



The Law Commission

(LAW COM. No. 167)

CORONERS BILL

**REPORT ON THE CONSOLIDATION OF
THE CORONERS ACTS 1887 TO 1980 AND
CERTAIN RELATED ENACTMENTS**

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by Command of Her Majesty
July 1987**

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CORONERS BILL

**REPORT ON THE CONSOLIDATION OF THE CORONERS ACTS
1887 TO 1980 AND CERTAIN RELATED ENACTMENTS**

To the Right Honourable the Lord Havers, Lord High Chancellor of Great Britain

The Coroners Bill which is the subject of this Report seeks to consolidate the Coroners Acts 1887 to 1980 and certain related enactments. In order to produce a satisfactory consolidation we have made the two following recommendations.

We have consulted the Home Office and the Coroners' Society of England and Wales in connection with both recommendations and the coroner of the Queen's household in connection with the second. There is no outstanding objection to either recommendation.

ROY BELDAM

Chairman of the Law Commission

2 July 1987

RECOMMENDATIONS

1. Subsections (2) and (3) of section 24 of the Coroners (Amendment) Act 1926 (c.59) provide as follows:

(2) Where a coroner orders under this section the removal of a body to any place outside his jurisdiction, he may authorise the burial of the body after examination, notwithstanding that it is outside his jurisdiction, and if he does not do so he shall order the removal of the body after examination to a place within his jurisdiction.

(3) The removal of a body in pursuance of an order made by a coroner under this section to any place outside his jurisdiction shall not affect his powers and duties in relation to the body or the inquest thereon, nor shall it confer or impose any rights, powers or duties upon any other coroner.

The relationship between these two subsections is not at all clear. Subsection (2) expressly confers power on a coroner to authorise burial notwithstanding that the body is outside his jurisdiction. But if subsection (3) means what it says, the removal of a body to a place outside a coroner's jurisdiction does not affect his powers and duties in relation to it. He can therefore issue an order authorising its disposal by burial, by cremation or by any other means: see section 1(1) of the Births and Deaths Registration Act 1926 (c.48) and the proviso to section 24(1) of the Births and Deaths Registration Act 1953 (c.20).

It could be argued that the intention of the *expressio unius* was to effect an *exclusio alterius*, and so take away the power to authorise disposal by a means other than burial while the body remains in a place outside the coroner's jurisdiction. But if that were really the intention, one would expect subsection (3) to be made subject to subsection (2). Moreover we can think of no conceivable reason why the coroner should be required to order the removal of the body to a place within his jurisdiction before he authorises disposal by a means other than burial.

We recommend that the first limb of subsection (2) should not be re-enacted and that the case for the second limb should be stated in terms of a disposal by burial, cremation or any other means rather than simply a burial. This recommendation is made for the purpose of clarifying the relationship between subsections (2) and (3) and thereby achieving a satisfactory consolidation. Effect is given to this recommendation in clause 22(4) of the Bill.

2. Subsections (2) and (4) of section 29 of the Coroners Act 1887 (c.71) provide as follows:

(2) The coroner of the Queen's household shall have exclusive jurisdiction in respect of inquests on persons whose bodies are lying within the limits of any of the Queen's palaces or within the limits of any other house where Her Majesty is then demurrant and abiding in her own royal person, **notwithstanding the subsequent removal of Her Majesty from such palace or house.**

(4) The limits of the said palace or house shall be deemed to extend to any courts, gardens or other places within the curtilage of such palace or house but not further, and where a body is lying dead in any place beyond those limits, the coroner of the Queen's household shall not have jurisdiction to hold an inquest on such body, and the coroner of the county shall have jurisdiction to hold that inquest **in the same manner as if that place were not within the verge.**

At common law the coroner of the King's household had exclusive jurisdiction within the verge of the residence in which the King was for the time being residing, the verge being twelve miles round the residence, but this jurisdiction ceased on the departure of the King. By 33 Hen.8 c.12, exclusive jurisdiction over a murder or manslaughter within the precincts of any of the King's palaces or houses, or any other house or houses, in which the King was for the time being residing, or within two hundred feet of those precincts, was vested in the coroner of the household, notwithstanding the subsequent removal of the King.

In the draftsman's notes which accompanied the Bill for the 1887 Act, Sir Henry Jenkyns recited the law as set out above and continued as follows:

In practice, the jurisdiction of the coroner of the Queen's household has ceased within the twelve miles verge, but is exercised within the two hundred yards [sic] from the palace precincts, whether the Queen is at the time residing there or not.

Subsection (2) of the clause removes the ambiguity as to the jurisdiction of the coroner of the Queen's household, where the death arises in a palace in which the Queen is not then abiding.

Subsections (4) and (9) of the clause restrict the jurisdiction of the coroner of the Queen's household to the limits of the palace, thus throwing the two hundred yards into the jurisdiction of the county coroner.

Thus the passage from 33 Hen.8 c.12 referred to above became "within the limits of any of the Queen's palaces or within the limits of any other house where Her Majesty is then demurrant and abiding in her own royal person". The repetition of the words "within the limits of" preclude the words "where Her Majesty is then demurrant and abiding in her own royal person" from also qualifying the words "any of the Queen's palaces", which is of course what the draftsman intended. However, no doubt constrained by the fact that the Bill was intended to be a pure consolidation, he also reproduced the words printed in bold type in the two subsections set out above, thereby undermining his stated purpose. If it is not necessary for Her Majesty to be residing at the palace concerned at the time of death in order to found jurisdiction, why should her subsequent removal from the palace make any difference? And the reference to the verge suggests that the old common law rules as to the founding of jurisdiction have somehow survived the 1887 consolidation.

Last year the coroner of the Queen's household held an inquest into the death of an elderly woman who died in a fire at Hampton Court Palace (reported in *The Times* of 30th May 1986). A contributor to the *Law Quarterly Review* (103 LQR 28) has argued that the holding of that inquest was a nullity because Her Majesty was not residing at that Palace at the time of the death. A suggestion to the same effect is made in the new edition of *Jervis on Coroners* at paragraph 2.9. Each relies on the words printed in bold type.

We recommend that those words should be repealed without re-enactment on the ground that their repeal is desirable for the purpose of resolving a possible ambiguity and thereby achieving a satisfactory consolidation. Effect is given to this recommendation in clause 29(2) and (3) of the Bill.



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