Magistrates and coroners. Report of a select committee of Her Majesty's Justices of the Peace for the County of Southampton, appointed at the midsummer quarter session, 1857, and a letter from the County coroners in reply.

MAGISTRATES AND CORONERS.

REPORT

OF

A SELECT COMMITTEE

OF

Her Majesty's Justices of the Peace for the County of Southampton,

APPOINTED AT THE MIDSUMMER QUARTER SESSIONS, 1857,

AND

A LETTER

FROM

THE COUNTY CORONERS

IN REPLY.

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Coroners fees

Feb. 1858

MEETING OF MIDDLESEX MAGISTRATES.

Yesterday a special court of the Magistracy of Middlesex was held at the Sessions-house, Clerkenwell, for the purpose of hearing counsel on behalf of the coroners, Mr. Wakley for the western division, Mr. Baker for the eastern division, and Mr. Bedford for Westminster, against the disallowance of fees for holding inquests, which, in the opinion of the Finance Committee, who have to investigate the coroners' accounts, were unnecessary. Mr. Pownall, chairman of the county bench, presided, and the attendance of justices was rather numerous.

It will not be out of place to state, by way of introduction, what for some time past has been the practice of the Court in dealing with the accounts of the coroners. They are referred to the Finance Committee, who inquire into the grounds upon which each particular inquest has been held, and if it appears to them that the grounds were sufficient to warrant an inquiry as to the cause of death, they recommend the payment of the fee to the coroner, which is 1*l.* 6*s.* 8*d.* in each case, and it is ordered by the Court as a matter of course; but in instances wherein they consider there was no necessity for an inquest; they either disallow the fee at once or adjourn the matter, requiring in the meantime the coroner to furnish them with any further information he may be capable of affording, as to the reasons for which the inquest was taken. The cost of inquests to the county of Middlesex amounts to something like 9,000*l.* a-year, and, as the number has of late years been on the increase, the magistrates, as the guardians of the county funds, have thought it their duty to allow the coroner's fee only in such cases where there seemed to be an absolute necessity for an inquiry. It has been erroneously supposed that when the fees have been disallowed the whole costs of the inquest were included. The only item that is disallowed is the coroner's own fee, the other charges, witnesses, expenses, and money expended being paid without dispute.

Mr. BODKIN appeared as counsel for the coroners, and in a speech extending over three hours, and exhibiting great research and ability, placed their case before the Court. He said the gentlemen for whom he appeared performed an important part in the administration of justice, and it was of the utmost importance that the office which they had to execute should be entirely free and unhampered. The subject upon which he appeared before the Court he was aware had been often discussed, but the bench, he knew, would come to the consideration of it to-day without any bias arising from what had formerly occurred. He should submit the salient points only to the Court, and contend that, in all fairness, equity, and law, the coroner was entitled to his fee in all cases in which he was called upon to act. They did not come here upon a point of pecuniary grievance; they came smarting under the imputation that they—men of honour, and holding high judicial positions—had made use of their functions to, in point of fact, extort fees to which their office did not properly entitle them. The learned counsel dwelt at length upon the law bearing upon the coroner's duties from the time of Edward I. down to the present reign. Formerly the coroners were unpaid officers, but by the Statute of 25 Geo. II., cap. 29, it was enacted that they should be paid certain fees in cases "duly" held. That word "duly" had given rise to all the difficulties by which the whole matter was now surrounded, as well as an endless amount of litigation. The Court of Queen's Bench, in the case of "the King v. the Justices of Carmarthenshire," held that the legal meaning of the word "duly" involved that there must be a "necessity" for the inquest; but he was prepared to contend that if any inquest had been formally, regularly, and properly taken, according to law, it must be considered as having been held "duly" within the meaning of the statute. The Court ruled that it was a condition precedent to the payment of the fee that the inquest was "duly"—that was, of "necessity"—taken, but that applied only to the coroner's own remuneration, and did not affect—indeed, nothing at present could affect—payments which the Crown had to make and charge upon the county. The repayment of those was compulsory, but they were dealing only with the coroner's fee of 1*l.* 6*s.* 8*d.* He contended that, beyond all question, the Court was bound to pay the coroner the 6*s.* 8*d.* in every case, but the committee not only disallowed that amount, but also the 20*s.*, which it was said was discretionary on their part. It might be so, but that discretion, he submitted, had been inconsistently exercised, for the fee had been disallowed in many cases and allowed in others perfectly analogous in all their features. Here was a plain incontrovertible fact. The coroner was bound to hold an inquest when required so to do, and if it turned out, when it was over, that in point of fact there had not existed any necessity to hold it, was that to be held as a reason for depriving him of his fee? The necessity for an inquest must not be judged of by the result arrived at, but whether there were circumstances such as to require investigation in the first instance. It had been urged that there had latterly been an undue increase of inquests. The vast increase of population would partly account for that, but it might be that the predecessors of the present coroners were less active, the present more so; and the argument of the great increase of inquests being an abuse of the office therefore fell to the ground. The learned gentleman made some general observations upon the institution of coroner, and the vast importance with respect to the security of human life involved in the office being freely and independently exercised, quoting the opinions of many eminent persons to that effect. He referred to the Rugeley poisonings, where, after medical certificates had been given of natural death, through the interference of one person the coroner's investigation took place, and the result was, as all the world knew, the disclosure of one of the most diabolical systems of murder ever planned; had it not been for that the grave would have closed quietly over the victims, and the murderer still left to pursue his course of crime. In Staffordshire the rule was that no inquest should be held except in cases where there was suspicion of crime; the result was that there were no inquiries into the cause of these deaths which afterwards became so notorious. He went *seriatim* through the cases in the coroners' accounts in which the fee had been refused, in all of which they had been called upon to act, and besought the Court to take the whole matter into serious consideration, and do justice to gentlemen filling honourable positions and having onerous duties to perform as public servants.

On the motion of Mr. P. N. LAURIE, who complimented Mr. Bodkin upon his clear and lucid argument, seconded by Mr. ARMSTRONG, the justices present formed themselves into a special committee to take the subject into consideration, and the Court adjourned.

MARRIAGE OF THE PRINCESS ROYAL.

It is in contemplation to present an address from the magistracy to Her Majesty upon the occasion of the marriage of her Royal Highness the Princess Royal.

THE REPORT.

AT the Michaelmas Quarter Sessions, held at the Grand Jury Chamber, Winchester, on Monday the 19th of October, 1857, the following Report was read by Mr. Melville Portal :—

"The Committee appointed at the Midsummer Sessions 'to consider whether any and what different 'arrangements should be made by the county in order 'to assist the Coroners in the due performance of their 'duties, to check unnecessary inquests, and to secure a 'more efficient audit of the Coroners' accounts,' have to report :—

"That in applying themselves to the task imposed on them by the Court, they observe that it involves a threefold enquiry.

"First—As to what is the law relating to the holding of inquests.

"Secondly—As to what assistance can be given by this Court to the Coroners to facilitate their compliance with the law ; and,

"Thirdly—As to what assistance can be given by this Court to the Finance Committee to facilitate their ascertaining that in each case the law has been complied with, and the protection of the County Rate from a charge for any inquest which does not come within the rules as prescribed.

"Your Committee have entered into this enquiry with the sincere desire to maintain the most complete harmony between the Court and the Coroners of the County, and they have to acknowledge the ready assistance given them by two of the Coroners, who have favoured them with their opinion, and the results of their long official experience.

"Your Committee are of opinion that, without the slightest reflection or imputation on the Coroners, the consideration of this subject is fully justified by the mere fact that in the last 30 years the number of inquests in the county has been more than doubled, and the expenditure under this head has been increased upwards of fivefold, whilst during the same period the increase in the population of the county has been little more than 20 per cent.

Year.	Total No. of Inquests.	Total Charges for Inquests.
1828	170	£ 238 7 8
1838	255	959 0 1
1848	331	1114 7 10
1856	376	1267 3 10

and, although the advance in the expenditure is due in fact to the increased cost of inquests, occasioned by the Act of 7th William IV. and 1st Victoria, cap. 68, it is, nevertheless, such as appears *prima facie* to demand enquiry into its cause, and whether there are any means by which it may be safely reduced.

"Your Committee find that great diversity of opinion prevails among the Coroners of the county as to the nature of their duties. Some of these appear to have laid down for themselves rules which are neither in conformity with the statute law or the common law of the land, and it appears to be a not uncommon mis-

apprehension among them that they are bound to hold Inquests in all cases of sudden death, and even on all persons found dead under whatever circumstances, and whether reasonable ground has been shown or not for imputing criminality to any one, and to this may, perhaps, be attributed the somewhat remarkable fact that out of the 376 Inquests held in this county in 1856, there was a verdict of 'Natural Death' in 43 cases, and of 'Visitation by by God' in no fewer than 126.

"The Courts of Law have, however, very clearly established the class of cases in which Inquests ought to be held, and with equal clearness they have established in "R. *v.* Kent" (11 East 229), and "R. *v.* Carmarthenshire" (10 Q. B. Rep. 796), that the jurisdiction of the magistrates in auditing the coroner's accounts is not confined to an enquiry into the regularity of each Inquest in point of form, but that it is their bounden duty, as trustees for the ratepayers, to examine into the circumstances under which the Inquest has been held, and to consider as to the necessity or propriety of its being held at all.

"As to the class of cases in which Inquests ought to be held, your Committee find that, so long ago as the year 1809, it was decided in "R. *v.* Kent (11 East 229), that mere suddenness of death is not sufficient reason for holding an Inquest; and in 1842 in "R. *v.* Great Western Railway Company (3 Ad. and Ell. 340), Lord Denman lays it down that "The mere fact of a body lying dead does not give the Coroner jurisdiction, nor even the circumstances that the death was sudden. There ought to be a reasonable suspicion that the party came to his death by violent or unnatural means. The Coroner must, therefore, before he summons a jury, make some enquiry."

"R. *v.* Carmarthenshire" (10 Q. B. Reports, 796) implies necessarily that an inquest is not to be held, as of course in cases of casualty, although the Coroner receives notice of the death. So also R. *v.* Justices of Norfolk (Nolan's Reports 141), and in the latest case, "R. *v.* Justices of Gloucestershire," argued before the Court of Queen's Bench in June last, Lord Campbell said :—'I think the Legislature made the Justices the judges of whether the inquisition was duly taken, and it is not merely to be considered whether it was taken according to the forms of law, but whether it was properly taken—whether the Coroner acted in the proper discharge of his duty in holding the inquisition ; and he did not act in the proper discharge of his duty in holding the inquisition, if he held an Inquest where there was no reasonable ground to suspect that the death was not a natural death.' The late Lord Chief Justice, too, in his able work on the office and duties of Coroners, says, 'Under whatever circumstances the authority of the Coroner must be exercised within the limits of a sound discretion, and unless there be a reasonable ground of suspicion that the party came by his death by violent and unnatural means there is no occasion, except in the case of a person dying in gaol, for the interference of the Coroner.'

"Such being the opinions of the highest legal authorities, and the judgments of the Courts of Westminster on the subject, your Committee cannot come to any other conclusion than—

1st.—That a Coroner is not justified in holding an Inquest upon a dead body unless he has received information affording reasonable ground for suspecting that death has been occasioned by some criminal act or culpable neglect.

2dly.—That it is the duty of the Coroner to make enquiry as to the necessity of the Inquest before he summons a jury.

3dly.—That it is not merely the right but the duty of the magistrates at Quarter Sessions, as guardians of the public purse, to exercise their judgment upon the propriety, as well as the regularity, of the Inquests charged for.

"Your Committee are of opinion that it is important that the obligation should be recognised of confining the enquiries of the Coroner, or at least the charge to the county for such enquiries, to cases of suspicion or obscurity, and they recommend the Court, for the guidance as well of the Coroners as of the Finance Committee, to resolve :—

"1. That in the opinion of this Court, no inquest ought to be held upon a dead body, except when the Coroner has received information affording reasonable ground for supposing that the death has been occasioned by some criminal act or culpable neglect.

"2. They further recommend that, with a view to supply the Committee with more full information as to the nature of the death, so as to enable them to form a better judgment on the necessity for an inquest, the form of notice to Coroners at present in use in this county, be discontinued, and that a more copious form, similar to that appended to this report, be adopted in its stead.

"3. And they also recommend that, for the better guidance of the Finance Committee, the form of Coroners' accounts at present in use be altered, and that a column be added to it, in which shall be stated in each case the circumstances of suspected criminality or neglect which induced the Coroner to hold the inquest.

"Your Committee trust that by the adoption of these resolutions the Court will best assist the Coroners in the due performance of their duties, by enabling them to obtain such preliminary information as is necessary for them, before they can decide on the necessity of holding an inquest; and that the Finance Committee will have greater opportunities of checking unnecessary inquests by having, in each case, before them the grounds which have induced the Coroners to hold it.

"MELVILLE PORTAL, Chairman."

The three concluding recommendations of the Report were then put from the chair, and agreed to, without any discussion.

THE REPLY.

MAGISTRATES and CORONERS.

To the EDITOR of the HAMPSHIRE CHRONICLE.

"AUDI ALTERAM PARTEM."

SIR,

PRESUMING that the question involved in the heading to this Letter is a matter of considerable public interest, in which the press may be relied upon to do equal justice to all parties, we venture to claim rather a large space in your columns for the purpose of replying to the Report of a Select Committee of Magistrates on the subject, which appeared at full length in a recent number of your Paper. And we are the more disposed to depend upon your insertion of this Letter, because, by the practice of the Court of Quarter Sessions, we are precluded from any other means of being heard in our defence.

Without entering into a dissertation upon the antiquity and popular nature of the office of Coroner, or of its increasing importance and utility within the last 20 years, during which the means of destroying human life, as well criminally as by accident, have so fearfully

increased, we will proceed at once to consider and answer the Report, the contents of which we have no hesitation in stating to be most inaccurate, disingenuous, and unjust, as we will now proceed to show.

The first assertion in the Report is, "That the number of Inquests in the county has *more than doubled*, and that the expenditure under this head has been increased *upwards of five-fold*, whilst, during the same period, the increase in the population of the County has been little more than 20 per cent:" although, as the Report afterwards admits, "the advance in the expenditure is due in fact to the increased cost of Inquests occasioned by the Act 1 Vict. cap. 68, whereby the payment of medical and other witnesses, and various other expenses incidental to inquests, which were previously paid by the Parish Officers, were directed to be paid out of the County Rate." Such being the case, and an entire revolution having been thereby effected in the manner of meeting those expenses, we contend that it is unfair, in the present consideration of the question, to carry back the statistics of inquests beyond the period when that Act was passed. Discarding, therefore, the first ten years included in the statement given in the Report, and limiting the inquiry to the 20 years which have elapsed since the passing of that Act, we are in a position to state that, notwithstanding the large increase of the population during that period, the average annual number of Inquests, so far from having "more than doubled," *has not increased at all*, and that the average annual expense, instead of having been "increased upwards of five-fold," has been *considerably reduced*. In proof of this assertion, we beg to submit the following statement, the accuracy of which we are prepared to substantiate by the production of our accounts:—

Years ending at Michaelmas.	Number of Inquests.	Fees, Mileages, and Expenses.		
1838	222	£845	19	1
1839	214	827	2	6
1840	237	946	1	4
1841	230	914	0	0
1842	276	1098	2	3
1843	254	1042	6	1
1844	266	1052	15	10
1845	305	1225	9	9
1846	291	1186	15	4
1847	279	986	7	2
Totals	2574	10,124	19	4
Average of first Ten Years	257	1012	9	11
1848	217	£792	1	8
1849	282	967	6	11
1850	249	844	10	6
1851	242	841	12	0
1852	251	874	17	1
1853	246	883	14	0
1854	265	922	14	3
1855	309	1059	5	5
1856	308	1071	19	6
1857	209	719	8	10
Totals	2578	8977	10	2
Average of second Ten Years	257	897	15	0
Average Increase	Nil	0	0	0
Average Decrease per Annum	Nil	114	14	11

By the above statement it is evident that the average number of Inquests *has not increased* during the last ten years, as compared with the preceding ten years, and that the cost of them has actually *decreased* to the extent of more than £100 a year; whereas, during the same period, the population of the county has increased *more than one fourth*, the numbers standing thus:—

By the census of 1831	314,700
By that of 1851	402,016
Increase in 20 years	87,316

The next assertion in the Report is, that "great diversity of opinion prevails among the Coroners as to the nature of their duties." Now this is a great mistake. The Coroners are well aware that their duties, as clearly defined by the Statute, *are to go to the place* where any are *slain*, or *suddenly dead* (and *à fortiori* where any one is unexpectedly *found dead)*, summon a Jury, and hold an Inquest on the body; besides which, it is their well-known duty to hold an Inquest upon every one who dies *in prison*. To an unprejudiced mind, therefore, there can be no difficulty in perceiving that, according to the directions of the Statute, as well as by the Common Law, it is the Coroner's duty to hold an Inquest in the following cases:—

1.—All *violent* deaths—"where any be slain."

2.—All *sudden* deaths—"where any be suddenly dead."

3.—All persons unexpectedly *found dead*.

4.—All deaths *in Prison*.

More than this the Coroners do not assume, and less than this they are quite sure would not be safe, or satisfactory to the Public.

With regard to persons *found dead*, common decency and humanity, as well as public policy, require

that the persons who first find the body, as well as the last persons known to have been in the company of the deceased when living, should be required to give an account, *upon oath*, of the circumstances within their knowledge, before the body is buried.

Nor is it less important that cases of *sudden death*, without previous medical attendance, should be carefully investigated ; for otherwise the strong, the artful, and the brutal would have everything their own way, and find no difficulty in making their own stories good at the expense of those who "tell no tales."

In short, whenever death occurs out of the ordinary course of human events, it is necessary and proper that the cause and circumstances of the death should be investigated, and (as has been well observed in a recent treatise on the subject,) it has been found, from long experience, that paramount to all other inquiries, those on *sudden death* are of the utmost importance to the common safety, and ought in no case to be dispensed with, as there is often more mystery and suspicion attached to such deaths than to those by any casualties whatever.

Unfortunately, however, by the Act 25, Geo. II. c. 29 (which was not passed, as might be supposed from the use which has since been made of it, for the purpose of giving the Magistrates power to interfere with the office and duties of Coroners, but, as the preamble informs us, "to give Coroners an adequate reward for the execution of their office, to the intent that they might be encouraged to execute their duty with diligence and integrity"), the Coroner's Fee of 20s for every Inquest "*duly taken*" was directed to be paid out of the County Rate, the entire management of which is vested in the Magistrates, who therefore claim a right to allow

or disallow such fees at the end of every quarter, according to *their* opinion, as to the necessity or propriety of holding an inquest in each case. And against their decision there is no appeal; so that, as far as the payment of their fees is concerned, the Coroners are entirely at the mercy of the Magistrates, or rather of the Finance Committee, to whom all their powers in that respect are virtually delegated. Repeated efforts have been made by the Coroners to emancipate themselves from this anomalous and irresponsible power of the Magistrates to deprive them of the remuneration awarded by the Act for the performance of their duties; but, as the Court of Queen's Bench "declines to interfere" with the decision of the Magistates in such cases, however unjust or arbitrary it may be, there appears to be no remedy but an alteration of the law.

But more vexatious still is the attempt now making to render the Coroner's office *subservient to the Police,* and practically to convert every Superintendent of that force, not only into a spy over the Coroner, but a dictator as to what cases he shall or shall not investigate; in short, making him to all intents and purposes a Coroner paramount, with power on his own judgment alone, without any jury or witnesses, to decide all cases that occur in his division, and either to require or suppress an inquest as he may think proper. Several instances have already occurred of the vexatious and mischievous manner in which they have interfered with the Coroner's office; but as the Orders and Reports which pass between the Magistrates and the Chief Constable, as well as between that officer and his subordinates, are *kept secret,* it is impossible to know the full extent of their interference, or of the mischief which it is calculated to produce.

We will now proceed to advert to the cases cited in the Report, namely, *Rex* v. *Justices of Kent* (11 East 229) and *Regina* v. *Justices of Carmarthenshire* (10 Q. B. Reports 796) in order to prove—which is *the only thing they do prove*—that the Magistrates in auditing the Coroner's accounts, have a power (based on their construction of the words "duly taken" in the statute 25 Geo. 2) to decide *ex post facto* on the necessity or propriety of every inquest taken by the Coroners, and to allow or disallow their fees accordingly; and that the Court of Queen's Bench has "declined to interfere" with their decisions. But notwithstanding the *dicta* of some of the Judges on those occasions, we deny that the Court has ever pronounced any decision as to the cases in which inquests ought to be held, or cast any censure on the conduct of the Coroners. On the contrary, the Court, in the first named case, exculpated the Coroner from the imputation of any improper conduct; and, in the other case, the Court expressly withheld their concurrence in the decision of the magistrates, although (bound by the precedent created in the previous case) they "declined to interfere" with it.

Now it is worthy of remark that the leading case of *Rex* v. *Justices of Kent*, above referred to, was decided nearly 50 years ago, long before the introduction of steam power, either by land or water, before the discovery of the deadly poisons since employed for the destruction of human life, and before the numerous cases of poisoning by arsenic, which have been discovered by the disinterment and analysis of dead bodies months, and even years, after they were buried; in short, before the atrocious cases of Burdock, Tawell, Palmer, and Dove, and the wholesale poisoning of children by their parents in Essex, Norfolk, and elsewhere, had become

the subjects of inquiry before the Coroner, and been thereby ascertained to be cases of the foulest murder, although generally unsuspected at the time of their commission. How many more such crimes may have been perpetrated before these were detected, or how many may be committed without detection hereafter, if the Coroners are to be constantly checked in the performance of their duties, it is impossible to form an estimate. But if the object be to cheapen human life, and facilitate the commission of murder, especially in its most insidious forms, no more efficient means can be suggested than to discourage and put down the free exercise of the office of Coroner.

Another case cited in the Report is *Regina* v. *The Great Western Railway Company* (3 Ad. and Ell. 340) the remarkable perversion of which, on the present occasion, requires especial notice. This was a case turning exclusively on a question of local jurisdiction between two Coroners, under an old Act of Parliament since repealed; and a portion of the judgment cited in the Report (leaving off in the middle of a sentence for the purpose of making it appear to bear on the general question of the Coroner's right to hold inquests) referred entirely to the question of *local jurisdiction*, as would have been quite evident if the sentence cited in the Report had been fully and fairly quoted; but then, of course, it would not have answered the purpose intended.

To make this quite clear, we will add the exact words of the case, as reported in Adolphus and Ellis, vol. 3, p. 340, distinguishing by a different type such part of the paragraph in question as was omitted from the Report of the Committee:—

"The mere fact of a body lying dead does not give the Coroner jurisdiction [that is, *local* jurisdiction to hold an inquest under

peculiar circumstances provided for by 2 and 3 Edward VI. c. 24], nor even the circumstance that the death was sudden; there ought to be a reasonable suspicion that the party came to his death by violent or unnatural means; the Coroner must, therefore, before he summons a jury, make some inquiry; [*and if, on that inquiry, he finds that the circumstances which occasioned the death happened out of his jurisdiction, and that there is no reasonable suspicion of murder or manslaughter* [*the 2 and 3 Edward VI. being confined to cases of that nature*], *he ought to abstain from summoning a jury, and the body, in order to an inquest, must be removed into the county where the circumstance took place.*"

The Court quashed the inquisition on the ground that the Coroner of a borough, as the law then stood, had no jurisdiction to inquire into a case of death occasioned by an accident happening out of the borough. Nothing can be more clear, therefore, than that the only question raised and decided by the case cited was one of mere local jurisdiction, and had nothing whatever to do with the general right or duty of Coroners to hold inquests in other cases.

Not much less unfair is the manner of quoting in the Report, as from the "able work of the late Lord Chief Justice," a passage inserted, without any authority, in a book published nearly thirty years ago, when the author was a junior barrister, writing (to use his own words) "with unfeigned diffidence, and conscious of many imperfections," of which we will now proceed to prove, out of his own mouth, that the passage in question is one. For at pages 21, 22, and 23 of the same "able work," we find it expressly stated that "the duty of taking inquests is regulated and defined by the statute *de officio Coronatoris* 4 Edward I. st. 2, which enacts, "That the Coroner, upon information, shall go to the place where any be slain or suddenly dead," summon a jury, and inquire into the case, and how many soever

be found culpable shall be committed to gaol, and such as be not culpable shall be attached until the coming of the Justices (that is, the Judges of Assize.) "In like manner it is to be inquired of them that be drowned or *suddenly dead*, and, if they were not slain, then ought the Coroner to attach the finders and all others in company." "This statute (continues the work) is merely directory, and in affirmance of the common law, and does not restrain the Coroner from any branch of his power, nor excuse him from the execution of any part of his duty, one branch of which is to inquire of the death of all persons who die in prison." And, at the end of the same book, are a great variety of forms of inquisitions, or verdicts, adapted to almost every imaginable kind of criminal, accidental, and sudden death.

Under these plain directions, which are still in full force, sanctioned by the practice of many centuries and the general approbation of the country, and not according to rules "laid down by themselves," the Coroners still continue to exercise the functions of their office; and in so doing they have no hesitation in claiming the support of those by whom they are elected and paid—namely, the freeholders and ratepayers of the county.

The Report then goes on, in direct opposition to the statute, to lay down a series of rules and regulations for the purpose of depriving the Coroners of the exercise of all judgment and discretion in the matter, and handing them over, in the first instance, to the police, who have orders to prevent all inquests which *they* may consider unnecessary, and afterwards to the mercy of the Finance Committee.

In citing the recent case of *Regina* v. *Justices of Gloucestershire*, the Report takes care to set out so much only as confirms the doctrine that the Justices in

Quarter Sessions are the judges whether the inquisition was "duly taken," but, unfortunately, omits to quote two important points included in that decision; one, that "THE MAGISTRATES OUGHT NOT TO DISALLOW THE CORONER'S FEE UNLESS MALA FIDES IS IMPUTED TO HIM;" and the other, "That the Coroner's disbursements under the 1 Vic. c. 68, and the fee of 6s 8d payable under the same Act, cannot be disallowed in any case." But in spite of the express decision of the latter point (upon which a *mandamus* was granted against the Justices), the Magistrates of this county have since thought proper to disallow the fee of 6s 8d in every case where they have disallowed the fee of twenty shillings. Of these fees of 6s 8d, therefore, the Coroners have, at any rate, been unlawfully deprived.

The deductions made in the Report from cases so unfairly stated (even if such deductions were correct in themselves, which they certainly are not) must necessarily be inconclusive; and yet, upon these deductions, the Committee thought proper to suggest, and the Court of course adopted, the three following resolutions, in which it is quite impossible for us to acquiesce, and against which we therefore consider it right to declare our most decided protest, namely:—

1. "That no inquest ought to be held except when the Coroner has received information affording reasonable ground for supposing that the death has been occasioned by some criminal act or culpable neglect."

Now, to adopt such a rule as this, we venture to assert, would be at once inconsistent with the statute, as well as the common law, and exclude from inquiry by far the most important and most difficult class of cases—namely, those of sudden death and persons

unexpectedly found dead, the whole of which would thereby be kept in darkness, leaving open a most convenient door for the secret perpetration of all sorts of criminal acts and culpable neglect, especially among the poor and the helpless, whether from infancy, old age, or affliction. All Coroners, and others who have had experience in such matters, must be well aware that the most glaring cases of suspicion in the first instance do not always turn out to be criminal, and that cases in which no suspicion originally exists have frequently been found, upon investigation, to be amongst the worst cases of neglect and crime. If a favourite animal dies suddenly, or is unexpectedly found dead, the owner does not fail to make some inquiry as to the probable cause of its death; if the smallest article of property is lost, or a single head of game destroyed, the most rigid inquiries are sure to follow, regardless of expense; but if a human being is suddenly deprived of life, or unexpectedly found dead, *no questions are to be asked,* and the officers appointed by the public for the express purpose of ascertaining the cause of death in such cases are to be debarred from performing a most important duty, which they are under a solemn oath to execute "diligently and truly, after the best of their cunning, wit, and power."

2. "That with a view to supply the Committee with more full information as to the nature of the death, so as to enable them to form a better judgment on the necessity for an inquest, the form of notice to Coroners at present in use in this county shall be discontinued, and that a more copious form, similar to that appended to this Report, be adopted in its stead."

Now, the real object of this suggestion is to prevent

the Coroner from receiving information from any one except the police, who are the mere creatures of the Magistrates, and to render the Coroners, who are essentially the officers of the people, completely subservient to them both; that is, to the police in the first instance, and afterwards to the Magistrates at the ensuing Quarter Sessions. So that here we have the anomaly of a responsible judicial officer, elected by the people, not daring to move without leave of the constable whose duty it is to execute his warrants, and then only upon pain of being afterwards deprived of his fees by the *ex post facto* decision of an irresponsible body of Justices appointed by the Crown, and that on mere pecuniary grounds, without a shadow of complaint against the conduct or *bona fides* of the officer. But surely, such a state of things was never contemplated by the legislature, and will never be tolerated by the people.

3. "That, for the better guidance of the Finance Committee, the form of Coroners' accounts at present in use be altered, and that a column be added to it, in which shall be stated, in each case, the circumstances of suspected criminality or neglect which induced the Coroner to hold the Inquest."

A more arbitrary or vexatious regulation than this, or one more impossible to be complied with, can hardly be conceived. For not only does it assume that the Coroner is to arrive at an extempore conclusion as to the nature of a case which he has had no opportunity of investigating, but it begs the whole question which the Inquest is intended to decide. The Statute directs that "the Coroner *shall go to the place* where any be slain or suddenly dead," for the purpose of making inquiry into the case *before a Jury;* but the Magis-

trates, on the contrary, say that he shall do no such thing, but form an opinion of its nature upon such loose and general statements as may reach him from a distance, without going to the place at all, without summoning a Jury, and without a tittle of evidence. Besides, if this rule were adopted, the holding of an inquest would be equivalent in every case to a charge of homicide, instead of being, as it now is—and was evidently always intended to be—an inquiry for the purpose of ascertaining whether or no the death, if sudden, was natural or otherwise; and if otherwise, then by what act of violence or neglect, and whether suicidal, criminal, or accidental. Acts of violence and neglect are almost invariably perpetrated by persons in some way connected with the deceased, whose direct interest and object it must therefore be, by a plausible statement of the circumstances, to give a false complexion to the case, and prevent all further inquiry. But if this rule is to prevail, and no inquiry is to be made into any case unless already known or suspected to be criminal, the parties implicated will only have to manage matters so as to let no suspicious circumstance ooze out in the first instance, and they will be secure from all fear of detection.

Many instances could be given of the fallacy of such a rule as this—namely, that no inquest is necessary except in cases of previous suspicion—and every Coroner knows how frequently the first and last impressions of a case belie each other; that the suspicion of a whole neighbourhood is often found to be without foundation, while another death, which has attracted little or no attention, is discovered to be a case of murder, suicide, ill-treatment, or neglect; that cases, apparently resembling each other at

first sight, turn out to be entirely different on investigation; and that nothing can be more uncertain to foretell, or occasionally more startling to hear, than the result of *post mortem* examinations. In the case of Wm. Rose, who was executed at Winchester for the brutal murder of his wife at Hurstborne Tarrant, there was no mark of violence on the body, and the general impression before the inquest was that the woman had died suddenly, as her husband represented, in a fit. In a case at Warnford, the deceased, who was a shepherd, attributed his death to a fall, while the surgeon felt satisfied that it was a case of Asiatic cholera, of which he had had much experience elsewhere; but a *post mortem* examination of the body proved that the death was caused by poison. The murder of an infant at Owslebury was discovered by part of the husk of an oat being found inspired into its windpipe; and that of another, at Winchester, by the discovery of a minute stab in the inside of the back of the throat. Two infants died suddenly, about the same time, not many months ago; one of them at Wherwell, near Andover, upon the internal appearances of which Professor Taylor, of Guy's Hospital, pronounced it to be a "most suspicious case;" but, after a careful analysis of the viscera (for which the Coroner paid *six guineas,* which the Finance Committee afterwards *disallowed,*) nothing deleterious was discovered, and the death was therefore concluded to have arisen from natural causes. The other case occurred at Winchester, and, although it was thought right to hold an inquest, the general opinion was that "nothing would come of it;" but suspicious appearances being found on opening the body, its contents were submitted to a chemical analysis, the result of which was the most conclusive proof that the child's

death had been caused by poison. Thus, in each of the above cases, there was either suspicion without crime, or crime without suspicion: the first impression in every one of them being decidedly wrong, and entirely reversed by the evidence taken at the inquest. Indeed, all persons who have made themselves acquainted with matters of this nature, either by experience or from books, must, and do know that such cases are by no means uncommon.

The great mistake appears to be in losing sight of the important fact that the Coroner's court is not one of *trial* or of *police*, (in both of which a direct charge of some criminal act is the first step,) but simply a court of *inquiry*, the very object of which is to ascertain whether or no there is any feature in the case *leading to a suspicion* of something wrong, and, if so, to trace out and apprehend the guilty parties. But the rule in question would entirely alter the character of the Coroner's court and duties, and convert him into a mere detective officer, only to be called in when some clumsy breaker of the sixth commandment has left the marks of blood upon the doorposts.

In conclusion, the Coroners of this county solemnly declare that they have no desire but to perform their duties fairly and conscientiously, *according to their oath*, and while, on the one hand, they have never shewn any inclination to multiply inquests unnecessarily, (as the above returns will prove,) they cannot but feel it a grievance and degradation to be continually checked and controlled, and have their conduct and accounts so capriciously objected to and interfered with, as they have lately been, as though they were either incompetent to perform their duties, or unworthy to be entrusted with that discretion which has heretofore

belonged to them, and which they know they have never abused. At all events, they will still endeavour to perform their duties with the same care, integrity, and independence, which they have every reason to believe has hitherto ensured them the good opinion and confidence of all classes of the community; and in so doing they will venture to hope for that fair consideration and support, as well from the general body of the Magistrates as from the public, which it is their anxious desire to merit.

We are, Sir,

Your most obedient Servants,

J. C. SHEBBEARE
C. B. LONGCROFT } County Coroners.
J. H. TODD

November 5th, 1857.

APPENDIX.

OPINION OF SIR JAMES GRAHAM.

In the month of June, 1846, in consequence of the poisoning cases which were then discovered in Norfolk, the question of Coroners Inquests was brought before the House of Commons by Mr. Montague Gore, on which occasion Sir James Graham, who was then Secretary of State, said "he would take that opportunity of stating what he considered a very serious cause of complaint, *the infrequency of Inquests* throughout the country. But, within the last few years, there had arisen a disposition at the Courts of Quarter Sessions to dispute the payment of the charges of Coroners, and the result was, that Inquests had not been held in a great many cases in which they ought to have been held; and, in his opinion, the determination not to allow the expenses of Coroners had operated most injuriously with reference to the performance of the duties of those officers."

JOINT OPINION OF SIR FITZROY KELLY, MR. PEACOCKE, AND MR. PAYNE.

"It is the duty of the Coroner to inquire, as far as practicable, in the first instance, of all cases of sudden or violent death, and if, *in the exercise of his judgment*, it appears to require an Inquest, he ought to hold it. The instructions given to the police are bad. *It ought to be left to the Coroner to judge what is a proper case or not.* The evil appears to be, that the police, when they have ascertained the facts, instead of stating them to the Coroner, state there is no suspicion, which they have nothing to do with."

OPINION OF "THE JUSTICE OF THE PEACE."

We cannot but acknowledge that the expressions of Lord Ellenborough in *The King* v. *The Justices of Kent*, 11 East 229,

seem to us to have been somewhat unwarily used. That the County Magistrates, who are the guardians of the county purse, should have authority to audit and allow or disallow the Coroners account, *as far as it is at variance with the regulations of the statute.* is but just and reasonable ; but that they should be required or authorised, as that case imports them to be, to inquire and determine whether an inquest has been necessarily held or not, that is, whether there was any necessity for an Inquest at all, is an interference with the judicial functions of a judicial officer which even the Court of Queen's Bench professes to decline with respect to the Justices themselves. Trust must be reposed somewhere, and if an individual is thought sufficiently trustworthy to fill a judicial office, he ought to be allowed to exercise its duties free from all control, save that which the Court of Queen's Bench exercises in cases of abuse by the instrumentality of a criminal information.

OPINION OF THE REGISTRAR GENERAL.

"Although an absolute rule has never been laid down, it is generally understood that Inquests are held, not only when violence is suspected, but in diseases which, from the nature of their symptoms, are liable to be confounded with deaths by violence. Nearly all the deaths by personal violence are immediate, and poison is usually recognised by the rapidity with which the symptoms come on after it has been swallowed. *The law therefore points out those who die suddenly to the especial attention of Coroners.* Persons labouring under sickness require peculiar care, and, whenever this has been denied, the death requires an Inquest, and may be properly referred to deaths by violence. It would be taking a narrow view to assume that the Inquest is intended only to detect deaths by murder. *The principal utility of the Inquest is the security which it affords the public mind, and its tendency to prevent crime.*"

OPINION OF THE TIMES.

"We are far from saying that the present position of the Coroner is what it should be. If anything, his hands should be strengthened, not weakened ; for, with all our machinery of death-registration, inquests, police, criminal courts, &c. we have not too many securities against the violation of human life ; and the Magistrates will not find their interference meet with the general acquiescence of the public."

"The Magistrates ought not to disallow the Coroner's fee unless *mala fides* is imputed to him, The Coroner's disbursements under the 1st Victoria, c. 68, and the fee of 6s 8d, payable to him under the same Act, cannot be disallowed in any case." '*Gaisford* v. *The Justices of Gloucestershire*, 1857.'

STATISTICS OF INQUESTS.

The average annual number of Inquests, as compared with the population of this county (including the Isle of Wight, which has a Coroner of its own), is *less than* 1 *in* 1000, and their average annual cost is about *one halfpenny for each inhabitant*, being less than a county rate of *one farthing in the pound*.

THE END.