

NOTES ON CORONERS.

the courts, and if an indictment is there found, the accused is tried on that alone. If the courts fail to return an indictment, however, he is still obliged to appear at the assizes, and there be discharged. In this country, the coroner's inquest has no such consequences; indeed it has no consequences at all. No prosecution is ever based upon it; it is not used or referred to at the subsequent trial. And although a coroner is by statute authorized to cause the arrest of one accused by the verdict, it is only to bring him before some magistrate for examination. Practically, however, this power is very rarely invoked, as the suspected person is almost always in custody before the coroner has any knowledge of the case.

The coroner's jury is as ancient as the coroner himself. But formerly its members were the accusers or witnesses rather than the judges, and were summoned from the neighborhood as persons likely to be acquainted with the facts. They might formerly, from their own knowledge, and without having any evidence brought before them, return a verdict. Though still sworn to return a true inquisition according to their knowledge and such evidence as should be laid before them, they are no longer witnesses; nor, indeed, ought a juror to communicate facts within his knowledge to his fellow-jurors, unless he testifies under oath; and the better practice in such a case is to inform the coroner before the impanelling of the jury that he desires to testify, and not to serve as a juror. If the phrase "your knowledge" in the oath has any meaning at all now, it probably has reference to such information as the jurors shall obtain from ocular inspection of the body, the premises, the instruments used, or other things brought to their attention.

Sudden deaths, not accompanied by suspicious circumstances, it was not within the coroner's province to inquire of. "The dying suddenly," says Jervis, "is not to be understood of a fever, apoplexy, or other visitation of God; and coroners ought not in such cases, nor indeed in any case, to obtrude themselves into private families for the purpose of instituting inquiry, but should wait until they are sent for by the peace officers of the place, to whom it is the duty of those in

whose houses violent or unnatural deaths occur to make immediate communication. But under whatever circumstances, this authority must be exercised within the limits of a sound discretion; and unless there be reasonable ground of suspicion that the party came to his death by violence and unnatural means, there is no occasion for the interference of the coroner." The Court of King's Bench have repeatedly censured coroners for holding frequent and unnecessary inquests for the sake of enhancing their fees, where there was no reasonable probability or suspicion that the deaths occurred from violence or unnatural causes, as where bodies were washed ashore, evidently drowned by the ordinary perils of the sea. In one case, where a woman died of a fever resulting from amputation, and a coroner threatened to hold an inquest and extorted money for abstaining from it, for which offence he was sentenced to pay a fine of £100 and to imprisonment for six months, Mr. Justice Grose, in passing sentence, said that the coroner, under these circumstances, had no pretence or authority for taking any inquest at all; but, if the case warranted his so doing, he was equally criminal in having extorted money to refrain from doing his office.* And Lord Ellenborough, in *Rex v. Justices of Kent*, observed that there were many instances of coroners having exercised their office in the most vexatious and oppressive manner, by obtruding themselves into private families, to their great annoyance and discomfort, without any pretence that the deceased had died otherwise than by a natural death, which was highly illegal.†

If this is the construction of the English statute, whose words are that the coroner is to make inquiry upon such as "be slain or suddenly dead or wounded," *a fortiori*, would it apply in this country, where, as in Massachusetts, the statute authorizes inquests "upon dead bodies of such persons *only* as shall be supposed to have come to their death by violence;"‡ and the Revised Statutes, from which this provision is copied, stated further, "and not when the death is believed to have been occasioned by casualty."§

It is well known that coroners now

* 1 East, P. C. 382.

† 11 East, 229.

‡ Mass. C. S. 275, § 1.

§ Rev. Stat. c. 140, § 1.