nothing in the nature itself of a coroner's inquiry necessitating the presence of the suspected person. Evidence can be taken in his absence. If it were necessary to identify him, the witnesses who have identified him before the magistrate can attend, and repeat their evidence before the coroner, so that a writ of *habeas corpus*, being unnecessary for that purpose, would not be granted to bring the prisoner before the coroner: *Re Cooke*, 7 Q.B. 653. There the application was refused, although there was an affidavit to the effect that the coroner and jury could not proceed with the inquiry unless the prisoner was produced; and it was held, that the fact of the coroner desiring to have the prisoner produced before him would not constitute a special circumstance, in order to justify the granting of a writ for his production: *ib.* There is no evidence to show that the presence of the accused before the coroner is a special necessity. According to the statements of the affidavit, it is sought to have the prisoner produced, not to give evidence, but, to hear the evidence given; and the Court is asked to decide, in effect, that it is a matter of course that the writ should issue in every ordinary and unexceptional case, in order to enable the prisoner to be brought before the coroner, and to hear the evidence given at the inquest.

Byrne, in reply.—*Re Cooke* is distinguishable, as there the application was made, not as now on behalf of the prisoner, but, by the coroner. The claim of a suspected person to be present at an inquiry, upon which a verdict may be returned against him, rests upon a surer basis than upon the mere wish of the coroner that he should be present. It may be necessary or judicious for the prisoner's advisers to tender him as a witness. The coroner's jury are sworn to try "when, how, and by what means" the deceased came by his or her death*; and the verdict or finding of a coroner's jury is equivalent to an indictment. † Admitting that the police magistrate had no power to transmit the prisoner from his custody to that of the coroner, the practice was, at all events, sanctioned by convenience, and the object which it was intended to promote is approved by the ordinary principles of natural justice.‡ The abrupt departure from that practice, the setting up of the magistrate's court above that of the coroner, to which it is inferior in law, and the exposure of prisoners to the expense, delay, and needless affliction of a double procedure, places suspected persons in a position in which the law, presuming, as it does, that they are innocent, should assist them if possible. The prisoner is amenable to the jurisdiction of two courts sitting simultaneously, a preliminary investigation proceeding at the same time in each, and each enabled to send him forward for trial on the same charge. Upon this charge, at the investigation in the police court, evidence could not be received against the prisoner in his absence. The coroner has full power, either before or after the inquest, to order the arrest of a suspected person, he has the same power of commiting the prisoner for trial that the magistrate has, but the coroner's court is the superior court, and the coroner's inquisition is the more important in its consequences as affecting the prisoner; and yet, is it to be said that the prisoner should not be permitted to be present at the inquest, and that any circumstance is necessary in order to sustain an application for the purpose, other than the fact that he himself desires to be present at an inquiry which may possibly result in a verdict of wilful murder against him, and that his advisers desire to have the opportunity of tendering his evidence in aid of the inquiry, and so that the ends of justice may be accomplished? The same reason that should actuate the Crown and the police to bring forward evidence in the coroner's court, should operate to prevent the coroner's inquiry from being frustrated by keeping back the person against whom the admitted jurisdiction of the coroner attaches. If no opportunity be given of examining the prisoner, or tendering him as a witness at the inquest, and if no opportunity for cross-examination be afforded to him, the coroner's inquiry will be impeded, and the result of that inquiry rendered the more liable to error. And, if a verdict of wilful murder be found against the suspected person behind his back, that verdict operating as an indictment, the jurisdiction of the magistrate would be thereby ousted, and the prisoner could not again be brought before the magistrate on remand for the same offence.*

Fitzgerald, J.—It seems to me that the law officers of the Crown were correct in advising that, once an accused person has been committed to custody upon a remand on a criminal charge, the magistrates have no jurisdiction to order that the prisoner should be produced before the coroner, and that neither has the gaoler any authority, without a writ of *habeas corpus*, to pre

* See generally, 4 Inst. 271, 2 *ib.* 31; Brit. cap. 1, ss. 5, 13; R. v. *Herford*, 3 E. & E. 135, 29 L. J. Q. B. 249; 26 Vict. 2; 35 & 36 Vict. 76; 35 & 36 Vict. 77.—Rep.

† See *R.* v. *Ingham*, 5 B. & S. 257, 33 L. J. Q. B. 184.—Rep.

‡ See *Maubourquet* v. *Wyse*, Ir. R., I C. L 471; *Re Brook*, 16 C.B.N.S. 403: *Ex parte Kinning*, 4 C. B., 507.—Rep.

* *Sed quære? Cf. R.* v. *Spoor*, 11 C. C. C. 550.—Rep.