

to appear before him at such time and place as he may appoint to make an inquisition touching the matter; see Burns' Justice, tit. Coroner, 417. But with us it is generally the habit of the coroner to summon the jury himself, and this practice is so far recognized by law that he is allowed a fee for each juror summoned by him, Code, Art. 38, sec. 15,<sup>7</sup> (1816, ch. 142). In Baltimore City no fees are allowed to the jurors, Act 1868, ch. 457.<sup>8</sup> The proper number to be mentioned in the precept is twenty-four, but the jury may consist of not less than and is usually twelve men. It has been doubted, however, whether it be necessary that all the inquisition should be found by twelve jurors, Taylor v. Lambe, 6 Dowl. & R. 188. It is said that all persons of the neighboring towns above the age of twelve years are bound to attend at the taking of an inquisition, unless they have a reasonable excuse to the contrary. The precept directs the constable to make return of it, and if either he or any of the jurors summoned make default in their obedience thereto, he or they are to be amerced before the next county court, 2 Hale P. C. 59. When the jury appear, they are to be sworn and charged by the coroner to inquire upon the view \*of the body how the party **73** came by his death. It is absolutely necessary that the inquest be held upon view of the body, and that the jury be sworn by the coroner, and an inquest taken otherwise is void, 2 Hawk. P. C. 77; R. v. Ferrand, 3 B. & A. 260; *In re Dawes*, 8 A. & E. 396; R. v. Ingham, 5 Best & S. 249. Hence if the body cannot be found, or is so putrefied that a view would be of no service, the coroner cannot take the inquest, but it must be taken by justices of the peace by the testimony of witnesses. It is laid down in the books that the coroner alone is authorized to take an inquest on view of the body, and that a justice of the peace cannot do so. However with us custom has sanctioned a different practice, and in several of our Acts of Assembly the authority of justices to act as coroners in such cases seems to be recognized. The coroner may, however, within a convenient time, as two weeks after the death, take the body out of the grave to view it, not only for taking an inquest where none had been before taken, but for taking a good one where an insufficient one had been before taken, 2 Hawk. P. C. *supra*. In R. v. Clerk *supra*, where the body had lain seven months and was then taken up and another inquisition held, Lord Holt observed that the body may be dug up again, but it ought to be upon fresh pursuit not at such a distance of time, for it is a nuisance and may infect people, and he said that in Barkley's case, 2 Sid. 101, which had been cited, there was leave of the Court for that purpose.

The jury being sworn and the body being upon view, the coroner proceeds to inquire of them, upon their oaths and in the manner pointed out by this Statute, of the circumstances of the death of the party. The inquisition being final, the coroner is bound to hear counsel and evidence on both sides, Barkley's case, 2 Sid. 90, 101, and may issue his warrant for witnesses. By the Act of 1846, ch. 168, Code, Art. 25, sec. 4,<sup>9</sup> in cases where marks of violence appear on the body, the jurors or the coroner may require

<sup>7</sup> Code 1911, Art. 36, sec. 17.

<sup>8</sup> Balto. City Code, sec. 296.

<sup>9</sup> Code 1911, Art. 22, sec. 4.