

## **CORONERS ACT, 1871**

### **4 of 1871**

**[[27th January, 1871]]**

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### **CORONERS ACT, 1871**

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We, the undersigned, the Members of the Select Committee of the Council of Governor-General of India for the purpose of making Laws and Regulations, to which the Bill to consolidate 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, S. 157 that the Coroners should exercise the like jurisdiction 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 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 Coroner's juries, we have provided (S. 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 ajuror. There is a similar provision in the Schedule to the English Prisons Act, clause 48. As to a Coroner's rights, we have added three clauses, 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 12 of 1867, S. 12, as this will more fitly be placed on 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 Evidence Act, 1862 appears to provide sufficiently....." -Gazette of Ind., 1870, Pt. V, p. 351.

### **1. Short title :-**

This Act may be called The Coroners Act, 1871. <sup>1</sup> [ \* \* \* \* \* ]

1. Substituted for original section, by the Coroners (Madras) Act, 1889 (5 of 1889) Section 2.

### **2. Repeal of enactments :-**

Repealed by the Repealing Act, 1873 (12 of 1873).]

## CHAPTER 2

### APPOINTMENT OF CORONERS

### **3. Coroners of Calcutta and Bombay :-**

Within the local limits of the ordinary original civil jurisdiction of each of the High Courts of Judicature at Fort William and Bombay there shall be a Coroner. Such Coroners shall be called respectively the Coroner of Calcutta and the Coroner of Bombay.]

### **4. Their appointment, suspension and removal :-**

Every such officer shall be appointed and may be suspended or removed by the <sup>1</sup>[State Government]<sup>2</sup> [\* \* \*]

1. Substituted for 'Provincial Government' by A. L. O., 1950.

2. The words "Every person now holding such office shall be deemed to have been appointed under this Act" were repealed by the Amending Act, 1891 (12 of 1891).

### **5. Coroners to be public servants :-**

Every Coroner shall be deemed a public servant within the meaning of the Indian Penal Code, 1860 .

### **6. Power to hold other offices :-**

A ny Coroner may hold simultaneously any other office under Government.

### **7. Oath to be taken by Coroner :-**

Repealed by the Indian Oaths Act, 1873 (10 of, 1873).]

## CHAPTER 3

### DUTIES AND POWERS OF CORONERS

### **8. Jurisdiction to inquire into deaths :-**

When a Coroner <sup>1</sup> [has reason to believe] 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 193 of the Indian Penal Code, 1860

1. Substituted for the words "is informed" by the Coroners Act, 1881 (10 of 1881), S. 5.

**9. Coroner to be sent for when prisoner dies :-**

Whenever a prisoner dies in a prison situate within the place for which a Coroner is so appointed, the Superintendent of the prison shall send for the Coroner before the body is <sup>1</sup> [disposed of]. Any Superintendent failing herein shall on conviction before a Magistrate be punished with fine not exceeding five hundred rupees. Nothing in the former part of this section applies to cases in which the death has been caused by cholera or other epidemic disease.

1. Substituted for "buried", by the Coroners (Amendment) Act 1908 (4 of 1908), Section 2.

**10. Power to hold inquests on bodies within local limits wherever cause of death occurred :-**

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. Power to order body to be disinterred :-**

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 <sup>1</sup> [where the Coroner considers it necessary or desirable in the interests of justice to take a further inquisition].

1. Substituted for "where the first was insufficient", by the Coroners (Amendment) Act, 1908 (4 of 1908), Section 3.

**12. Summoning jury :-**

On receiving notice of any death mentioned in Section 8, the Coroner shall summon five, seven, nine, eleven, thirteen or fifteen respectable persons to appear before him at a time and place to be specified in the summons, for the purpose of inquiring when, how and by what means the deceased came by his death. Inquest may be on Sunday. Any inquest under this Act may be held on a Sunday.

**13. Opening Court :-**

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. Jurors to be sworn :-**

When a sufficient 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. View of body :-**

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 : <sup>1</sup> [Provided that the Coroner may, with the concurrence of a majority of the jury, dispense with a view of the body, if he is satisfied, from medical evidence or medical certificates, that no advantage would result from such viewing.]

1. Inserted by the Coroners (Amendment) Act, 1908 (4 of 1908), Section 4.

**16. Proclamation for witnesses :-**

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. Summoning witnesses :-**

<sup>1</sup>[ It shall be the duty of all persons acquainted with the circumstances attending the death to appear before the inquest as witnesses; the Coroner shall inquire of such circumstances and the cause of death, and, .if before or during the inquiry he is informed that any person, whether within or without the local limits of his jurisdiction, can give evidence or produce any document material thereto, may issue a summons requiring him to attend and give evidence or produce such document on the inquest. Any person disobeying such summons shall be deemed to have committed an offence under Section 174, Section 175 or Section 176 of the Indian Penal Code, 1860 , as the case may be.] For the purpose of causing prisoners to be brought up to give evidence, the Coroner shall be deemed a Criminal Court within the meaning of <sup>2</sup> [Part IX of the Prisoners Act, 1900].

1. Substituted for the original paragraphs, by the Coroners Act, 1881 (10 of 1881), Section 6.

2. Substituted for "Act No. XV of 1869 (to provide facilities for

obtaining the evidence and appearance of prisoners and for service of process upon them") by the Coroners (Amendment) Act, 1908 (4 of 1908), Section 5.

**18. Post-mortem examinations :-**

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; Fees to medical witnesses. and every medical witness, other than the Chemical Examiner to Government, shall be entitled to such reasonable remuneration as the Coroner thinks fit.

**19. Evidence to be on oath. Evidence on behalf of accused :-**

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. Interpreter. 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. Questions suggested by jury. After each witness has been examined, the Coroner shall inquire 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. Coroner to take down evidence in writing :-**

The Coroner shall commit to writing the material parts of the evidence given to the jury, and shall read or cause to be read over such parts to the witness and then procure his signature thereto. Witnesses to sign depositions. Any witnesses refusing so to sign shall be deemed to have committed an offence under Section 180 of the Indian Penal Code, 1860 Coroner to subscribe depositions. Every such deposition shall be subscribed by the Coroner. Coroner a Magistrate. <sup>1</sup> [For the purposes of S.26 of the Indian Evidence Act, 1872, a Coroner shall be deemed to be a Magistrate.]

1. Inserted by the Coroners Act, 1881 (10 of 1881), S. 7.

**21. Adjournment of inquest :-**

The Coroner may adjourn the inquest from time to time, and from place to place. Juror's recognizances. 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 with. The amount of such recognizances shall in each case be fixed by the Coroner <sup>1</sup>

[and the whole, or such part thereof as to the Coroner seems fit, shall, in default of attendance by the jurors, be recoverable in the same manner as a fine imposed under Section 31].

1. Inserted by the Coroners (Amendment) Act, 1908 (4 of 1908), S. 7.

**22. Coroner to sum up to jury :-**

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. Coroner to draw up inquisition :-**

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.

**24. Contents of inquisition :-**

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 shall be in the form set forth in the Second Schedule hereto annexed, with such variation as the circumstances of each case require.

**25. Procedure where death is found due to an act amounting to an offence :-**

When the jury or a majority of the jury find that the death of the deceased person was occasioned by an act which amounts to an offence under any law in force in <sup>1</sup> [India] the Coroner shall immediately after the inquest forward a copy of the inquisition, together with the names and addresses of the witnesses, to the



Commissioner of Police.]

1. Substituted for "a Part A State or a Part C State", by 2 A. L. O., 1956.

**26. Power to arrest and commit for trial :-**

The Coroner may also, where the verdict justifies him in so doing, issue his warrant for the apprehension of the person who is found to have caused the death of the deceased person, and send him forthwith to a Magistrate empowered to commit him for trial.]

**27. Power to accept bail :-**

Repealed by the Coroners (Amendment) Act, 1908 (4 of 1908), S. 10.]

**28. Warrant for burial :-**

When the proceedings are closed, or before, if it be necessary to adjourn the inquest, the Coroner shall give his warrant for the <sup>1</sup> [disposal] of the body on which the inquest has been taken.

1. Substituted for "burial" by the Coroners (Amendment) Act, 1908 (4 of 1908), Section 11.

**29. Inquisitions not to be quashed for want of form :-**

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

**30. Cessation of jurisdiction as to treasure-trove, wrecks, etc :-**

It shall no longer be the duty of the Coroner to inquire whether any person dying by his own act was or was not *felo de se*, to inquire of treasure-trove or wrecks, to seize any fugitives goods, to execute process or to exercise as Coroner any jurisdiction not expressly conferred by this Act. *Felo de se*. A *felo de se* shall not forfeit his goods. Deodands. Deodands are hereby abolished. Meaning of certain words in S. 30 are given, with requisite, reference as under-  
*Felo de se* (a felon with respect to himself) means one who feloniously commits suicide. In England escheat or forfeiture for felony was abolished by the Forfeiture Act, 1870 (33 and 34 Vict., c. 23). A Coroner's inquest must be held in every case of suicide, and in the absence of evidence of unsoundness of mind a verdict of *felo de se* may be directed and returned - See Wharton's Law Lexicon; Earl Jowitt's Dictionary of English Law, 1959 Ed., page

792. Money or coin, gold, silver, plate, or bullion, found hidden in the earth or other private place, the owner thereof being unknown or unfound, in which case it belongs to the Crown. In England the Coroner has jurisdiction to hold an inquest under the Coroner's Act, 1887 (50 and 51 Vict., c. 71) Section 36, as to treasure-trove; but his function is confined to ascertaining whether any given thing is or is not within the definition, and he cannot inquire as to who is entitled to it - See Earl Jowitt's Dictionary of English Law, 1959 Ed., page 1777. Deodands - A personal chattel which had been the immediate occasion of the death of any reasonable creature; it was forfeited to the Crown to be applied to pious uses and distributed in alms by the high almoner. Deodands were abolished in England by the Deodands Act, 1862 (9 and 10 Vict., c. 62) - See Earl Jowitt's Dictionary of English Law, 1959 Ed., page 612.] [Ed.]

#### CHAPTER 4

#### CORONERS JURIES

#### **31. Fine on juror neglecting to attend :-**

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.

#### **32. Certificate as to defaulting juror :-**

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

#### **33. Levy of fine :-**

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

#### **34. Jurors not to be summoned twice within the year :-**

Unless in case of necessity, no 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.

**35. Jurors on inquest on prisoner :-**

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.

CHAPTER 5

RIGHTS AND LIABILITIES OF CORONERS

**36. Coroners salary :-**

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 <sup>1</sup> [State Government].

1. Words "after the expiration of three months from such fact or failure nor" were repealed by the Indian Limitation Act, 1871 (9 of 1871).

**37. Disbursements to be repaid :-**

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 <sup>1</sup> [State Government].

1. Words "after the expiration of three months from such fact or failure nor" were repealed by the Indian Limitation Act, 1871 (9 of 1871).

**38. Power to appoint deputy :-**

Every Coroner may from time to time, with the previous sanction of the <sup>1</sup> [State 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. Revocation of appointment. Every such appointment may at any time be cancelled and revoked by the Coroner by whom it was made.

1. Words "after the expiration of three months from such fact or failure nor" were repealed by the Indian Limitation Act, 1871 (9 of 1871).

**39. Exemption from serving on juries :-**

No Coroner or Deputy Coroner shall be liable to serve as a juror.

**40. Privilege from arrest :-**

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

**41. Penalty for failure to comply with Act :-**

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.

**42. Limitation of suits :-**

No proceeding for anything done under this Act, or for any failure to comply with its provisions shall be commenced or prosecuted <sup>1</sup> [\* \* \*] after tender of sufficient amends.

1. Words "after the expiration of three months from such fact or failure nor" were repealed by the Indian Limitation Act, 1871 (9 of 1871).

SCHEDULE 1

Enactments repealed

.- [Repealed by the Repealing Act, 1873 (12 of 1873).]
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SCHEDULE 2

FORM OF INQUISITION

An Inquisition taken at on the day of 187 , before E F, Coroner of [in the case of A B deceased] 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 CD wad culpable homicide not amounting to murder [or culpable homicide amounting to murder, or a rash or negligent act not amounting to culpable homicide.] 2. [Cases of accident] - falling out of a boat into the river Hooghly 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. - sunstroke. 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). Maharashtra: Substitute for the original second schedule the following, namely:-
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### SCHEDULE 3

#### FORM OF INQUISITION

(See Section 24 ) An inquisition taken at on the day of 19 be fore EF, Coroner of (in the case of A B deceased) upon the and of G H, I J, K L, and M N, then and there duly sworn and charged to enquire when, how and by what means the said A B came to his death. We, the said Jurors, find unanimously that the death of said A B was caused, on or about the day of 19 , by 1. Cases of homicide - a blow on the head with a stick inflicted on him by C D i-:der 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 CD under such circumstances that the act of CD was culpable homicide not amounting to murder, 2. Cases of suicide - Shooting himself through the head with a pistol, drowning himself in a tank, river or sea, Opium or arsenic, which he voluntarily administered to himself. Cutting his, throat with a razor or any sharp instrument. 3. Cases of infanticide - Strangling to death a newly-born child by its mother. - by exposure caused by C D with the knowledge that it would necessarily result in the death of A B, a newly-born child. 4. Cases of accident - falling out of a boat into any river, whereby he was drowned. - a kick from a horse which fractured his skull and ruptured blood-vessels in his head. 5. Cases of poisoning - opium or arsenic which was administered to the said A B by C D with the intention of killing him. 6. Cases of death caused by machinery - while working in a mill or a workshop being caught in moving machinery. 7. Cases of death - the wheel of a motor-car or a heavy cart which was negligently driven by C D passing arising out of the over his chest and causing death. use of a vehicle 8. Cases of death from - disease of the heart. any other cause - apoplexy. - sun-stroke or any other disease. And so say the jurors upon their oath aforesaid Witness our hands. EF, Coroner of GH, IJ, KL, MN, OF (jurors) - Bom. Act 13 of 1930, section 5