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A PAPER

BY

E. M. HARWOOD,

Deputy Coroner for the City and County of Bristol.

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J. W. ARROWSMITH, 11 QUAY STREET.

At the request of the Bristol Law Students' Society, the following paper was prepared by Mr. E. M. Harwood, Deputy Coroner for Bristol, and read at the Society's meeting on the 3rd of February, 1885.

It does not profess to be a *treatise* on the law relating to Coroners. It merely comprises such a general view of the subject as would be likely to interest those for whom it was written; and although it is partly compiled from works on Coroners, and from other sources, much of it is original and may prove of some interest to members of the profession generally; and as numerous applications have been received for copies of the paper since a notice of it appeared in the *Law Times*, it has been decided to print it in a slightly curtailed form.

ON CORONERS.

THE office of Coroner is of very great antiquity, and is so referred to in 25th Geo. II., cap. 29 (1752), which begins thus: "Whereas the office of Coroner is a very ancient and necessary office." Judge Doddridge says it is so ancient that its commencement is not known. The first mention of it is made in King Athelstan's charter to Beverley, in the year 925; but although the obscurity which surrounds the history of early days renders it difficult to obtain a clear account of the laws of the ancient Britons, or of those nations who from time to time made inroads upon and settled amongst them, we find some light thrown upon the subject in studying the history of our country as it was in the days of Alfred the Great. It is certain that Coroners existed in the time of that king, for he punished with death a judge who sentenced a person to suffer death upon the Coroner's record without allowing the delinquent liberty to traverse.

About the year 900, when the Danes had been disposed of, and matters had become comparatively settled, King Alfred remodelled the Constitution of the country, and the whole kingdom was gradually brought under a scheme of government in which every man was made answerable to his immediate superior for his own conduct and that of his family and neighbours. Previously to this the kingdom was in a wretched condition from the ravages of the Danes; and although their armies were broken, the country was full of straggling troops of that nation, who indulged in acts of robbery and violence, and whose example was even followed by the English themselves, who, plundered and thus reduced to indigence, betook themselves in despair to a like disorderly life, and preyed upon their fellow-citizens. Alfred the Great set himself to rectify this state of things, and divided all England into counties, hundreds, and tythings or decennaries. These tythings were composed of ten neighbouring householders, who were answerable for each other's conduct, and over whom one person, called a tything-man or borsholder, was appointed to preside.

Ten of these decennaries constituted a "hundred," which assembled once a month for deciding affairs of importance.

Twelve freeholders were chosen and sworn to do justice, after which they proceeded to examine into the causes submitted to them. This appears to be the origin of the jury system, which has endured to the present day.

Several of these hundreds composed a county, over which presided the alderman or earl, the bishop, the sheriff, and the Coroner. The two latter officers were elected by the freeholders, in full county-court, by writ, occasionally directed to each other; so that their powers appear to have been to a certain extent co-ordinate, and they were in those days the

only magistrates or conservators of the peace in their county. The sheriff, however, in process of time obtained additions to his powers, and became the more immediate officer of the Crown; and thus by degrees it became a prerogative appointment, and at length produced the law now subsisting, by which the sheriffs of counties are annually nominated (with some exceptions) in the Court of Exchequer.

The Coroner, however, had no addition made to his powers, and his office is still (in counties) elective, and he remains the only officer in England who, by virtue of his election, is established a magistrate and conservator of the peace. The office is not only one of great antiquity, but was originally one of considerable dignity; for, by 3rd Edward I., cap. 10 (1275), Coroners were required to be "wise and discreet knights"; by 14th Edward III., statute 1, cap. 8 (1340), he should have land enough in fee whereof he might answer to all manner of people; and by 28th Edward III., cap. 6 (1354), he was to be "of the most meet and most lawful people of the county." No special qualification is now required, though Serjeant Hawkins, in his *Pleas of the Crown*, expresses an opinion that the persons chosen must be "of good substance and credit." According to Sir Edward Coke, a Coroner should be of sufficient knowledge and understanding—of good ability, and power to execute his office, and of diligence for the proper execution of it. He certainly ought also to possess a fund of sound common-sense, in order to decide, as he often has to do, whether, in the interests of the public as well as of private individuals, it is really necessary or not to hold an inquest.

For instance, in a case of sudden death, he should ascertain whether the deceased suffered from any disorder which might be expected to terminate fatally, in which case it might be improper and obtrusive to interfere by holding an inquest, thus causing unnecessary pain to the feelings of relatives, as well as entailing needless expense to the ratepayers.

It has been laid down that dying suddenly is not to be understood of a fever, apoplexy, or other visitation of God, and that Coroners ought not in such cases, nor indeed in any case, to obtrude themselves into private families for the purpose of instituting inquiry, but should wait until they are sent for by the peace officers, to whom it is the duty of those in whose houses violent or sudden deaths occur to make immediate communication.

Some Coroners, paid by fees, have been censured by the court for holding inquests, for the sake of enhancing their emoluments, when there was no reasonable probability that the deaths occurred from violence or unnatural causes.

On the other hand, a Coroner, even if paid by salary, should be equally careful not to abstain from holding inquiries in cases which he really thinks require investigation, without reference to the feelings of private individuals, or to any necessary expenses incurred thereby.

As a proof of the dignity of the office in Chaucer's time, we read in his description of the Frankelein: "At Sessions there was he Lord and Sire· Full often time he was Knight of the Shire. A Shereve had he been and a Coronour. Was no where such a worthy Vavasour."

Coroners of counties are still, as in olden times, elected for life by the freeholders; but in most boroughs they are appointed by the Town Council or civic authority, and hold office during good behaviour.

In ancient times the Coroner presided, in conjunction with the sheriff, at the latter's "Tourn," or Criminal Court; but the Coroner was always the judge, and pronounced the judgment of outlawry; and a certiorari to remove an inquiry, if directed to the sheriff alone, was not sufficient, as he was not the judge; but one directed to the Coroner, or jointly to the sheriff and the Coroner, was held good; and by 3rd Edward I., cap. 10, sec. 43, it is enacted as follows: "Lastly, it is our pleasure that our sheriffs and bailiffs be attendant upon our Coroners, and obedient to their orders and mandates."

The Coroner has also occasionally to exercise a ministerial office, where the sheriff is incapable of acting. Thus, where an exception is taken to the sheriff on the ground of partiality or interest, the Queen's writs are directed to the Coroners. This incident to the office points distinctly to their ancient character as ministerial officers of the Crown.

By the Metropolitan Thoroughfares Act of 1839, 3rd and 4th Vic., cap. 87, Coroners are required to act if the sheriff be interested.

Thus it appears that the powers and dignity of the Coroner were, in ancient times, very considerable; but in process of time his jurisdiction was gradually subjected to greater limitation; and whether from this cause, or from the creation of justices of the peace, or from being chosen from a lower grade than that of a knight, which might have led him to screen his neighbours from justice, his operations became tardy and inaccurate, and he was led to neglect or overlook the more important of his duties, and to confine his inquisitions to a few great crimes which he could not avoid taking notice of. To supply this deficiency the sheriff was directed, upon the meeting of the judges in circuit, to summon a jury to procure information concerning crimes committed in his district. Hence the origin of the grand jury, by whose inquisition the judges were authorised to proceed to try offenders.

It is to be regretted that an office of so much responsibility, and in which the presiding officer is frequently placed in the situation of a judge in the most important cases of criminal enquiry, is often committed to hands very incompetent to the performance of its duties; but the truth appears to be that the present reputation and dignity of the office are insufficient, and the payment is too small, to induce gentlemen of fortune or rank to solicit the appointment, and it is consequently too often left to be contested for by those to whom the inadequate fees are an object of attraction, or to professional men who have other sources of income, but whose industrious habits and legal or medical knowledge usually qualify them for the office in a more special manner.

And here it may be appropriate to touch upon the vexed question as to whether the Coroner should be chosen from the legal or medical professions. The preponderance of opinion appears to be in favour of appointing a legal practitioner, for the very nature of his business enables him to conduct an enquiry with all due and proper regard to the rules of evidence and its admission or rejection, the mode of examining the witnesses, and of recording the evidence properly. The advantage of having a medical man as Coroner is that in some cases he can, from his technical knowledge, be better able to direct his jury in arriving at a conclusion as to the precise cause of death; but then a Solicitor-Coroner can always summon a medical

witness, and compel his attendance (under 6th and 7th William IV., cap. 89), if he require an opinion of a medical man; but this is not often necessary, nor is it incumbent upon a jury to ascertain in many cases the precise and actual complaint or injury which caused the death, provided it be satisfactorily shown that the death was due to some natural or unavoidable cause.

The authority of the Coroner was judicial and ministerial; judicial where one came to a violent death, and to take and enter appeals of murder, to pronounce judgment upon outlawries, to enquire of lands and goods, escapes of murderers, treasure trove, deodands, &c. These have now been abolished by different Acts of Parliament, except as to deaths. The ministerial power was, and still is, where the Coroner executes the King's writs on exception to the sheriff, as by his being a party to a suit, kin to either of the parties, or on default of the sheriff.

The judicial authority of Coroners also formerly extended to arsons, rape, prison-breach and housebreaking, and it was so laid down by Hawkins in his *Pleas of the Crown*, who contended that their power in those cases, and which was conferred on them by the express words of the statute, "De officio Coronatoris," 4th Edward I., was never expressly taken from them. The question, however, has been disposed of by Regina *v.* Herford (6 *Jurist N.S.*, 750), in which an attempt was made to establish the authority of Coroners to hold inquisitions in case of fire. Cockburn, C. J., in delivering judgment, said: "We have the authority of three of the greatest writers who have expounded and illustrated the law of England, for saying that the office of Coroner, with reference to felonies, is limited to cases of homicide on the view of the body. Lord Coke and Lord Hale, in clear and distinct terms, lay down that as law, and it is adopted by Comyns in his *Digest* without the expression of any doubt on his part. These three authorities are sufficient, in the absence of statutory enactments to the contrary, to establish any proposition of law." Jervis, in his work on Coroners, says that where a custom prevails, as in Northumberland, a Coroner may enquire of all felonies, citing 35th Henry VI., pl. 27.

I think it is a debatable question as to whether it was advisable to limit the authority of Coroners as to cases of arson, when we hear of so many incendiary fires, and others of a very suspicious character, occurring. At any rate, it is certain that before this case was decided, it was a common practice to hold inquisitions in cases of arson; for the affidavit of the Coroner of Manchester, against whom a prohibition was sought against proceeding further in an enquiry he had partially held as to a fire, stated that inquests had been held in similar cases at York and Pontefract, at Rotherham in 1848, at Lincoln and Reading, at Nottingham in 1857, at Bedford, at Flint in 1858, at Denbigh, Anglesea and Exeter, and in London by Mr. Payne, and in Middlesex by Mr. Humphries, and that all these inquisitions had been held, not by virtue of a custom, but under the Common Law. Cockburn, C. J., however, in his judgment, said, "As to the importance to the public that Coroners should have this jurisdiction, there are two opinions. I express none. Some of the Coroners in modern times have exercised the jurisdiction and some have not. If they are to exercise it in this or other felonies, after the disuse of it for five or six centuries, let it be given to them by the Legislature, and not revived by this Court."

Coroners are of three kinds ; viz., by virtue of an office, by charter or commission, and by election.

The Coroners by virtue of an office are, the Lord Chief Justice of the Court of Queen's Bench, who by virtue of his office is Supreme Coroner over all England, and the Pusine Judges of that Court, who are also sovereign Coroners.

Coroners by charter, commission, or privilege are those within particular liberties and franchises, over which the lords or heads of corporations are empowered by charter to act themselves, or to create their own Coroners. Thus the Lord Mayor of London is by charter (18th Edward IV.) Coroner of London. The Bishop of Ely has power to make Coroners by charter of Henry VII. The Cinque Ports and the Dean and Chapter of Westminster have their own Coroners. In the Stannaries in Cornwall the Wardens are the Coroners. The Lord High Admiral is appointed Coroner by patent, and has power to appoint Coroners within his jurisdiction, which comprises matters arising upon the high seas, and in deaths on board great ships hovering on the main stream in great rivers (but not in small vessels), and between high and low water mark when the tide is in (but when the shore is uncovered the County Coroner has authority). The Coroner of Portsmouth has jurisdiction on board a ship in Portsmouth Harbour.

The Coroner of the Verge has jurisdicdion within the Verge, which is a circuit of twelve miles round the King's Court or Household ; but this being found inconvenient, in consequence of the King's Court being movable, it was enacted by 28th Edward I., cap. 3, that the County Coroner should act jointly with the Coroner of the Verge.

The Coroner of the Queen's Household alone has authority in cases of murder or manslaughter within the precincts of the palace; viz., "within any edifices, courts, places, gardens, orchards, privy-walk, tilt yard, wood yard, tennis plays, cock fights, bowling alleys, near adjoining to any of the houses above rehearsed, and being part of the same, or within 200 feet of any outward gate of any of such houses " (33rd Henry VIII., cap. 12, sec. 10).

Coroners by election are the Coroners elected for counties, as before mentioned, who are elected for life (with special provision, as to the County of Chester, and the County Palatine of Durham), and the Coroners for boroughs in England and Wales, who are appointed under the Municipal Corporation Act, 5th and 6th William IV., cap. 76, by the Council of the borough, and are to remain in office during good behaviour, but no Alderman or Councillor can be so appointed.

The name of Coroner is derived from the nature of the office, because he held cognizance of certain pleas of the Crown. In this sense the Chief Justice of the King's Bench is by virtue of his office the superior Coroner of all England, and may, if he please, hold an inquest in any part of the kingdom. And Lord Coke mentions a case in which Chief Justice Fineux, in the reign of Henry VII., held an inquest on the body of a man slain in open rebellion. (5 Reports, 51.)

He is sometimes called in the vulgate, the "Crowner." The gravedigger in *Hamlet*, too, spoke of "Crowner's-quest law ;" and this title is not so incorrect as may be supposed, for he is so styled in Scottish laws and in 34th Henry VIII., cap. 26.

The first Act amongst the statutes at large in which Coroners are

mentioned appears to be the 9th Henry III., cap. 17, the Magna Charta of 1224, whereby the powers of the Coroner were curtailed by depriving him of the privilege of holding pleas of the Crown, and restrained his power to matters of inquiry and appeals in particular cases. Then comes the 3rd Edward I., cap. 10 (1275), which directed that *knights* should be chosen to fill the office, and that the sheriff should have a counter roll with the Coroner. The 4th Edward I., cap. 2 (1276), or statute "de officio Coronatoris," though it gives no new authority, limits and confirms the ancient powers, and defines very fully the duties of the Coroner, which then extended not only to the investigation of homicides, but also to cases of treasure trove, rape, breaking out of prison, wounding and accidents, weights and measures, wrecks, and the finding and concealing of royal fish, viz., sturgeons and whales, and taking confessions of felonies by approvers, and acknowledgments of felons who had taken sanctuary. This Act also directed the Coroner to summon a parent of a person feloniously killed, to prove "Englicheria," according to the usage of the country. This proof of "Englicheria" was to show that the deceased was an Englishman, and was instituted by King Canute to prevent the secret murder of his Danish followers. Notwithstanding this Act, the Coroners seem to have neglected to carry out their duties with proper vigour; for we find that in 1487 the statute 3rd Henry VII., cap. 1, recites that murders daily increased in the kingdom, and it directed all Coroners to execute their office by enquiring within a year and a day after the event, and upon view of the body, into the cause of death, and to deliver the inquisition to the Justices at the next gaol delivery, when the offenders were to be tried.

This statute also, for the first time, gave fees to Coroners. Before this time the duties were performed gratuitously, and this, perhaps, was one of the reasons why Coroners became remiss in executing their office. They were now to have a fee of 13*s.* 4*d.* for each enquiry, and were to forfeit 100 shillings in case of neglect in holding inquests.

The fee was increased by 25th George II., cap. 29, to 20*s.*, and for each mile travelled 9*d.* A further fee of 6*s.* 8*d.* was given by 1st Victoria, cap. 68, and these are the fees still payable in Boroughs; but County Coroners are now, under 23rd and 24th Victoria, cap. 116, paid by salary.

There are many other Acts of Parliament relating directly or indirectly to Coroners, their duties, and the mode of electing them. They are more than 60 in number, and extend from the days of the Edwards down to 1882 in the present reign.

The jurisdiction of the Coroner is defined by 6th and 7th Victoria, cap. 12 (1843), under which Act the inquiry is to be held by the Coroner in whose district the body is lying dead, without reference to *where* the person died. And in cases of bodies found in the sea or in rivers, the inquest is to be held in the district in which they are first brought to land.

Coroners, both of Counties and of Boroughs, can appoint a deputy to act during the absence or illness of the Coroner. At Common Law, the power of a County Coroner could not be delegated, as it was an office of trust and one which concerned the public administration of justice, and to which the Coroner was appointed from his *personal* qualifications to discharge the important duties belonging to it; but by 6th and 7th Victoria, cap. 83, after reciting that the Coroners of Boroughs and Liberties are empowered

and directed by law to appoint deputies to act in their stead in certain cases, and that the Coroners of Counties have no sufficient authority for making such appointments, it is enacted: "That from and after the passing of this Act it shall be lawful for every Coroner of any county, city, riding, liberty, or division, and he is hereby 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," with a proviso that every such appointment may at any time be cancelled and revoked by the Coroner by whom the same was made.

The Coroner also of any borough, town, or city named in the Municipal Corporations Act, 5th and 6th William IV., cap. 76, is empowered by 6th and 7th William IV., cap. 105, sec. 6, in case of illness or unavoidable absence, to appoint by writing under his hand and seal a fit person, being a barrister-at-law or an attorney, and not being an Alderman or Councillor of such borough, to act for him as deputy during his illness or absence, but no longer; and the Mayor or two Justices are on each occasion to certify under their hands and seals the necessity for the appointment so made, stating the cause of absence, which certificate must be openly read to every inquest jury summoned by such deputy. The City of Bristol being a county of itself, this form of appointment does not apply, and the deputy is appointed as before mentioned in counties, and it holds good until rescinded; and the appointment need not be read on each occasion.

Previously to power being given to appoint a Deputy Coroner an inquisition taken by one was void, and in 1819 a case was decided hereon. A jury was sworn during the Coroner's absence by his clerk, upon view of the body of John Lees, killed during the Manchester Riots: the inquest was then adjourned and the body buried. On the Coroner afterwards attending in person the jury were re-sworn, but not "super visum corporis," and the Coroner proceeded to examine witnesses for some days. During the examination the Coroner caused the body to be disinterred and viewed it, but not in the presence of the jury. It was held by all the Judges of the King's Bench that a Coroner's duty was judicial, and an inquest in which the jury were not sworn before the Coroner himself and "super visum" was absolutely void. The death of the Coroner cancels the deputy's powers. A peculiar difficulty herein recently arose at Portsmouth. The Coroner died on a Tuesday, and on Wednesday a man died of suffocation at a chemical manufactory. No inquest could be held, as the Deputy Coroner had no power.

If the jury are sworn and the proceedings begin before the deputy, *he* should finish them though the Coroner be present in the course of holding the inquest, and the inquisition is properly signed in the name of the principal—thus "A B, Coroner, by C D, his deputy"—and is properly described as having been taken before the principal Coroner.

The duties of Coroners are now practically confined to enquiries into the causes of suspicious deaths, deaths occasioned by accident or injury occurring within a year and a day previously, sudden deaths, infanticide, murders and manslaughters, suicides, deaths from poison, and deaths occurring in prisons.

Enquiries into the causes of sudden deaths form an important part of the functions of a Coroner. These deaths may be divided into two classes; viz., such as take place from intrinsic but morbid causes, and those which are occasioned by the agency of external causes.

In the first category are cases of death arising from diseases that either in the first instance make a sudden and fatal attack upon vital organs, or, having existed in an obscure or unsuspected manner for a longer or shorter period, come at once to a fatal termination, such as apoplexy, epilepsy, rupture of the heart, aneurism of the aorta, &c. Under the second head of sudden deaths of apparently healthy persons, are to be ranked those cases where the parties lose their lives without reference to any previous disease, but caused by the influence of certain agents that kill, though unconnected with any crime, such as death by lightning, exposure to noxious gases, cold and hunger, immoderate use of spirituous liquors, &c.

Another very frequent duty of the Coroner is to inquire into the cause of deaths of infants, whether apparently arising from natural causes or otherwise; and it is often most difficult to decide whether or not an inquest should be adjourned in order to have a post-mortem examination made. On the one hand, it is important not to injure the feelings of respectable parents—mostly of the lower orders, in which class of people these cases so often occur—by needlessly ordering a post-mortem, to say nothing of the heavy additional expense thereby caused ; but, on the other hand, it is the duty of the Coroner—regardless of trouble and expense, and in despite of any sentimental feeling—to adopt this course if he considers it essential in the interests of the public to do so. It is astonishing what large numbers of deaths of children under two or three years of age occur without apparent cause, and more especially amongst the poorer classes, who from their want of means are unable to adopt the precautions and mode of bringing up children usual amongst those who are better off. Many such deaths occur in the night, after the parents have retired to rest, tired out with their day's work, or perhaps under the influence of drink, and the infant, who generally lies by the mother's side in the same bed, and not in a separate crib, is found dead in the morning. The evidence generally goes to show that the mother gave it the breast in the course of the night, and found the baby all right, but that on waking in the morning it was lying dead and cold by her side. And the mother is always positive that she did not overlie it, or allow the bedclothes to get over its face. I cannot help thinking, however, that such is sometimes the case ; although the juries generally find that the child died of what they term "inward convulsions," whatever that may be. It is, however, impossible to arrive at the truth without having an adjournment in nearly every case for a post-mortem examination. This, however, would, as so many cases occur, cause enormous expense and inconvenience, and would, perhaps, after all be of no practical benefit ; for the domestic habits of the poor are too rooted to be easily altered, and they cannot afford to have separate sleeping accommodation for each child. It is certainly just possible that if it were known a post-mortem examination would eventually be made in every case, greater care might be taken as to the sleeping arrangements ; but even this is doubtful, and the illfeeling it would cause might do more harm than good.

About a year ago, Dr. Danford Thomas held an inquest in St. Pancras

upon two children who were suffocated while lying in bed with their parents; and in the course of his remarks to the jury he said that he held every year between 120 and 150 inquests upon children who had met their deaths in this way. Children, he added, instead of being taken into bed by their parents, should be placed in cots. If parents were too poor to buy cots, then beds for the children might be made up in boxes. In Germany, Dr. Thomas said, parents were not allowed to have their children in bed with them; and if such a law were passed in this country, cases like these would be seldom heard of. That this is extremely probable is, I think, shown by the fact that we so seldom find cases of the sort occurring among the better classes.

On the 12th of January last Mr. Wasbrough, Coroner for this city, held inquests on the bodies of four children, whose ages ranged from 3 weeks to 16 months, and who had died suddenly, and in each case a verdict was returned that death was due to infantile convulsions; and he had two similar cases on the 19th of the same month.

I find, on referring to my own records, that out of 587 inquests I have held since my appointment as Deputy in July, 1875, no less than 175, or considerably more than one-fourth, were inquests on children newly born, or under the age of 2 years. Taking the average of inquests of all kinds held in the city during the year as from about 500 to 600, it would give an average of 125 to 150 deaths per annum of children under 2 years; and of these there can be no doubt a large proportion die from what may be called preventible causes. This is very deplorable.

On the 13th January last, at a meeting of the Leek Improvement Commissioners, Dr. Ritchie, Medical Officer of Health, reported the startling fact that, since the insurance of lives of children had become common, the rate of mortality in Leek amongst infants under 1 year had increased from 15 per 1000 to 188; the average of the last seven years being 170 per 1000. The report produced quite a sensation.

If this be the case, it is a very serious matter, and it is time that some notice should be taken of it by the Legislature.

With regard to deaths from poison, the Registrar-General's Annual Report for 1882 has some interesting statistics. In the year 1881 there were no less than 569 deaths in England alone from poisoning; and in 1882 the record was considerably in excess of this; viz., 599, or 1 in every 863 of the total deaths registered.

Fully two-fifths of these cases are classified under the heading of "Accident and Negligence." The remainder are suicides. Of the various kinds of poison, the preparations of opium, laudaunum, and morphia caused the largest number of deaths; viz., 85. There were 78 deaths from lead-poisoning. The 4 stronger acids—hydrochloric, nitric, sulphuric, and carbolic—are answerable for 34 deaths; arsenic caused 9; phosphorus, 11; chlorodyne, 6; chloral, 14; chloroform, 4; and soothing syrup, 4; with a host of casualties from other substances.

The two prolific causes of these deaths are the giving or taking of overdoses, and the substitution of one bottle or substance for another. In the first class may be instanced the giving of overdoses of opiates or soothing preparations to children, and the taking of overdoses of narcotics by habitual drinkers. In the second class are comprised mistakes made in,

taking up a bottle containing, say, a liniment instead of a draught, intended for external application, and the hastily drinking the contents of a jug or other vessel, without first examining the contents.

An infant should never be given an opiate or other soothing remedy without first consulting a doctor, for a medicine containing a narcotic may cure one infant and kill another of equal strength and age. Nor should patients be allowed to administer powerful remedies to themselves, as in the midst of racking pain they may take a larger dose than they intended, or repeat the dose too soon.

Again, bottles containing poison should never be placed alongside of those intended for internal use. The corrugated bottles in use are not a sufficient protection, as in the hurry of getting the medicine, or in the dusk, they may be easily mistaken.

Out of the 288 suicides caused, in the period named, from poisons there is a great difference in the agents employed by men and by women : 17 females used vermin-killer—as arsenic or strychnine—but only 7 males. Opium preparations were used by 20 males and 12 females ; carbolic acid by 13 females, and only 6 males, and so on.

But the following facts are of more importance, and seem to require some explanation. It is stated that there were 101 deaths recorded—58 by accident and 43 by suicide—from 7 substances alone, not one of which the Legislature at present requires to be labelled as poison ; and there were 78 deaths (not suicides) from lead-poisoning, though it does not appear how many of these were caused by absorption of the poison by workmen, or from wall-papers, and therefore preventible by proper precautions. Lastly, there were 102 deaths—26 by accident and 76 by suicide—from poisons, which ought not to be sold unless under the strictest regulations.

Surely all these cases show that something should be done by the Legislature in the matter, with the view of checking such a serious augmentation of the death rate, for the regulations now existing appear to be lamentably defective in this matter.

I am indebted to *Chambers' Journal* for the interesting statistics above given.

And now as to the manner of holding an inquest. Upon receipt of information of a violent or apparently unnatural or accidental death, or of a natural death of a prisoner in gaol, or of the execution of a criminal, the Coroner must proceed forthwith to hold the inquest. This being a judicial act, it should not be held on a Sunday. The jury having been summoned, attend at the time and place fixed, and are sworn to do their duty. The jury should consist of at least twelve men ; and in cases of suspected murder or manslaughter it is usual to have fifteen or more, so that twelve may be likely to agree. The Coroner and jury then proceed to view the body, otherwise the inquisition is void, and the view must be had at the first sitting.

It would seem that anciently the body was lying before the jury and Coroner during the whole evidence, and in fact the body itself is part of the evidence ; and therefore, if the jury see it before and not after they are sworn, a material part of the evidence is given when the jury are not upon oath. For this reason a Coroner may order a body to be disinterred within a reasonable time after the death of the person, either for the

purpose of taking an original inquisition where none has been taken, or a further inquisition where the first was insufficient.

The Coroner may issue a summons to compel the attendance of any person whose evidence is necessary, and may commit for contempt, or inflict a fine, if the witness refuse to attend. He is also empowered, under statute 6th and 7th William IV., cap. 89, to compel the attendance of a legally qualified medical practitioner, and may direct the performance of a post-mortem with or without an analysis of the contents of the stomach or intestines. The jury are also authorised by this statute to require the Coroner, by writing signed by the majority of them, to summon any further medical witness they think necessary, and to have a post-mortem or an analysis. It also provides for the payment of medical witnesses (except as to deaths in a public hospital or infirmary, or a county or other lunatic asylum, in which cases there is no fee payable to the medical officer thereof), and it inflicts a fine of £5 on a medical witness refusing to attend.

It is the duty of the Coroner to receive evidence on oath, as well on behalf of an accused person as for the Crown; and by 7th George IV., cap. 64, sec. 4, "every Coroner, upon any inquisition before him taken, whereby any person shall be indicted for manslaughter or murder, or as accessory 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." It is not necessary to take down in writing all the evidence, except in cases of murder, manslaughter, or *felonia-de-se*; but it is usual and advisable to do so for purposes of reference.

When all the evidence has been taken, the Coroner sums up and the jury find their verdict, which is then recorded in the form known as an inquisition, and signed by the Coroner and all the jurymen; but one jury man may sign for others as well as himself.

If the verdict be one of murder, or manslaughter, or *felonia-de-se*, the inquisition must be written on parchment, and sealed as well as signed by Coroner and jury, and the witnesses are bound over to attend the trial.

The form of inquisition is much more simple than formerly. In olden times it was necessary to insert with great particularity a description of the weapon or instrument causing the death—its value, the size and extent of the wound, &c.; but by 6th and 7th Vic., cap. 83, power was given to the judge to amend the inquisition, and it was provided that no inquisition should be quashed for the omission or insertion of words of surplusage nor for other matters therein set forth. This much shortens the form as at present used, as may be seen by comparing the old form with the present one. Were the old form still necessary, it would be almost impossible, through want of time, to get through the work in large towns, where deaths are frequent. In this city, which has rivers running through it, extensive works and manufactories, and several coalpits in the immediate neighbourhood, it is not at all unusual to have three or four inquests, occasionally five or six, and there have been as many as eight, in one day.

If an adjournment be necessary before the case is concluded, or further evidence be required, the Coroner binds over the jury and witnesses to attend at the adjournment, and makes a mem. to that effect at the foot of the minutes. If the jury disagree, they must be placed in a room by

themselves, and an officer sworn to keep them without meat, drink, or fire until they are agreed.

At the conclusion of the inquest the Coroner pays and discharges the jury, signs the order for burial, without which no interment can take place, and pays the witnesses, who have 1*s.* per day, and if from a distance their reasonable expenses. The jurymen here get 8*d.* each for every sitting. Medical witnesses are paid a guinea for attendance, and a guinea more if they make a post-mortem upon the Coroner's order, but not otherwise. A fee of 2*s.* 6*d.* is paid for the use of a room, when the inquest is held in an inn or tavern. In case of the recovery of a corpse from the water, the finder is entitled to 10*s.* The certificate of death must be filled up and signed by the Coroner, and it must be sent to the Registrar within five days.

In cases of *felo-de-se* the Coroner gives directions for the private burial of the remains in the churchyard, or private burial-ground of the parish, and the interment may take place in any of the ways prescribed by the Burial Law Amendment Act, 1880 (43rd and 44th Vic., cap. 41), but without the rites of Christian burial.

This alteration in the old law was made in 1881 (by 45th and 46th Vic., cap. 19, repealing 4th George IV., cap. 52). In olden times the practice was to bury the corpse of a suicide in some highway or crossroad, and to drive a stake through the body; for the English law looked upon self-murder as the worst kind of murder, and the convict forfeited all his real and personal property as well as his right to Christian burial. But the unseemliness of this practice long called for amendment, and it was enacted by 4th George IV., cap., 52, (1823), that directions should be given for a private burial, without any stake being driven through the body, in the churchyard or burial-ground of the parish; such interment to take place within 24 hours from the finding of the verdict, and between the hours of 9 and 12 at night, but without the service for the dead being read. This practice could only have operated as a punishment upon innocent relatives, and it is a matter for congratulation that such a barbarous custom, modified as it was, has now been abolished.

In cases of loss of life by explosives or other accident in coal mines or ironstone mines, it is necessary under the Mines Regulation Act (23rd and 24th Vic., cap. 151), unless the Inspector of the District, or some person on behalf of the Secretary of State, be present, to adjourn the inquest, and send by post to the Inspector four days' notice thereof; but if only one death occur, and the Coroner has given 48 hours' notice of the inquest, by letter sent through the post, the inquest need not be adjourned. The Coroner, however, may take evidence of the identity of the body, and give an order for burial before the adjourned inquest takes place.

Similar provisions are made with respect to deaths occurring from explosions under the Explosives Act of 1875 (38th Vic., cap. 17, sec. 65), and he has also to give notice to the Secretary of State of any neglect taking place, or any defect in the store or factory, or the ship or boat in which the explosives were stored.

When a criminal is executed in a gaol, pursuant to the Capital Punishment Act of 1868 (31st and 32nd Vic., cap. 24), section 5 provides that the Coroner shall, within 24 hours after the execution, hold an inquest on the

body of the offender, and the jury shall enquire into and ascertain the identity, and whether judgment of death was duly executed.

It is also the Coroner's duty to be present in Court when any case is tried on an inquisition taken before him ; and if he be absent, the Court may fine him.

A Coroner may be removed from office for several causes, as, for being so much engaged in other business that he has no time to attend properly to his duties ; from being disabled through age or disease ; if he dwell in the extreme parts of the county, so that he cannot conveniently exercise his duties ; or if he be chosen into any other office which is incompatible with that of Coroner, as sheriff or verderor ; or if he have not sufficient lands and tenements to maintain the dignity of his office ; or if he be otherwise unfit for the office, as in the case mentioned by Lord Coke in his *Institutes*, where one was removed in 1332 because he was what was called "a common merchant" or tradesman, instead of being a "knight, honest, loyal and sage." "For," says Lork Coke, "this was the policy of prudent antiquity, that officers did ever give a grace to the place, and not the place only to grace the office." Lying in prison for twelve months has been adjudged a good ground for removal, as also the use of corrupt influence over a jury. The removal is effected by writ, "De Coronatore exonerando," issued upon the petition of the county freeholders, stating the grounds of objection, and verified by affidavit ; and the execution of the writ is entrusted to the sheriff, in conjunction with a writ for electing a new Coroner in place of the one removed.

By 25th George II., cap. 29, sec. 6, Coroners may be removed for extortion, or wilful neglect of duty, or misdemeanour in the office, and the Lord Chancellor may also remove Coroners for inability or misbehaviour, under 23rd and 24th Vic., cap. 116, sec. 6.

Some discussion has lately taken place as to the advisability of getting rid altogether of the office of Coroner ; but if this were done, what would be the effect? Many years ago, when a somewhat similar question arose, viz., in 1849, when it was proposed by the Criminal Law Commission that the power of a Coroner to commit for trial any person against whom a verdict of murder or manslaughter should be found before him should be abolished, and that he should only have authority to issue a warrant to take the person before a magistrate for examination, Mr. Wm. Payne, the Coroner for Middlesex, made the following observations : "At present a Justice of the Peace or a Police Magistrate is merely intrusted by the Crown with the power of securing the persons of offenders by commitment or bail to answer to any charge which may be preferred against them by the verdict of a jury ; but the Justice of the Peace or Police Magistrate has no power to find an indictment against any person, or to say that any person must and shall be tried. That can only be done by a grand jury at Sessions finding a bill against him, or by a Coroner's jury. The Coroner's jury is of far greater importance than any other, because the investigation is conducted before a judicial officer in open court by the oaths of at least twelve men, and sometimes in cases of importance fifteen or eighteen ; and they are bound to hear evidence on both sides, for and against a suspected person, and they are consequently the most likely to form a correct judgment on the matter before them. Before a properly qualified officer,

with an independent jury in open court, justice can hardly fail to be properly administered."

A London newspaper, commenting on the proposed alteration, says as follows :

"Now, the effect of such an alteration would be to hand over to the magistrate the prerogative of the Coroner and his jury. And when we consider that the latter authority comprises generally a body of fifteen men, and sometimes twenty-three, it is easy to observe that the proposed change is not complimentary to juries in general. It is, in fact, substituting the discretion of a single magistrate for the discretion of fifteen or twenty-three men, and saying that the substitute is preferable to the original article. When we reflect how old an institution the Coroner's Court is, how highly it was valued by our simple but strong-minded ancestors, and how lastingly it has preserved the good opinion of succeeding generations through many centuries without falling into such decrepitude or corruption as to entail on it the condemnation of this, we are not prepared to agree with the Criminal Law Commissioners in casting so much contempt upon a court which has done duty to the Constitution so long."

A similar discussion took place in 1876, soon after the "Bravo" case, and the London *Times* had two long articles upon it on the 30th September and the 2nd October in that year. The writer contended that the mode of election of Coroners was unsatisfactory, because the ordinary freeholders, many of whom might be cottagers, were not the most competent people to form an estimate of the qualities and qualifications of the officer, and that it was a principle of the Constitution that judges should not be chosen by the people, but by the Crown. "For," says he, "judges should owe favour to, or fear none of those who may be suitors ; and the independence of the Bench is due to the fact that the occupants do not owe their position to the popular voice."

The *Times* also suggested some limitation to the power of the Coroner in ordering inquests, and made the following observations on this point :

"The Coroner must make up his mind as to whether it is a death falling within the category of deaths requiring investigation. This is a very important discretionary power, and the judicious exercise of it is of the utmost importance to the public. Discretion is not always properly exercised. The Court of King's Bench blamed Coroners on two occasions ; and Lord Ellenborough, in the case of 'The King *v.* the Justices of Kent' (11 East 29), says they intrude into families without pretence that the death was otherwise than natural, which was highly illegal. Dr. W. Farr, in a letter in the annual report of the Registrar-General for 1872, says : 'The mere fact that death is sudden is ground for medical inspection, but not necessarily for an inquest ; and a medical inspector may ascertain the cause without an inquest where there is no suspicion of crime.'"

Now, this is practically the very course now adopted. In very many cases, when a death is reported without any suspicious circumstances surrounding it, we make inquiries and obtain the opinion of the medical man called in, and then write to the registrar of deaths, stating that it is the opinion of the Coroner that no inquest is necessary, and this often gives nearly as much trouble as holding an inquest itself.

The *Times*, in support of its contention that inquests are unnecessarily

held, and that the proportion varies without apparent reason in different districts, quotes some statistics from the Registrar General's returns for 1872-3-4, and says the proportion of inquest cases to death in England and Wales exceeded 5 per cent. in 1874. In Bradford and in Hull the proportion was 3·3 per cent., in London 7·2 per cent., in Birmingham 7·6 per cent., in Manchester 7·9 per cent., and the Watch Committee in one place reported that from 1863 to 1873 there were 3,505 cases in which the verdict was "death from natural causes," and they suggested the desirability of always having a preliminary enquiry by the police.

The same newspaper also mentions two well-known cases, in which it considers no inquest should have been held. That of Sir Charles Lyell, although he had had a fall before his death, and that of Mr. Acton, a medical man, whose death was shown to have proceeded from fatty degeneration of the heart. Yet, though his medical attendants proved this from a post-mortem examination made before the inquest, the Coroner still insisted on holding one.

The *Times* proceeds to suggest the necessity for some reform, and says that though the present arrangements may not be sufficient for abolishing the office, there is necessity for its modification, both as to method of choice and as to the powers entrusted to Coroners. The writer of the article referred to suggests the adoption of some of the incidents of the Scotch system, and proceeds as follows :

"Though Coroners in early times existed in Scotland, a Procurator Fiscal, who is always a lawyer, is now appointed by the sheriff to enquire into every case of suspected crime, and all sudden and suspicious deaths. The enquiry is made in private, upon information brought by the police, and the Procurator then either drops the case or gets a magisterial warrant for the person suspected, who is then brought before the magistrate, and is questioned by the Procurator in his presence. Notes of the evidence taken, and of any statement made by the accused, after due warning, are then laid before the Lord Advocate, who either orders a trial or quashes the proceedings." The *Times* considers that a private enquiry of this sort is better than a public one, on account of the latter being painful to the feelings, and detrimental to the reputation of people who may be perfectly innocent, though unjustly suspected.

The defect in this system, however, is that the Procurator Fiscal only enquires into deaths which he hears of, and in many cases of the most importance no rumours might reach him, and no enquiry be held; and to remedy this defect it is suggested that a medical assessor should be associated with the Procurator Fiscal, and that in all cases the notes of evidence should be sent to the Crown Counsel, whether the Procurator was himself satisfied or not.

The article referred to concludes thus : "Cases like those mentioned show that if the jurisdiction of Coroners and their juries is to continue, it can continue only on condition of being transformed."

I have now given you the gist of the arguments on both sides of the question ; but I cannot help thinking that the present system should not be materially altered without much consideration. If Coroners only do their duty conscientiously and without fear or favour, it is better to continue the present form of public enquiry, rather than to leave the discretion

in the hands of a magistrate or any other higher official. In cases such as that of Mr. Acton, where the cause of death can be proved beyond all doubt, by witnesses like the medical men who made the post-mortem examination, and whose statements were beyond suspicion, there would be no necessity to hold an inquest; but there are cases continually arising where, if no enquiry were held, the public would not be satisfied, and it might even become necessary to have the body exhumed after burial for examination. It is therefore better sometimes to hold an inquest, even if the Coroner has himself come to the conclusion that there is no real necessity for it, the death being in fact a natural death, if only to put a stop to idle rumours.

In a recent case here, in which the medical report showed that the death was from purely natural causes (as was afterwards proved), I thought it necessary to hold an inquest, in consequence of rumours of foul play, which would only have been aggravated had no enquiry taken place in public.

Another benefit derived from having an enquiry in public and before jurors is, that oftentimes their personal knowledge is brought to bear on the subject, and is found of great assistance. Jurors are usually summoned from the parish or immediate neighbourhood, and often possess intimate knowledge of the deceased, which is of great help in investigating the cause of death. For this reason I think the course generally adopted, of holding the inquest in or near the place where the body lies, is preferable to that which prevails in some other places, such as Liverpool, where the Coroner and jury—as I am informed—go from place to place in vehicles to view the different bodies, and then hold all the inquests before one jury, in a court provided for the purpose. It is true that it is sometimes very disagreeable and inconvenient to have to sit in small and uncomfortable public-house parlours or taprooms, as we have often to do; but then there is the advantage alluded to of having generally a separate jury in each case, some of whom are likely to have personal knowledge of the deceased and of his habits and circumstances, although the better course, perhaps, would be to take their evidence as witnesses, filling up the jury with others. Then, again, the body must be viewed by the Coroner and by the jury. This duty might perhaps be dispensed with in some cases, but it would be injurious to do away with the view altogether, as in many cases an inspection of the "locus in quo," and of the appearance and attitude and surroundings of the deceased, assist very materially in forming an idea of the manner and cause of death, and whether or not there are any suspicious circumstances connected therewith which require further investigation.

In conclusion, I am strongly of opinion, taking all things into consideration, that it would be extremely injudicious to abolish the ancient and useful office of Coroner. As the newspaper before alluded to remarks, "If the institution of the Coroner's Court be defective, improve it as much as possible, but *let the people beware* how they suffer popular institutions to be taken from them."

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