Coroner of St. Louis County v. St. Louis County Commissioners 1861 St. Louis 451/3
Boisliniere, Louis C.

Old Box 611/23

M61
F61

Granted
Ewing, E

writ of mand

list of coroner's charges

command comm. to allow items in coroner's bill rejected b/c jury decided was natural death

O = inquest isn't improper just b/c found death to be natural

Whereas Louis C. Boisliniere Coroner of St. Louis County, is about to present to the Honorable the Supreme Court of the State of Missouri, a petition praying that a writ of mandamus may issue from said court directed to the County Commissioners of said County commanding them to allow certain items in the bill of said Coroner against said county, a true copy of which is hereto annexed. And whereas said items having been approved by the Auditor of said County, were disallowed and rejected by said Commissioners, on the ground that the verdict of the jury in each several inquest for which said charge was made, showed that the deceased died of a natural death, and not by casualty or violent death; and whereas both said Coroner and said County Commissioners, are desirous that the question really at issue should be fairly presented to said Supreme Court for decision on its merits: Now it is hereby agreed that every item in the account a copy of which is hereto annexed, has been rejected by said Board of County Commissioners and disallowed by them, upon the ground after approval by the Auditor, because

That said Coroner is entitled to fees only in those cases in which the deceased is supposed to have died by casualty or violence, or where the body of any person coming to his death has been discovered in the County, and not in cases of natural death; and that it does not sufficiently appear from the Verdict of the Jury in the several cases mentioned above, and in the account presented by the Coroner, stating that the deceased died of a natural death, that those cases were within the statute, so as to authorize the Coroner to charge therefor.

And it is further agreed that should said Supreme Court decide that the Coroner is entitled to his fees for service actually rendered in each of said cases, irrespective of the character of

the verdict of the jury therein, or the circumstances attending the death, A peremptory mandamus may issue, commanding us the said Board of County Commissioners, to allow said items of said accounts in so far as the specific charges therein, are in conformity with the fees allowed by Statute. The said Board of County Commissioners reserving to themselves the right to strike out, in whole or in part, any specific charge in the items of said account which in their opinion is not allowed to said Coroner by Statute.

Hamilton & Bakewell

for Petitioner,

Jamel H Gardner
for the County of
St Louis

(23) 354

Supreme Court

March Term 1861

Application of Coroner of St. Louis County for a Mandamus against the County Commissioners.—

Agreed Case

Filed 28th March 1861.
W. L. Glanville
Ck

Copy of Coroners fee bill $ 3.10

Brief for Petitioner

The question submitted is, whether the Coroner is entitled to fees for holding inquests in cases where the verdict of the Jury is that the deceased died of a natural death.

Section fourth of the statute concerning Coroners makes it the duty of the Coroner to hold inquests of violent and casual deaths happening in his county, or where the body of any person coming to his death shall be discovered therein; and see Inquest G. p. 859.

The powers and duties of the Coroner, in such matters, are necessarily judicial. He alone is to judge as to the existence of the contingency upon which the exercise of his authority is made to depend; and where he has acted, the legal presumption is that the facts existed which rendered it proper for him to act in this particular instance. To hold otherwise would be to declare that the Coroner must first hold the inquest, in order to ascertain whether the case was properly within his authority; so that if the finding should be that the deceased came to his death by casualty or violence, it would no doubt be considered as within his sphere of duty, but if the Verdict should be that of natural death, no matter how suspicious or mysterious, in fact, the circumstances under which the body was discovered, notwithstanding the finding might be the result of incompetence or want of attention on the part of the Jurors, or be occasioned by the absence of material witnesses, the case would then be regarded as one in which he had no authority to act. Apart then from considerations of policy, specially applicable to this office, we rely upon the general principle stated, that here the Coroner acts judicially, —

that being invested with authority, to be exercised in a certain contingency, he necessarily has the power to inquire and ascertain whether the contingency has occurred; and that as the Verdict of the Jury may, as already suggested, be the result of ignorance on their part, be attributable to the absence of material testimony or proceed from a thousand untoward circumstances, it cannot operate to overcome the presumption in favor of the Coroner. The principal object of the inquest is to ascertain the cause of the death. Here was no attempt to repel the presumption or to show that the officer had not acted fairly and wisely. It is clearly a mistake then to suppose, as the Commissioners did, that the Coroner stated himself out of Court, as to the rejected items, by showing a Verdict of natural death.

Bacon's Abr. Coroner, G.
4 Strob. 270.
Martin v. Mott. 12 Wheat. 29. 30.
16 Texas. 654.

And see the remarks of Judge Scott in Wertheimer vs Boonville. 29 Mo. on page 238.

Amer. Law Register. vol. 6. p. 386.
Gile vs. Brown 1 Miles Rep. (S. Ca.) 230.

Hamilton & Bakewell
for Petitioner.

Brief for Petitioner.

Hamilton & Bakewell

Filed 28th March 1861,
Wm. J. Glanville
Clk

Thus far the argument stands thus: The Coroner insists that the principal object of an Inquest is to ascertain the cause of the death, — that in such matters he acts judicially, and that to him it belongs to determine as to the expediency and necessity of holding the inquest, — that the presumption is in his favor, especially so, as no attempt is made to overcome it.

How is this met? Why it is said where it appears that the deceased died of a natural death, the Coroner should go further and satisfy the Commissioners that "he exercised a proper discretion", or that the cases "were of such character as rendered an inquest proper, if not absolutely necessary". This would not only deprive the officer of all benefit of the presumption, but throw the presumption against him, and for no other or better reason than the man's mere honesty in unnecessarily stating what was the verdict of the Jury. Besides, what would satisfy the Commissioners, or remove their doubts? From the argument, it seems that they have not yet quite made up their minds upon that point (we would have been glad to have received some intimation from them,) as to whether it should be "the verdict of the Coroner's jury" — "the certificate of the Coroner himself" or "evidence aliunde". Think of the task of satisfying the Commissioners, by evidence aliunde, after the lapse of months, and in the absence of the body itself and of the witnesses, that the inquest was absolutely necessary!

The Coroner is required to give bond for the faithfull performance of his duties. That the law furnishes no check upon a

corrupt
officer might perhaps induce the legislature to change it. A fixed salary, instead of fees, would go far towards remedying any mischief in that particular.

No objection was made as to it not appearing that the services were actually rendered; nor was any taken to the form of the accounts presented by the Coroner; it was not suggested that there was no specific statement of the services rendered, &c. — all that sort of thing was waived, and will by this Court be considered as waived. The Commissioners predicated their action "on the ground that the verdict of the Jury in each several inquest for which said charge was made showed that the deceased died of a natural death, and not by casualty or violent death"; and this is properly certified to this Court in the Case stated, and constitutes the sole and single question submitted "for decision on its merits". The Commissioners evidently acted under the erroneous impression that by showing a verdict of natural death, it required no affirmative proof on the part of the Coroner to entitle him to the fees charged. Any objections of mere form could have been obviated. If relevant, it could easily be shown that the Counsel of the Commissioners misinterprets Section 20 of the Statute concerning Inquests.

Bakewell & Hamilton,
for Plaintiffs.

Reply to Mr. Gardner.

Bakewell & Hamilton
for Petitioner.

Filed 28 March 1861.
Wm. J. Glanville Clk.

1860				
July	28	(Inquest) on Daniell Curtis 12th Sts. b. Franklin av. and wash Sunstroke.		
		View of the dead body &c	7.25	
		5 wit. Certif. deposit 2.75 cor. att. 3.	575	$ 13.00
aug.	21	George Spencer Natural bridge plank road Convulsions — View of the dead body 3 July 3 venire 50 pl (Same July 30 subpoena wit 25)	7.25	
		5 wit. Certif. dep. 2.75 cor. att. 3. ~~ms~~	575	
		mileage —	80	13.80
"	23	Eliza Brungard Lafayette b. columbus & Jackson Convulsions. View of the dead body etc	7.25	
		Six wit. Certif. dep. 3.25 cor. att 3.	625	
		mileage 25	25	13.75
"	24	Linhart Morian Broadway no 469. Convulsions View of the dead body etc	7.25	
		3 wit. Certif. dep. 1.75 mileage 25	200	9.25

1860		Report			
Aug	31	Clementine Borremann South 4. 191			
		Convulsions View of the dead body etc		$ 7.25	
		5 wit. Certif. Dep. 2.75 Cor. att. 3.		5 75	
		Mileage —		10	13.00
Sept.	10	Jacob Burkhardt — convict no 7. Spasms			
		View of the dead body etc —		7.25	
		4 wit — Certif. Dep. 2.25 Cor. att. 3		5 25	
		Mileage 25 —		25	13.25
"	"	Bernard Barry Cass Str. no 67			
		Debility View of the dead body etc		7.25	
		5 Wit Certif. Dep. 2.75 Cor. att 3.		5 75	13.00
		mileage			
"	"	Sabina Noonan cedar near Main			
		Spasms & Debility. View of the dead body etc		7.25	
		5 wit. Certif. Dep. 2.75 Cor att 3.		5 75	13 00
"	13	Mary Lantz — 7th. b. Rupel Cor.			
		Debility View of the dead body etc		7.25	
		4 wit. Certif. Dep 2.25 Cor 3		5 25	
		4 interpreters fees 1. mileage —			10.50
"		James Bridges no 218 gay Street			
		Convulsions. View of the dead body etc		7 25	
		3 wit. Certif. Dep. 1.75. Cor. att. 3		4 75	12.00

Sept	16	Mary ann Merkel 359 S. 2d Debility & Convulsions View of the dead body etc	7.25	
		4 wit – & certif. dep. 25 cor. att. 3 mileg 25	5 50	12.75
"	20	John F. Ettinger 97 S. main Congestion of brain View of the dead body etc	7.25	
		5 wit – & certif. dep. 2.75 cor. att. 3.	5 75	13.00
"	21	Louis Laumbacker – Manchester road near the wedge House – Pulmonary apoplexy produced by Congestive Chills. View of the dead body etc	7.25	
		6 wit – & certif. dep. 3 25 cor att. 3.	6 25	
		mileage 25 – interp. pes 25 –	50	14.00
"	27	– John Collins No 7 Washington av Exposure & Debility View of the dead body etc	7.25	
		4 wit – & certif. dep. 2.25 cor. att. 3.	5 25	12.50
Oct.	1	Honora Derany alley b. 7th & 6th Franklin & Wash Effects of Intemperance View of the dead body etc	7.25	
		7 wit & certif. dep. – 3.75	3.75	11.00
"		Peter J Fisher alley b. Lafayette & Soulard Columbus & Jackson Heart Disease View of the dead body	7.25	
		3 wit – & certif. dep. 1.75 mileage 25. 2 interpreters at 50	2 50	9.75
Oct	3.	Edward Fisher cor. Broadway & Salisbury Heart Disease – View of the dead body etc	7.25	
		5 wit. & certif. depositions 2.75 mileage 25	3 00	10 25

4

1860		Report		
oct.	3	Andrew Sharp - City Work House		
		Cerebral apoplexy View of the dead body etc	7.25	
		4 wit. & certif. deposition 2.25 cor. att. 3	5.25	
		mileage —	50	13 00
"	5	Veronica Mons Cheltenham		
		Pulmonary apoplexy from Congestive chills —		
		View of the dead body etc	7.25	
		3 wit. & certif. dep. 1.75 - cor. att. 3. mileage 50	5.25	12.50
"	6	Charles Reynolds 293 9th north		
		Debility View of the dead body etc	7.25	
		4 wit. & certif. dep. — 2.25 - cor. att. 3.	5.25	12.50
"	8	Carl Eide - Columbus nr 116 b. Soulard & Lafayette		
		Convulsions. View of the dead body etc	7.25	
		4 wit. & certif. deposition 2.25 cor. att. 3. mileage 25	5.50	12.75
"		Angele Dufraine Canadian S.W. Cor. 20 & Plum		
		Bursting of an aneurism of arch of aorta View of the dead body etc	7.25	
		6 wit. & certif. deposition 3.25 cor. att. 3.	6.25	13.50
		- Peter Herberger - Franklin ar. b. 25th 26th		
		Congestion of the lungs from intemperance View of the dead body etc	7.25	
		6 wit. & certif. dep. 3.25 cor. att. 3. mileage 25	6.50	13.75

Oct 12 Martin Gannon— Steamer Sam. Gaty
Pulmonary apoplexy Congestive chills. View of the dead body etc 7.25
4 w.t. Certif Dep. 2.25 cor. att. 3. 5.25 12.50

" 14 Lyman W. Barton. no 60 Morgan St.
Pulmonary & Cardiac apoplexy
View of the dead body etc 7.25
6 w.t. Certif. dep. 3.25 cor. att. 3. 6.25 13.50

" 11 Thomas Folson S.W. cor. Greene & 5th
Congestion of the lungs & liver View of the dead body etc 7.25
6 w.t. Certif. Deposition &c cor att. 3. 6.25 13.50

Infant of Mary Helvey. N.E. cor. 6th & Franklin
" 16 Stillborn unsuspected pregnancy View of the dead body etc 7.25
4 w.t. Certif dep 2.25 cor att. 3 5.25 12.50

24 James Cunningham Dubuque near Columbus St.
Rupture of the Stomach Asphyxia View of the dead body etc 7.25
2 w.t. Certif. dep. 1.25 mileage 25 2 ov. 9.25

Louis Steines no 27 Cedar St internal
hemorrhage from Heart Disease died Suddenly View of the dead body etc 7.25
5 w.t. Certif. Deposit 2.75 ~~mileage~~ 2.75 10.00

Thomas Hayden cor. Buchanan & Broadway
Sudden death from Congestion of the lungs & heart View of the dead body etc 7.25
4 w.t. Certif dep 2.25 cor. att. 3. mileage 25 5.50 12.75

Report

Nov.	5	Arnold Coenders 57 Plum St. probably Heart Disease – Sudden death – View of the dead body etc	7.25	
		6 wit & certif. dep. 3.25 –	3 25	10.50
	9			
"	9	Julius Miller, on board Steamer Sucker State – probably of Internal hemorrhage found dying View of the dead body etc	7.25	
		5 wit. & certif. dep. 2.75 cor. att. 3	5.75	13.00
"	10	Unknown German on board Crescent City Debility (Sudden death). View of the dead body etc	7.25	
		4 wit. & certif. dep. 2.25 cor. att. 3.	5 25	12.50
"	14	John Appolo Christian California St. Sudden death from Pulmonary apoplexy & superinduced by ~~from~~ Intemperance View of the dead body etc	7.25	
		6 wit. & certif. dep. 3.25 cor. att. 3. mileage .25	6 50	13.75
"	15	Felicie Franklin colored 6th & 7th betw. Cerre & Poplar Delirium tremens (found dead) View of the dead body etc	7.25	
		5 wit. & certif. dep. 2.75 cor. att. 3	5 75	13.00
"	15	Knat. Christy av. betw. 25th & 26th – Cerebral Apoplexy (from intemperance) (died suddenly whilst at work) View of the dead body etc	7.25	
		5 wit. & certif. dep. 2.75 cor. att. 3	5 75	13.00

Dec.	1	Martha Gellert. near cor. marion & jackson Convulsions & neglect from an idiotic mother View of the dead body $3. jury fee 3. venue 50 ¢ Swearing the jury 50 subpoena the witness 25 3 wit at 50 ¢ & certif. deposition 25. 1.75 Coroner's attendance to funeral 3	7.25 4.75	12.00
"				
"	3	William Kohls at no 106 washington av. Eclampsia. View of the dead body $3. jury fee $3. venue 50 ¢ Swearing the jury subpoena the witn. 25 – 4 witn. at 50 ¢ & certif. of deposition 25 ¢	7.25 2.25	9.00
"	5	Patrick Connelly 7th Nr. b. Pine & Olive (Recorder's Court) Heart Disease (probably rupture of aneurism) View of the dead body 3. jury fee 3. venue 50 ¢. Swearing the jury 50 ¢ subpoena the witn. 25 7 witness at 50 ¢. & certifying deposition 25	7.25 3.75	11.00
"	6	John Landregan St Louis' Hospital Fracture of the skull & concussion of the brain from a fall (accidental) View of the dead body 3. jury 3. venue 50 ¢. Swearing the jury 50 ¢ subpoena the witness 25 3 wit at 50 ¢ & certifying deposition 1.75 ~~2 interpret fees at 25. 75 ¢~~ ~~Cor. att. to funeral 3~~	7.25 1.75 ~~5.50~~	9.00 ~~12.75~~
"	"	Anna Maria Berning N.W. cor 14th & Madison St Convulsions, View of the dead body 3. jury fee 3. venue 50 ¢ Swearing the jury 50 ¢ subpoena the witn. 25. 5 wit. at 50 ¢ & certif. deposition 25 Coroner's attendance to funeral 3. 2 interpreters fees at 25	7.25 5.75 50	13.50

1860				
Dec.	6	Augusta Grumbelkt 14 ltr. betw. Biddle & O'fallon		
		Exposure & Heart Disease view of the dead body 3		
		Jury fee 3 venue 50 ¢ swearing jury 50 ¢ subpoena wit. 25	7.25	
		3 wit. & certif. deposition 1.75 3 interpret. fees 25.75 cor. att. to funeral 3	5.50	12.75
1861				
Jan.	2	William Lefridge city work House		
		Found dying (cerebral apoplexy)		
		View of the dead body 3. jury 3. venue 50 ¢ swearing the jury 50 ¢		
		subpoena the witn. 25	9.25	
		2 witn. at 50 ¢ & certif. deposition 25 mileage 50 ¢	1.75	
		Coroner's attendance to funeral 3	3.00	12.00
"	5	Samuel Drummond at City Hospital		
		Burns (accidental)		
		View of the dead body 3. jury fee 3. venue 50 ¢		
		swearing the jury 50 subpoena the wit 25	7.25	
		3 witn. at 25 ¢ & certifying deposition 1.75 cor. att. to funeral 3 mileage 25	5.00	12.25
"	17	Bernard Ochs Park av. betw. Maynard & Rosatti		
		Intemperance (mania a potu)		
		View of the dead body 3. jury 3 venue 50 ¢. swearing jury 50 ¢		
		subpoena witness 25	7.25	
		5 wit. & certifying deposition 2.75 2 interpr. fees at 25 mileage 25	3.50	10.75
"	26	Martha Jane Sale alley b. 7th & 8th. Biddle & O'fallon		
		Eclampsia — View of the dead body 3. jury 3. venue 50 ¢		
		swearing the jury 50 ¢ subpoena the witness 25	7.25	
		4 witness at 50 ¢ & certifying deposit. 25 coroner's attd to funeral 3.	5.25	12.50

Jan.	27	Charles Guitarre Warren St. b. 9th & 10th St.		
		Found dying on Montgommery St. (Mania a potu)		
		View of the dead body 3. jury 3. venue 50 ¢ Swearing the jury 50 ¢		
		Subpoena the witness 25	7.25	
		4 wits. at 50 ¢ & certifying deposit 25. mileage 25	2.50	9.75
Feb.	11	Eliza Jordan alley b. Convent & Rutgers 30 & 4th		
		Sudden Death from hemorrhage — View of the dead body 3. jury 3 venue		
		50 ¢ swearing the jury 50 ¢ subpoena the wit. 25	7.25	
		5 wit. at 50 ¢ & certif. deposit 25. 2.75 cor. att. to funeral 3.	5.75	13.00
1.	19	on Charles Levy near N. S. cor. L'Esperance & Kosciusko St.		
		Suddenly Dead of Spasms. View of the dead body 3. jury 3. venue 50		
		Swearing the jury 50 subpoena the witness 25	7.25	
		5 wit. at 50 ¢ & certif. deposit. 25. mileage 25 1 interpreter fee 25	3.25	10.50
Feb.	26	Dennis ~~Lupphy~~ S. W. cor. 19th & Biddle St.		
		View of the dead body 3 jury 3. venue 50 ¢		
		Swearing the jury 50 ¢ subpoena the witness 25	7.25	
		Six wit. at 50 ¢ & certifying deposit 25	3.25	
		Coroner's attendance to funeral	3.00	13.50
		Verdict: Debility		
March	12	Daniell Murphy no 41 Cherry St. View of the dead body 3		
		jury 3. venue 50 ¢ Swearing jury 50 ¢ Subpoena witness 25	7.25	
		4 wit. at 50 ¢ & certif. deposition 25. 2.25 cor. att. to funeral 3.	5.25	12.50
		Debility & Exposure.		

Dec. 5 1860. Elya Gentry (free colored) Spruce St. N.S.W. 6 7th & 8th
Convulsions View of the dead body 3 jury for 3.
Venue 50 ... 50 - Subpoena ... 25 - 7.25
... 50 ... 25 - 5.25 9.50

State of Missouri } ss.
County of St. Louis } I certify that the foregoing items are truly copied from the original bills now on file in my office.

Witness my hand and official seal at office in St. Louis this day first day of April A.D. 1861.

Saml W. Eager Jr
Secretary Board County
Commissioners St. Louis County.

Rejected cases from the bills of the Coroner

Filed 28 March 1861.
W. S. Glannell
Ck.

In the matter of Charles L Boisliniere Coroner of St Louis County

v

The Board of County Commissioners of said County.

This is a petition for a mandamus to the County Commissioners of St Louis County, requiring them to allow certain items in an account claimed to be due the petitioner who is the Coroner of said County, as fees of office.

From the facts agreed upon it appears the items were approved by the Auditor, but disallowed by the Commissioners upon the ground that the Coroner is entitled to fees only in those cases in which the deceased is supposed to have died by casualty or violence; or where the body of any person coming to his death has been discovered in the County; and not in cases of natural death; and that it does not sufficiently appear from the verdict of the jury in the several cases mentioned in the account presented by the Coroner (stating that the deceased died of a natural death) that those cases were within the statute so as to authorize the Coroner to charge therefor.

By Statute it is made the duty of the Coroner as soon as he shall

be notified of the dead body of any person supposed to have come to his death by violence or casualty found within his County to make out his warrant directed to the constable &c. Inquests p ~~58~~ 859. He shall take inquests of violent and casual deaths happening in the County or where the body of any person coming to his death shall be discovered in his County - Coroner Act. p 368.

The object of an inquest of course is to ascertain the cause of death; whether it was the result of violence or criminal agency. And in order to attain this object the Coroner is necessarily clothed with a discretion in the performance of his duties. The authority of a Coroner in this branch of his office is necessarily judicial in its character. 4 Inst 271. 2 Hale 65 Giles v Brown & Miles C Rep 113. And the obvious importance of this office to the criminal ~~to the criminal~~ justice of the country must consist in a great measure, in the discretion, with ~~with~~ which he exercises its functions, in ~~as~~ a judicial ~~officer~~ capacity. ~~To assume~~ To ~~assume~~ maintain as does the Counsel for the commissioners, that an inquest should

be held only in cases of death by violence or casualty, assumes the existence of the fact which can only be determined in many instances, by such inquest, ~~and in making the [illegible] of the Coroner's jury, the [illegible] of the Coroner's jurisdiction~~. How is the Coroner to be guided in exercising his ~~jurisdiction~~ jurisdiction in a given case? and when is it properly ~~exercised~~ invoked in acting on this capacity? There is not, (nor could there be in the nature of things), any classification of circumstances, by law, ~~which~~ circumscribing his action, or fixing ~~more~~ precisely ~~definitely~~ the limits of his authority. The nature of his duties, and the object to be attained, must ~~furnish~~ guide his discretion — acting as we must presume he does, under a sense of his obligations as an officer, and the sanction of an oath. When called upon to act, he will decline or proceed to the investigation, accordingly as the circumstances of the particular case are or are not of such a suspicious character as to render proper an ~~inquiry~~ official examination; and of this he is the sole judge. But if he act, and the result shows the death to have ~~[illegible]~~ been caused neither by violence nor to have been the result of casualty, it does not follow that the inquest was ~~not proper~~ improper, or that his authority was illegally exercised, or ~~that~~

abused. For the circumstances may in the case
class of cases mentioned, may furnish no stronger
from 87 ~~suspicion of criminal~~ apparent grounds for suspecting
criminal agency, than in cases where the
verdict of the jury may disclose a natural
death. The law has imposed no limits
on the discretion of the Coroner in making
of any preliminary inquiry or otherwise, for the
purpose of restricting his action, in making
inquests; and when he acts, the presumption
now is he has acted in proper cases
There is manifestly nothing in the
statute to warrant the Commissioners
to revise the action of the Coroner,
or that gives them a discretion in
respect to his fees. The Coroner
is required only to present to the Court
a certified statement of the costs
and expenses of the inquests including
his own fees — fees of jurors and
witnesses, constables and others entitled
thereto, for which the County is liable.
And it is the duty of the Court
(or Commissioners) to allow the same, and
order a warrant to be drawn upon
the treasury. Inquests Sec 20. They
pass upon the account for no
other purpose than to determine
whether the specific charges therein

are in conformity with the Statute-
not to determine whether the inquest
was held in a proper case, or that
the discretion of the Coroner was or
was not well exercised. Its facts
are before the Commissioners by which
they are to judge of this, and it is
not the duty of the Coroner to
present them.

Let the mandamus go.

E B Ewing

Boislinere
v.
Comrs. St Louis Co.

Opinion of the
Court.

Filed 24 April 1861.
Wm. J. Glanville Ck.

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In the matter of Charles. L. Boisliniere Coroner of St Louis County. vs The Board of County Commissioners of said county } Application for a Mandamus. Respondents Brief & Points.

The Respondents counsel submits that in establishing the office of Coroner and in defining his duties the Legislature intended that inquests should only be held in cases of death by violence or casualty or where a dead body is discovered under such cir = = cumstances as would reasonably lead to the conclusion that the death had been occasioned by violence or accident and not from natural causes.

(See 1st R. S. 1855 page 368 § 4)

In such cases and in such only ought the county to be charged with the costs of an inquest.

It is claimed by the Respondents that they cannot in justice to the county direct the payment of the costs of an inquest out of the county treasury unless it is first made to appear to them either by the verdict of the Coroners jury or by evidence aliunde or by the certificate of the Coroner

himself that the person came to his death under such circumstances as would under the statute justify or require the holding of an inquest. To adopt any other rule would be opening the door to gross frauds and permit unlimited drafts upon the county treasury.

It is said that the Coroner having held these several inquests is entitled to his fees. The answer to this is that when the death is not manifestly caused by violence or accident or was not accompanied by suspicious circumstances, the statute does not require an inquest to be held at least the Coroner should exercise a sound discretion in holding one, and in claiming his fees for such an inquest he should be required to make it appear to the satisfaction of Respondents that the circumstances surrounding the death were of such a nature as to render the holding of an inquest proper, if not absolutely necessary. It being optional with the Coroner whether he will in such cases hold an inquest or not, he cannot be permitted to take advantage of his own lack of discretion, to increase his fees of office. Upon an inspection of the

first of the rejected items being no 1046 under date of Sept 20th can it be said that the statute required an inquest to be held in that case or even that the Coroner exercised a sound discretion in holding it?

No evidence is offered showing the necessity or propriety of an inquest, not even the official certificate to that effect of the Coroner himself. But the simple charge is presented. Who can say from the reading of it that John Frank Ettinger did not die peaceably in his bed. surrounded by his kindred and friends and attended by his family physician.

And so through the long list of rejected items. making a bill against the county from the 20th of September to the 14th of October of $187.75. independent of those ~~four~~ deaths actually occasioned by violence or casualty. If inquests can be held in such cases. and the county be forced to pay the expenses. then the only limit to them is the number of deaths. and the capacity of the officer to take note of them. Without intending in any manner to impute improper motives to the present Coroner in holding the inquests under consideration. The defendants

insist that for all that appears upon the account the holding of those inquests was unnecessary and uncalled for. and if it should be once settled that charges like these must be allowed and paid. there would be no check upon a corrupt officer and inquests might be held on every person dying in the county.

It is assumed by the plaintiff that the mere fact of his presenting a bill to the county is presumptive evidence that all the services charged were rendered. and that the case came within the limits prescribed by statute. and that it is not necessary for him to set forth the particulars of the services rendered nor the facts which authorized the holding an inquest. If such is the law then there is nothing between the Coroner and the County treasury. The Auditor and the Board of County Commissioners have nothing to do but to direct the payment of the amount claimed. Such a proceeding would be an anomaly in our law.

The Board of County Commissioners are made the guardians of the County Treasury they are to pass judicially upon all claims presented against it. and although required to pay the fees of the Coroner. yet it can only be in cases

where the law requires him to act in his official capacity, and the least that could be required of him would be that he should state officially the particular services rendered by him, and the facts which rendered it necessary or proper that those services should be rendered, there is no other check upon him.

The Clerks of Courts having Criminal jurisdiction in this State are as much sworn officers as the Coroner and as much liable for charging illegal fees. The State & County are also required to pay their fees in certain cases but not upon their mere demand and statement of the amount claimed. The presumption is not that the Clerks demand is correct but the Statute requires evidence of that fact in the shape of the official certificate of the Judge of the Court and of the Circuit Attorney, which must set forth all the facts of each particular case.

(See R.S. 1855 page 453 Sec 33)

Finally the Respondents claim that in each case in which fees are claimed by the Coroner he must certify to the Board of County Commissioners
184 The facts which authorized the holding

of the inquest. under the 4th Section of the Act concerning coroners R.S. 1855 page 36 and the 1st Section of the act concerning Inquests R.S. 1855 page 859. and

2d a Specific Statement of all the services rendered by him and all other persons (with the names of such persons) claiming fees, and the amount claimed by each.

None of ~~Passed~~ these requisites have been complied with by the Coroner as will be seen by an examination of "Exhibit A" filed in this matter, said Exhibit being a copy of the Coroners account rejected by the Board of County Commissioners.

Wherefore the Respondents claim that the mandamus ought to be refused.

J. Arnold Gardner
For the Board of
County Commissioners

In the Matter of
the Coroner of
St Louis County

vs

The Board of County
Commissioners of
said County

Respondents
Brief & Points