

THE ELECTION OF GLOUCESTERSHIRE COUNTY CORONERS 1800-1888

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INTRODUCTION

The election campaigns for county coroners in Gloucestershire during the nineteenth century were often lively affairs with several factors influencing the result. There were four divisions to the county - the Stroud Division, the Lower Division, the Upper Division and the Forest Division. The contested elections of John Cooke to the Gloucester Upper Division in December 1817 and of John Garlick Ball to the Stroud Division on 31 May 1831 and the unopposed election of William Joyner Ellis to the Berkeley Lower Division on 10 March 1823 and the unopposed elections of his successors William Gaisford on 3 August 1855 and Dr. Edward Mills Grace the famous Gloucestershire cricketer on 2 February 1875 are examined to see if any common denominator can be found. As coroners were elected for life there were comparatively few election campaigns.

Up to 1844 a county coroner, although elected by freeholders of the whole county for one division could act in any part of Gloucestershire other than the boroughs of Tewkesbury and Gloucester, each of which had its own coroner. However the Coroners Act 1844¹ provided that the justices when they 'deemed it expedient' to divide the county into two or more coroners' districts could in General or Quarter Sessions present a petition to Her Majesty for such division. Notice had to be given to each of the county coroners and the justices had to confer with them as to the proposed districts and reach an agreement including the question of possible financial compensation. Upon such division taking place a district was to be legally assigned to each coroner and he had to reside within that district 'or not more than two miles beyond the outer boundary of such district'. The election would then be by the freeholders of that district only. The number of freeholders eligible to vote would therefore be much reduced. Also such a coroner would usually only act within his district and it would be exceptional for him to act as coroner in other parts of the county. It was not until 20 October 1846 that the Gloucestershire magistrates at Quarter Sessions² made orders under the

Coroners Act 1844 assigning newly constituted districts to the Gloucestershire county coroners and also appointing places at which future elections of county coroners were to take place. Up to 1846 therefore he would be elected by the freeholders of the county. Thereafter he would be elected by the freeholders of his division of the county. To some extent this explains the large number of freeholders voting in the Cooke election of 1817 and the Ball election of 1831 and the fewer openly contested elections in Gloucestershire in the period after the Reform Act 1832 when the electoral processes would have been expected to be more democratic. The Cooke and Ball elections were the only contested elections in the county from 1 January 1800 to 28 February 1838. Thereafter the elections tended not to be openly contested.

THE BACKGROUND

The office of coroner is one of great antiquity. It originated in 1194 when the justices in eyre were required to see that three knights and one clerk were elected for each county³. They were 'Keepers of the pleas of the Crown'. Custos placitorum coronae - later called 'crowners' or 'coroners' and they were responsible for keeping the records of the crown mainly in criminal courts. Over the centuries their duties were to carry out inquiries into sudden or unexplained deaths. The disappearance of the general eyre in the fourteenth century meant that the office declined in importance. The emergence of the justices of the peace in the fourteenth century with the Statute of 1361⁴ resulted in their work becoming restricted. The coroner's duties were mainly confined to holding inquiries into violent deaths. The office was becoming moribund and it was with the intention of its revival that it was provided by statute that coroners, hitherto unpaid, should be paid for inquests held. There were several Acts⁵ to this effect culminating in the Act of 1751 which provided that the coroner was to receive a fee of 20s (£1) and travelling expenses of 9d (4.5p) a mile in respect of all inquests 'duly held'. The Act caused a series of disputes between the coroners and the judicial authorities, which were to continue for more than one hundred years⁶. Its results were disastrous⁷. The fees had to be approved by the

justices in Quarter Sessions. The county coroners submitted their accounts quarterly. The justices were of the opinion that there should be no inquest if there was no evidence of violence. The coroners considered that all sudden and unexplained deaths needed investigation. The argument was, as to what constituted a 'duly held' inquest. John Jervis wrote in 1829 that inquiries were only to be made into the deaths of persons slain, drowned or suddenly dead⁸. Dying suddenly was 'not to be understood of a fever, apoplexy or the visitation of God'. On the other hand it was the coroners duty to hold an inquest in the case of sudden death where there was 'a reasonable suspicion that the party came to his death by violent or unnatural means'⁹. If the justices did not consider that an inquest had been 'duly held' they would not authorize payment of the coroner's fees. The coroner's only remedy was to apply for a mandamus against the justices. The costs would be prohibitive and the court of Queens Bench would not normally overrule a decision of the justices¹⁰. These disputes became more common following the increase in the number of inquests held as a result of the Births and Deaths Registration Act 1836 and the Attendance and Remuneration of Medical Witnesses at Coroners' Inquests Act 1836. These Acts marked the beginning of a medico-legal death inquiry system.

The increase in the number of inquests and the fees payable in respect of these made the office of coroner a profitable one¹¹. When as a result of the County Coroners Act 1860 the county coroners were to be paid by salary and not by fees it was apparent how profitable these part-time appointments were. In Gloucestershire, in 1870, the four county coroners received salaries of £120, £210, £185 and £115. Even after 1860 the justices retained some control over the coroners, as the coroner's expenses in relation to inquests had to be approved by them. The profitable nature of the post together with the social standing that the appointment carried meant that there was competition for the appointment¹². Most part-time coroners were solicitors and the appointment was used 'to get fame and notoriety, which were so necessary for men practicing law'¹³.

It should be mentioned that applicants for the appointment of coroner required no specific qualifications other than that they should be fit and proper persons¹⁴ owning an interest in land that could be satisfied by the ownership of a grave. The

majority were, however, members of the legal or medical professions. So far as the persons entitled to vote in the election of a county coroner were concerned there was no defined list of freeholders entitled to vote. The Forty-Shilling Freeholders Act 1429 did not apply¹⁵. Any freehold was sufficient - even if it was the proprietorship of a plot in God's Acre¹⁶.

GLOUCESTERSHIRE MAGISTRATES AND CORONERS

It has been said that the county magistracy could be divided into 'the genuinely active, the nominally active and the inactive' and that the active magistracy was 'a self-constituting governing body who moulded the Quarter Sessions to suit its purposes and priorities'¹⁷. Gloucester was 'one of the more enterprising and energetic counties'¹⁸. It was 'genuinely active'. Landowners comprised the bulk of the county magistrates together with a growing number of clerical justices and a certain number of clothier merchants and the professions, notably the legal profession. The landowners were on the whole 'tolerant and careful'¹⁹. They were predominately Tory. The real power was with the Chairmen of the Quarter Sessions and the county of Gloucester was fortunate in having chairmen like Sir George Onesiphorous Paul and Purnell B. Purnell who were both able and conscientious. They were aware that Quarter Sessions suffered unpopularity because county rates had been rising since the beginning of the century. They were concerned that the increase in the number of inquests resulted in another burden on the county rates. In an affidavit of 1 May 1857 Purnell B. Purnell referred to 'the enormous increase of 56% between the inquests of 1833 and the inquests of 1853'²⁰. In the mid nineteenth century the Gloucestershire magistrates tried to reduce the number of inquests held by questioning the county coroners as to whether or not the inquests had been 'duly held'. They repeatedly asked the question whether or not the inquest had been necessary. They tried to ensure that the coroners were present when the accounts were studied so that questions could be asked. It was not always successful. On 4 August 1856 when the justices wanted to question John Garlick Ball in the inquests of William Barnfield and Thomas Brown he 'did not appear and could not be found'²¹. On the previous week the coroners had left the court before the justices could complete their examination of the accounts. When the county magistrates refused William

Gaisford's fees for the Mary Bryant inquest on 13 November 1856 (the deceased was aged 60 or thereabouts and was found lying dead on the floor of her room) and for the Charles Ball inquest on 7 January 1857 (the deceased was an infant aged 16 months who died a violent death having been scolded by hot water) he issued a mandamus against the Gloucestershire Justices²². The case went before Lord Chief Justice Campbell, Mr. Justice Coleridge, Mr. Justice Erle and Mr. Justice Crompton. The mandamus was discharged as to the 20s (£1) fee but made absolute as to the 6s 8d. (33p) The latter was payable whether or not the inquest had been duly held but in so far as the court had discharged the 20s (£1) fee it was not interfering with the decision of the Gloucestershire justices²³. Chairman Purnell stated in an affidavit that 'the wrongful holding of inquests has become a species of petty tyranny' and that 'the coroner --- acts with almost perfect impunity'²⁴. To this affidavit one of the county coroners responded by saying that he could truly assert that there was no 'petty tyranny' exercised by him in the office of coroner²⁵.

A study of the number of inquests held and the amount paid out in respect of such inquests throughout the county of Gloucestershire from 1851 to 1859 shows a dramatic drop in the number and cost. Between 1851 and 1855 inclusive the number of inquests a year ranged from 456 to 445 with the amount paid for inquests ranging from £1299.14s.3d. a year to £1280.6s.6d. a year. From 1856 to 1859 inclusive the number of inquests dropped from 405 to 154. The amount paid for inquests in 1859 had dropped to £419.12s.11d. In the four years ending in 1859 the magistrates disallowed the coroner's fees on ninety inquests²⁶.

They were effectively cutting down the burden on the county rates.

There is evidence that the Gloucestershire magistrates who considered the coroners to be 'of lower grade of society'²⁷ tried to exercise some control over them either directly by issuing instructions to constables as to what deaths to report or indirectly by discouraging what they thought to be unnecessary inquests under a threat of disallowing fees. It is likely, therefore, that when the position of the county coroner became vacant, be it through death or resignation, they would seek to exercise influence in any election campaign even though the election was strictly

speaking by the freeholders. The magistrates could try to influence elections by the division of the county into several districts and the allocation of the place where the election was to be held. These points were to feature in the Wakley/Adey election for the West Middlesex coronership in 1839²⁸. Whether they were successful is examined in the following accounts of some of the contested and uncontested elections that took place during the period from 1800 to 1888 when the election of county coroners by the freeholders was abolished and 'the excitements and familiarities of the hustings - with all their canvassing, bribery and speech making - were lost'²⁹.

CONTESTED ELECTIONS - THE COOKE ELECTION OF 1817 AND THE BALL ELECTION OF 1831

Following the death of Coroner Daniel Willey the campaign for the election of a coroner for the Gloucester Upper Division commenced at the Shire Hall, Gloucester on 21 Nov 1817. The polling was destined to last nine days. The writ directing that a fit person should be chosen by the freeholders to fill the vacancy was read by Henry Wilton the Under-Sheriff. Nominations were asked for. There were two candidates, both solicitors, Joseph Mountain of Cirencester and John Cooke of Gloucester. Joseph Mountain was proposed by Joseph Cripps who stressed that the candidate lived in the eastern verge of the county and this would avoid having to send to Gloucester for a coroner that it would save the travelling expenses at inquests and would not be 'so burthensome' on the county rates. He referred to him as 'a man of unimpeachable character and qualified for the office'³⁰. Cripps was seconded by the Rev. Sandiford, one of the county magistrates. Another cleric, the Rev. Pye said that to his knowledge Joseph Mountain had a majority of the magistrates on his side at the last Quarter Sessions. John Cooke was then proposed by Henry Eycott and seconded by James Devisme. He was recommended to the freeholders as 'a most respectable man' and of 'most excellent character'. It was said that he was 'a very proper person to fill the office'. The Under-Sheriff asked for a show of hands and it was very much in favour of Joseph Mountain. Williams, a solicitor from Winchcombe, then said that there were a great many in court who were not freeholders. They were therefore not entitled to vote and a poll was demanded. It started at twelve o'clock and lasted until four o'clock and

was then adjourned until the following day. At the close of the first day there were 188 votes for Cooke and 187 votes for Mountain. On the second day it was 191 for Cooke and 192 for Mountain. On the third day it was even - 211 votes each. On the fourth day it was 139 votes for Cooke and 156 for Mountain, but on the fifth day it was even again - 162 votes each. On the sixth day it was 186 votes for Cooke and 141 for Mountain. On the seventh day it was 231 votes for Cooke and 229 for Mountain. On the eighth day 177 voted for Cooke and 67 for Mountain and on the ninth day being the final day of the poll there were 260 votes for Cooke and 104 votes for Mountain. John Cooke's majority rapidly increased during the last two days with his supporters bringing in further freeholders from the surrounding district. The Under-Sheriff said that unless Joseph Mountain could bring in some votes before four o'clock on that day (1 December 1817) he would close the election. No further votes being tendered he stated his intention of declaring John Cooke duly elected 'unless legal cause was adduced against such issue'. At this stage a Mr. Chadborn made objections. He alleged 'a want of qualification' presumably referring to John Cooke's experience of coroner's work and he further alleged that his residence in Gloucester was inconvenient to the freeholders. He intimated that he would appeal on these grounds³¹. The Under-Sheriff said that he had to return the candidate who had a majority of legal votes, that John Cooke had a majority of 296 votes, the total polled being 1745 for Cooke and 1449 for Mountain. He declared John Cooke duly elected and he was sworn into office. There is no trace of an appeal proceeding. The contest illustrates how persistent the electioneering could be and how the support of the magistrates was not always the criterion for success. There is no record of the total cost to the candidates of the nine-day poll, but it must have been substantial.

The next contested election - described as 'a sharp struggle'³² - was the election of John Garlick Ball to the coronership of the Stroud East Division following the death of William Trigg. The campaign started on 7 May 1831 and the election finished on 31 May 1831. The poll lasted eight days with 6869 freeholders voting. The issues raised in the addresses of the candidates extended from residence with one candidate offering to live anywhere in the jurisdiction to the propriety of electing a member of the legal profession as opposed to a medical man³³. The latter was an

important issue perhaps not surprisingly in view of the publicity given to the Wakley - Baker contest for the Middlesex Coronership³⁴ some months earlier which was mainly fought on the links between medicine and the coronership. Further, there were political issues raised by opposing Tory and Whig factions. One candidate expressed most decided disapproval of the several instances during the polling when 'most improper influence [was] used'³⁵.

There were four candidates - S. Charleton, John Garlick Ball a solicitor, Thomas Bevir a medical man and Henry Marklove who was described as a picture dealer³⁶. John Garlick Ball began by saying that he expected the poll to last some days whereas Thomas Bevir was at pains to say that his medical qualifications entitled him to the coronership. On 28 May it was announced that S. Charleton had retired from the contest to avoid 'the ruinous expenses attendant on a protracted contest'.³⁷ Henry Marklove complained that he had commenced canvassing late and found many freeholders had already promised their support to other candidates. There was competition to secure the votes of the supporters of Henry Marklove with coalitions being allegedly entered into. John Garlick Ball referred to the underlying theme of the contest namely the desirability of a lawyer or a medical man and pointed out that his nomination was seconded by a surgeon. It was further pointed out that the emoluments of the office of coroner were not 'of a very lucrative nature'³⁸ and did not justify a protracted contest. A show of hands was taken which was declared by the Under-Sheriff, Robert Wilton Esq. to be in favour of Henry Marklove³⁹. The other two candidates then demanded a poll. It is reported that 'owing to the denseness of the crowd and the scantiness of the accommodation considerable inconvenience was experienced by those who were anxious to record their votes'. The poll went on 'with great spirit' until five o'clock. The numbers then declared were 235 for Thomas Bevir 224 for John Garlick Ball and 184 for Henry Marklove. Polling resumed the following day and the next day Henry Marklove withdrew from the contest⁴⁰. The Editor of one local paper wrote: 'the other two candidates are so evenly matched and so strenuously supported by their respective friends that if we may judge from present appearances - it is probable that the contest will not close till Wednesday next being the latest period which the poll can be kept open'⁴¹. He went on to say that they 'grieved to witness the exertions

and expenditure lavished' and that the election of coroners should be placed on a different footing. It was suggested that the election of coroners should be by the county magistrates. It should not be obtained 'at a sacrifice so utterly incommensurate with the benefit it affords'. The last four days of the poll showed the intensity of the contest between the two remaining candidates - Thomas Bevir and John Garlick Ball. It was the latter's desperate efforts to bring in more freeholder voters in the last day of the poll - somehow over the weekend of 28 May to 30 May 1831 he managed to find another 579 supporters - that secured victory. Thomas Bevir 'gave up'⁴². The final close of the poll was 3320 votes for John Garlick Ball and 3143 votes for Thomas Bevir⁴³. The turnout was surprising since it is difficult to envisage that there were so many eligible freeholders. In fact it was suggested that at some elections voters may either not have been eligible or may have voted more than once⁴⁴.

References

1. 7 & 8 VICT. c. 92 An Act to amend the Law respecting the Office of County Coroner 9 August 1844 Sections 2, 3 and 9.
2. Hyett F.A. and Bazeley Rev. W. (1867) *The Bibliographers Manual of Gloucestershire Literature* p 180 County magistrates frequently delayed the implementation of the 1844 Act because of disputes with the coroners as to possible claims for compensation. For example by 1852 Lancashire had not been divided into districts. The Cunliffe/Maxted election of 10 November 1852 for the South Lonsdale Coronership emphasized the problems (Lancaster Guardian 23 October 1852). It was not until 1847 and finally 1878 that the adjoining county of Warwickshire was divided into three districts by Orders in Council dated 24 April 1847 and 14 August 1878. Warwickshire County Book 1893 p. 69. Warwickshire coroner W.S. Poole referred to 'the unseemly bickerings between Coroner and Justices --- in the adjoining county of Gloucester'. Letter to Editor of Warwick Advertiser dated 14 April 1864.
3. Hunnisett R.F. (1961) *The Medieval Coroner* p.1.
4. Moir E. (1969) *The Justices of the Peace* p.18.
5. 3 Henry VII, c.2 1 Henry VIII, c.7 and 25 George II, c.29
6. Report of the Committee on Death Certification and Coroners CMND.4810 (1971) p.112.
7. Havard J.D.J. (1960) *The Detection of Secret Homicide* p.49.
8. Jervis J. (1829) *A Practical Treatise on the Office and Duties of Coroners* pp.24-5
Hale Sir Matthew (1763 reprinted 1971) *The History of the Pleas of the Crown* pp.60-2
9. R. v Great Western Railway Co [1842] 3Q.B. 333
10. Report from the Select Committee on the Office of Coroner 1860 XXII
J.H. Todd, Hants Coroner Q.703 and Q.704. R. v Kent JJ (1809) II East. 229 and R. v Carmarthenshire JJ (1847) 10Q.B. 796.

11. Watson J. Steven (1987) *The Reign of George III 1760-1815* p.43
Malmgreen G. (1985) *Silk Town: Industry and Culture in Macclesfield 1750-1835* p.109. The position ceased to be profitable in some part time jurisdictions where much travelling was involved. It was said that in Lancashire some coroners had 40 or 50 miles to ride to an inquest. The expense of 9d a mile was the same as in 1751 and later became one way only. Hansard 25 March 1816 Vol. XXXIII p. 545 and p. 546. R. v Oxfordshire JJ (1818) 2B and Ald. 203
12. Letter Richard Gude to Robert Peel 3 March 1827 Public Record Office HO 84/1
13. Hansard 25 March 1816 Vol. XXXIII p.544, Hansard 11 February 1818 Vol. XXXVII p. 330.
14. Prior to the Coroners (Amendment) Act 1926 S.1 (1) the only qualification was a land qualification. 'Every coroner for a county shall be a fit person having land in fee sufficient in the same county whereof he may answer to all people'. 50 & 51 VICT, c.71 An Act to consolidate the law relating to Coroners 1887. No amount of land was ever defined. Melsheimer R.E. Sir John Jervis on the Office and Duties of Coroners Fourth Edition (1880) p.10.
15. 8 Henry VI, c.7.
16. *Southport Visitor* 26 December 1882 referring to the Barker election at Ormskirk, Lancashire.
17. Eastwood D. (1994) *Governing Rural England. Tradition and Transformation in Local Government 1780-1840* p.50.
18. Moir E. op. cit. p.16.
19. Woodward Llewellyn (1962) *The Age of Reform 1815-1870* p.17. Zangerl C.H.E. *The Social Composition of the County Magistracy in England and Wales 1831-1887* Journal of British Studies Vol. XI pp. 113-25. Webb S. and B. (1963) *English Local Government* Vol. II pp. 534-535.
20. Affidavit of Purnell Bransby Purnell one of Her Majesty's justices of the peace for the county of Gloucestershire dated 1 May 1857 printed in P.P. 1860 LVII. 331.31.
21. P.P. 1860 LVII 331.20
22. P.P. 1860 LVII 331.21 and 22.
23. R. v Gloucestershire JJ (1857) 7 E&B. 805.
24. P.P. 1860 LVII 331.26.
25. Ibid.
26. P.P. 1860 LVII 313. Return from the Clerks of the Peace for Counties of the Number of Inquests held from 29 September 1848 to 28 September 1859 and the number of inquests in which the Coroners' Fees were not allowed by the Court of Quarter Sessions.
27. P.P. 1860 LVII 331.30
28. The Tory Magistrates petitioned the Lord Chancellor to divide the district into two divisions. It has been suggested that this was to ensure the election of 'their own candidate'. Hostettler J. (1993) *Thomas Wakley. An Improbable Radical* p. 111. Sprigge S.S. (1897) *The Life and Times of Thomas Wakley* p. 376 For a contrary view see Sherrington E. (1974) *Thomas Wakley and Reform 1823-1862* Oxford D. Phil thesis p. 211. In Gloucestershire the county magistrates tended to order elections in remote parts of the county like the Winn/Guest contest at Mangotsfield. Gloucester Journal 29 April 1735. In this instance the order was by the sheriff and not by the county magistrates, but was probably at their instigation.
29. Anderson O. (1987) *Suicide in Victorian and Edwardian England* p.258.
51 & 52 VICT. c.41 Local Government Act 1888.
30. *Gloucester Herald* 22 Nov 1817.
31. *Gloucester Journal* 2 December 1817
32. *Gloucester Journal* 21 May 1831.
33. *Gloucester Journal* 7 May 1831.
34. Burney I. 'Making room at the public bar: coroners' inquests medical knowledge and the politics of the constitution in early nineteenth century England' in Vernon

- J. (Ed.). (1996) *Re-reading the constitution. New Narratives in the political history of England's long nineteenth century*. p.124. *The Lancet* 16 April 1830 'if the freeholders possess each only the smallest portion of common sense and independence the surgeon will of course be elected to the vacant office'.
35. *Gloucester Journal* 27 May 1831. Address by J.G. Ball.
 36. *Gloucester Journal* 7 May 1831.
 37. *Gloucester Journal* 28 May 1831.
 38. *Gloucester Journal* 28 May 1831 'an attempt was being made to reduce this contest to a question between the relative merits of physic and law --- he had no doubt that he too should find among the list of his friends a long roll of physicians, surgeons and apothecaries'.
 39. *Gloucester Journal* 28 May 1831
 40. *Ibid.*
 41. *Gloucester Journal* 4 June 1831.
 42. M.S. note in the Gloucestershire Collection ref. 13212 (41).
 43. *Gloucester Journal* 4 June 1831.
 44. P.P. Third Series Vol. LVI 1841 p.723 'very great abuses