompanied by much Hemorrhage even when a large Blood vessel happens to be implicated but coagula are commonly found adhering to the separated parts and Contused Wounds are commonly accompanied by ecchymosis—

Noxious Exhalations

Carbonic Acid (Choke or Black Damp)

Appearance of the Body

Head and face and neck swollen – eyes propelled from their sockets but preserve their Brilliancy for 2 or 3 hours after Death Tongue protruded swollen and inclined to one side of the Mouth. Jaws firmly closed Face livid. Lips of a Dark blue colour Abdomen inflated. The Body preserves its warmth for a long time and sometimes is warmer than natural Blood fluid and Black.

Sulphuretted Hydrogen. The principal Noxious substance exhaled from privies and Common Sewers.

Post Mortem appearances

Blood Brownish Black and fluid. Skin Bluish. Putrefaction rapid Brain Green and tender. Bronchia Red Stomach presents Symptoms of irritation Liver greenish Black Colour. Viscera smells like putrid fish

Carburetted Hydrogen. – Fire Damp.

If the Body is not much charred it present a reddish and yellow or Sulphury Appearance

Factory Regulations

Acts 7 & 8 Vict c 15. - 13 & 14 V c 54

Not to work under 8 years of age
Children under 13 " " "
Young Persons " 18 " " "
Women are young persons - - - - - -

No young person to be employed before 6 in the morning or after 6 o'clock in the evening.

7 & 8 V 15 s 20 Mill Gearing not to cleaned whilst in motion - No child or young person to be allowed to work between the fixed and traversing part of any self acting Machine whilst the latter is in motion - - - - - -
s 21 - Machinery &c to be guarded -
s 42 & 43 - Inspector to give Notice of Dangerous Machinery &c and occupier to sign Duplicate of such notice - Occupier may have Arbitrators appointed to view report and decide -
sec 60 penalty after notice not less than £10 or more than £100 (for Injury) for benefit of persons injured - Occupier not to be liable to penalty if notice has been cancelled as provided by sec 43 or if complaint has been heard before Magistrates and dismissed - - - - -

Sisters

No person both employer as under 13 Years of age — penalty

Not to have 2 Seats unless connected

N.

Pro

to prevent as to Children -

Steep Clothes in a Solution of Alum & Salamoniac

Mines Regulation and Inspection Act 23 & 24 Vict c 151 — S 20 —

Sec 20 — "Every Coroner holding an Inquest upon the Body of any person whose death may have been caused by such accident as aforesaid shall, unless the inspector of the District or some person on behalf of the Secy of State be present to watch the proceedings at such inquest adjourn such Inquest and by letter sent through the post Office 4 Days at least before the holding such adjourned inquest addressed to the inspector of the District give Notice to such Inspector of the time and place of holding the same: —— Provided that such Coroner may before the adjournment of any such inquest take evidence to identify the Body and may order the interment thereof Provided also that if the accident has not occasioned more than 1 Death and notice of such Inquest has been given by the Coroner to the Inspector by letter addressed through the post Office not less than 48 Hours before the time of

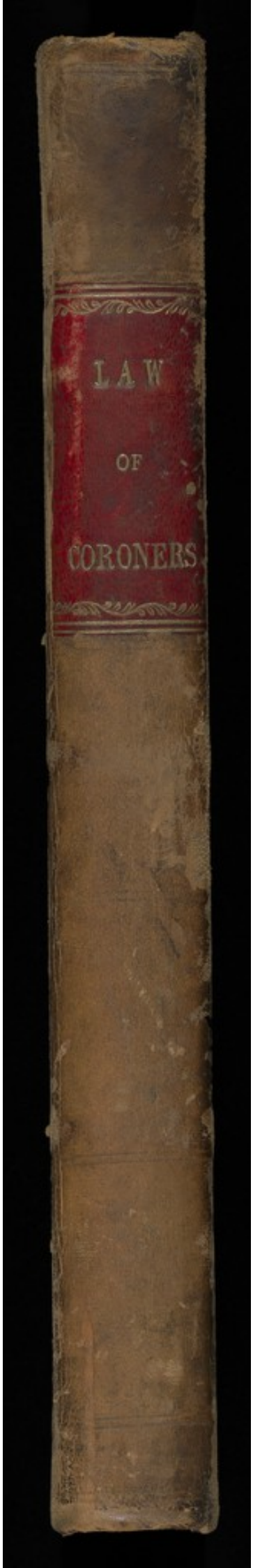
holding the Inquest it shall not be
imperative on the Coroner to adjourn
such Inquest so oft as in case the
Majority of the Jury think it more eligible
so to adjourn and such Inspector
shall be at liberty to examine
any Witness at such Inquest
Subject to the order of the Coroner.

Of a child by Sudden Delivery -

That the mother of the said new Born male child on the day of in the year aforesaid at the township and in the county aforesaid to wit at and in the Dwelling House of there situate the said male child did bring forth the alone of her Body alone suddenly and by surprise and that the said new Born male child then died in about after its Birth in a natural way and not from any violence Hurt or injury received to the Knowledge of the said Jurors nor had the said new Born male child any marks of violence appearing on the Body

Still Born.

That the said new Born male child was Still born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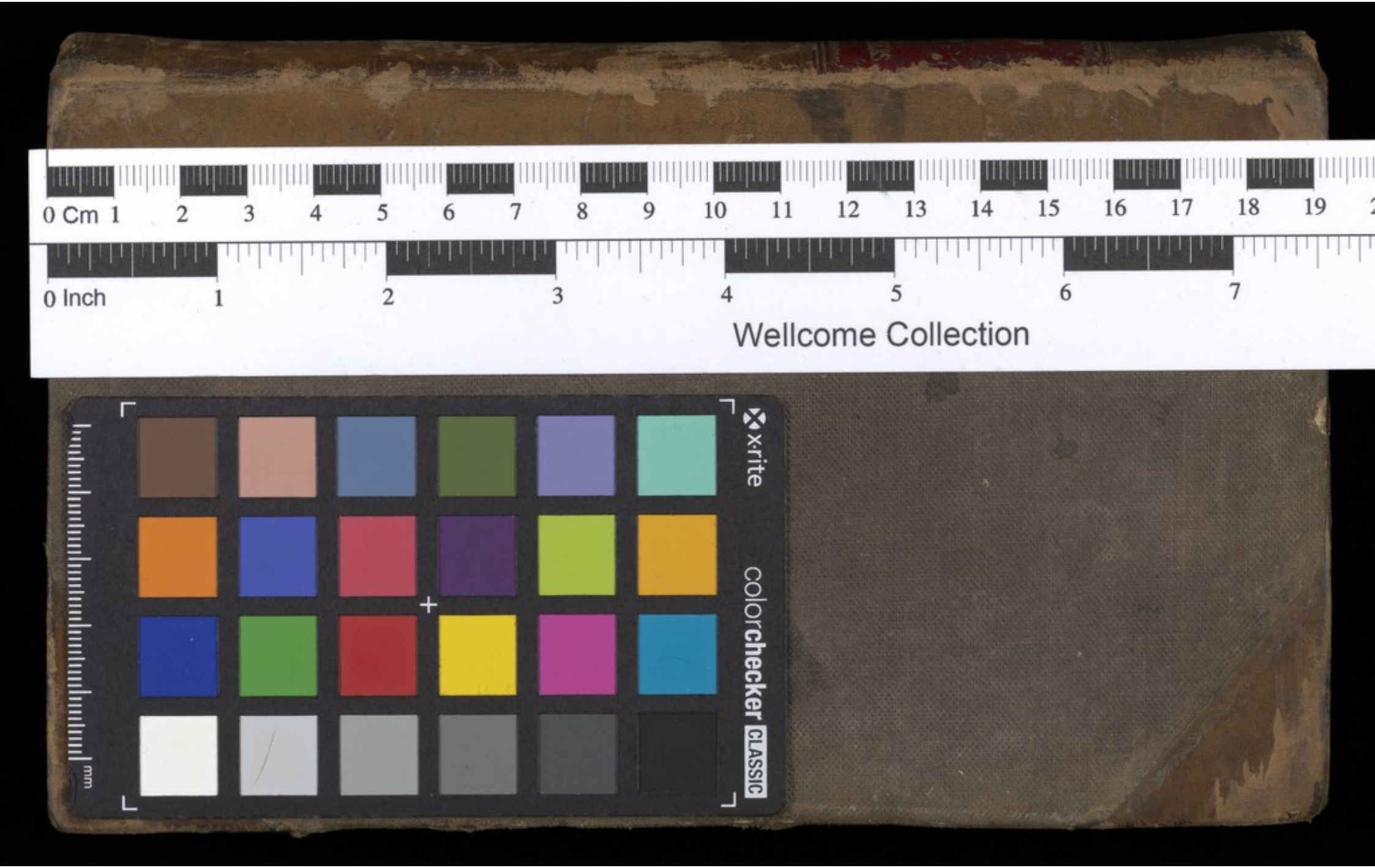
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