

- (1) பக்கங்களின் எண்ணிக்கை 22
 (2) புதுக்கித் திருப்பிய நாள் 18.93
 (3) ஆதாரங் குறிப்பவர் சுருக்கொப்பம் 8

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

JUDICIAL துறை

அரளாணை எண்.	1383	அச்சகம்
மு. கோப்புத் தாள் எண்.	(97-99)	பலவகை
நாள் :	21-10-1870	199

8

மடிக்கவோ சுண்டபடி கையாளவோ கூடாது.

*Proceedings of the Madras Government, Judicial Department,
21st October 1870.*

No. 97. Read the following letter from the Secretary to the Government of India, Legislative Department, to the Chief Secretary to Government, Fort Saint George, dated Simla, 11th October 1870, No. 684:—

I am directed to forward, herewith, four copies of the papers marginally noted,

A Bill to consolidate the Law relating to Coroners
as amended by the Select Committee.
Preliminary Report of the Select Committee on the
above-mentioned Bill.

and to request that His Excellency the Governor in Council will favour the Government of India in this Department

with an early expression of his opinion on the provisions of the Bill, and that he will also procure, for the Government of India in this Department, the opinions of the High Court, the Advocate-General, and the Coroner of Madras.

No. 98. ORDER THEREON, 21st October 1870, No. 1383.

Copies of the Coroners' Bill referred to in the foregoing letter, and of the Report of the Select Committee of the Legislative Council of the Governor-General thereon, will be forwarded to the High Court, the Advocate-General, and the Coroner of Madras, with a request for an early expression of their opinions on the provisions of the proposed enactment, as required by the Government of India.

(True Extract.)

Chief Secretary.

To the Honourable the Judges of the High Court.

.. Advocate-General.

.. Coroner of Madras.

Ed. J. Wright.

JUDICIAL DEPARTMENT.

No. 1384.

To
THE HON. SIR C. H. SCOTLAND, Kt.,
Chief Justice of the High Court of Judicature at Madras.

HONOURABLE SIR,

I am directed to transmit the accompanying copy of the Proceedings of Government on a letter from the Secretary to the Government of India, in the Legislative Department, on the subject of the "Bill to consolidate the laws relating to Coroners," which is now under the consideration of the Legislative Council of the Governor-General; and, with reference thereto, to request an early expression of the views of the Honourable the Judges of the High Court as to the provisions of the proposed enactment, as required by the Government of India.

I have the honour to be,
Honourable Sir,
Your most obedient servant,

FORT SAINT GEORGE,
21st October 1870.

Chief Secretary.

Edw. J. Wright,

Govt. of 18703 *Madras.*

JUDICIAL.

To

THE HON. THE JUDGES OF THE
HIGH COURT.

Ac. Ac. Ac.

Dated October, 21st.

Recd.

G.O., 21st October 1870, No. 1384.

OCTOBER.

Nos. 97-99.

Forwarding copies of the Coroners' Bill and a
Report of the Select Committee of the Legisla-
tive Council of the Governor-General, for opinion
on the provisions of the proposed enactment.

THE CORONERS' ACT, 1870.

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Bill of 1870: 30th Dec.

JUDICIAL.

THE HON. THE CHIEF JUSTICE OF THE
HIGH COURT OF JUDICATURE,
Madras.

Dated Madras, 2nd

Feb.

Feb.

G. O. No. 1354, No. 1354.

NOT 07-39.

Transmitting Proceedings of Government on the
subject of the Bill to amend the laws relating
to Coroners, and requesting an expression of
the views of the Honorable the Judges as to the
provisions of the proposed enactment, as required
by the Government of India.

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A

BILL

TO

Consolidate the laws relating to Coroners.

WHEREAS it is expedient to consolidate the laws relating to Coroners in the Presidency Towns; It is hereby enacted as follows:—

I.—Preliminary.

Short title.

1. This Act may be called "The Coroners' Act, 1870."

It extends to the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay.

Commencement.

And it shall come into force on the passing thereof.

Repeal of enactments.

2. The enactments mentioned in the Schedule hereto annexed are repealed.

II.—Appointment of Coroners.

3. Within the local limits of the ordinary original civil jurisdiction of the Coroners of Calcutta, Madras and Bombay, there shall be a Coroner. Such Coroners shall be called, respectively, the Coroner of Calcutta, the Coroner of Madras, and the Coroner of Bombay.

4. Every such officer shall be appointed and may be suspended or removed by the Local Government.

Every person now holding such office shall be deemed to have been appointed under this Act.

5. Every Coroner shall be deemed a public servant within the meaning of the Indian Penal Code.

6. Any Coroner may hold simultaneously any other office under Government.

7. Every person hereafter appointed to the office of Coroner shall take and subscribe, before one of the Judges of the High Court, an oath that he will faithfully discharge the duties of his office.

III.—Duties and Powers of Coroners.

8. When a Coroner is informed that the death of any person has been caused by accident, homicide, suicide, or suddenly by means unknown, or that any person being a prisoner has died in prison,

and that the body is lying within the place for which the Coroner is so appointed, the Coroner shall inquire into the cause of death.

Every such inquiry shall be deemed a judicial proceeding within the meaning of section one hundred and ninety-three of the Indian Penal Code.

9. Whenever a prisoner dies in a prison situated within the place for which a Coroner is so appointed, the Superintendent of the prison shall send for the Coroner before the body is buried. Any Superintendent failing herein shall on conviction before a Magistrate be punished with fine not exceeding five hundred rupees.

10. Whenever an inquest ought to be holden on any body lying dead within the local limits of the jurisdiction of any Coroner he shall hold such inquest, whether or not the cause of death arose within his jurisdiction.

11. A Coroner may order a body to be disinterred within a reasonable time after the death of the deceased person, either for the purpose of taking an original inquisition where none has been taken, or a further inquisition where the first was insufficient.

12. On receiving notice of any death mentioned in section eight the Coroner shall summon five, seven, nine, eleven, thirteen or fifteen persons qualified and liable to serve as jurors under Act No. XIII of 1865 to appear before him at a time and place to be specified in the summons, for the purpose of enquiring when, how, and by what means the deceased came by his death.

Any inquest under this Act may be held on a Sunday.

13. When the time arrives, the Coroner shall proceed to the place so specified, open the Court by proclamation, and call over the names of the jurors.

14. When a full jury is in attendance, he shall administer an oath to each juror to give a true verdict according to the evidence, and shall then proceed with the jury to view the body.

15. The Coroner and the jury shall view and examine the body at the first sitting of the inquest, and the Coroner shall make such observations to the jury as the appearance of the body requires.

16. The Coroner shall then make proclamation for the attendance of witnesses, or, where the inquiry is conducted in secret, shall call in separately such as know anything concerning the death.

17. It shall be the duty of all persons acquainted with the circumstances attending the death to appear before the inquest as witnesses, and the Coroner shall enquire of such circumstances

and the cause of the death, and if before or during the enquiry he is informed that any person can give evidence material thereto, may issue a summons requiring him to attend and give evidence on the inquest.

18. The Coroner may direct the performance of a post mortem examination, with or without an analysis of the contents of the stomach or intestines, by any medical witness summoned to attend the inquest, and every such witness shall be entitled to such reasonable remuneration as the Coroner thinks fit.

19. All evidence given under this Act shall be on oath, and the Coroner shall be bound to receive evidence on behalf of the party (if any) accused of causing the death of the deceased person.

Witnesses unacquainted with the English language shall be examined through the medium of an interpreter, who shall be sworn to interpret truly as well the oath as the questions put to, and the answers given by, the witnesses.

After each witness has been examined, the Coroner shall enquire whether the jury wish any further questions to be put to the witness, and if the jury wish that any such questions should be put, the Coroner shall put them accordingly.

20. The Coroner shall commit to writing the material parts of the evidence given to the jury, and shall read over such parts to the witness and then procure his signature thereto;

any witness refusing so to sign shall be deemed to have committed an offence under section one hundred and eighty of the Indian Penal Code;

every such deposition shall be subscribed by the Coroner.

21. The Coroner may adjourn the inquest from time to time, and from place to place.

Whenever the inquest is adjourned the Coroner shall take the recognizances of the jurors to attend at the time and place appointed, and notify to the witnesses when and where the inquest will be proceeded in.

22. When all the witnesses have been examined, the Coroner shall sum up the evidence to the jury, and the jury shall then consider of their verdict.

23. When the verdict is delivered, the Coroner shall draw up the inquisition according to the finding of the jury, or, when the jury is not unanimous, according to the opinion of the majority.

*"Oath" / according to the
jurors shall
include affirmation,
denial, affirming
and declaring in the
name of God or by the
allotted affirmation or
declaration in the
"proceedings" —*

24. Every inquisition under this Act shall be signed by the Coroner with his name and style of office and by the jurors, and shall set forth—

(1) where, when, and before whom the inquisition is holden,

(2) who the deceased is,

(3) where his body lies,

(4) the names of the jurors and that they present the inquisition upon oath,

(5) where, when, and by what means the deceased came by his death; and

(6) if his death was occasioned by the criminal act of another, who is guilty thereof.

If the name of the deceased be unknown, he may be described as a certain person to the jurors unknown.

Every such inquisition may be in the form set forth in the second Schedule to this Act, with such variation as the circumstances of each case require.

25. When the verdict is that the death has been caused by culpable homicide amounting to murder, or to culpable homicide not amounting to murder, or by killing by a rash or negligent act, the Coroner shall bind by recognizance any person knowing or declaring anything material touching such murder, homicide, or killing to appear at the next criminal sessions at which the trial is to be, then and there to prosecute or give evidence against the party charged.

The Coroner shall certify and subscribe such recognizances, and deliver the same, together with the inquisition and evidence, to the proper officer of the Court in which the trial is to be, before or at the opening of the Court.

The Coroner shall also, where the verdict justifies him in so doing, issue his warrant for the apprehension of the person accused and commit him to prison, or if he be already in prison, issue a detainer to the officer in charge of the jail in which he is.

26. No inquisition found upon or by any inquest shall be quashed for any technical defect.

In any case of technical defect, a Judge of the High Court may, if he thinks fit, order the inquisition to be amended, and the same shall forthwith be amended accordingly.

27. It shall no longer be the duty of any Coroner to enquire of treasure trove or wrecks, or to execute process, or to exercise as Coroner any jurisdiction not expressly conferred by this Act.

IV.—Coroners' Juries.

28. Whenever any person has been duly summoned to appear as a juror by a Coroner, and fails or neglects to attend at the time and place specified in the summons, the Coroner may cause him to be openly called in his Court three times to appear and serve as a juror; and upon the non-appearance of such person, and proof that such summons has been served upon him, or left at his usual place of abode, may impose such fine upon the defaulter, not exceeding fifty rupees, as to the Coroner seems fit.

The Coroner shall make out and sign a certificate, containing the name and surname, the residence and trade or calling of every person so making default, together with the amount of the fine so imposed, and the cause of such fine,

and shall send such certificate to one of the Magistrates of the place of which he is the Coroner,

and shall cause a copy of such certificate to be served upon the person so fined, by leaving it left at his usual place of residence, or by sending the same through the Post Office, addressed as aforesaid and registered.

29. Thereupon such Magistrate shall cause the fine to be levied in the same manner as if it had been imposed by himself.

30. Unless in case of necessity, any person who has appeared, or has been summoned to appear, as a juror on an inquest and has not made default, shall, within one year after such appearance or summons, be summoned to appear as a juror under this Act.

31. When an inquest is held on the body of a prisoner dying within a prison, no officer of the prison and no prisoner confined therein shall be a juror on such inquest.

V.—Rights and Liabilities of Coroners.

32. Every Coroner shall be entitled to such salary for the performance of the duty of his office, as is prescribed in that behalf by the Governor General in Council.

33. All disbursements duly made by a Coroner for fees to medical witnesses, hire of rooms for the jury and the like, shall be repaid to him by the Local Government.

34. Every Coroner may from time to time, with the previous sanction of the Local Government, appoint, by writing under his hand, a proper person to act for him as his deputy in the holding of inquests.

All inquests taken and other acts done by any such deputy, under or by virtue of any such appointment, shall be deemed to be the acts of the Coroner appointing him:

Provided that no such deputy shall act for any such Coroner except during the illness of the said Coroner, or during his absence for any lawful and reasonable cause.

Every such appointment may at any time be cancelled and revoked by the Coroner by whom it was made.

Exemption from serving on juries. 35. No Coroner or Deputy Coroner shall be liable to serve as a juror.

36. Coroners and Deputy Coroners are privileged from arrest while engaged in the discharge of their official duty.

37. Any Coroner or Deputy Coroner failing to comply with the provisions of this Act, or otherwise misconducting himself in the execution of his office, shall be liable to such fine as the Chief Justice of the High Court, upon summary examination and proof of the failure or misconduct, thinks fit to impose.

38. No proceeding for anything done under this Act, or for any failure to comply with its provisions, shall be commenced or prosecuted after the expiration of six months from such act or failure, nor after tender of sufficient amends.

FIRST SCHEDULE.

Number and year.	Title.	Extent of repeal.
33 Geo. III, cap. fifty-two...	An Act for continuing in the East India Company, for a further term, the possessions of the British territories in India, together with their exclusive trade, under certain limitations; for establishing further Regulations for the government of the said territories and the better administration of justice within the same; for appropriating to certain uses the revenues and profits of the said company; and for making provision for the good order and government of the towns of Calcutta, Madras and Bombay.	Section one hundred and fifty-seven.
9 Geo. IV, cap. seventy-four	An Act for improving the administration of criminal justice in the East Indies.	Sections five and six and (so far as it relates to Coroners) section fifty-one.
Act No. IV of 1848 ...	An Act for regulating Coroners' juries ...	The whole.
Act No. XLV of 1850 ...	An Act to declare the law as to the jurisdiction of Coroners.	The whole.

SECOND SCHEDULE.

Form of Inquisition.

AN INQUISITION taken at _____ on the _____ day of _____, 187____, before E. F., Coroner of _____ on view of the body of A B then and there lying dead, upon the oath of G H, I J, K L and M N, then and there duly sworn and charged to inquire when, how, and by what means the said A B came to his death.

We, the said jurors, find unanimously [or by a majority of _____] that the death of the said A B was caused, on or about the day of _____, 187____, by [here state the cause of death as in the following examples—

1. Cases of homicide]—a blow on the head with a stick inflicted on him by C D, under such circumstances that the act of C D was justifiable [or accidental] homicide.
— a stab on the heart with a knife inflicted on him by C D, under such circumstances that the act of C D was culpable homicide not amounting to murder [or culpable homicide amounting to murder, or killing by a rash or negligent act.]
2. Cases of accident]—falling out of a boat into the river Hughli, whereby he was drowned.
— a kick from a horse which fractured his skull and ruptured blood-vessels in his head.
3. Cases of suicide]—shooting himself through the head with a pistol.
— arsenic, which he voluntarily administered to himself.
4. Cases of sudden death by means unknown]—disease of the heart.
— apoplexy.
— stroke.

And so say the jurors upon their oath aforesaid.

Witness our Hands. E F, Coroner of _____
G H, I J, K L, M N, O P (jurors).

Government of India.

LEGISLATIVE DEPARTMENT.

A
BILL

TO

Consolidate the laws relating to Coroners.

(As amended by the Select Committee.)

(Mr. Stephen.)

(Price five annas.)

LEGISLATIVE DEPARTMENT.

We, the undersigned, the Members of the Select Committee of the Council of the Governor General of India for the purpose of making Laws and Regulations, to which the Bill to consolidate the laws relating to Coroners has been referred, have the honour to present this preliminary report.

The Bill, as introduced, was intended merely to consolidate the existing law contained in two Statutes and three Acts, and it provided, in the words of 33 Geo. III., cap. 52, sec. 157, that the Coroners should exercise the like jurisdictions as by law might be exercised by Coroners elected for counties in England. We have struck out this provision, which would have necessitated constant reference to English statutes and text-books, and we have in lieu thereof codified such part of the English law of Coroners as seemed adapted to the Presidency towns.

The amended Bill accordingly declares the Coroner's jurisdiction to enquire into deaths by accident, homicide or suicide, sudden deaths by means unknown, and deaths of prisoners in prison. It enables him to order a body to be disinterred. It provides for summoning juries, swearing the jurors, viewing the body, summoning witnesses, and *post-mortem* examinations.

It declares that the evidence shall be taken on oath, that witnesses unacquainted with English shall be examined through an interpreter, that questions suggested by the jury shall be put, and that the Coroner shall take down the material parts of the evidence. Power is given to adjourn the inquest. When the witnesses have been examined, the Coroner will sum up, and the jury will consider of their verdict. When the verdict is delivered, the Coroner will draw up an inquisition setting forth the matters specified in section 24, and in the form given in the second schedule.

When the verdict amounts to murder, culpable homicide, or killing by a rash or negligent act (the last mentioned offence is about to be added to the Penal Code), the Coroner will bind by recognizance any person acquainted with the facts to appear at the next Sessions, and prosecute or give evidence. The Coroner will also certify the recognizances and deliver them with the inquisition and evidence to the Court in which the trial is to be. He may also issue his warrant for the apprehension of the accused.

The amended Bill (section 27) expressly abolishes the Coroner's jurisdiction as to treasure trove and wrecks, and declares that he shall not be liable to execute process.

The Coroner of Calcutta will, under the amended Bill, be appointed by the Lieutenant-Governor of Bengal, and not by the Governor General in Council.

As to Coroners' juries, we have provided (section 31) that when an inquest is held on the body of a prisoner, no officer of the prison and no prisoner confined therein shall be a juror. There is a similar provision in the schedule to the English Prisons' Act (23 & 29 Vic. c. 126), clause 48.

As to a Coroner's rights, we have added three clauses (33, 35, 36), one providing for repaying his disbursements for fees to medical witnesses, hire of rooms for the jury, and the like; another exempting him from serving on juries, and a third privileging him from arrest while engaged in the discharge of his official duty.

We have omitted the clause corresponding with Act XII of 1867, section 12, as this will more fitly be placed in the Prisoners' Bill now before the Council.

We have omitted, as unnecessary, the elaborate specification of the informalities in case of which the inquisition may be amended by a Judge of the High Court. For variances between the statements in the inquisition and the evidence, Act XVIII of 1862 (sections 1 and 57) appears to provide sufficiently.

We recommend that the Bill thus amended should, before being passed, be published with this report in the *Gazette of India*, that it be sent to the Governments of Madras, Bombay and Bengal, and that the opinions of those Governments, of the High Courts at the Presidency towns, of the Advocates General and of the Coroners be obtained on its provisions.

J. F. STEPHEN.
F. R. COCKERELL.

SIMLA;

The 17th September 1870.

Government of India.

LEGISLATIVE DEPARTMENT.

Preliminary Report of the Select Committee
on the Bill to consolidate the laws re-
lating to Coroners.

not to be printed

Jan 5/70

N^o 184

9

To
The Secretary to the Gov^t of India,
Legislative Department.

To
The Chief Secretary to the
Government of Madras.
Dated Simla, the 11th October 1870.

Legislative
Department } Sir,

A Bill to consolidate the law
relating to Coroners as amended
by the Select Committee. —
Preliminary Report of the Select
Committee on the above mentioned
Bill. —

I am directed to forward here-
with four copies of the papers margin-
ally noted, and to
request that His Excel-
lency the Governor in
Council, will favour the
Government of India in this Depart-
ment with an early expression of his
opinion on the provisions of the Bill, and
that he will also procure for the Govern-
ment of India in this Department the
opinions of the High Court, the Advocate-
General, and the Coroner of Madras.

I have the honour to be,
Sir,
Your obedient servant
Wm. Stokes

Secretary to the Gov^t of India

Judicial Department

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following

*Secretary to the Govt of India
Legislative Department
A.O. (dated 11 Oct/70)
No 634*

Order thereon 21 Oct/70 No 1383.

*Copies of the former's
Bill referred to in the
foregoing letter, and of
the Report of the Select
Committee of the Legis-
lative Council of the
Governor General thereon,
will be forwarded to the
High Court, the Pro-
-curator General &
the Coroner of Madras.*

*1383-1384
1890 Sept 21
S.O. No. 1383-1384
Secy. Govt. of India
Legislative Dept.
No. 634.*

21 11 3 Oct/70.

*21 11 3 Oct/70.
No 1383.*

*Regarding the
forward with an early
reproduction of the provisions
of the Govt. of India
Bill in the provisions
of the former's Bill.*

with a request for an ^{early}
expression of their
opinions on the provisions
of the proposed enact-
ment as required by
the Government of
India.

W

To The Honble the Judges of the
High Court with the
Advocate General
Crown of Madras

386

Govt. of N.S.W. Sydney.

Lt.

To the Hon. the Judges of the
High Court.

Feb 20/73.

Date Oct. 21. } 1872, No. 255
Recd.

Nos. 97. 99.

Comptroller of the
Revenue Bill of the State
of the N.S.W. Committee of the
Leg. Council of the Governor
General, for opinion on the
provisions of the proposed
Revenue Bill.

1172/25

1172/25