ORIGINS OF THE CORONIAL JURISDICTION

BY

JILL MCKEOUGH*

This article traces the development of the office of coroner from its mediaeval inception as guardian of the King's interests and revenue at the local level, to the socially relevant tasks performed by the modern coroner. Existing links with the ancient practice of the office are examined and reference to primary sources is made to illustrate the function of the coroner within the mediaeval legal system.

1. Introduction

The modern concept of a coroner is far removed from the influences which gave birth to the office. In mediaeval times the coroner was more involved with the collection of revenue and protecting the King's interests at a local level, than the investigation of sudden death.

Although the office of coroner is thought to have existed from Norman times,[1] the first undoubted reference to coroners appears in the *Articles of Eyre* (1194), where it was provided that the justices in eyre were to organise three knights and a clerk to be elected by freeholders as "keepers of the pleas of the crown" in each county. The Latin title *custos placitorum corone* became *coronator*, or in English, crowner or coroner.[2]

There is academic debate as to whether the 1194 Article instituted a new office or merely declared existing practice, but the reason for the appointment of coroners at this time was almost certainly in order to check the increasing corruption practised by the sheriffs who were royal bailiffs, the King's administrative officials at a local level.[3]

Hubert Walter, Justiciar during the absence of Richard I, decided that by utilising the country gentry and middle classes whom he felt he could control, certain sources of revenue could be safeguarded. Because the execution of justice depended a great deal upon local knowledge and not very much upon the expertise of professional judges, the county court was very important and it was here that the coroners would enrol the pleas of the Crown to be presented to the eyre upon its arrival as a record of local events as they affected the King's interests.

> A Coroner is one of the principal officers of this Court, being chosen in it (by a writ *de coronatore eligendo* directed to the Sheriff) by the Freeholders or Suitors in open and full court, and is published there; so deriving his Authority under the Freeholders and not under the Crown, by the King's Demise he is not out of Office as Sheriffs are...[4]

The concept of pleas of the Crown included anything that today would be described as a criminal matter, in fact "the cornerstone of modern criminal procedure".[5] Under the Norman Kings a division between royal prerogative and ordinary public authority began to emerge, by which the crown enlarged its own direct jurisdiction over wrongdoing. Some writers see the concept as dating from Anglo-Saxon times,[6] but in the form which concerns the coronial jurisdiction, the term *placita coronae* seems to have been used from the time of Henry I.[7]

The role of the coroner was to "keep the pleas of the crown". Milsom described the coroner as "a permanent local accountant..."[8] whose records provided a check on the accounts given by the local courts. The revenue produced by administering justice was perhaps the main incentive to the maintenance of law and order. By keeping a record of crown pleas, the coroner would make it clear just what the local community, through the sheriff, was answerable for.[9] This was particularly vital at the time the coronial jurisdiction was defined, in September 1194.

In February of the same year Richard I had returned to England from Germany, which had demanded, quite literally, a King's ransom for his release. The effort to find 150,000[10] silver marks in conjunction with financing the crusades of the previous decade had nearly rendered the country bankrupt and the Crown was desperate for money. Until this time the sheriffs had mainly been responsible for carrying out the King's requirements at the local level. Their duties included the administration of judicial services, collecting amercements and confiscating the property of felons. As there was no official remuneration they would reimburse themselves from money collected on behalf of the King. The coroner's role was to prevent this.[11]

For a King to rule effectively, the preservation of public order was essential. As the Norman Kings attempted to establish and maintain supremacy, the Anglo-Saxon concept of the King's peace was utilised in the developing criminal law.[12] The church and local lords also had peace or protection which could be extended to others;[13] this concept of a personal peace or *grith* gradually spread away from the King's persons or household and came to regulate roads, markets and the whole realm. An infringement of the peace, or some interest of the King, was pursued from the time of Henry I onwards by the justices of the King's household travelling around on eyre.[14]

Before discussing the way in which the twelfth century coroner carried out his duties, it is interesting to note an alternative explanation of the origins of the office. In 1687 Spelman wrote that during Saxon times a combined national council and court, as well as courts and legislative assemblies of lesser jurisdiction, held meetings within circular enclosures;

> a remnant of the still more ancient precaution of establishing rude fortresses on dunes and other elevations for defensive purposes. Before these tribunals appeared the suitors; and as they were accompanied by their friends and

> witnesses, and the opposite party likewise, the assemblies were occasionally exposed to the danger of turbulence. The public officer whose duty it was to maintain order was the coronator, or controler of the corona or circle of audience.[15]

This rather quaint theory has no apparent historical source, and is founded on the premise that the Saxons had a much more organised and developed system of government and administration than is generally thought.[16] Also, many early writers including Fleta,[17] Bracton,[18] and Britton[19] discuss the coroner and his duties, but none refer to the explanation given by Spelman in relation to the origins of the jurisdiction.

2. Organisational Framework

The framework in which the coroner functioned was basically that of the general eyre, and when the eyre declined in importance, so did the coroner's jurisdiction. Henry I had sent justices out on eyre to hear complaints and reinforce royal laws. Originally he had intended to stabilise the realm and show that the Crown was active in the administration of justice, thereby enhancing his authority.[20] However it soon became apparent just what a fertile source of revenue the administration of royal justice was and, even before Richard got the coroners organised,[21] the fiscal advantages of administering justice had been realised. The enrolling of crown pleas took place basically in the local courts culminating in their presentation to the eyre when it arrived, on average once every four to seven years.

The county court was the main sphere of activity; this was held every six weeks, depending on local custom, and here the recording of appeals, exactions, outlawries and the presentment of sudden deaths took place. The coroner had to attend every gaol delivery, a commission to justices to hear and determine pleas involving people in gaol, and there present a list of those indicted for homicide. As time went on justices of the peace heard appeals of approvers at quarter sessions, and once again the coroner had to attend and record these. Occasionally the coroner was present at other courts to record the determination of matters heard by special commissioners, and if there was a special reason he would attend the *tourn* or *view of frankpledge* held twice a year in each hundred by the sheriff.

The coroner's legal process of inquiry was known as the *inquisito*, or inquest, and meant merely an inquiry of any sort, not just into death. The coronial inquests were held on arson, rape, dead bodies, treasure trove, royal fish and wrecks of the sea.[22]

Inquests were held on other matters if a special writ so directed,[23] and all of these investigations were carried out with the aid of a jury. The coroner also heard confessions of felons, dealt with abjurations of the realm and oversaw the processes of *turning approver* and *exigent*. The latter was a process of demanding a person's presence in the county court, non-compliance resulting in outlawry.

Coroners' Rolls

The basic records kept by the coroner were small pieces of parchment with individual cases on them. When the eyre was imminent the coroner would transcribe them onto his roll, which consisted of larger pieces of parchment either sewn together at the top and rolled up (Exchequer fashion) or else sewn together end to

end and rolled up (Chancery fashion). The coroner's rolls were "of record", meaning they could not be traversed in any way.[24] The concept of the record began with the Doomsday Book, which could not be questioned either.[25] It stated facts which were the truth. Thus developed an early antecedent of the concept of precedent as we know it.

Although the record of the roll was infallible, this did not necessarily mean the coroner was. For example if a coroner made a mistake in the execution of his duties he could be penalised for it on the evidence of his own roll. In 1248 Gilbert de Columbers, a coroner involved in the Berkshire eyre was amerced for making William le Sopere abjure the realm merely for stealing hens.

> William le Sopere of Oxford put himself in Coleshill church and there acknowledged a larceny and *abjured* the realm before the coroner. He had no chattels. The tithing is not known because [he was] a vagrant. Gilbert de Columbers the coroner made him abjure the realm for stealing hens only, so [he is] in mercy.[26]

The roll of the Shropshire eyre of 1256 records an example of a Hugh de Cheyner, coroner, being punished for contradicting his own roll. The unfortunate Hugh on that occasion was also amerced for not holding an inquest concerning the chattels of one Richard Mese who had fled after (reputedly) killing the cook of Nicholas, son of Walter of Wormbridge.[27]

The coroner however, was in no sense a judicial figure. Chapter 24 of the Magna Carta acted as a safeguard against the usurpation of royal authority, in providing "that no sheriff, constable, coroner or other of our bailiffs shall hold pleas of our crown"[28] that is, not be criminal judges in any sense. Despite this, Bracton wrote that coroners still passed judgment on felons caught in the act, and conducted trials in civil pleas.[29] However there is some doubt whether this was so, and it was probably done only in exceptional circumstances, if at all.[30]

Most information about the coroner's functions comes from the rolls, many of which still exist. Other source materials of the period include the eyre rolls, and *veredicta*, which are written answers of the juries to questions asked at the eyre, known as articles of the eyre. The contemporary records give an interesting account of the matters concerning the courts and communities of the period, and also provide insights into the machinery of justice at that time.

In the Shropshire session of 1256 the jury found that since the last eyre in 1245, there had been 183 homicides, 61 accidental deaths (by drowning, falling from trees, running over by carts, burying in chalk pits, and bites from pigs), 3 suicides and 2 robberies.[31] The low incidence of robberies was merely a reflection of the fact that there was no solid evidence left behind. The juries recorded bodies, not crimes. Even killers were often not caught, but there was a convenient practice of listing "notorious thieves" and other suspects who had fled, and outlawing them:

> ...they say that Henry de Molendino and William son of Alice of West Coxwell have made off. They are suspected of several larcenies, so *they are to be exacted and outlawed*...[32]

Bracton says that a coroner investigating arson would "inquire who put the fire there, and how and by what felony, drunkenness or mischance it arose. And if from felony who were the principals, who the accessories, and who the threateners".[33]

As this shows, part of the coroner's duty lay in recording preliminaries of accusations and examining persons who could give information. These preliminary depositions were used as evidence at the trial.

3. Functions Of The Coroner

(a) Abjuration of the realm

Abjuration of the realm was a convenient way of removing criminals from the kingdom. A felon could seek sanctuary in particular places (some abbeys and minsters) indefinitely, or in a consecrated building for up to forty days.[34] He could ask for the coroner to attend and hear his confession of the felony, after which arrangements would be made for the felon to leave by the nearest seaport. He would then travel overseas and be allowed to return only with the consent of the monarch or his successors. A valuation was made of the abjuror's property, "and they went into the ever-ready fiscus".[35] Already by the thirteenth century the concept of homicide as a plea of the Crown led to forfeiture of chattels of the person responsible for the death. Forfeiture was not imposed if the killing was non-felonious, but was always imposed if the person responsible fled.

Violation of sanctuary was a serious offence. If anyone decided to deal with a felon themselves by removing him from sanctuary, they were excommunicated and the criminal was returned to sanctuary. Escapes from sanctuary were common, despite the fact that the township was amerced for allowing it by not guarding the church night and day. This was often a difficult task over a period of up to forty days.

Henry VIII abrogated the rights of felons to abjure the realm, seeing it as an affront to law and order. Sanctuary was denied to those guilty of murder, rape, burglary, robbery, arson and sacrilege (the main reasons for which it was required) and abjuring felons were branded with an "A" on the thumb. Sanctuary was later abolished by James I in 1623.[36]

(b) Private Appeals

The mediaeval coroner had a much more extensive jurisdiction and greater importance than a modern coroner because of the system of prosecution, which was mainly by private appeal in the twelfth century. If someone complained about another, the offence was enrolled with the names of two persons to prosecute, and full details of the alleged offence. The appellor had to provide sureties, or guarantors of the genuine nature of the appeal. The appellee had to provide sureties for his appearance.

The coroner's rolls were important in appeals, being used to check that the appeal was the same as made at the county court. If the latter were not verbatim, the appellor was amerced and could be arrested for a "false appeal". If the appellee did not appear, his sureties were amerced. An interesting example of a private appeal is found on the Berkshire eyre roll of 1248. There, the appellor was amerced and taken into custody for a false appeal, but the jury found that the appellees had in fact beaten the person complaining so they were arrested also and their sureties amerced. There were no problems with amending the pleadings, the jury did it for them!

> Robert of Denemede appeals Richard son of Gillian that, whereas he was in the king's peace in the Vill of Woolstone on the morrow [31 July 1246] of St. Peter's Chains in the 30th year, Richard came to him and gave him a wound 4 inches in length in the head with an iron fork and took from him in robbery 1 silver clasp priced at 18 pence and 1 dagger priced at 12 pence, and that he did this wickedly and in felony against the [king's] peace and in premeditated assault he offers to prove against him by his body as the court sees fit.
>
> The same [Robert] appeals Henry Redulf that on the same day, year and place he gave him a wound 2 inches in length in the head with a hatchet and that he, together with Richard, took from him in robbery the aforesaid clasp and dagger against the [king's] peace, and this he offers to prove against him as above.
>
> Richard and Henry come and deny wounding, robbery and everything and whatever is against the [king's] peace. They claim that it be allowed them that, when this deed was allegedly done to him, he did not raise the hue nor came to the next county [court], and that previously he appealed Richard of wounding him with a hatchet, which entirely differs from his appeal now. Because this is established by the coroners' rolls, it is adjudged that his appeal [contains] nothing by which they should be put to law. So that the king's peace may be maintained, the truth is to be inquired of the country. The jurors say that Richard and Henry took nothing from Robert in robbery, so Robert [is] in (*mercy*) for a false appeal. (*He is to be taken into custody.*) But they say that [Richard and Henry] did beat him, so they [are] in (*mercy*) for the trespass. (*They are to be taken into custody.*) Later Robert came and made a fine of *½ mark* by surety of Pain of Knighton and Walter the reeve of Woolstone. Later Richard and Henry came and made a fine of *1 mark* by surety of Simon of Uffington and Ralph Sturmy.[37]

As with the listing (and outlawing) of mere suspects, the fact that people could come to court and get a result like this seems to modern thinking very "rough justice" indeed. In fact, the insertion of local knowledge in place of rules of evidence and the sloppy procedure, combined with the opportunities presented by sanctuary and abjuration, probably led to results that were overall fairly satisfactory. The severe punishments meted out were mitigated by the chances of escape and unlikelihood of detection.

The coroner also dealt with the process of turning approver. A felon could confess to the coroner and turn approver, or turn Crown evidence. This meant he had to appeal other felons. Such appeals usually failed, and even if they succeeded the felon gained only the right to abjure the realm or perpetual imprisonment, in place of hanging. What was gained was time, and as gaol was very easy to break out of, extra time meant extra opportunities. For example, the gaol at Chichester had a wall abutting a churchyard. This wall had fallen down and thus sanctuary was just a few yards away. The chances of escaping from sanctuary were even better than from gaol, or alternatively, once in sanctuary an abjuration of the realm could be made. Large numbers of people turned approver, either to gain time as described or because they were forced by the sheriff (or the coroner) who could then blackmail the appellee. As with private appeals, the outcome was decided by trial by battle. This was dangerous, and the outcome uncertain. Many approver's appeals were withdrawn, the appellees acquitted and the felons hanged. Such appeals were

distrusted because of the corruption associated with them, not to mention the prospect of trial by battle. By 1300 the process was virtually obsolete, which gave coroners less work to do and made the jurisdiction less important.

(c) Outlawry

If a person appealed for a felony failed to turn up in the county court, the sheriff was ordered by writ to summon the accused to appear and surrender to justice. If he did not do so in the four successive county courts, he would be outlawed.[38] This process of securing attendance was known as *exigent*.

Women and children under twelve could not be outlawed, because they were not technically under the law, never having sworn to it in a *frankpledge tithing*. However they could be exacted and waived, and this amounted to outlawyry.

> Maud of Warwick was captured on suspicion of larceny and imprisoned in the prison of Warren de Montchensy and Reynold de Blancmuster at Shrivenham and she escaped from that prison, so to judgment for the *escape*. The jurors say that they suspect Maud of several larcenies, so *she is to be exacted and waived*. She had no chattels.[39]

The county coroner attended all exactions and outlawries to legalise and record them. If the coroner was not there, they were not legal. Once a person was outlawed the coroner inquired into what tithing he had lived in, and enrolled it so it could be amerced at the next eyre. An inquest was also held into the value of the person's chattels.

> Concerning those indicted, they say that Godwin of Fernham, Robert son of Roger le Black of Standen and Roger his brother have made off. They are suspected, so *they are to be exacted and outlawed*. Godwin's chattels: *8 pence*, for which the sheriff answers. He was in Hugh le Thedingman's tithing in Fernham, so [it is] in *mercy*. Robert's and Roger's chattels: 25 *shillings*, for which the sheriff answers. They were in Ingulf le Box's tithing in Shrivenham, so [it is] in *mercy*. The 12 jurors falsely valued the chattels, so [they are] in *mercy*.[40]

The fate of outlaws varied according to circumstances. Officially they could be beheaded by anyone (as could abjurors who strayed from the highway on the way to the seaport) but summary execution was unusual. If shown to be outlaws from the coroner's rolls they could be hanged without trial. In practice, those outlawed for less serious offences (for example, debt, trespass) were not hanged. There were no degrees of outlawry, but in effect the community tolerated some better than others.

Some outlaws bought pardons and had their peace proclaimed; many just continued as normal. For example in 1445 John Veske, county coroner of Sussex was an outlaw. Many men fled to the forest to become outlaws and lived there. Offences against forest law, such as killing deer or gathering undergrowth illegally were rigorously enforced, particularly by John who would not allow his subjects to interfere with his recreation, even if they starved because of it. By Henry III's day a general amnesty was proclaimed for "all that be outlawed for the forest only".[41]

Juries often tended to undervalue the chattels of felons and suicides because they had no desire for the Crown (or local lord, to whom the right could be granted) to

be enriched. This often led to the juries being amerced. Jervis says that "judging by the coroner's rolls, less concern was shown with bringing felons to justice than securing their chattels for the King".[42]

Inquests were also held into the value of deodands, or objects causing death. The Crown had the right to the deodand itself, but often received the value of it from the owner, and renounced its rights in favour of the deceased's dependents or the church. The King could grant the right to receive such incidents to individuals, so the local lord often acquired the deodand or its value for himself. Deodands were frequently collected on account of fatal falls from horses, boats, windows, ladders, and stairs such as were on the outside of houses in mediaeval London. Also carts, animals, knives or parts of mills were taken as deodand.

> Reynold of Bishopstone was crushed by a wheel of Bishopstone mill so that he died within a fortnight later. No one is suspected. Judgment: *misadventure.* Price of the wheel: *2 shillings (deodand),* for which the sheriff answers.[43]

The introduction of mechanised transport in the nineteenth century led to a huge revival in the economic importance of the deodand. Ships, railway engines and carriages were assessed as deodands worth thousands of pounds. As late as 1841 the Registrar-General justified the deodand by saying that the principle made parties act more responsibly regarding dangerous animals, machinery and other property.[44]

A fictitious value was often assigned to a deodand in order to compensate relations, because any right of action for damages died with the person injured. Deodands were abolished in 1846 as "unreasonable and inconvenient",[45] and it is probably not a coincidence that a few weeks later Lord Campbell's Act[46] was passed which provided that a cause of action for damages could be continued by dependants of a deceased.

(d) Inquests

Inquests had to be held on prisoners dying in gaol; a function which the modern coroner retains.[47] Within a few weeks in 1316 twenty-eight prisoners died in the Wallingford gaol.[48] The verdicts were usually death from hunger, thirst, cold and privation, and not from the infliction of any other punishment.

Due to the Crown's perpetual interest in revenue, the coroner was often directed by special writ to hold inquests into any treasure trove that was found. A treasure trove comprises any gold or silver articles that have been concealed. If merely lost or abandoned, the finder is entitled to keep it. It is this issue that is decided at the inquest. Precious stones were not included in treasure trove, as they were apparently not thought of as valuable.[49] In the United Kingdom today there are six to ten treasure trove inquests every year,[50] although the existing right to hold inquests into treasure trove arises from the Coroner's Act 1887 (U.K.), enacting the apocryphal jurisdiction described by early writers.[51] In New South Wales, the jurisdiction of a coroner to conduct an inquest into treasure trove derives solely from the common law, as no legislation to this effect has been enacted in the State.[52]

The Coroner was also thought to have had jurisdiction to conduct inquests into unclaimed wrecks of the sea, often a source of much unearned bounty. Local lords had "from antiquity" the rights to ships foundering within their boundaries,[53] although the King would from time to time try to appropriate such wrecks to himself. While this could result in conflict,[54] the coroner traditionally inquired as

to the ownership and value of wrecks.[55] Section 523 of the Merchant Shipping Act 1894, (U.K.) reasserted Crown rights to unclaimed wrecks while section 44 of the Coroner's Act of 1887 (U.K.) repealed the right, if it had ever existed, of coroners to hold inquests on wrecks and "royal fish" (whales and sturgeons). Some more recent writers[56] feel that Bracton was over-enthusiastic in his account of the coroner's duties, and that treasure trove and wrecks of the sea were only carried out if a special writ so directed, and were not part of the general mandate. The Coroners Act 1980 (N.S.W.) gives no jurisdiction to the coroner over fish or wrecks , although section 15 imposes a duty to hold inquiries concerning fires, when informed by the police of any fire (including bush fires) which have damaged or destroyed property within the State. Section 19 states that this does not include inquiring into fires when a person has been charged with arson. The coroner has held this role since 1861 in New South Wales, and it is wider today than that of most English coroners, except in the City of London.[57]

(e) Other Duties

> We now come to his Ministerial Power, wherein he hath Authority as a Sheriff, that is, when there is not exception taken to the Sheriff, Judicial Process shall be awarded to the Coroner for the Execution of the King's Writs, in which Cases he is *locum tenens vicecomitas*, and in some special Cases the King's Original Writ shall be immediately directed unto him.[58]

Whenever anyone was imprisoned on suspicion of homicide they could apply to Chancery for such a writ known as *de odio et atia*, which according to the terms of Magna Carta was free and could not be denied.[59] The writs were to order the sheriff, in the presence of the coroner, to decide if the prosecution was malicious, which it often was. This was decided in the county court, where the coroner would enrol it. Frequently, the writ of *de odio et atia* was applied for as a means of getting out of prison on bail, even if the prosecution was not, strictly speaking, malicious. The coroner also dealt with pardons from the King. This usually involved holding an inquest into the felony and seeing if a pardon would be suitable, for example if a killing was justifiable because it was done in self-defence, or was an accident. In the 1290's when Edward I needed soldiers for his Scottish and French wars there was a big increase in the number of pardons given, on condition that the recipient would agree to fight for the king.[60]

If an illegally slain animal was found in the forest, the four nearest townships would be summoned and an inquest held to see if anyone had been enjoying venison lately.[61] In 1300 the coroners and sheriff of every county had to attend to the election of knights to go to York to discuss the observation of Magna Carta and the Charter of the Forest.[62] On one occasion the local coroner had to discover whether a man had the right to have a bull and boar roaming at large in a village.[63] Occasionally an inquest would be held into matters of tenure, seisin, descent of land, trespass, waste or distraint. This all required local knowledge which the coroner's jury could provide.

In 1353 the sheriff and coroners of Hertfordshire had to assess the amount of money necessary to repair or rebuild Hertford gaol. They then had to apportion it among the men of the county, levy it from them and apply it to the work.[64] At Worcester the coroners also looked after the assize of wine, and at Shrewsbury they had charge of the public works.[65]

One function of the coroner was to protect the royal rights and profits against the lords, lay and spiritual in all matters relating to crown pleas. They could enter franchised places from which the sheriff was ordinarily excluded. "Thus the coroners, like the itinerant justices, tended to bring or keep the seignorial jurisdictions under royal control, and to check the growth of feudalism."[66]

4. The Eyre

It now remains to see how the eyre determined the way in which the coroner's duties were performed, particularly in regard to the procedure for dealing with dead bodies.

Harding writes "the eyres were of overwhelming importance in the life of the mediaeval community".[67] Each county was visited about every four to seven years, and an investigation of all that had occurred in the intervening period took place.

The importance of the eyre in enforcing the coroner's performance of duties is illustrated by the fact that rolls were not kept if the eyre did not come around. In 1337 the general eyre had already become infrequent and so Edward III, needing money to fight the Scots, called the coroners of several counties before the Exchequer in order to gather in the proceeds from forfeitures and deodands. However many appeared without any rolls, saying the Scots had invaded and destroyed them. The truth of the matter was that they had simply not been kept.[68]

As the coroner safeguarded the interests of the King, his presence at the eyre was indispensible, and was enforced under severe penalties.

> As to the coroners who did not come, the sheriff was ordered to go to their houses and turn out their wives and children, and to take their lands into the King's hands until they should come.[69]

Non-attendance at inquests, burials or views of bodies was also frowned upon, although not as seriously as missing the eyre. There are numerous examples of coroners being punished for sending clerks to perform their duties instead of attending in person[70]

Each Hundred had to send a jury of twelve freeholders to the eyre to make presentments and answer questions known as the articles of the eyre. Presentments of jurors were carefully checked against the version given in the coroner's roll. The main purpose of the eyre was to provide every possible opportunity to amerce or fine individuals and communities, and so it has been seen as a taxing measure.[71]

In 1256, after the one month Shropshire session had met, a list of fines imposed was added up. The total came to 1100 marks, which amounted to approximately one fortieth of the Crown's income for the year.[72]

The jury at the eyre represented the community from which they came, crystallising the opinion of that community and speaking on behalf of it. A person coming before the eyre charged with an offence could put himself "on the verdict of the country for good or ill" and the jury would give their opinion on the matter, often based on the person's reputation rather than on any particular set of facts.

> John the carter, charged with larceny, comes and denies the larceny and everything and puts himself on [the verdict of] the country for good or ill. The 12 jurors and the 4 neighbouring vills say on their oath that John is not guilty of any misdeed, so *he is acquitted*.[73]

An example of a less favourable verdict — note that the jury say he is guilty of "several" larcenies, although not all of them have necessarily been presented at the eyre.

> Adam Buche of Cholsey, charged with larceny, comes and denies the larceny and everything and puts himself on [the verdict of] the country for good or ill. The 12 jurors and the 4 neighbouring vills say on their oath that Adam is guilty of several larcenies so (*he is to be hanged*). His chattels: *12 pence*, for which the sheriff answers.[74]

When the jury did not agree, no conviction was made.

> Edith daughter of Luke of Basingstoke appealed Walter of Bolney of [breach of] the king's peace and rape, and she appealed Richard the skinner and Chuna his wife of abetment. Edith has not come, so she is to be arrested and her sureties for prosecuting [are] in *mercy*, namely Roger de la Wik and Robert Ruffus. Chuna has not come. She was attacked by Walter de Grange and Peter the hayward, so [they are] in *mercy*. Walter and Richard come. The jurors say that they are not agreed and [that] they are not guilty, so: nothing.[75]

This type of jury did not originally have any judicial function as triers of fact. In the Assize of Clarendon of 1166 Henry II had instituted the calling of twelve men from each Hundred as presentors of the names of suspected murderers, thieves, and the like. The presenting or "grand" jury was a device for catching criminals, not for their trial. The trial took the form of an Ordeal.[76] However, after the Papal council of 1215 banned the Ordeal as a relic of pagan times, the jury began to decide questions of criminal guilt.[77]

Inquests conducted by coroners in New South Wales usually take place without a jury, although if requested by relatives or certain other associates of the deceased, or if the Minister directs, a jury of six persons will be empanelled.[78] The verdict of the coroner with or without a jury relates mainly to establishing the identity, time, place and manner of death of a deceased, or certain facts about any fire that is the subject of the inquest.[79] Upon the coroner becoming aware that a person has been or will be (on the evidence) charged with an indictable offence which relates to the death or fire under enquiry, the inquest may be terminated and the jury discharged, or may continue for the purpose of establishing only identity, time and place of death or date and place of a fire.[80]

5. Inquest on Dead Bodies

One of the most enduring aspects of the coronial jurisdiction, that of inquests on sudden death, was also very important in mediaeval times. By the end of the twelfth century an efficient and rigorous procedure ensured, as far as possible, the prompt notification of sudden deaths to the coroner, and their subsequent presentation before the royal justices on circuit.

Havard writes;

> It would, however, be a great mistake to attribute the development of such a system to any conscious effort on the part of the administration to discourage the perpetuation of secret homicide, still less to further the arrest of the persons, if any, responsible for the death. In fact the system owed its existence entirely to the valuable incidents which had become attached to sudden

> deaths... The outstanding incentive to the inquests on sudden death in the late twelfth and early thirteenth centuries was the fine imposed by the *lex murdrorum*.

During Norman times, a crushing fine of 46 marks had been imposed on communities for the killing of a Norman, or rather, for having a Norman body found in the vicinity. By the beginning of the thirteenth century murdrum came to be imposed for all cases of sudden or unexpected death, whether caused by violence or not, unless the complex presentment of Englishry could be made out.

> Nicholas son of Abraham of Wiltshire killed John le May on Buscot bridge in the day-time and fled at once to Highworth church in Wiltshire and there acknowledged the deed and abjured the realm before the coroner. He had no chattels. He was in Robert the baker's tithing in Highworth in Wiltshire so [it is] in mercy. The hue was raised and the vill of Buscot did not capture the felon, so [it is] in mercy. The first finder has died. No Englishry. Judgment: murder on the hundred.[82]

In the famine of 1257-8 so many deaths occurred that murdrum was suspended for those years,[83] and in 1259 the *Statute of Westminister*[84] enacted that murdrum would henceforth be imposed only in cases of felonious killing. Despite this provision, the practice continued in counties where the justices thought they could get away with it. In places like Oxfordshire and Cambridgeshire, however, where the legislation was known about, it was quoted to the justices to ensure that it was not imposed unnecessarily. However the number of murdrum fines actually increased after 1259 as the justices were determined not to lose any revenue.[85]

Although the requirements of presentment of Englishry varied from county to county, it always involved the relations of the deceased coming before the coroner to prove their relationship. Sometimes the jurors had to confirm it. In Wales the community had to show presentment of Welshry to escape murdrum.[86] Proof of Englishry was abolished in 1340[87] after the general eyre declined, and war with France made it anachronistic. (Why fine people for killing Normans when the idea was to kill as many Frenchmen as possible?)

When a dead body was discovered, the first person finding it had to raise the hue and cry, which involved informing the neighbours and the bailiff, who would then tell the coroner. The coroner would travel to the place where the corpse lay, and issue instructions to the bailiff of the Hundred to summon a jury from the nearest four townships.

Originally all males over the age of twelve were called, but this was gradually reduced until 12-20 jurors were called.[88] Like the original eyre jury they had no judicial functions, but merely inquired into the circumstances of the case in order to present the malefactors to the county court and then the eyre. However unlike the eyre jury there does not seem to have been any requirement that the jurors be freeholders. If all the males over twelve years did not attend the coroner's inquest the townships were amerced. There were complaints about this; thus the Statute of Westminster of 1259 reduced the number of men required for the coroner's jury.[89] The first finder's duties were so onerous that the official "finding" was often delayed. As well as raising the hue and cry, attending the county court and the eyre, suspicion attached to the first finder. It was expensive and inconvenient to attend

the eyre, and often perhaps easier just to pay the fine. A first finder had to provide pledges for his appearance at the eyre, (but not if the deceased had received the last rites from the church, presumably because he would then have had an opportunity to exculpate him).[90]

The unlikely incident of one person finding two dead bodies in a single day is recorded, and some eyre rolls have "first finders" who apparently discovered two or more bodies at different times. Assuming that these people were not more skilled than others at stumbling across dead bodies, it seems that some "findings" were amalgamated in order to save time and effort, as one person could appear as first finder for several deaths at the eyre.

> On the day on which Margery found her husband, she also found the dead body of a poor woman in a ditch. She at once raised the hue and cry, and ran to the vill of Barford. There was an inquest before S. Read by four neighbouring townships, Barford, Roxton, Wilden, and Renhold. They say that they know nothing concerning the dead woman, but they believe that she died of exposure to cold. Margery found two pledges.[91]

There was no medical investigation at all at this stage, after all, most writers agree that the importance of investigating deaths was to procure the revenue they generated. The coroner did however view the body naked, looking for wounds, and no doubt became quite proficient at recognising certain causes of death.

> It happened at Barford on Sunday next before the feast of St. Bartholomew about bed-time in the fiftieth year that Henry Colburn of Barford went forth from his house in Barford to drink a pot of beer and did not return on that night. Early in the morning Agnes Colburn, his mother, searched for him and found him dead; his body had seven wounds about the heart and in the belly, manifestly made with a knife, and four in the head manifestly made with a pickaxe, and [other wounds] in the throat and on the chin and in the head as far as the brain. Agnes at once raised the hue and pursuit was made. Her pledges were Humphrey Quarrel and Thomas Quarrel, both of Barford.
>
> Inquest was made before Simon Read, the coroner, by four neighbouring townships, Barford, Roxton, Wilden, Renhold.[92]

Although there is no record of medical evidence being given at inquests until the seventeenth century in England, Italy and Germany had medico-legal autopsies long before this. Inquest procedure in England remained the same from mediaeval to Victorian times. Payment of medical witnesses did not occur until 1836, and even then the justices of the peace had to authorise the funds, and frequently refused to do so, "notwithstanding the most concrete evidence that they were inviting the concealment of homicide".[93]

One example where lack of medical evidence was vital was the inquest held on Amy Robsart (Dudley's wife) in 1560. No one knew how Amy had actually died, but many were suspicious. However despite the political overtones, no attempt was made to find out the cause of her death. James I's statute against bastardy[94] stimulated interest in postmortems, as the bodies of infants were examined to see if any evidence of life or stillbirth could be detected. This statute reversed the normal onus by enacting that if the body of an abandoned illegitimate baby was found, it would be presumed the child was born alive.

6. Revenue and the Coroner's Roll

Great care was taken with the coroner's rolls, as they were vital to Crown revenue. Initially in the late twelfth and early thirteenth centuries the coroner had to attend the *curia regis* at Westminster, but as their rolls became more authoritative, these alone were used.

If a coroner had died, then his heirs had to produce the roll before the eyre. This was usually his son, although it could be his widow, grandson, daughter-in-law or daughters. If there were no heirs the rolls descended with the lands, and the person inheriting was responsible for them.

Whenever the juror's presentments varied from the coroner's roll, the jurors were amerced. Many discrepancies occurred, and according to Hunnisett:

> The fact that many differences were always found between the coroners' rolls and the jurors' presentments proves that the jurors rarely made any effort to gain access to the coroners' records, probably because they recognized the inevitable: that the eyre was primarily a taxing machine and that each locality would have to pay what it could reasonably afford whether the total number of its amercements was great or small.[95]

The arrest and trial of felons as a result of juror's presentments was most unlikely, and in fact the jury was not even necessary for this.

On the eyre rolls the expression "in mercy" meant that the offender was at the King's mercy, and would have a financial penalty exacted. An amercement was traditionally made at the court's discretion, whereas a fine was fixed and certain. Harding, however, maintains that the fines were assessed by local juries, not fixed arbitrarily by the justices, and that the average amercement at the 1256 Shropshire session was half a mark.[96]

Opportunities for amercement included failing to raise the hue and cry; neighbours, first finders and presentors of Englishry not attending the eyre; non-attendance of appellors or those appealed; the removal or burial of dead bodies before the coroner's view, omitting to present cases at the county court, and false appraisal of deodands and chattels to be forfeited. Communities from which outlaws had fled or felons escaped were fined. The coroner or sheriff could also be amerced on the basis of the coroner's roll; for example note the hen incident on the Berkshire eyre roll.[97]

The most popular offence apparently was "concealment" of a case or details. In 1221 some Gloucestershire jurors were amerced for presenting that a man had fallen from a cliff into the river Severn and drowned. The coroner's roll disclosed that he had fallen from a boat, and therefore it was deodand.

7. Selection and Character of Coroners

The requirement of knighthood for a keeper of the Crown pleas implied land ownership and certain social class, and thus the leisure time to pursue the duties imposed by the office. The landed gentry often had administrative experience, and possibly legal training, and were the class from which later members of the House of Commons would be drawn. It sometimes proved difficult to persuade knights to be coroners and accordingly in 1354 an Act 28A replaced this requirement with that of "the most meet and most lawful people" to be coroners. Tenure of office was

for life, or during good behaviour, and the election of the coroner took place in the county court by the knights and freeholders, until 1886 when the matter was put into the hands of local councils.

When a town got big enough it could have its own borough coroners. A special grant from the King was necessary for this, and "the privilege of having such office was a stage in the process of growth by which the borough administration was separated from that of the county".[98] There was also a coroner of the King's household, or the verge, which was the twelve mile perimeter around the King, wherever he happened to be. The most important coroners were the county coroners however, and the discussion has been mainly confined to them.

The coroner was probably less corrupt than the sheriff on the whole, "but he nevertheless practised extortion regularly, if moderately",[99] according to Hunnisett. In 1274 a Hundred roll inquiry was held to investigate the misdeeds of local officials, including coroners and their clerks.

Opportunities for extortion included receiving bribes to perform or not perform duties, concealing felonies, taking money from jurors coming to inquests, taking clothes from bodies or abjurors, delivering people from gaol for payment, making false entries on the rolls, procuring false appeals, blackmailing those appealed, and demanding payment before allowing bodies to be buried. If the coroner refused to come, the township would nevertheless be amerced for burying the body without a view

> Henry Moyses stabbed Philip Welsh in the stomach with a knife in the township of Down so that he died on the spot. Henry fled and is of ill repute, so let him be exacted and outlawed. He had not chattels. The townships of Down, Kempton, Bromlow and Clunton did not make pursuit and are in mercy. The same townships buried the body without the coroners' view and are in mercy. Judgment on Richard Tyrel, who would not come but sent his clerk instead.[100]

Obviously the coroner could be persuaded to come more readily to fulfil his duties if the township bribed him.

8. Changes in Status

A decline in the importance of the coroner occurred in the late fourteenth and early fifteenth centuries, when the number of private appeals declined, as did appeals of approvers. Actions for trespass developed as a more favourable and safer method of prosecution, and there was the added advantage that damages could be obtained. We are told that in regard to appeals of felony, that this kind of suit "ys long and costlowe, that it makyth the partie wery to sue".[101] Thus the coroner had much less work to do in the county court as private appeals went out of favour.

Turning approver also declined because as sanctuary was restricted abjuration of the realm became less frequent. In 1483 an Act was passed preventing the seizure of goods of suspected felons, or inquests into their value.[102] From then on they had to be convicted felons for this to happen. We have seen that suspicion without conviction was the basis for many forfeitures before this time, so the coroner was left to value the chattels of outlaws, suicides and assess deodands while waiting for felons to be convicted.

The abolition of the murdrum fine meant that there was less incentive to hold

inquests on sudden deaths, and particularly important was the cessation of the general eyre. The reasons for this are beyond the scope of this work but briefly they were too cumbersome in procedure by this stage, the Hundred Years War had disrupted domestic matters, and the Lancastrians were not strong enough Kings to maintain the system.

The jurisdiction of justices of the peace grew, leaving coroners the monopoly on inquests on dead bodies. As part of a general administrative overhaul at the end of Edward I's reign, local keepers of the peace or *custodes paces* were appointed to police troublesome areas. As the eyre declined in importance, these local tyrants gained judicial powers, able to try criminals they had arrested.[103]

Justices of the peace also got the power in 1380 to hear indictments on the coroner's misdeeds, as well as investigating homicide and hearing people who turned approver. The ill-feeling between holders of the two offices lasted five centuries. By the mid eighteenth century the conflict between justices of the peace and coroners was so great that a Royal Commission was set up and it was found that the suppression of coronial work through magisterial quibbling had possibly led to poisonings and murders going undetected.[104] Therefore in 1860 the County Coroners Act[105] was passed, giving coroners a salary, and some independence from the justices' previous interference with the fees payable to the coroner for conducting inquests.

From then on the standardisation of inquests began, and the reasons for an inquest were finally codified, "...that the dead body of a person is lying within his jurisdiction, and there is reasonable cause to suspect that such person has died either a violent or an unnatural death of which the cause is unknown, or that such person has died in prison...."[106]

9. The Coroner in New South Wales

The first indigenous Coroners Act passed in New South Wales was that of 1898. Since then, three more Coroners Acts have been passed in 1912, 1960 and 1980. Along with the Jury Act 1977 (N.S.W.), the common law and accepted coronial practice, the 1980 statute regulates today's exercise of the coronial jurisdiction,[107] and is a result of the "streamlining and modernizing" of previous enactments.[108] As such, much of the rationale for the institution of the office has gone, and several coronial functions of historical importance have passed into the hands of other bodies.[109] The modern coroner is today concerned with gathering statistics, investigating violent or unnatural death and establishing the cause of death (if necessary), deciding if a *prima facie* case is made out for charging a person with an indictable offence, and pursuing public interest aims by inquiring into unusual deaths or disappearances, or the cause of fires. The feelings of relatives and friends of an accident victim may be assuaged by the airing of available evidence, matters of public or employee safety are disclosed, and the acts or omissions of public authorities are scrutinised.[110] Adding a rider to a coroner's verdict is a time-honoured method of making comments on matters of public interest which may be forwarded to appropriate authorities by way of suggestion to improve procedures so that accidents may be prevented in the future.[111]

The "detection and deterrence of secret homicide" are two of the main functions performed by the coroner today,[112] and this demonstrates the main link with the ancient practice of the office. Havard illustrates the extent to which murder can take

place with impunity in the absence of adequate coronial inquiry, particularly by poisoning, and the killing of children by their parents.[113]

Apart from investigating violent, unusual or unnatural death in suspicious circumstances, section 13 of the Coroners Act 1980 (N.S.W.) gives jurisdiction for a coroner to hold an inquest when the deceased has not received medical attention within the three months preceding his death, or when the death can be linked to an anaesthetic or accident. Persons in prisons, mental hospitals or certain other institutions who die in custody will also have their deaths inquired into by the coroner. As the coronial inquest today is by way of a public investigation, it is "an inquiry complete and final in itself"[114]. Thus the coroner's function is quite different from that of a magistrate conducting committal proceedings, (noting also that the coroner is not bound by any rules of evidence). This is largely explicable in terms of the traditional reluctance brought to bear, in allowing the coroners to perform judicial functions.

The coroner, from mediaeval times, had to view a body to gain jurisdiction to hold an inquest,[115] and this requirement persisted until 1961 in New South Wales. Obviously the contribution made by doctors and scientists in establishing the cause of death has long ago made this duty obsolete. The 1980 Coroners Act by virtue of section 29, allows the coroner to view a body if he or she deems it advisable, but does not require this. However one relic of the ancient duty did survive until the enactment of the 1980 Coroners Act: the magisterial inquiry. If a coroner could not view a body (because it could not be found, or it was inadvisable to exhume it) the inquest could not be taken by him, since the view was necessary to validate the proceedings. Justices of the peace held the relevant inquiry in such a situation,[116] unless the coroner received a special commission to do so. These magisterial inquiries also served when the coroner was unavailable to conduct the inquest. However the 1960 Coroners Act[117] exempted the coroner from viewing the body as a pre-requisite to gaining jurisdiction, while still providing for magisterial inquiries, which were no longer logically distinguishable. The Law Reform Commission of New South Wales, in its report on the Coroners Act of 1960 felt that the coroner was best suited to conduct inquests,[118] and consequently the 1980 legislation abolished the magisterial inquiry.[119]

Echoing the earliest legislation on the topic, section 5 of the Coroners Act 1980 provides that "fit and proper persons" may be appointed as coroners and deputy coroners. Most are drawn from the ranks of clerks of petty sessions and must take an oath of allegiance and a judicial oath, as befits an official operating within the framework of the legal system, although not a judicial figure as such.[120] Private persons may also be appointed. It is thought appropriate that coroners have some legal training, although this is not essential, and the Act countenances the appointment of medical practitioners as coroners.[121] Stipendiary magistrates are coroners by virtue of their office,[122] and have been since the earliest days of the colony, when magistrates frequently had more duties than their English counterparts.[123]

The coroner began as an important link between the itinerant justices and local administration, and hence between the Crown and the people. The existence during the thirteenth and fourteenth centuries of an elaborate system of public control in criminal matters, a system of checks to secure (within the context of the age) due administration of justice and the prosecution of wrongdoers, was largely due to the existence of the coroner.

*B.A., LL.B., Tutor, Faculty of Law, University of New South Wales.

FOOTNOTES

1 R. Hunnisett, *The Mediaeval Coroner* (1961) 1.
2 *Ibid.*
3 A. Harding, *A Social History of English Law* (1966) 21, 27 ff.
4 W. Greenwood, *The Authority, Jurisdiction and Method of Keeping County-Courts* (1722) 7.
5 J. Goebel, *Felony and Misdemeanour* (1976) 399.
6 *Id.*, 402.
7 Some academics dispute this, *e.g.* J. Goebel, note 5 *supra*, 402, who says that the term was connected first of all with the King's land interests rather than his interests as sovereign of the realm.
8 S. Milsom, *Historical Foundations of the Common Law* (1969) 15.
9 Note 3 *supra*, 49.
10 W. Swindler, *Magna Carta: Legend and Legacy* (1965) 54.
11 For examples of the Sheriffs' faults see A. Harding (ed.), *The Roll of the Shropshire Eyre of 1256* Selden Society Vol. 96 (1980) xix, paras 612, 722, 756; R. Palmer, *The County Courts of Mediaeval England 1150-1350* (1982) 37.
12 J. Baker, *An Introduction to English Legal History* (2nd ed. 1979) 13.
13 Note 3 *supra*, 15.
14 *Id.*, 48; R. Palmer, note 11 *supra*, 289-90.
15 R. Vickers, *The Powers and Duties of Police Officers and Coroners* (1889) 166-67.
16 See *e.g.* J. Baker, *An Introduction to English Legal History* (1979).
17 H. Richardson and G. Sayles (eds), *Fleta (Vol. 2)* Selden Society Vol. 72 (1955).
18 H. Richardson, *Bracton, The Problem of His Text* (1965); note 1 *supra*, 5.
19 W. Whittaker (ed.) *The Mirror of Justices* Selden Society Vol. 7 (1893).
20 Note 3 *supra*, 42, 48.
21 *Id.*, 50.
22 J. Havard, *The Detection of Secret Homicide* (1960) 18.
23 Note 1 *supra*, 23.
24 *Id.*, 96, 103.
25 Note 3 *supra*, 52-3.
26 M. Clanchy (ed.), *The Roll and Writ File of the Berkshire Eyre of 1248* Selden Society Vol. 90 (1973) para. 891.
27 A. Harding, note 11 *supra*, para. 652.
28 Note 22 *supra*, 30.
29 F. Thomas (ed.), *Sir John Jervis on the Office and Duties of Coroners* (1927) 7.
30 Note 1 *supra*, 6.
31 Note 3 *supra*, 60.
32 Note 26 *supra*, para. 895.
33 Note 29 *supra*, 6.
34 J. Baker, *An Introduction to English Legal History* (1979) 421.
35 G. Thurston, *Coronership* (1980), 6.
36 W. Holdsworth, *A History of English Law* (5th ed. 1966) iii, 306-7.
37 Note 26 *supra*, para. 896.
38 Note 1 *supra*, 61.
39 Note 26 *supra*, para. 903.
40 *Id.*, para. 905.
41 Note 10 *supra*, 115.
42 Note 33 *supra*, 3.
43 Note 26 *supra*, 352.
44 Note 22 *supra*, 15.
45 Confirmed in New South Wales by the Crimes Act 1900 s.465.
46 Fatal Accidents Act 1846 9 & 10 Vict. c.93.
47 Coroners Act (N.S.W.) s.13(3)(h).
48 Note 1 *supra*, 36.
49 Note 35 *supra*, 5.
50 *Id.*, 42.
51 Note 22 *supra*, 209.
52 K. Waller, *Coronial Law and Practice in N.S.W.* (1982) 117.

53 E. Searle (ed.), *The Chronicle of Battle Abbey* (1980) 143.
54 *Id.*, 144.
55 Note 35 *supra*, 5.
56 *E.g.*, R. Hunnisett, note 1 *supra*.
57 Note 52 *supra*, 31.
58 W. Greenwood, *Of the Original of Shires and Sheriffs, And the first Institution of the County Court* (1722) 296.
59 N. Hurnard, *The King's Pardon for Homicide Before A.D. 1307* (1969) 345.
60 *Id.*, 236.
61 Note 10 *supra*, 115.
62 Note 1 *supra*, 84.
63 *Id.*, 82.
64 *Id.*, 84.
65 C. Gross (ed.), *Select Cases From the Coroner's Rolls 1265-1413* Selden Society Vol. 9 (1896) xxvi.
66 *Id.*, xxx.
67 Note 3 *supra*, 59.
68 Note 1 *supra*, 113.
69 Note 65 *supra*, xxviii.
70 *E.g.* A. Harding (ed.), note 11 *supra*.
71 See note 8 *supra*, 15; note 22 *supra*, 21; note 1 *supra*, 104.
72 Note 3 *supra*, 59.
73 Note 26 *supra*, 354.
74 *Id.*, 391.
75 *Id.*, 392.
76 Note 3 *supra*, 40.
77 *Id.*, 61.
78 Coroners Act 1980 (N.S.W.) s.18.
79 *Id.*, s.22.
80 *Id.*, s.19.
81 Note 22 *supra*, 11.
82 Note 26 *supra*, 352.
83 Note 22 *supra*, 12-13.
84 C.25.
85 Note 1 *supra*, 29.
86 *Id.*, 27-28.
87 14 Edw. III, Stat.1, c.4.
88 Note 35 *supra*, 3.
89 Note 22 *supra*, 28.
90 Note 26 *supra*, 390 (persons attached for death not attending the eyre).
91 Note 65 *supra*, 12.
92 *Id.* 3-4.
93 Note 22 *supra*, 9-10, 55 ff.
94 1623 21 Sac. I c.27.
95 Note 1 *supra*, 104; see also note 22 *supra*, 21.
96 Note 3 *supra*, 59.
97 Note 26 *supra*, 355 for an example of a sheriff being amerced for not catching a thief with the stolen goods in possession.
98 Note 65 *supra*, xxiii.
99 Note 1 *supra*, 118.
100 Note 27 *supra*, 197.
101 Note 65 *supra*, xli (citing 3 Henry VII c.2.).
102 1 Ric. III c.3.
103 Note 1 *supra*, 71.
104 See note 22 *supra*, 55 for a lurid account.
105 23 & 24 Vict. 1 c.116.
106 Coroners Act 1887 (Eng. & Wales) s.3, 50 & 51 Vict. 1 c.71.
107 See note 52 *supra*, 3.
108 See Law Reform Commission of New South Wales, *Report on the Coroners Act 1960* (1975) 7.
109 E.g. the police and Commissioner of Taxation.
110 Note 108 *supra*, 98, 103.
111 Note 52 *supra*, 39; Law Reform Commission — Interim Report No. 6 note 108 *supra*, 103.

112 Note 52 *supra*, 4.
113 J. Havard *The Detection of Secret Homicide* (1966)
114 Law Reform Commission — Interim Report No.6, note 108 *supra*, 93.
115 See discussion above.
116 Note 108 *supra*, 16-17.
117 S.15.
118 Note 108 *supra*, 20.
119 S.56, also ss.8, 9, 13, 14 and 16.
120 Except in the Sydney metropolitan area where coroners sit as justices to hear some committal proceedings.
121 *E.g.* s.26.
122 S.10.
123 A. Castles, *An Australian Legal History* (1982), 210-211.