

- (1) பக்கங்களின் எண்ணிக்கை 56
 (2) புதுக்கித் திருப்பிய நாள் 6-12-1993
 (3) ஆதாரங் குறிப்பவர் கருக்கொப்பம் [Signature]

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

JUDICIAL குறை

அரசாணை எண்.	1675-76	அச்சகம்
மு. கோப்புத் தாள்-எண்.	(108-111)	சுலவகை
நாள் :	28-12-1870	199

25

மடிக்கவோ சுண்டபடி கையாளவோ கூடாது.

Read the following papers:—

No. 108. From the Advocate-General, to the Chief Secretary to Government, Fort Saint George, dated 14th November 1870.

Observing that the Coroner's Bill has been referred to the Coroner as well as myself, I thought the best way of dealing with it would be to confer with the Coroner, whose practical knowledge might be brought to bear in combination with my own professional insight upon the subject of discussion.

2. Accordingly Dr. Urquhart favored me with a conference, and I proceed to lay the results of our discussion before His Excellency the Governor in Council.

3. Section 7.—There is no provision for swearing a Deputy-Coroner.

4. Section 8, as it stands, would necessitate an inquest in every case of the death of a prisoner in prison. At present, the practice is to be content, under the advice of Government, with a Medical Certificate from a Commissioned Officer in cases of Cholera, during epidemics, etc. It is obviously very desirable to dispose of the body as quickly as possible in Cholera cases. Great objection is felt to sitting by a Jury in such cases, and the cause of death is so well defined, that an inquest can scarcely be absolutely indispensable. It may be worth consideration whether the Section should not contain some exception in cases of Cholera, at any rate leaving the holding of an inquest discretionary.

5. Section 12 restricts the choice of a Jury to the Jury Act XIII. of 1865. This may be found very inconvenient in Madras, of which the area is 36 miles comprising in many parts outlying native villages. Where decomposition sets in so rapidly as in this country, it is often desirable to get a Jury together as quickly as possible; and it has hitherto been the practice to call on the '*probi et legales homines*' of the immediate vicinage, a practice which it may probably be found expedient to retain so far as Madras is concerned.

* Qualification.
2nd.—Residence within the Town of Madras and occupation of a house of the monthly value of Rupees 30, or possession of property worth 3,000 Rupees.

3rd.—Residence as aforesaid, with character and education such as, in the judgment of the Clerk of the Crown, render the person fit to serve as a Juror.

Disqualification.
6th.—Ignorance of the English language.

In Calcutta and Bombay the case may be different. The Jury Rules made by the Madras High Court are not adapted for the Coroner's Jury especially as to 'qualifications' 2 and 3. Disqualification 6 is also inconvenient.

6. Section 14 provides that the Jury shall be sworn. This is easy enough in the case of Christians, but in the case of Mahomedans and Hindus it may present considerable difficulties, unless, indeed, the Government is prepared to sanction the old establishment of two Swearing-Brahmins and one Mahomedan, which obtained formerly in the Coroner's Office, but which has been abolished for several years. It may suffice if Mahomedan and Hindu Jurymen are solemnly affirmed, which would meet the difficulty without incurring any additional expense. These remarks apply also to Section 19.

7. Section 18.—At present, District Surgeons and other Government Medical Officers have to attend as Medical witnesses gratuitously as part of their duty; so also has the Chemical Examiner. It seems reasonable that they should, and this, Section ought, if so, to be so worded as to preclude any question as to their right to remuneration.

8. *Section 19.*—As the law stands now, the Jury may re-call a witness at any stage of the proceedings. This may be well provided for here, as also the capacity of a Jurymen to be himself a witness in cases in which his evidence may be serviceable.

9. *Section 21.*—No mention is made of the amount of recognizance. At present it is £10. The same observation applies to recognizances under Section 25. The amount in such cases is Rupees 350. It may be advisable to specify the amount in these cases, or to leave it discretionary with the Coroner. In the 8th line of Section 21, "in" appears to be a verbal error for "with."

10. *Section 24.*—For the word "may" in the 19th line, it would be better perhaps to read "shall." "May" sometimes has the force of "shall" in a Statute; but it may be advisable not to leave any doubt if no discretion is intended to be left as to form. The second Schedule seems a very satisfactory one, and it may be well to confine Coroners to it.

11. *Section 25.*—No provision is made for bail in cases of manslaughter or killing by rash or negligent act. It may be advisable to follow 22 Victoria, Chapter 33, Section I., in this respect.

12. The form of commitment should probably run 'until discharged in due course of law.'

13. *Section 27.*—By this the Coroner's jurisdiction is confined to the subjects specified in the Bill. There are several other matters which at present the Coroner has to inquire into, from which this Bill would, as it now stands, exclude him.

14. The Coroner also inquires into the forfeiture of goods of a *felo de se*, and his jurisdiction is to cease in these respects is not apparent. Doodands, though abolished in England by 9 and 10 Victoria, Chapter 62, still obtain in this country. The proper course seems to be to abolish them in India also by express legislation, and not, as here, by implication.

15. At present no corpse of a Christian on whom an inquest has been held can be buried without a Coroner's warrant. The Coroner's warrants are three: to bury after inquest, during inquest, and in cases of *felo de se*.

16. *Schedule 2.*—Cases of suicide. The term 'suicide' seems here to be used in a popular or generic sense. But the case of a lunatic or person in delirium is different from that of a *felo de se*, and the form may probably be somewhat altered and enlarged to meet more specially these cases.

I agree with the Advocate-General in the opinion given above on the provisions of the proposed Coroner's Bill.

(Signed) J. URQUIHART,
Coroner.

No. 109. From the Acting Registrar of the High Court of Judicature at Madras, to the Chief Secretary to Government, Fort Saint George, dated Madras, 16th November 1870, No. 2066.

I am directed to acknowledge the receipt of your letter to the Chief Justice, dated 21st October 1870, forwarding copy of the Proceedings of Government,

Judicial Department, of the same date, together with a draft of the Bill to consolidate the laws relating to Coroners, and requesting an expression of opinion as to the provisions of the proposed enactment.

2. In reply I am directed to state that the Chief Justice and Judges approve generally of the Bill. Mr. Justice Innes, however, is of opinion that the office of Coroner in the Presidency Towns might with advantage be abolished. He observes that the system which the legislature has provided for the Mofussil (Section 161 of the Code of Criminal Procedure) would necessarily answer the same purpose in the Presidency Towns and be far less cumbrous and costly.

3. Referring to Section 25 of the Bill, Mr. Justice Holloway is opposed to all trials on Coroner's inquisitions as unnecessary, and is of opinion that they might be abolished. He alludes especially to the absurdity of arraigning a man on a Coroner's inquisition after one acquittal on the same facts. The Chief Justice suggests that it would be better to require the Coroner to deliver the recognizances, inquisitions, &c., to the proper officer of the Court in which the trial is to be, immediately after the inquest instead of before or at the opening of the Court. It is important that a man who is about to be put on his trial should have an opportunity of obtaining copies of the depositions before the day of trial. The present practice of delivering the inquisitions at the opening of the Court has been known to cause great inconvenience.

No. 110. ORDER THEREON, 28th December 1870, No. 1675.

The first of the letters above recorded contains the joint report of the Advocate-General and the Coroner of Madras on the Bill "to consolidate the laws relating to Coroners," as amended by the Select Committee; and the second letter conveys the views of the Honourable the Chief Justice and Judges of the High Court on that measure.

2. The Advocate-General and Coroner have proposed various amendments, of which the following is a summary:—

Section 8.—That this Section be altered so as either to except from its operation cases of deaths from Cholera, or to leave the holding of inquests discretionary in such cases.

Section 12.—That, in regard to summoning a Jury, the present practice of calling on the *probi et legales homines* of the immediate vicinage, be retained, so far at least as Madras is concerned.

Section 18.—That as the District Surgeons in the Presidency Town, as well as the Chemical Examiner and other Government Medical Officers, do now attend as Medical witnesses gratuitously as a part of their duty, this Section should be so worded as to preclude any question as to their being required to continue to do so under the new law without special remuneration.

Section 19.—That provision should be made for empowering the Jury to re-call a witness at any stage of the proceedings, and also for enabling a Juror to be himself a witness in cases in which his evidence might be useful.

Section 25.—That a Clause should be introduced to provide for bail in cases of manslaughter or killing by a rash or negligent act, similar to the provision contained in Section 1 of the Statute 22 Vic., Cap. 33.

Section 27.—That it should be distinctly stated in this Section whether or not the jurisdiction which the Coroner at present exercises in respect of inquiries as to the forfeiture of goods of a *felo de se* or murderer, and in the matter of the flight of murderers, should cease; and also that the levy of deodands which, though done away with in England by Act 9 and 10 Vic., Cap. 62, still obtains in this country, should be abolished by express legislation.

Second Schedule (Form of Inquisition).—That as the case of a lunatic or person in delirium killing himself is different from that of a *felo de se*, the Form of Inquisition, in which the term 'suicide' seems to be used in a popular and generic sense, should be altered and enlarged to meet more specially such cases.

3. Mr. Norton and Dr. Urquhart have also proposed certain minor amendments, such as the insertion of a provision for swearing the Deputy-Coroner, the specification in Sections 21 and 23 of the amount of recognizance, the substitution of the word "shall" for "may" in the 19th line of Section 24, and the insertion of the words "until discharged in due course of law" in the Form of the Warrant of Commitment issued under the 3rd Clause of Section 25.

4. The Government approve of the several suggestions made by the Advocate-General and Coroner, excepting that contained in paragraph 6 of Mr. Norton's letter, and resolve to recommend them for adoption.

5. With regard to the suggestion made in the paragraph above referred to, respecting the solemn affirmation of Hindus and Mahomedans, the Government observe, that the General Clauses Act contains a Section which provides that the word "oath," as used in all Acts passed by the Governor-General in Council, "shall include affirmation, declaration, affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing"; and that this provision renders unnecessary the alteration suggested in reference to Sections 14 and 19.

6. The Chief Justice and Judges of the High Court approve generally of the Bill.

7. Mr. Justice Innes, however, is of opinion that the office of Coroner in the Presidency Towns might be abolished, and that the system which the legislature has provided for the Mofussil would answer the same purpose in the Presidency Towns. The Government are unable to concur in this opinion. There are many objections to sending corpses for examination through the crowded streets of a Town like Madras, a course which would be necessary under Mr. Innes' suggestion. The Government would not, therefore, recommend the abolition of the office of Coroner.

8. The Government agree with the Chief Justice in thinking that it would be better to require the Coroner to deliver the recognizances, inquisitions, &c., to the proper officer of the Court in which the trial is to be held, immediately after the inquest, instead of "before or at the opening of the Court," as required by Clause 2 of Section 25.

9. Mr. Justice Holloway is opposed to all trials on Coroner's inquisitions. His remark on Section 25, as "to the absurdity of arraigning a man on a Coroner's inquisition, after one acquittal on the same facts," is not clear. The Government, however, see no objection to the Section as it stands in the Bill.

(True Extract.)

R. S. ELLIS,
Chief Secretary.

To the Honourable the Judges of the High Court.
" Advocate-General.
" Coroner of Madras.

Ed. T. Cartledge.

JUDICIAL DEPARTMENT.

No. 1673.

FROM

THE HON. R. S. ELLIS, C.B.,
Chief Secretary to the Government of Fort Saint George,

TO

THE SECRETARY TO THE GOVERNMENT OF INDIA,
LEGISLATIVE DEPARTMENT.

SIR,

With reference to your letter of the 11th October last, No. 684, I am directed to transmit the enclosed Proceedings of the Madras Government, in which are recorded the opinions of the High Court, the Advocate-General, and the Coroner of Madras, on the provisions of the Bill "to consolidate the laws relating to Coroners," together with the views of the Government on that measure.

I have the honour to be,

Sir,

Your most obedient servant,

FORT SAINT GEORGE,
28th December 1870.

Chief Secretary.

Edw. T. Cartledge.

65th of 1870

JUDICIAL.

THE HON. THE ATTORNEY GENERAL,
HIGH COURT OF JUDICATURE,
Madras.

28th December 1870.

G. O. 28th December 1870, No. 1673.

RECEIVED
7th Dec 1870

Reviewing the opinions of the High Court, Advocate-General, and Coroner of Madras, on the provisions of the Bill.

1572

JUDICIAL DEPARTMENT

To
The Chief Secretary to Government,
Fort Saint George,

From
The Secretary to the Govt. of India,
Legislative Department.

Dated 13th December 1870.

Ref. No. 1676.

Judicial Dept.

Memo.

Letter from Advocate
General

Date 14th Nov 1870

D. As Registrar
of the High Court.

Dec 16th Nov 1870.

The first of these
letters, contains the joint
report of the Advocate
General and the Coroner
of Madras on the Bill
"to Consolidate the laws
relating to Coroners." The
second letter conveys the
views of the Chief Justice
and Judges of the High
Court on that measure,
and the following is a
summary of the opinions
submitted by these officers.
(General.) The Chief Justice
and Judges approve
generally of the Bill. —
The Justice has,
however, is of opinion

"that the office of Coroner in the Presidency Towns might with advantage be abolished. He observes that the system which the legislature has provided for the Magistrate (Sec. 161 of the Code of Criminal Procedure) would necessarily answer the same purpose in the Presidency Towns and be far less cumbersome and costly."

Section 8. With reference to this section, which provides, among other things, that the Coroner shall enquire into the cause of death in every case in which a person, being a prisoner, has died in prison, the Advocate General & the Coroner remark that, in cases of Cholera, the present practice is to lay out

(Section 161)
* The Officer in charge of a Police Station, on receiving notice or information of the unnatural or sudden death of any person, shall immediately give intimation thereof to the nearest Magistrate, and proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make enquiry, and report the apparent cause of death, describing any mark of violence which may be found on the body, and stating in what manner or by what weapon or instrument such mark appears to have been inflicted. The report shall be signed by such Police Officer and other persons, or by as many of them, as shall concur therein, and shall be forthwith forwarded to the Magistrate. When there may be any doubt regarding the cause of death, such Police Officer shall forward the body with a view to its being examined to the nearest Civil Surgeon or other Medical Officer appointed in their behalf by the Local Govt., if the state of weather and distance will admit of its being so forwarded, without risk of putrefaction on the road."

And is of opinion that they might be abolished. He alludes especially to the absurdity of arraigning a man on a Coroner's inquisition after one acquitted on the same facts". It is not clear what is meant by the words here underlined - if it is, however, surmised that the meaning is, "after the Magistrate who requires into the case finds that the evidence is not sufficient to warrant a commitment to the High Court". But the Magistrate's finding in such a case can hardly be said to be an "acquittal."

Mr. Norton recommends the introduction of a section similar to Section 1 of the Statute 22 Vic. Cap. 33 (An Act to enable Coroners in England to admit to

bail persons charged with
man-slaughter), which
provides that "in every
case in which a Coroner's
Jury shall have found
a verdict of Man-slaughter
against any person or
persons, it shall be law-
-ful for the Coroner
or Deputy Coroner before
whom the inquest was
taken, to accept Bail,
if he shall think fit,
with good & sufficient
Sureties, for the appear-
-ance of the person so
charged with the offence
of Man-slaughter, at
the next Assize and
General Goal Delivery
to be holden in & for the
County within which
the inquest was taken;
and thereupon such
person, if in Custody
of any Bailiff or
other officer of the

and they in-
-fer from these

under the advice of Gout
with a Medical Certifi-
-cate from a Commissioned
Officer; that in such
cases it is obviously very
desirable to dispose of
the body as quickly as
possible; and that
great objection is felt
to sitting by jury in these
cases. They suggest
therefore that the Section
should be so altered as
to except cases of cholera
from its operation, or,
at any rate, to leave
the holding of an in-
-quest discretionary -
Section 12. Under this
Section the choice of
a jury is limited to the
persons qualified & liable
to serve as jurors under
the High Court Jury
Rules. The 2^d & 3rd
qualifications prescribed
by these Rules are, res-
-pectively,

respectively, local residence
and occupation of a house
of the value of Rs 30, or
possession of property
worth 3000 Rs., and local
residence, with character
& education such as, in
the judgment of the Clerk
of the Court, render the
person fit to serve as a
juror. And ignorance
of the English language
is one of the "disqualifi-
cations" under the Rules.
Mr Norton & Dr Engelhart
are of opinion that these
restrictions may, in the
case of a Coroner's Jury,
"be found very inconve-
nient in Madras of
which the area is 36
miles, comprising in many
parts out-lying native
villages. Where decomposi-
tion sets in so rapidly
as in this country, it

is often desirable to get
a jury together as quickly
as possible, and it has
hitherto been the practice
to call on the prabhu by
the homies of the imme-
-diate vicinage - a practice
which it may probably
be found expedient to
retain, so far as Madras
is concerned."

Section 18. Referring
to the provision made in
this section for remun-
-rating any medical
person directed to perform
a post-mortem examina-
-tion, the Advocate
General & Coroner
observe that, at present,
District Surgeons and
other Government Medi-
-cal Officers have to
attend as medical wit-
-nesses gratuitously,
as part of their duty.

So also has the Chemi-
-cal Examiner. It
seems reasonable that
they should; and this
Section ought, if so,
to be so worded as to
preclude any question
as to their right to
remuneration."

Section 17. "Is the law
now stands the jury may
recall a witness at any
stage of the proceedings?
Mr. Torken suggests
that "this may be well
provided for him, as
also the capacity of a
surgeon to be himself
a witness in cases in
which his evidence
may be serviceable."

Section 25. Referring to
this Section, Mr. Justice
Hollway is opposed
to all trials or coroners'
inquisitions as unnecessary.

as here, by implication?
Second Schedule. (Form of
Inquisition). They also
remark that the term
"Suicide" seems here to
be used in a popular
or generic sense. But
the case of a lunatic
or person in delirium
is different from that
of a felo de se and the
form may probably
be somewhat altered
and enlarged to meet
more specially these
cases."

Minor Amendments.

In paras 3, 9, 10 & 12 of
Mr. Torken's letter, he
suggests certain verbal
and other minor amend-
-ments, such as the
insertion of a provision
for swearing a Deputy
Coroner, the specifi-
-cation in Sections 21 &
25 of the amount
of

recognizance, the substitution of the word "shall" for "may" on the 19th line of section 24, and the insertion of the words "until discharged in due course of law" in the form of the Warrant of Commitment issued under the 3^d clause of section 25.

With reference to the observations made on sections 14 & 19 (in para 6 of Mr. Perkins' letter), it should be pointed out that the Amendment suggested in regard to the solemn affirmation of Hindus and Mahomedans is not necessary, as according to the General Clauses Act, the word "Oath," as used in all Acts passed by the

Coroner's Court, or in any Gaol under a Warrant of Commitment issued by such Coroner, shall be discharged therefrom.

The Chief Justice suggests that it would be better to require the Coroner to deliver the recognizance inquisitorial re to the proper officer of the Court in which the trial is to be, immediately after the inquest, instead of "before or at the opening of the Court." It is important that a man who is about to be put on his trial should have an opportunity of obtaining copies of the deposition before the day of the trial. The present practice of delivering

the inquiries at the opening of the Court has been known to cause great inconvenience."

Section 27. Mr. Norton

and Dr. Lergahart point out that at present the Coroner institutes inquiries into the forfeiture of goods of a felo de se & in the matter of flight and forfeiture of ^{the property} of murderers. Whether it is intended that his

jurisdiction is to cease in these respects is not apparent. Deceased.

Though abolished in England by 9 & 10 Vic Chap. 62, still obtain in this Country. The proper course seems to be to abolish them in India also by express legislation and not

Advocate General in Council, "shall include affirmation, declaration, affirming & declaring in the case of persons by law allowed to affirm or declare instead of swearing."

It is submitted that the several suggestions made by the Advocate General & the Coroner (excepting that referred to in the preceding para) may be recommended for adoption.

The Chief Justice's suggestion for altering the 2nd clause of Sec. 25 may also be supported.

With regard to Mr. Justice Jones's opinion for the abolition of the office of Coroner & for the adoption in

in the Presidency Town
of the provisions of
Section 165 of the Code
of Criminal Procedure,
it is submitted that ^{there}
are many objections ^{to}
standing Corpes for ex-
amination through the
crowded streets of a town
like Madras, which would
be necessary under Mr.
Lawes' suggestion.

Orders are requested
on this point, and also
in regard to the remarks
made by Mr Justice
Holloway on Section 25.

I would not ^{be}
unwilling ^{to}
withdraw ^{the}
order.
H.A.

I do not understand
Mr Holloway's remark.
I see no objection to
the section.

H.A.

To be printed as a marginal
note at the end of para 5 of
the A.D. 1901's letter. —
Qualification

- 2d - Local Residence within the
Town of Madras and occupation
of a house of the monthly
value of Rs 30, or possession
of property worth 3000 Rs
3d - Residence as aforesaid, with
Character and Education such
as, in the judgment of the
Clerk of the Crown, render the
person fit to serve as a juror.

Disqualification

- 6th - Ignorance of the English language.

13
From

The Honorable John Bruce Norton
Advocate General

To

The Honorable A. J. Ellis C.B.
Chief Secretary to
Government
Fort St. George

Sir

Observing that the Coroner's Bill
has been referred to the Coroner as well as
myself. I thought the best way of dealing
with it would be to confer with the
Coroner, whose practical knowledge ought
be brought to bear, in combination with
my

my own professional insight upon the
Subject of dissection.

2 Accordingly Dr. Lushart
favoured me with a Conference and I pro-
-ced to lay the results of our discussion
before His Excellency the Governor in
Council.

3 Section 7. There is no provision
for swearing a Deputy Coroner.

4 Section 8. As it stands would
necessitate an Inquest in every case of
the death of a Prisoner in Prison. At
present, the practice is to be content,
under the advice of Government, with
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2 14
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in Cholera Cases. Great objection is felt
to sitting by a jury in such cases; and
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an inquest can scarcely be absolutely in-
dispensable. It may be worth considera-
tion, whether the Section should not con-
tain some exception in Cases of Cholera
at any rate leaving the holding of an
inquest discretionary.

5 Section 12 restricts the Choice
of a jury to the jury Act ~~under~~ 13 of
1865. This may be found very inconvenient
in Madras of which the area is 36 miles
comprising

Comprising in many parts out-lying native
villages. Where decomposition sets in so
rapidly as in this Country: it is often
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as possible and it has hitherto been the
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is concerned. In Calcutta and Bombay

the case may be different. The jury Rules
made by the Madras High Court
are not adapted for the Coroner's jury -

especially as to qualifications 2 and 3. Dis-
qualification 6 is also inconsistent. See

Section

See accompanying
note.

Qualification 2 -
who are not
householders
or who have
not been
residing in
the place for
seven years -
Disqualification 6 -
persons who
are not
freeholders

6. Section 12 provides that the jury
shall be sworn. This is easy enough in
the case of Christians but in the case
of Mahomedans and Hindus, it may
present considerable difficulties, unless
indeed the Government is prepared to
sanction the old establishment of two
among Dravidians, and one Mahomedan, which
obtained formerly in the Coroner's Office; but
which has been abolished for several years.
It may suffice if Mahomedan and Hindu
jurymen are solemnly affirmed, which
would meet the difficulty without
incurring any additional expense. These
remarks apply also to Section 19.

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7. Section 18 At present, District
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have to attend as Medical witnesses gratis
truly, as part of their duty. It also has
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that they should; and this Section ought,
if so, to be worded as to preclude any
question as to their right to remuneration.

8. Section 19 As the Law stands
now, the jury may recall a witness at any
stage of the proceedings. This may be well
provided for here; as also the capacity of
a jurymen to be himself a witness in
cases in which his evidence may be serviceable.

Section

9. Section 21 No mention is made
of the amount of recognizance. At present
it is £10. The same observation applies
to recognizances under Section 25. The
amount in such cases is Rs 250. It may
be advisable to specify the amount in
these cases, or to leave it discretionary
with the Coroner. In the eighth line
of Section 21, 'in' appears to be a verbal
error for 'with'.

10. Section 24: For the word 'may'
in the 19th line, it would be better perhaps
to read 'shall'. 'May' sometimes has the
force of 'shall' in a statute; but it
may be advisable not to leave any doubt
if

if no discretion is intended to be left
as to form. The Second Schedule seems
a very satisfactory one, and it may be
well to confine Coroners to it.

11. Section 25. No provision is
made for Bail in cases of manslaughter
or killing by rash or negligent Act. It
may be advisable to follow 22 Vic Ch 33
Section I in this respect.

12. The form of commitment
should probably run 'until discharged
in due course of law'.

13. Section 27. By this the
Coroner's jurisdiction is confined to the
Subjects

Subjects specified in the Bill. There are
several other matters which at present
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England by 9 and 10 Vic Ch 62, still
obtain in this Country. The proper course
seems to be to abolish them in India also
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by

by implication.]

15. At present no Coroner of a Christian or whom an Inquest has been held can be lawfully without a Coroner's warrant. The Coroner's warrants are three, to bury after inquest, during inquest, and in cases of felo de se.

16. Schedule 2 Cases of Suicide. The term 'Suicide' seems here to be used in a popular or generic sense. But the case of a lunatic or person in delirium is different from that of a felo de se, and the form may probably be somewhat altered and enlarged to meet

6
18
must more specially these cases. X

I have the honor to be Sir
Your obedient servant

John Lubbock

Advocate General

Nov. 14. 1870.

I agree with the Advocate General

in the opinion given above on the provisions of the proposed Coroner's Bill.

Amended
Coroner

Pro. 2121 October 1904-99.

Sub. 25-26 Oct 1904

Sub. 1890 Atlantic

from the Atlantic
the Atlantic
the Atlantic

of 14 3 Nov 1904.

No. 2073

Feb 2095

Atlantic

Atlantic
Atlantic
Atlantic

224/4-
123/2-
108-

No. 2066.

From H. Wigram, Esquire,
Acting Registrar of the High Court of
Judicature at Madras.

To
The Honorable R. S. Ellis, Esq. B.
Chief Secretary to
Government.

Honorable Sir,

I am directed to acknowledge
the receipt of your letter to the Chief
Justice dated 21st October 1870, forwarding
a copy of the Proceedings of Govern-
ment, Judicial Department, of the
same date together with a draft of
the Bill to consolidate the laws
relating to Coroners and requesting
an expression of opinion as to the
provisions of the proposed enactment.

2. In reply I am directed
to state that the Chief Justice and
Judges approve generally of the Bill.

Mr. Justice James however is of opinion that the office of coroner in the Presidency Towns might with advantage be abolished. He observes that the system which the legislature has provided for the Mofussil (Section 161 of the Code of Criminal Procedure) would necessarily answer the same purpose in the Presidency Towns and be far less cumbersome and costly.

By Section 25 of the Bill Mr. Justice Holloway is opposed to all trials on coroner's inquisitions as unnecessary and is of opinion that they might be abolished. He alludes especially to the absurdity of arraigning a man on a coroner's inquisition after one acquittal on the same facts. The Chief Justice suggests that it would be better to require the coroner to deliver the

recognizances, inquisitions &c. to the proper officer of the court in which the trial is to be, immediately after the inquest instead of before or at the opening of the court. It is important that a man who is about to be put on his trial should have an opportunity of obtaining copies of the depositions before the day of trial. The present practice of delivering the inquisitions at the opening of the court is known to cause great inconvenience.

High Court of
Judicature, Madras,
16th November 1870.

I have the honor to be,
Honorable Sir,
Your most obed^t. servant,

Dwigram
Acting Registrar,
Appellate Side.

M. J. J.

9 22
Judicial Department

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter.

Letter from the Advocate General — Nov. 14th 1870.
Do from the A. Registrar of the High Court — 16th Nov. 1870.

Order 28 Dec 1870 - 16/5.

The first of the letters above recorded contains the joint report of the Advocate General and the Coroner of Madras on the Bill to Consolidate and Amend the Laws relating to Prisoners, as amended by the Select Committee; and the second letter contains the views of the

Members

Defunct

Nov. 28. 1870. —
From 1370 Department

From the Secretary of the
Judicial Department
to the Secretary of the
Government

Dated 16th November 1870
Received 21 —

No. 20966.

No. 20985.
Stating that the
Justice and Peace of the
Province generally of the
Bill to consolidate and
amend laws relating to
Prisoners

224/11

109 —

Honorable the Chief
Justice and Judges of
the High Court on that
measure.

2. The Advocate General
and former have pro-
posed various amend-
ments, of which the
following is a summary.

Section 8. That this Section
be altered so as ^{either} except
from its operation Cases
of death from Cholera,
or to leave the holding
of inquests discretionary
in such cases.

Section 12. That, in regard
to summoning a jury,
the present practice of
calling on the probi et
legales homines of the
immediate vicinage, be
retained, so far at least
as Madras is concerned.

10. 27
Section 18. That as the Dis-
trict Surgeons in the
Presidency Town, as well
as the Chemical Examiner
and other Government
Medical Officers, do now
attend as Medical Wit-
nesses gratuitously as
a part of their duty,
this Section should be so
amended as to provide
that any person so
employed should continue
to do so under the new
Law without special
remuneration.

Section 19. That provision
should be made for Empan-
elling the jury to recall
witnesses at any stage
of the proceedings, and also
for enabling a juror to
be himself a witness in
Cases in which his evidence
might be useful.

Section 25. That a clause
should be introduced -
to provide for British
cases of manslaughter,
or killing by rash or
negligent act, similar
to the provision contained
in Section 1 of the Statute
22 Vic. Cap. 33.

Section 27. That it should
be distinctly stated in
the Statute whether or
not the jurisdiction which
the Governor at present
exercises in respect of
inquiries as to the for-
feiture of goods of a
felo de se or murderer,
and, in the matter of the
flight of a murderer,
should cease; and also
that the levy of demands
which, though done away
with in England by Act
9 & 10 Vic. Cap. 62, still
obtains.

11 24
~~abolish~~ this country,
should be abolished by
Express legislation.
Secondly (in the
Inquisition), that, as
the case of a lunatic or
person in delirium killing
himself, is different from
that of a felo de se, the
form of Inquisition, in
which the term suicide is
to be used in a popular &
generic sense, should be
altered & enlarged to meet
more specially such
cases.
Mr. Norton and Dr.
Ogden have also pro-
posed certain minor amend-
ments, such as the inser-
tion of a provision for
swearing the deputy coroner,
the specification in Section
21 & 25 of the amount
of recognizance, the

substitution of the word
"shall" for "may" in the
19th line of Section 24,
and the deletion of
the words "in the
discharge in due course
of law in the for-
feiture of the warrant of com-
mitment issued under
the 3rd clause of Section
25."

4. The Govt. approve
of the general suggestion
made by the Advocate
General and Coroner,
excepting that contained
in para 6 of Mr. Foster's
letter, and resolve
to recommend them
for adoption.

5. With regard to the
suggestion made in the
para above referred to,
respecting the solemn affirmation of Hindu & Mahomedans,
the Govt. observe that
The

12
the General Clause Act
contained in Section 11
provides that the word "and"
as used in the Act shall be
by the Governor general
in Council, "shall include
affirmation, declaration,
affirmation and declaration
in the case of persons
by law allowed to affirm
in solemnity instead of
solemnity" as in the
the provision of the law
shall be deemed to have
the intention suggested in
reference to
Section 24 & 29.

6. The Chief Justice and
Judges of the High Court
generally
of the Bill.
The Chief Justice and
Judges are of opinion that the
Office of Coroner in the
Presidency towns might
be abolished
and

said that the system
 which the Legislature has
 provided for the disposal
 of the same is for the same
 the same purpose in the
 Presidency, and in the
 fair less civil and
 costly. The Govt. are
 sensible of the necessity
 of this system. There are
 many objections to the
 Govt. for examination
 of the same. It is
 a course which would be necessary
 under the same
 system. The Govt.
 would not, therefore, recom-
 mend the abolition
 of the office of Coroner.
 7. The Govt. agree with
 the Chief Justice in
 thinking that it would
 be better to require the
 Coroner

Coroner to deliver the recognizances, inquisition, &c. to the proper officer of the Court in which the trial is to be held, immediately after the inquest, instead of before or at the opening of the Court, as required by clause 2 of Section 25. -

8. Mr. Justice Holloway
is opposed to all the
on Coroner's inquisitions.
His remark on Section
25, as to the absurdity
of arraigning a man
on a Coroner's inquisition
after one acquittal on
the same facts, is not
clear. The Govt, however,
see no objection to the
Section as it stands in
the Bill. —

2. The House the Judge of the High Court
My Advocate General
the Corner of Madras } dated 4/52 L. 80

Depos

Judicial Dept

No. 1676

To Mr Secretary to the Govt of Madras
Legislative Dept

Sir,

With reference to your
letter of the 11. Oct. last
No. 684, I am directed
to transmit the enclosed
Proceedings of the Madras
Government in which
are recorded the opinions
of the High Court, the
Advocate General and
the Coroner of Madras
on the provisions of the
"Bill" to consolidate the
laws relating to Coroners,
together with the
views of the Govt on that
measure.

For Mr Secretary
28 December 1874

25

Madras 170 Sept

No. 1675-76

Secy of the Madras

Government

Dated 28. Dec. 1874

No. 1080 III

170 Sept

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