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**Coroners in London and Middlesex, c. 1820–1888:  
A Study of Medicalization and Professionalization**

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## ABSTRACT

The nineteenth century was a period of reform and transition for the office of coroner. Despite its antiquity and its place at the heart of the investigation into sudden and unexplained deaths, various social, political and intellectual changes resulted in a growing debate about the purpose, role and functions of the coronership. Many commentators, as well as coroners themselves, believed the office needed reform.

This thesis considers debates about the office of the coroner from c. 1820 to c. 1888, a period that covers the wide-ranging attempts to reform the coronial office by the London coroner Thomas Wakley in the 1820s to the legislative initiatives of the 1880s that shaped the office for the next century. In particular it assesses the extent to which these debates relate to two broad concepts: medicalization and professionalization. For some, the future of the coronial office lay in the increasing application of medical expertise to the inquest, even to the extent of turning the coronership into an exclusively medical role. This study assesses how far such ‘medicalizing’ tendencies impacted on the office. Likewise, it considers whether the office underwent a process of professionalization during the nineteenth century. By considering guides to coronial practice, legislation and the formation and activities of the Coroners’ Society of England and Wales, it explores whether the coronership became a profession over the course of the century.

These debates are viewed through a focus on coroners from London and Middlesex, since as a group they were at the forefront of debates. Working in the challenging environment of the metropolis, and close to the centres of political, legal, scientific and medical authority, London and Middlesex coroners such as Wakley, William Baker, William Payne, Edwin Lankester and Samuel Langham were prominent advocates of coronial reform. The thesis assesses how far coronial change was being driven from London; it suggests that there were different phases in the reforming process, each of which was closely associated with London and Middlesex coroners, and which together brought about important reforms that professionalized the office and created a medico-legal (that is, informed and shaped by the disciplines of both medicine and law), if not medicalized, inquest.

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# CHAPTER ONE: INTRODUCTION

## 1. Rationale and justification of the thesis

The coroner's inquest stands at the intersection of law and science. It is a court of law, operating within a legal framework that has developed over centuries; at the same time, its primary focus—the investigation of death, above all questions over the causes of death—depends upon science, and especially upon pathology and forensics, both branches of medicine.<sup>1</sup> The potential tension between these two aspects of the inquest is one reason why the coronial system merits scholarly attention. On the one hand, coroners and their inquests work within the wider context of a legal system; and law, for all its culture of precision and exactitude, is nevertheless a human construct addressing social concerns that are invariably historically and geographically specific and depend upon human judgments that are often inherently imprecise. On the other hand, as an institution that endeavours to establish the facts pertaining to a death, the inquest relies upon bodies of scientific, medical and technical knowledge, and the experts in possession of such knowledge, that are commonly viewed as transcending time and place and as demanding precision. In so far as there are systems of criminal and civil law that deal with legal questions, and bodies of professional medical and technical expertise that deal with scientific questions, the need for a coronial system might be called into doubt—as indeed it was by many in the nineteenth century, the period on which this thesis focuses.

One possible justification for the coronial office is to suggest that the inquest provides an essential bridge between medicine and the law in relation to one of the most fundamental and important of human and social concerns: death. For death is both a biological event explicable, in theory at least, in terms of universal and absolute medical and physical causes, and it is a social event surrounded by socially and culturally variable emotions, rituals and

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<sup>1</sup> For a discussion of the use of the term 'forensics', see p. 37 of this thesis.

ideas. Death has different meanings depending on the perspective from which it is viewed: law, medicine, society and the individual vary in the significance they attach to death. The coronial inquest, as a societally sanctioned arena in which laypeople and medical and legal experts consider questions and seek answers relating to an individual death, may provide an important space in which these potentially conflicting approaches to and perspectives on death are connected. Research on the coronial office, particularly its history, takes place against this wider background of differing ways of thinking about death. This thesis is concerned with how the nineteenth-century coronial system evolved and adapted during a period of social and medical change, and how it navigated the complex relationship between medicine and the law.

In many respects, the present-day coronial system is recognizably the same as that of the nineteenth century. The contemporary coroner is an independent judicial officer, appointed by the crown and paid for by the local authority in which he or she operates, who investigates sudden, unnatural and unexplained deaths.<sup>2</sup> When such a death has been referred to the coroner, he or she will make initial inquiries; unlike his or her nineteenth-century counterpart, the modern coroner can arrange for a post-mortem before deciding whether a formal inquest is necessary. The vast majority of deaths coming before a coroner do not require an inquest, since most are easily explained after initial inquiries. However, when a death remains unexplained, or when a coroner believes it would be in the public interest to investigate further, an inquest is arranged. Inquests are almost always held in open court. In the nineteenth century they were also held before a jury. The present-day coroner can, if he or she believes it to be in the public interest, summon a jury, but most contemporary inquests are not held before juries; there are, however, two important types of death necessitating both an inquest and a jury, namely all

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<sup>2</sup> For a summary of the office and duties of the modern coroner, The Coroners' Court Support Service website has useful information: <http://www.coronerscourtsupportservice.org.uk/faq-s/> [accessed: 1 January 2017]. See also Christopher Dorries, *Coroner's Court: A Guide to Law and Practice*, 2<sup>nd</sup> edn (Oxford: Oxford University Press, 2004; first edition 1998).

deaths occurring in prison or police custody and all deaths arising from accidents at work. The coroner's role is to preside over the inquest, summoning and questioning witnesses, and reaching a verdict on the cause of death; for inquests before a jury, the coroner guides jurors on matters of law and confirms the jury's verdict. The primary purpose of the inquest, and more generally of the coroner's role, is to establish the facts concerning the death, above all the time and place of death, the identity of the deceased and how that individual came by his or her death. Although an inquest verdict can conclude that an individual was unlawfully killed, coroners' inquests cannot determine criminal or civil liability, nor can they apportion blame for a death.<sup>3</sup> Nevertheless, inquests are rarely ever pure fact-finding investigations; verdicts, whether delivered by juries or coroners themselves, depend upon judgments in relation to the law, for example on whether a death was accidental or, because of gross negligence on the part of an individual or individuals, unlawful.<sup>4</sup> In addition, the coroner may make recommendations in order to prevent future deaths.

The legislative framework for the modern coronership is the 1988 Coroners Act; this, however, is still largely based on the 1887 Coroners Act, supplemented by the 1926 Coroners (Amendment) Act.<sup>5</sup> From a legal perspective, therefore, the modern coronial system was a product of the late nineteenth century. The Coroners' Society of England and Wales succinctly

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<sup>3</sup> Until the Criminal Law Act of 1977, coroners' juries had the power to commit an individual to criminal trial. The last such occasion on which this power was exercised was in 1975 when Lord Lucan was indicted by an inquest jury for the murder of Sandra Rivett.

<sup>4</sup> The recent Hillsborough inquests, which concluded in April 2016 after the longest inquest in legal history, illustrates the type of judgments a jury (or coroner) often has to make. In this case, the jury concluded that, due to gross negligence on the part of the police, the deaths of the 96 football fans in the 1989 Hillsborough disaster amounted to unlawful killing. This overturned an earlier, controversial inquest which in 1991 delivered verdicts of accidental death. For details of the second inquest, see <https://hillsboroughinquests.independent.gov.uk/> [accessed: 30 November 2016]. A similarly controversial inquest was that held into the death of Ian Tomlinson during the 2009 G20 summit protests. The jury at the 2011 inquest ruled that Tomlinson had been unlawfully killed; at the later criminal trial of Simon Harwood, the police officer identified as responsible for Tomlinson's death, a jury found Harwood not guilty of manslaughter.

<sup>5</sup> The 2009 Coroner and Justice Act, implemented in 2013, has introduced further structural changes to the coronial system.

describes the effects of the 1887 Act: ‘Coroners then became more concerned with determining the circumstances and the actual medical causes of sudden, violent and unnatural deaths for the benefit of the community as a whole.’<sup>6</sup> Implied in this assessment is that prior to 1887 the coronership rested on different foundations, aims and purposes, and that the system underwent reform at the end of the century. The 1887 legislation was, however, the culmination of decades of debate about the role, functions and purpose of the coroner, as well as earlier legislative activity. It was over the course of the nineteenth century as a whole that the modern coronership was forged.

This thesis focuses on the broad nineteenth-century reform of the coronial system. At the beginning of the nineteenth century the coronial system was fragmented, coroners were unprofessional, and the inquest was disorganized; by the end of the century something resembling the modern coronership had emerged. It might be assumed that this is a straightforward story of progress: an institution with its roots in medieval law, and with an unclear identity and uncertain future in the early decades of the century, is carried along by various modernizing forces over the course of the nineteenth century. But such an account, although embodying some truth, would fail to capture the highly contentious nature of the nineteenth-century coronership. The two main studies of the subject—Ian Burney’s *Bodies of Evidence: Medicine and the Politics of the English Inquest, 1830–1926* (2000) and Pamela Fisher’s unpublished 2007 doctoral thesis, ‘The Politics of Sudden Death: The Office and Role of the Coroner in England and Wales, 1726–1888’—both address the tensions and conflicts associated with the coronial system. Burney’s study ‘emphasize[s] the multiple lines of tension between persistence and reform that mark the making of the modern inquest’;<sup>7</sup> and Fisher, commenting on an essay by Joe Sim and Tony Ward, notes ‘the important observation that the

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<sup>6</sup> <http://www.coronersociety.org.uk/history> [accessed: 1 January 2017].

<sup>7</sup> Ian A. Burney, *Bodies of Evidence: Medicine and the Politics of the English Inquest, 1830–1926* (Baltimore and London: Johns Hopkins University Press, 2000), p. 12.

nineteenth-century coroner's court was a site of conflict on a number of different levels, which prevented the establishment of a consistent and professional system of medico-legal investigation'.<sup>8</sup> This 'site of conflict' and these 'multiple lines of tension' will both feature prominently in the present thesis. As the studies by Burney and Fisher demonstrate, one of the most interesting features of the coronership as an object of historical study is how the office and the inquest stood at the intersections not only of law and medicine, but also of popular politics and high politics, and of radicalism, liberalism and conservatism.

In particular, this thesis has two broad aims. First, it addresses the development of the coroner's inquest in the context of the processes of medicalization and professionalization. Medicalization here refers to the application of medical knowledge and expertise to areas that had not previously been considered as belonging to the realm of medicine, whether or not those areas are now considered as appropriate for medical intervention; professionalization refers to the process whereby an occupation, through the establishment of such things as standards, unifying bodies and training programmes, becomes a profession.<sup>9</sup> As processes, medicalization and professionalization depend upon changes to governance and bureaucracy, as well as on the media to communicate reforms, practices and standards both to practitioners and to society in general. The nineteenth century was an age of advancing scientific and medical knowledge and understanding, leading to greater confidence and belief—not always backed up by the hard evidence of actual medical results—that such knowledge and understanding might be applied to society in general and social problems in particular; it was also an age in which, from academic disciplines to the foundation of corporate bodies, many modern professions and their associated standards were created.

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<sup>8</sup> Pamela J. Fisher, 'The Politics of Sudden Death: The Office and Role of the Coroner in England and Wales, 1726–1888', unpublished PhD thesis, University of Leicester (2007), p. 12. Fisher is commenting on Joe Sim and Tony Ward, 'The Magistrate of the Poor? Coroners and Deaths in Custody in Nineteenth-Century England', in Michael Clark and Catherine Crawford (eds), *Legal Medicine in History* (Cambridge: Cambridge University Press, 1994), pp. 245–67.

<sup>9</sup> Both concepts will be discussed more fully in the following chapter.

Medicine itself became professionalized in the nineteenth century; for example, the General Medical Council was created as a result of the 1858 Medical Act. Key questions considered by this thesis are the extent to which the coroner's office and inquest should be understood in light of these medicalizing and professionalizing tendencies, and, in turn, how far the coroner's inquest illuminates our understanding of medicalization and professionalization. Medicalization and professionalization may complement each other, or they may conflict; medicalization may, for example, threaten a profession by turning what had long been a largely non-medical practice into one that is subsumed within medicine. In the case of the coronial system, which is part of the larger legal system, medicalization may involve a set of standards and practices that enhance the profession of coroner, or it may threaten the institution by turning the concerns of the coroner into little more than an adjunct of medicine. This thesis will consider whether medicalization underpinned or threatened the profession and professionalization of the coronial office.

Secondly, this thesis will primarily (although not exclusively) focus on the coroners of London and Middlesex, a subject on which there is little existing scholarship. There are undoubtedly reasons for the paucity of such scholarship. Research is hampered by difficulties relating to primary source material: many coronial records have not survived, and many of those that have survived are inaccessible. Nevertheless, there are compelling reasons for looking at the history of the nineteenth-century London and Middlesex coroners. Several coroners for these districts were at the forefront of coronial debate and reform, most notably Thomas Wakley (the subject of Chapter Four of this thesis), but also figures such as William Payne, the founder and President of the Coroner's Society of England and Wales in 1846, and William Baker, the first Treasurer of the Society. Unsurprisingly, given London's position as the unrivalled political, commercial and legal centre of the nation, a number of the coroners for the city and its surrounding counties were either themselves prominent within legal and



political circles or were closely connected to such circles. In so far as legal and political reform was driven from London, it is worth considering the extent to which coronial reform similarly took its lead from a disproportionate number of London and Middlesex coroners.

Furthermore, London and Middlesex present a compelling focal point by virtue of the social and cultural character of the city and its adjoining county. The extraordinary demographic growth of London over the course of the nineteenth century (the city's population quadrupled in size between 1801 and 1889)<sup>10</sup> posed inevitable challenges for the governance and administration of the city; London was notorious for its high mortality rates, its epidemics, its crime and its complex social mix. Although the quantity and nature of the work of London coroners would not have been unfamiliar to their counterparts in other large conurbations of the period, the coronial experience in London is likely to have differed markedly from that of most English and Welsh coroners. In many rural areas (which, as a whole, still contained a higher proportion of the population than urban areas throughout most of the period under study here) coroners held fewer than ten inquests per year; in rural England and Wales, the office of coroner was literally a part-time and occasional occupation.<sup>11</sup> In London, on the other hand, many coroners presided over thousands of inquests in their careers. In so far as the functioning of the coronial system was accompanied by problems, and occasioned debate and calls for reform, these were more likely to have been felt acutely by London and Middlesex coroners. It would, of course, be a mistake to assume that the experience of London and Middlesex was typical of the wider coronial system in England and Wales; and it is important to be wary of drawing conclusions about the national coronership from a study of London and Middlesex. It

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<sup>10</sup> According to the 1801 census, the population of London was about one million inhabitants. By 1889 this figure had increased to four million.

<sup>11</sup> Burney, *Bodies of Evidence*, p. 174 (n. 5, citing *The Lancet*, 16 October 1858) presents evidence that 91 out of 324 coroners in England and Wales in 1858 'held fewer than ten inquests per year'. Fisher, 'Politics of Sudden Death', pp. 33–4, has demonstrated that in the period 1829–31 most county coroners held fewer than 60 inquests per year and that the overwhelming majority earned less than £100 per annum.

is beyond the scope and intentions of this thesis to compare the London and Middlesex coronership with that of the rest of the country, and hence any conclusion concerning the extent to which London and Middlesex coroners were at the centre of debate and reform is inevitably one that invites further research and potential revision.

What is intended in this thesis, however, is a contribution to the history of nineteenth-century coronial reform through a specific focus on the role that London and Middlesex coroners played in that story. It deals with the coronial system during several crucial decades that culminated in the establishment of what remains in large part the coronership as it exists today. While acknowledging that there was nothing inevitable about this reforming process, it nevertheless attempts to explain coronial history both with reference to wider social, cultural and intellectual developments and through an attention to the particular experience of London and Middlesex coroners.

Chronologically, this thesis covers the years c.1820–1888. At the latter end of this date range stands the 1887 Coroners Act—the culmination of various reforming initiatives over the preceding decades and the key piece of reforming legislation that would underpin the coronial system for the next century—as well as the 1888 Local Government Act that resulted in the restructuring of local government in London and Middlesex. Both acts led to significant changes to the ways coroners were appointed and worked in London and Middlesex, and they mark a suitable dividing line between the nineteenth-century coronership and the system as it was to develop further over the course of the twentieth century. The period between the 1887 Coroners Act and the 1926 Coroners (Amendment) Act marks a further and important phase of modernizing activity that deserves its own separate study.

The earlier date in the chronological range of this thesis, although less precise, reflects that the 1820s witnessed the emergence of intense activity relating to the coronership on several fronts: coronial elections were fought with unusual intensity over these years; the first coronial

guidebooks for more than half a century appeared in the 1820s; and Thomas Wakley's drive to reform the coronership commenced in the decade. The 1820s mark, therefore, an unprecedented attention to the coroner and the inquest.

## **2. Existing scholarship on the nineteenth-century inquest**

The nineteenth-century coronial system has not received extensive scholarly attention. However, over the past 30 years a growing body of research has begun to focus on the coroner and his inquest. As noted in the previous section, two works in particular stand out: Ian Burney's monograph, *Bodies of Evidence: Medicine and the Politics of the English Inquest, 1830–1926* (2000) and Pamela Fisher's unpublished doctoral thesis, 'The Politics of Sudden Death: The Office and Role of the Coroner in England and Wales, 1726–1888' (2007).

Burney's *Bodies of Evidence* addresses an issue that is also discussed in the present thesis: the extent to which the coronial system underwent a process of medicalization over the course of the nineteenth century. As he notes at the outset to his book, there are 'two familiar stories about the making of the modern state'. The first, a tale of 'winners', concerns the 'rise in influence, power, and prestige... [of] scientific expertise in establishing the conceptual and practical rationale for a new, knowledge-based form of governance'. The second, a tale of 'losers', concerns the 'decline in the traditional institutions of civic popular participation'.<sup>12</sup> The coroner's inquest might, at first glance, be taken as a paradigm of these two linked stories. In the early nineteenth century, the coroner and his inquest were 'popular' institutions: the coroner was an elected official, and the inquest, always held before a jury and frequently in public houses, was an often ramshackle affair that involved a high degree of popular participation. By the early twentieth century, however, coroners were no longer elected, and inquests were being reformed along lines that valued the role of medical expertise over that of

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<sup>12</sup> Burney, *Bodies of Evidence*, p. 1.

public inquiry; indeed, after 1926 it became increasingly exceptional for an inquest to be held before a jury. While the history of the nineteenth-century coroner's inquest might appear to fit a straightforward (and Whiggish) story of progress, Burney's study provides a more sophisticated and nuanced reading. He sees the coroner's inquest as an institution embodying a 'complex dynamic between expert and popular conceptions of governance':

An institution formally well positioned to take on the modern duties of inspection and information gathering, yet at the same time emblematic of the very participatory rationale to be displaced by the regime of expertise, the inquest was peculiarly sensitive to the tension between the demands of expertise and those of publicity.

In Burney's account, however, tension between 'expertise' and 'publicity' is far from the whole story; rather, he argues that there was 'an interaction between strategic visions that themselves reflected the ambiguous needs of modern governance'.<sup>13</sup>

Burney explores this interaction through a series of discrete chapters that consider: the claims made for the 'popular inquest' and the coroner as a spokesperson for the people against traditional authority, notably in Thomas Wakley's campaigns—the first, in 1830, unsuccessful; the second, in 1839, successful—to be elected as one of the Middlesex coroners; the relationship between the coroner and the drive towards the statistical recording of death and its causes; debates over the location and process of inquests, above all the move towards dedicated mortuaries and courts in relation to the former and the move away from the jury's 'view' of the body in relation to the latter; and the vexed question of whether deaths occurring under anaesthetic should be routinely subjected to the scrutiny of a coroner's inquest. In all these debates, Burney reveals that there was rarely a simple distinction between those who wished to advance the role of medical and scientific expertise in the inquest and those who wished to defend the inquest as a 'people's court'. Indeed, the scientific and the political worked

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<sup>13</sup> Ibid., pp. 2–3.

alongside one another: ‘At the same time that the inquest was being recast as a traditional bulwark of popular liberties, it was being infused with the self-consciously forward-looking ideology of science in the service of a modern social order’ resulting in ‘a singular moment of convergence in radical medicine and politics’.<sup>14</sup> Perhaps the emblematic figure here—and one who will be discussed at greater length in this thesis—is Thomas Wakley: on the one hand, Wakley was in the vanguard of reforming and medicalizing tendencies; on the other hand, he never wavered from his commitment to the inquest as a popular institution that had the interests of the people at its heart.

*Bodies of Evidence* persuasively argues that the issue of the medicalization of the nineteenth-century coroner’s inquest can be fully understood only with an appreciation of the role of politics, and particularly popular politics, in the debates surrounding the coronial system. Similarly, Pamela Fisher’s ‘Politics of Sudden Death’ views ‘the nineteenth-century coroner’s court [as] a site of conflict on a number of different levels’, adding that this conflict ‘prevented the establishment of a consistent and professional system of medico-legal investigation’.<sup>15</sup> Taking a chronological range from the early eighteenth century to the late nineteenth century and based on an impressive survey of surviving inquest records and other documents from a wide range of counties (albeit with little attention to London and Middlesex), her thesis is the most comprehensive study of its subject among the existing scholarly literature, going some way to demonstrating her point that the inquest sheds light on ‘some of the major themes that run through eighteenth and nineteenth-century British history: popular politics, the rise of democracy, the growth of the state and the development of separate professional spheres’.<sup>16</sup> These are explored through chapters on coronial election contests, the differences

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<sup>14</sup> *Ibid.*, p. 52.

<sup>15</sup> Fisher, ‘Politics of Sudden Death’, p. 12. See pp. 16–21 for a summary of the counties studied in her thesis.

<sup>16</sup> *Ibid.*, p. 23.

between county, franchise and borough coroners, the debates about the most suitable qualification for a coroner, the rival claims of law and science for evidential authority, the role of the jury (including the procedure of viewing the body), the remuneration of coroners, and the possibility that weaknesses in the coronial system led to many homicides going undetected.

At the heart of Fisher's thesis are two important arguments: first, that there was 'great diversity' between coroners, making it 'unwise... to draw conclusions about the office or about any category of sudden or violent death without first acquiring a full understanding of the coroners concerned, their jurisdictions and any external factors that influenced how their duties were performed';<sup>17</sup> and second, that the 'greatest strengths of the coroner's court were its flexibility and its accessibility'.<sup>18</sup> In relation to the former, Fisher's study (far more so than Burney's) emphasizes the importance of local variation in the nineteenth-century coroner's court: the functioning of both the office and the inquest was particularly sensitive to local factors, such as county politics or the individual relationships between county coroners and county magistrates. In relation to the latter, the flexibility and accessibility of the court was something of a double-edged sword: although flexibility enabled the inquest 'to adapt to meet the needs of society', it also created tensions, notably between coroners and magistrates.<sup>19</sup> Fisher marshals evidence to demonstrate that these tensions frequently manifested themselves in some jurisdictions in the withholding of inquest fees on the part of magistrates, which in turn may have led to a reluctance in some instances to hold an inquest, even if her larger claim that magistrates may have (perhaps knowingly) presided over a system that allowed people literally to get away with murder seems exaggerated, unwarranted and ultimately unprovable.<sup>20</sup>

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<sup>17</sup> *Ibid.*, pp. 22–3.

<sup>18</sup> *Ibid.*, p. 212.

<sup>19</sup> *Ibid.*, pp. 212, 223.

<sup>20</sup> *Ibid.*, pp. 149–83. This is discussed further in Chapters Six and Nine (the conclusion) below.

Fisher's view that the inquest was a 'site of conflict' builds on the argument of Joe Sim and Tony Ward in their essay 'The Magistrate of the Poor? Coroners and Deaths in Custody in Nineteenth-Century England', which was published in Michael Clark and Catherine Crawford's collection, *Legal Medicine in History* (1994). Sim and Ward suggest that 'the leading coroners of the Victorian period were fully aware of the political dimension of their work, and exploited it to ensure the survival of their office', and, moreover, that the elected nature of the coronial office, its jury of local people and the informality of the court meant that 'the coroner's inquest could take on a distinctly "popular" flavour and in some cases it provided... a forum in which the poor could challenge the powerful'.<sup>21</sup> Deaths in prison occupy the focal point of their essay, one that acutely exposes the potential tensions between coroners and magistrates: not only were magistrates responsible for the payment of inquest fees to coroners (which they could, and sometimes did, withhold), but magistrates were also responsible for running prisons, with the result that they were often not amenable to the supposedly obligatory coronial inquest into any death in custody. As Sim and Ward argue, it was certainly apparent that many inquests into prison deaths were of a low standard, prompting some coroners (Wakley, again, prominent among them) to attempt a reform of the coronial role. This in turn led to a wider debate about the relevance of the coronial system; an 1851 report by Middlesex magistrates went so far as to recommend abolishing the coroner's office, transferring the coroner's powers to magistrates who would be supported by a medico-legal Public Prosecutor and professional post-mortem examiners—an especially radical reforming proposal that highlights how high the stakes were for those who valued the existing coronial system.<sup>22</sup> Although this suggestion was not adopted, the argument for abolition of the office represented an extreme manifestation of one side of a vigorous debate in the period:

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<sup>21</sup> Sim and Ward, 'The Magistrate of the Poor?', pp. 245–67, at pp. 245–6.

<sup>22</sup> *Ibid.*, pp. 247–55.

The Victorian debate about coroners... involved a conflict between two fundamentally different conceptions of the investigation of sudden death. The Middlesex justices' report evokes a picture of medico-legal investigation as a scientific enterprise in which doctors, lawyers and policemen would combine their respective professional skills to arrive at some objective truth. The few but prominent populist coroners insisted that many deaths raised questions not only of physical causation—which was indeed the province of medical science—but of moral and political responsibility, and that these questions should be examined by a popular tribunal.<sup>23</sup>

A further important work specifically on the coronial office is Donald Prichard's doctoral thesis, 'The Office of Coroner 1860–1926: Resistance, Reluctance and Reform'.<sup>24</sup> Prichard is especially strong in tracing the political and legislative journey that led to the 1926 Coroners (Amendment) Act, the key statute in shaping the twentieth-century role of the coroner. As Prichard argues, there was an often slow, uncertain path to reform of the coronial office, in part because coroners themselves were largely resistant to change, but also because changing coronial law was rarely a matter of major concern to governments. As the present thesis will argue, there was in fact a comparatively intense drive to reform the coroner's office in the 1840s and 1850s which was marked by a series of legislative initiatives and an often enthusiastic willingness on the part of coroners to push for reform. Despite this, the reforms were not built upon, and Prichard provides an excellent analysis of why this was the case.

There have been a number of useful scholarly articles on the coronial system. Burney and Fisher have both published articles stemming from their longer works on the coronial system, and Gordon Glasgow has also focused much of his scholarly output on the nineteenth-century coroner. Two articles stand out in particular: 'The Campaign for Medical Coroners in Nineteenth-Century England and its Aftermath: a Lancashire focus on Failure', published in

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<sup>23</sup> Ibid., p. 263.

<sup>24</sup> Donald Prichard, 'The Office of Coroner 1860–1926: Resistance, Reluctance and Reform', unpublished PhD thesis, Greenwich University (2001).



two parts;<sup>25</sup> and ‘The Election of County Coroners in England and Wales *circa* 1800–1888’.<sup>26</sup> The former, in particular, concerns a topic that is important to the present thesis.

The American endocrinologist and medical historian, Thomas Forbes, has published a detailed survey of the inquest records of Thomas Shelton, the coroner for the City of London and Borough of Southwark between 1788 and 1829, illustrating the quantity and range of inquests that an urban coroner took on in the late eighteenth and early nineteenth centuries,<sup>27</sup> as well as a study of records from Middlesex and Westminster between 1819 and 1842.<sup>28</sup> In both articles Forbes primarily uses inquest records as evidence for the social history of London, in particular the history of death in the city. Valuable as this work is, he is less concerned with the history of the coroner’s office itself. Forbes has also published a monograph stemming from his research on the Old Bailey Sessions Papers, the printed transcripts of homicides and other felonies tried at the Central Criminal Court.<sup>29</sup> The medical testimonies contained in these papers enabled Forbes to consider the history of forensic medicine in England, particularly as it intersected with the judiciary, coroners, the inquest and medical witnesses.

Complementing the work of Forbes, Maria and Gary Greenwald published two scholarly articles based on 20,000 surviving coronial records (from which they studied a sample of 2,687 records) for inquests held between 1761 and 1866 in the City of Westminster.<sup>30</sup>

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<sup>25</sup> Gordon H. H. Glasgow, ‘The Campaign for Medical Coroners in Nineteenth-Century England and its Aftermath: a Lancashire focus on Failure’, *Mortality*, 9 (2004), pp. 150–67 (part 1) and pp. 223–34 (part 2).

<sup>26</sup> Gordon H. H. Glasgow, ‘The Election of County Coroners in England and Wales circa 1800–1888’, *The Journal of Legal History*, 20 (1999), pp. 75–108.

<sup>27</sup> Thomas R. Forbes, ‘Crown’s Quest’, *Transactions of the American Philosophical Society*, 68 (1978), pp. 1–52.

<sup>28</sup> Thomas R. Forbes, ‘Coroners’ Inquests in the County of Middlesex, England, 1819–42’, *Journal of the History of Medicine*, 32 (1977), pp. 375–94.

<sup>29</sup> Thomas R. Forbes, *Surgeons at the Bailey: English Forensic Medicine to 1878* (New Haven, CT, and London: Yale University Press, 1985).

<sup>30</sup> Gary I. Greenwald and Maria White Greenwald, ‘Medicolegal Progress in Inquests of Felonious Deaths: Westminster 1761–1866’, *Journal of Legal Medicine*, 2 (1981), pp. 193–264; Maria White Greenwald and Gary I. Greenwald, ‘Coroners’ Inquests: A Source of Vital Statistics: Westminster, 1761–1866’, *Journal of Legal Medicine*, 4 (1983), pp. 51–86.

In the first of their two articles, ‘Medicolegal Progress in Inquests of Felonious Deaths: Westminster 1761–1866’ (1981), the Greenwalds, by focusing on cases of homicide, suicide and infanticide that came before the coroner’s court, discuss the growing use of forensic medicine in coronial inquests. They note that the use of medical expertise in coronial proceedings was a ‘rare occurrence’ in eighteenth-century inquests; however, over the course of the nineteenth century, it became increasingly unusual for an inquest not to hear from a medical expert, and the quality of the testimony also improved markedly. In addition, their research found that the number of autopsies increased significantly over the century covered by their research.<sup>31</sup> They find that ‘medical evidence was remarkably variable’ in the Westminster inquests: some inquests sought no evidence despite the obvious value that expertise would have brought to the inquest; in many cases, forensic investigation was cursory and inadequate; and in some inquests, autopsies were conducted with stringent thoroughness by leading national experts. Nevertheless, the inquest records provide evidence of ‘advances ... in the application of medical expertise to the search for justice [and] significant strides in the historic development of the science of forensic medicine’. It was a combination of these clear advances and the evident ‘shortcomings to the medicolegal system’ that resulted in reforms in the second half of the nineteenth century.<sup>32</sup>

In ‘Coroners’ Inquests: A Source of Vital Statistics: Westminster, 1761–1866’ (1983), the Greenwalds use the same data from their earlier article as evidence for ‘evaluating the effects of social and occupational change in a pivotal century’.<sup>33</sup> They note that both the quality and the quantity of inquests increased over the period: in 1760, there were 46 inquests per 100,000 persons, but by 1865 there were 160 inquests per 100,000 persons. Whether this growth in coronial activity in Westminster was due to a corresponding growth in the types of

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<sup>31</sup> Greenwald and Greenwald, ‘Medicolegal Progress’, pp. 206–7.

<sup>32</sup> *Ibid.*, pp. 263–64.

<sup>33</sup> Greenwald and Greenwald, ‘Coroners’ Inquests’, p. 86.

deaths meriting an inquest (they speculate that an increase in accidental deaths in the first three decades of the nineteenth century contributed to one phase of this increasing coronial activity), or whether it was due to coroners expanding the range of cases they thought appropriate to investigate, is not fully established. At the same time, the introduction of medical expertise, which became a routine feature of most inquests by the middle of the nineteenth century, enhanced the quality of the inquest.<sup>34</sup>

Coroners and the inquest have also featured prominently in research on crime and medico-legal subjects. Olive Anderson's *Suicide in Victorian and Edwardian England* is an important study not only of its titular subject matter but also of the coroner's inquest.<sup>35</sup> Informed by 'historical concerns, not suicidological debates', Anderson elucidates historical apprehensions about suicide in the nineteenth and early twentieth centuries. She found that suicide differed according to age, gender, occupation, social class and geographical location. Furthermore, many suicides were concealed: legally 'a death had to be considered accidental until proved otherwise', and she estimates a proportion of those upon whom a simple verdict of 'found dead' was reached by an inquest jury were in all likelihood victims of suicide.<sup>36</sup> Suicide was, in the nineteenth century, a criminal act if undertaken by someone of sound mind, and would result in forfeiture of estate and denial of Christian burial to those who met their end in this way. Anderson's study pays particular attention to the coroner's court in her research, discussing the reluctance of many inquest juries to rule a death as a suicide—evidence of how nineteenth-century inquests frequently went beyond a narrow consideration of the supposed facts of a death, instead taking into consideration social and moral factors relating to death.<sup>37</sup> Anderson also made the interesting distinction between those coroners who had populist or

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<sup>34</sup> *Ibid.*, pp. 54–55, 57–58.

<sup>35</sup> Olive Anderson, *Suicide in Victorian and Edwardian England* (Oxford: Oxford University Press, 1987).

<sup>36</sup> *Ibid.*, pp. 14–15, 19.

<sup>37</sup> Greenwald and Greenwald, 'Medicolegal Progress', p. 225, found that, of the inquest records studied in their research, 'only three percent of suicides received suicide verdicts'.

traditionalist intentions, and those whose aims were sanitarian; the former regarded the inquest primarily as a means of determining criminal culpability, while the latter saw the inquest as a platform to address social and public health concerns.

As noted above, Fisher maintains that the tensions between coroners and magistrates were probably responsible for many homicides going undetected.<sup>38</sup> Until 1860, it was the decision of magistrates whether a coroner should receive a fee for an inquest; if an inquest was deemed unwarranted by the Justice of the Peace, then the coroner would not be reimbursed. In effect, therefore, magistrates had some control over the caseload of coroners, since the latter may have been reluctant to hold an inquest if there was uncertainty about payment. In the view of Mary Beth Emmerichs, this was one of the ‘structural problems’ of the Victorian coronership that suggests there was ‘inaccurate reporting and under prosecution of homicide’.<sup>39</sup> A further reason that many homicides may have gone undetected, according to Emmerichs, was ‘the inadequacies of the coroners themselves’; she suggests that ‘coroners often simply guessed at the causes of death’.<sup>40</sup> Peter King, on the other hand, questions the claim that the coronial system (and the structural problems created by its relationship with magistrates) may have led to extensive undetected homicide. Although acknowledging the flaws in the system, his analysis of payments to coroners, and variations in approaches taken by magistrates (some of whom attempted a crackdown on what they viewed as unnecessary inquests), suggests that ‘variations in coroner payment policies rarely seem to have had a significant impact on the geography of recorded homicide’.<sup>41</sup>

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<sup>38</sup> In addition to Fisher’s ‘Politics of Sudden Death’, this argument is made in her article, ‘Getting Away with Murder? The Suppression of Coroner’s Inquisitions in Early Victorian England and Wales’, *Local Population Studies*, 78 (2007), pp. 47–62.

<sup>39</sup> Mary Beth Emmerichs, ‘Getting Away with Murder? Homicide and the Coroners in Nineteenth-Century London’, *Social Science History*, 25 (2001), pp. 93–100, at p. 94.

<sup>40</sup> *Ibid.*, pp. 95, 97.

<sup>41</sup> Peter King, ‘The Impact of Urbanization on Murder Rates and on the Geography of Homicide in England and Wales, 1780–1850’, *The Historical Journal*, 53 (2010), pp. 671–98, at p. 687.

In relation to undetected homicide, a popular theme among historians of Victorian law, crime and medicine has been the phenomenon of secret poisoning. Several of the works published on this subject will be cited in this thesis, among them Ian Burney's *Poison, Detection and the Victorian Imagination*,<sup>42</sup> in which he traces the increasing importance of toxicology in the detection of crime, and J. D. J. Havard's *Detection of Secret Homicide*.<sup>43</sup> Havard, himself a lawyer by training, argued (as Fisher and Emmerichs were later also to argue) that the efforts of coroners to detect homicide by secret poisoning were hampered by magistrates who were reluctant to pay for what were perceived by some as unnecessary inquests. Katherine Watson has also written on secret poisoning in *Poisoned Lives: English Poisoners and their Victims*.<sup>44</sup> In Watson's analysis, inadequacies in the coronial system, in particular an ad hoc reporting of deaths, meant that many homicides went undetected and unpunished. Although 'the inquest stood as a bastion in the nation's system of medico-legal investigation',<sup>45</sup> in her view many coroners had preconceived ideas about the cause of death which resulted in them not holding inquests on deaths that bore no obvious signs of being unnatural. Like Havard, however, she regarded a large part of the problem as arising from magistrates who discouraged inquests on any death that had the appearance of being natural.

Infanticide has also been a popular topic among historians; like poisoning, infanticide was a homicide susceptible to concealment and under-reporting.<sup>46</sup> Havard, for example, urged caution in accepting at face value declining homicide rates in the mid-nineteenth century, citing the difficulty in proving infanticide—and the reluctance of many juries to convict accused

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<sup>42</sup> Ian A. Burney, *Poison, Detection and the Victorian Imagination* (Manchester: Manchester University Press, 2006).

<sup>43</sup> J. D. J. Havard, *The Detection of Secret Homicide: A Study of the Medico-Legal System of Investigation of Sudden and Unexplained Deaths* (London: Macmillan, 1960).

<sup>44</sup> Katherine Watson, *Poisoned Lives: English Poisoners and their Victims* (London: Hambledon, 2004).

<sup>45</sup> *Ibid.*, p. 150.

<sup>46</sup> Emmerichs, 'Getting Away with Murder?', pp. 94–5.

mothers—as one reason why the figures may be inaccurately low.<sup>47</sup> Tony Ward has noted that cases of infanticide ‘were of interest to a section of the medical profession... as instances of the “waste of infant life” which demonstrated the need for medico-legal investigation of sudden deaths’.<sup>48</sup> In Ward’s view, the relationship between law and medical knowledge was too complex to be captured by a simple notion of ‘medicalization’ of the crime of infanticide. But as a subject of medico-legal inquiry, infanticide attracted the growing attention of coroners. Lionel Rose, in his history of infanticide, has discussed how several London and Middlesex coroners, among them Wakley and Edwin Lankester, ‘were at the forefront of efforts to label suspicious infant deaths as murder’.<sup>49</sup> Anne-Marie Kilday, while noting the importance of medical expertise in determining whether an infant’s death involved foul play, nevertheless describes a ‘moral panic’ around infanticide in the Victorian age, and one for which coroners bore some responsibility: ‘by routinely raising their disquiet about the increasing incidence in the press, citing inaccurate data, and employing colourful hyperbolic language, coroners made a significant contribution to the moral panic.’<sup>50</sup>

Fraser Joyce has considered coroners within an important study on identification of the dead body.<sup>51</sup> Joyce comments that coroners were ‘central figures in identification investigations’, in large part due to the multitude of relationships coroners had with others in relation to an inquest: the coroner was elected to office by the public, was answerable to magistrates (until 1860) with respect to inquest fees, depended upon doctors and medical experts for evidence, and used the press for publicity. Although these relationships uniquely

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<sup>47</sup> Havard, *Detection of Secret Homicide*, p. 64.

<sup>48</sup> Tony Ward, ‘The Sad Subject of Infanticide: Law, Medicine and Child Murder, 1860–1938’, *Social and Legal Studies*, 8 (1999), pp. 163–80, at p. 164.

<sup>49</sup> Lionel Rose, *Massacre of the Innocents: Infanticide in Great Britain, 1800–1939* (London: Routledge and Kegan Paul, 1986), p. 62.

<sup>50</sup> Anne-Marie Kilday, *A History of Infanticide in Britain, c.1600 to the Present* (Basingstoke: Palgrave Macmillan, 2013), p. 121.

<sup>51</sup> Fraser Joyce, ‘Naming the Dead: The Identification of the Unknown Body in England and Wales, 1800–1934’, unpublished PhD thesis, Oxford Brookes University (2012).

positioned the coroner as a key figure in both investigation into and the reform of the medico-legal approach to death, Joyce argues (following Elizabeth Hurren) that the authority of the coroner was weakened by having ‘to placate each group’: ‘by having to interact with so many agents,... the inherent weaknesses in the coronial system’ were revealed.<sup>52</sup>

Although coroners have been discussed in relation to medico-legal history and the history of crime, there have been few studies of individual coroners or their inquests. The latter are often used as examples in the wider literature on medico-legal and criminal history (although this is often skewed towards the more sensationalist cases of the age). An interesting study of an inquest held by the London coroner William Payne is an article by Paul Fyfe on the coronial inquiry into the death of Elizabeth Siddall, the artist, poet, artist’s model and wife of Dante Gabriel Rossetti. Siddall died of a laudanum overdose, and the inquest verdict was accidental death; however, controversy has long surrounded it, with many stories that it was in fact a suicide and that Rossetti burned the suicide note (and even, according to Oscar Wilde, that it was murder at the hands of Rossetti). Fyfe argues that ‘inquest verdicts were always statements of doubt, leaving open possibilities for their historical and imaginative reconsideration’.<sup>53</sup>

By far the coroner who has received most attention has been Thomas Wakley, although this is in large part due to Wakley’s prominence as a social and medical reformer rather than to his activities as a coroner. Studies on Wakley have often been characterized by a eulogizing treatment of their subject: Samuel Squire Sprigge’s 1897 biography, *The Life and Times of Thomas Wakley*, although at times bordering on hagiography, remains the fullest account of its subject; largely uncritical surveys of Wakley’s life and work can be found in Charles Brook’s

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<sup>52</sup> Ibid., pp. 18–19. See also Elizabeth T. Hurren, ‘Remaking the Medico-Legal Scene: A Social History of the Late-Victorian Coroner in Oxford’, *Journal of the History of Medicine and Allied Sciences*, 65 (2010), pp. 207–52.

<sup>53</sup> Paul Fyfe, ‘Accidental Death: Lizzie Siddal and the Poetics of the Coroner’s Inquest’, *Victorian Review*, 40 (2014), pp. 17–22, at p. 18.

*Battling Surgeon: A Life of Thomas Wakley* (1945) and John Hostettler's *Thomas Wakley: An Improbable Radical* (1993). A more balanced, though still highly positive account, is presented by Edwina Sherrington in her unpublished thesis on 'Thomas Wakley and Reform, 1823–62'; a succinct and up-to-date account is a recent essay in *The Lancet* (the journal founded by Wakley) by David Sharp.<sup>54</sup> Apart from Wakley, few individual nineteenth-century coroners have been researched in depth; one exception is Elizabeth Hurren's study of the Oxford coroner, Edward Law Hussey. As Hurren notes, 'the social lives of coroners and their daily interactions remain relatively neglected in historical accounts'.<sup>55</sup>

As well as the works discussed above, this thesis also considers scholarly research on the history of London and on the history of medicine and forensics, general topics that form the larger context for the present research. These will be cited, and where appropriate discussed, in the relevant places in the chapters that follow.

### **3. Methodology and primary source material**

This thesis uses primary sources from the medical, legal and scientific intelligentsia of the period. The sources include books such as coronial guides and textbooks on medical jurisprudence, journals such as *The Lancet*, newspapers, legal cases, legislation, Hansard, parliamentary papers, and 'Minute Books 1 & 2, 1846–1902' of the Coroners' Society of England and Wales, a collection of the minutes of the Society's committee meetings as well as the regular reports it sent to coroners throughout the country.

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<sup>54</sup> Samuel S. Sprigge, *The Life and Times of Thomas Wakley* (Huntington, NY: Robert E. Krieger Publishing, 1897); Charles Brook, *Battling Surgeon: A Life of Thomas Wakley* (Glasgow: The Strickland Press, 1945); Charles Brook, *Thomas Wakley* (London: Socialist Medical Association, 1962); Edwina Sherrington, 'Thomas Wakley and Reform, 1823–62', unpublished DPhil thesis, University of Oxford (1973); John Hostettler, *Thomas Wakley: An Improbable Radical* (Chichester: Barry Rose Law Publishers, 1993); David Sharp, 'Thomas Wakley (1795–1862): A Biographical Sketch', *The Lancet*, 379 (2012). See also W. F. Bynum, 'Wakley, Thomas (1795–1862)', *Oxford Dictionary of National Biography*, 23 September 2004, Oxford University Press: <http://www.oxforddnb.com/view/article/28425> [accessed: 2 January 2017].

<sup>55</sup> Hurren, 'Remaking the Medico-Legal Scene', p. 208.



Inquests will be referred to primarily as they were reported in newspapers or in printed books. Coroners' records were regarded as the personal property of the coroner; on a coroner's death his records were liable to be destroyed. From 1921, the Public Record Office stipulated that all surviving records dating from before 1875 should be retained permanently, but advised that more recent records need be kept for only 15 years. Many coroners' records for the London and Middlesex coronial districts have not survived.<sup>56</sup> Although the London Metropolitan archive holds a selection of paperwork and inquisitions, including the complete set of Edwin Lankester's papers and inquest records, they are not in a fit condition to be handled by the public. Unfortunately, therefore, they have not formed part of the research for this thesis. In addition to the difficulty of accessing many of the surviving records, inquest documents frequently reveal little beyond the fact that a particular inquest took place, with information often not extending beyond the names of the deceased, the coroner and the jurors, and a signed verdict; for much of the nineteenth century, one of the main reasons for maintaining written records was as documentary proof supporting coroners' claims for reimbursement from magistrates.<sup>57</sup> Given the wealth of other primary material, I took the decision to focus on newspaper reports of inquests rather than on such inquest records as may be accessible.

Inquests are, however, the subject of a substantial number of newspaper reports. Prichard has calculated that 108,903 inquests were conducted in England and Wales during the period 1874–7, three per cent of which were reported in *The Times*; this amounts to approximately 800 cases per year, and many other inquests were reported in local newspapers.<sup>58</sup> Although some reports are little more than notices containing few details, others present extensive accounts of inquests, including long summaries of evidence. Newspaper

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<sup>56</sup> London Metropolitan Archive, 'Coroners' Records for London and Middlesex' (information leaflet no. 34, [n.d.]).

<sup>57</sup> Forbes, 'Coroners' Inquests in the County of Middlesex', pp. 375–7.

<sup>58</sup> Prichard, 'Office of the Coroner', p. 74.

coverage of inquests was, of course, determined by editorial decisions about what would be of interest to readers; inevitably, the more sensationalist or unusual the inquest, the more likely it was to be reported on. The need to engage readers would also have influenced the way an inquest was reported: evidence and procedures considered mundane or unexciting stood less chance of making it into a report than racier or more controversial elements of an inquest. Nevertheless, inquests were more routinely reported in nineteenth-century newspapers than they are today—itsself an indication of the public profile of the inquest—and these reports remain a vital source of our knowledge of the coronial system. Moreover, newspapers were the vital source of contemporaries’ knowledge of the coronial system, inquests and the wider issues relating to them. As Peter King has noted in relation to crime, ‘newspapers came increasingly to dominate printed discussion of crime’.<sup>59</sup>

The reports of the *Old Bailey Online* contain accounts of the trials conducted at London’s Central Criminal Court in the period 1674–1913. In some cases, transcripts of evidence given by medical witnesses are produced which explain findings from the scene of the death as well as post-mortem findings and conclusions; the records sometimes include statements from medical witnesses and reports from coroners.

*The Lancet*, the journal founded by Thomas Wakley, is a useful source both for Wakley himself and his campaigns and activities; his editorials allowed him to express opinions, attitudes and thought. Other medical journals, such as the *Medical Gazette*, also contributed to the debates around the coronial office, particularly in relation to the matter of medical witnesses.

Although in part determined by the availability and accessibility of sources, the decision to focus principally on printed (and published) rather than manuscript (and unpublished)

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<sup>59</sup> Peter King, ‘Newspaper Reporting and Attitudes to Crime and Justice in Late-Eighteenth- and Early-Nineteenth-Century London’, *Continuity and Change*, 22 (2007), pp. 73–112, at p. 73.

sources has another rationale. This thesis is in large part concerned with the public debates over the coronial system, debates that were largely conducted in guidebooks on coronial practice, in newspapers and journals, and in the printed reports of the Coroners' Society. Ideally it would be possible to assess how medicalization and professionalization, to the extent that either or both of them occurred, impacted on inquests themselves. That topic must remain, for now, largely a matter for future research. But for all that medicalization and professionalization are likely to have had practical implications at the local and specific level of individual inquests, an equally important facet of both processes is the way they were shaped by broad public debates. Medicalization and professionalization are as much about projecting a certain type of image of the coronial system and shaping a certain type of character of the coroner. In that respect, published printed sources are central to the investigation at the heart of this thesis.

#### **4. Summary of the chapters**

In addition to this introduction, this thesis is structured according to seven chapters, each on a different topic, and a conclusion. Although the individual chapters all contribute to a wider thesis, and common themes run through them, each chapter is designed to be discrete. The wider thesis is presented most fully in the conclusion, which will develop broader arguments stemming from the individual chapters. The chapters are arranged in broadly chronological order, but there are significant overlaps between them.

Following this introduction, Chapter Two considers the concepts of medicalization and professionalization, and it provides an overview of the key of the medical and forensic backgrounds to the debates over the coronial system. The former provides an important conceptual lens through which to view the coronership; the latter provides a vital context to the debates. Advances in medical and forensic knowledge established the basis from which the role of medicine in society could be reassessed by contemporaries. The growing confidence in

the ability of medical knowledge to address social issues and effect social change (in short, medicalization) was a contributing factor to the professionalization of medicine; in turn, medicalization and the professionalization of medicine presented challenges to the coronial system. Chapter Two provides, therefore, the context for considering the various ways in which coroners responded to this challenge.

Chapter Three sets out a detailed summary of the coronial office and inquest in the nineteenth century, outlining the historical backgrounds of the coronership and identifying the key functions of the coroner and the process of the inquest. It does this through a discussion of various guides to coronial practice that were published in the first half of the nineteenth century, a phenomenon which is in itself interesting and will be considered further in the chapter. Although these guides presented comprehensive information about coronial practice—and hence can be assumed to be essential reading for coroners—the modern scholarly literature makes very little reference to them and there is, as yet, no detailed study of this small corpus of books. Chapter Three endeavours, therefore, to fill this gap in the scholarly literature.

In Chapter Four, I consider the foremost reformer of the coronial office in the first half of the nineteenth century, Thomas Wakley. As well as considering Wakley's coronial activities in the context of his wider career as a journalist, politician and reformer, the chapter directs attention to Wakley's campaigns for a medical coronership. Wakley is, admittedly, a much studied figure; however, the attention he has received is an acknowledgment of his importance in driving forward debate and reform about the coronial office. This thesis does not challenge the wider scholarly assessment of his significance; instead, it argues that Wakley is justifiably regarded as a central figure in the reforms of the coronial office, above all for his bold and controversial vision of a professionalized and medicalized coronial system.

Chapter Five considers the London and Middlesex coroners of the nineteenth century. This amounts to an original research contribution, since no previous study has focused

specifically on these coroners. Although the London and Middlesex coroners did not formally constitute an organized group, they shared the common experience of serving as coroners in a challenging urban environment, and they were central to the formation of the Coroners' Society. I will suggest that London and Middlesex coroners were one of the main driving forces behind the professionalization of the coronial office; similarly, a number of them were prominent in the broader medicalizing debates of the time. By considering the backgrounds and activities of the individual coroners, I assess to what extent the London and Middlesex coronerships attracted men inclined towards 'professionalism', and, in particular, towards professionalization.

In Chapter Six, I consider various debates around the reform of the coronial office. The chapter presents contemporary criticisms of the coronial office and inquest, as well as different nineteenth-century ideas about how they should be reformed. At the centre of the chapter is the formation of the Coroners' Society, one of the key developments in the professionalization of the coronership. There has been little research on the Coroners' Society, yet its establishment and early years were crucial to the professionalization of the coronial system, and arguably to the survival of that system. Coroners were pushing for reforms, which took the form of legislative activity over the second half of the century; Chapter Seven discusses this legislation.

Chapter Eight turns to a consideration of the body itself, the focal point of the coroner's inquest. It discusses the controversies that surrounded the 'view' of the body by the jury at the outset to the inquest. The 'view' was a procedural requirement, but one that was increasingly questioned by many critics; one of the criticisms was that it lacked any medical or forensic value. It was, therefore, a concrete example of how medicine and law could intersect or come into tension with one another. Here (as in other chapters) I use various examples to illustrate the wider discussion of the chapter.

In the Conclusion, I address where this thesis can be situated within the wider scholarship on the nineteenth-century coronership, I identify the original contributions made by this research, and I outline six key points raised by this study and how they help us to understand the history of the coronial system, the significance of the London and Middlesex coroners, and the themes of medicalization and professionalization.

### **5. Note on the term ‘forensics’**

At various points, this thesis discusses ‘forensics’, ‘forensic medicine’, ‘forensic science’ and ‘medical jurisprudence’. Although these terms are interrelated, they do not mean the same thing. They concern the application of medicine or science to legal matters, and in particular the use of medical or scientific evidence in a court of law. Medical jurisprudence is the branch of medicine that concerns the application of medicine to the law; as will be discussed in the following chapter, in the nineteenth century medical jurisprudence increasingly formed a part of medical training. Forensic science more generally means the application of science to the law and legal problems; it has a wider scope than forensic medicine, which refers specifically to the application of medicine to legal matters and is a term that is interchangeable with ‘medical jurisprudence’. Although the nineteenth century witnessed the emergence of the first forensic experts, it was largely forensic medicine that was practised (and which was referred to by that term, or as ‘medical jurisprudence’ or ‘legal medicine’). The evidence from a ‘medical witness’ in an inquest was the evidence of forensic medicine. When I use the term ‘forensics’, therefore, I will be referring primarily to medical jurisprudence or forensic medicine.

## CHAPTER TWO: MEDICALIZATION, PROFESSIONALIZATION AND FORENSIC MEDICINE

### 1. Introduction

The history of the coronial office in the nineteenth century occurs against the background of wider political and social change. Industrialization and urbanization were altering the socio-economic conditions of Britain; the 1832, 1867 and 1884 Representation of the People Acts (or Reform Acts) reformed parliamentary politics by restructuring representation at Westminster through the creation of new seats, the abolition of pocket boroughs, and the extension of the franchise to most adult males; and working class movements such as Chartism signalled an increasingly organized popular politics that was pushing for reform.<sup>1</sup> These socio-political changes provide one context in which to understand the coronership. Like many institutions of the period, the coronial office was subject to debates about its role and place within a shifting social and political landscape; coroners were, after all, publicly elected legal officials presiding over inquests before juries, and frequently they could become caught up in local and, on occasion, national politics. Later chapters in this thesis will consider some of the ways in which the coronial office intersected with political developments.

Another important context impacting on debates over the coroner's inquest was that of nineteenth-century medicine. Over the course of the century, medicine underwent a number of changes, some the result of new discoveries and knowledge, some arising from an increasingly confident view of the role of medicine in society. Advances in forensics and pathology were

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<sup>1</sup> General books on nineteenth-century politics and reform include James Vernon (ed.), *Re-reading the Constitution: New Narratives in the Political History of England's Long Nineteenth Century* (Cambridge: Cambridge University Press, 1996); Roy Porter, *London: A Social History* (London: Penguin, 2000); and David Rosenberg, *Rebel Footprints: A Guide to Uncovering London's Radical History* (London: Pluto, 2015).

directly relevant to the understanding of death, the focal point of the inquest; at the same time, reformers attempted to elevate medicine's standing in society by creating new standards of practice and new organizational structures. This chapter will discuss some of these developments after first exploring two concepts that serve as useful analytical tools for the wider thesis presented here.

## **2. Medicalization and professionalization**

Medicalization is a multi-faceted and complex concept that has been developed largely by sociologists. A general definition is that it refers to the process and phenomenon whereby something that was previously regarded as a non-medical matter or problem becomes defined and treated as a medical matter or problem.<sup>2</sup> It is complex and controversial because, depending upon perspective, medicalization can be thought of as an important and beneficial aspect of modernization or, on the contrary, as an unwarranted encroachment by medicine into areas of life and society that brings with it social and cultural costs.<sup>3</sup> It assumes the existence of a body of distinctive knowledge and practice concerned with the identification, management and treatment of human illness and the restoration and preservation of health. For most of recorded history experts or specialists in this knowledge—doctors, physicians, surgeons, apothecaries and such like—occupied a definite but limited social place; these specialists, whose repertoire

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<sup>2</sup> For a general introduction to the topic, see Kevin White, *An Introduction to the Sociology of Health and Illness* (London: Sage, 2002).

<sup>3</sup> An example of the latter approach is that of Ivan Illich (discussed further below), who critiqued the 'medicalization of life', according to which the increasing intrusion of medicine into all areas of society, accompanied by expanding budgets for health, has been to the detriment of the public, socially, culturally and in terms of health: see Illich, 'The Medicalization of Life', *Journal of Medical Ethics*, 1 (1975), pp. 73–7. Others, such as the sociologist Frank Furedi, have argued that medicalization has led to, variously, the 'nanny state' and the 'therapeutic state', both of which involve authoritarianism; on the other hand, 'health promotion enthusiasts', such as Anna Coote, argue that what is derided as the 'nanny state' is in fact the 'long march of progress towards a more enlightened and healthier society': see Mike Fitzpatrick, 'From "Nanny State" to "Therapeutic State"', *British Journal of General Practice*, 54 (2004), p. 645.



of expertise embraced not only science but also fields that are today regarded as non-scientific such as astrology and alchemy, were employed by those who could afford them but they rarely had a social or cultural influence that matched those of other occupations such as the clergy or lawyers. In eighteenth-century England, for example, doctors were routinely the subject of scathing and comical caricature, reflecting popular scepticism about the healing powers of medicine and satirical criticism of the ethics of those who practised it.<sup>4</sup> Medicalization has generally been framed as a consequence of the rise of modern medicine, developing in tandem with an increasingly confident scientific basis to medical knowledge and a changing perception that viewed medicine as a powerful body of knowledge engendering trust and respect; with this newfound trust and respect came a belief that medicine could be applied to areas that had hitherto lain outside medical practice and knowledge.

Examples of medicalization are various. One of the most discussed has been mental illness, which presents an instance of the way medicalization involves the identification of medically treatable disorders. According to Michel Foucault's influential account, the mad were long thought to be in possession of a wisdom—often manifested in the form of insights into the human and divine that were beyond the reach of the non-mad—with the result that they were accommodated within society and sometimes even accorded respect. The question of the appropriate response to madness was rooted in social rather than medical considerations. In Foucault's much disputed historical analysis, over the course of the seventeenth and eighteenth centuries the mad were increasingly removed from society (in a process he termed 'the great confinement' involving the establishment of the asylum), and then over the nineteenth and twentieth centuries the newly-confined mad became the subject of medicine; henceforth,

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<sup>4</sup> See, for example, Chapters One and Five of Roy Porter, *Bodies Politic: Disease, Death and Doctors in Britain, 1650–1900* (Ithaca, NY: Cornell University Press, 2001). Porter argues that in early modern Britain medicine was popularly understood as 'rhetorical and performative, or, in its low and quackish mode, as festive and farcical... transcending the narrow confines of a science or technique' (p. 25).

madness came to be viewed as an illness that could be medically defined, categorized, managed and treated.<sup>5</sup> Although Foucault did not himself label this process as medicalization, what he describes broadly fits with the two main features of medicalization: the transformation of non-medical conditions into medical illnesses; and the belief that medicine provided the means to solve social problems that had previously been addressed in non-medical ways. Radical critics of this process, such as those associated with the anti-psychiatry movement, in particular the American psychiatrist Thomas Szasz, maintained that medicalization involved turning the human and social condition of madness into the medical condition of mental illness.<sup>6</sup> Taking this line of reasoning further, Szasz argued that, since the body is affected by everything that happens to it, medicalizers have regarded everything that people do or experience as belonging to ‘the domain of medicine’, with the consequence that ‘everyday life’ becomes medicalized.<sup>7</sup>

For sociologists, medicalization is a concept that has helped analyse the application of medical knowledge to behaviours and situations which are not self-evidently medical or biological in nature.<sup>8</sup> It concerns the encroachment of medical practice and theory on social and cultural issues that had previously not fallen into the realms of problems with medical solutions. Ageing, alcoholism, anxiety, childbirth, criminality, eating disorders, hyperactivity, menopause, obesity, parenting, sexuality and sleeping disorders are some of the areas which have been subject to medicalization. As Peter Conrad has noted, the ‘key to medicalization is definition’: ‘a problem is defined in medical terms, described using medical language, understood through the adoption of a medical framework, or “treated” with a medical

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<sup>5</sup> Michel Foucault, *Madness and Civilization: A History of Insanity in the Age of Reason*, trans. by Richard Howard (London: Routledge, 1989; first published in French, 1961).

<sup>6</sup> Szasz developed this argument over several books, notably *The Myth of Mental Illness: Foundations of a Theory of Personal Conduct* (1961) and *Ideology and Insanity: Essays on the Psychiatric Dehumanization of Man* (1970).

<sup>7</sup> Thomas Szasz, *The Medicalization of Everyday Life* (New York: Syracuse University Press, 2007), p. xiii.

<sup>8</sup> White, *Introduction*, p. 42.

intervention’.<sup>9</sup> It can, therefore, take varying forms: for example, drugs and new forms of treatment might be developed (such as medication to treat insomnia or hyperactivity, surgery or medical counselling to treat sexual disorders), medical professionals may be called upon to address, or may themselves attempt to intervene in, social problems (by providing advice or recommendations in relation to, for example, parenting or education), or public health might be placed centre stage in government policy (taking the form, for example, of vaccination programmes or the input of medical professionals in sanitation projects).

Although some critics, such as Ivan Illich, have viewed this process as amounting to a ‘medical imperialism’ in which the public has been rendered ‘passive’ by losing its authority over natural processes to medical professionals,<sup>10</sup> Conrad points out that more complex factors contribute to medicalizing developments. Market forces, popular demand, patient organizations and social movements might promote or advocate medicalization; medical professionals themselves might not always be sympathetic to medicalization. Furthermore, in Conrad’s view, medicalization should be seen as a matter of degree: some areas (such as childbirth) are totally medicalized, whereas others (such as sexual criminality) are minimally medicalized. In addition, medicalization is not a one-way process; demedicalization, by which a problem is no longer defined in medical terms, can also occur (for example, homosexuality).<sup>11</sup>

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<sup>9</sup> Peter Conrad, *The Medicalization of Society: On the Transformation of Human Conditions into Treatable Disorders* (Baltimore and London: Johns Hopkins University Press, 2007), p. 5.

<sup>10</sup> Ivan Illich, *Medical Nemesis: The Expropriation of Health* (London: Marion Boyars, 1977), pp. 32–36. In Illich’s view, medicalization not only rendered people passive, it also damaged their health. Iatrogenesis—illness brought about by medical treatment, for example in the form of side-effects of drugs or complications following surgery—was widespread according to Illich. Since coroners’ inquests dealt with deaths at the hands of doctors (as well as the numerous quacks and charlatans who flourished at the edges of medical practice), this aspect of medicalization became part of the debate over the medicalization of the inquest: a medicalized coronership presented a potential conflict of interest in inquests into such deaths. Ian A. Burney, *Bodies of Evidence: Medicine and the Politics of the English Inquest, 1830–1926* (Baltimore and London: Johns Hopkins University Press, 2000), pp. 137–64, considers this aspect of medicalization in relation to deaths resulting from anaesthesia.

<sup>11</sup> Conrad, *Medicalization of Society*, pp. 6–7.

Most of the scholarly debates on medicalization focus on late twentieth- and early twenty-first-century medicine and society, and they are often informed by broader political and theoretical positions that shape discussion over medicine in later modernity and arguments over whether medicalization is a welcome or unwelcome development. The role of medicine in late twentieth- and twenty-first-century consumer society, its relationship to the pharmaceutical industry, and the place of medicalization within larger discussions about bioethics are common concerns.<sup>12</sup> It is not the intention of this thesis to assess either the benefits or the negative effects of medicalization. Rather, it is concerned primarily with the extent to which the nineteenth-century coronial office was medicalized, and with the contemporary debates over this process; in short, while acknowledging that no history of medicalization can be entirely divorced from modern perspectives, the process will be considered according to nineteenth-century debates rather than their twentieth- and twenty-first-century counterparts. This thesis uses the term ‘medicalization’ in a broader, more neutral and less theory-laden way than it is commonly used in late modern debates about the sociology of medicine. As a term dating from the 1970s, ‘medicalization’ was not used in the nineteenth century; nevertheless, the vigorous differences of view expressed in the nineteenth century about the appropriate place of medical knowledge within the coroner’s inquest can be considered as early debates about medicalization. Ian Burney’s definition of medicalization provides a usefully succinct, clear and neutral starting point:

Medicalization is a term most often used to denote the progressive expropriation of health from the public sphere and its relocation in an exclusive professional domain... [T]hrough the process of medicalization... basic human experiences come to be regarded in medicalized society as resting outside the public’s competence.<sup>13</sup>

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<sup>12</sup> See, for example, Ray Moynihan, Iona Heath and David Henry, ‘Selling Sickness: The Pharmaceutical Industry and Disease Mongering’, *British Medical Journal*, 324(7342) (2002), pp. 886–91; Peter Conrad and Valerie Leiter, ‘Medicalization, Markets and Consumers’, *Journal of Health and Social Behavior*, 45 (2004), pp. 158–76; and Albert R. Jonsen et al., ‘The Birth of Bioethics’, *The Hastings Center Report*, 23 (1993), pp. S1–S16.

<sup>13</sup> Burney, *Bodies of Evidence*, p. 10.

This thesis assumes that the phenomenon described by Burney is, in principle at least, recognizable and identifiable, and hence that the coroner's inquest can be assessed in relation to it.

Medicalization involves a transfer of power into the hands of medical professionals. However, in order for this transfer to be effective and enduring, there also needs to be a requisite authority vested in medical knowledge and practice.<sup>14</sup> Closely related to medicalization is professionalization, the process by which a practice becomes a professional occupation. However, Anne Digby, in considering professionalization notes it was a problematic concept in the nineteenth century as 'Medicine, even for the regular members of the medical profession or Faculty, was an occupation which still retained strong elements of trade' although, she continues, this was countered by 'both medical education and medical etiquette emphasis[ing] the importance of social aspects of practice, with appropriate demeanour, appearance and behaviour befitting not just professional, but crucially, genteel status'.<sup>15</sup>

Professionalization involves, therefore, the creation of 'a distinct cultural space' in which practitioners become professionals. Anthony Giddens defines professionals as those who 'specialize in the development of technical knowledge... [and who] belong to national and even international bodies defining the nature of their tasks'; consequently, 'professional

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<sup>14</sup> In this respect, this thesis adopts the common (and largely Weberian) distinction between power and authority, whereby the latter is the legitimation of the former. Within Weber's distinctions between traditional, charismatic and rational-legal authority (as outlined in his 1919 lecture 'Politics as a Vocation'; see English translation at <http://anthropos-lab.net/wp/wp-content/uploads/2011/12/Weber-Politics-as-a-Vocation.pdf> [accessed 16 July 2018]), it is primarily the establishment of the charismatic and rational-legal authority—through, for example, the means by which increasing trust was placed in individual practitioners, and through bureaucratic and legislative developments—that are to the fore in the following account. However, it is not the intention of this thesis to take a sociological approach to its subject matter; rather, it is concerned with a largely historical, empirical and narrative analysis.

<sup>15</sup> Anne Digby, *Making a Medical Living: Doctors and patients in the English market for medicine, 1720-1911*, (Cambridge: Cambridge University Press, 1994) p. 6.

expertise cannot easily be reduced to bureaucratic duties'.<sup>16</sup> Giddens also notes that 'part of the power of professionals in organizations derives from their role as *gatekeepers* for the wider publics to which these organizations cater'.<sup>17</sup> In the context of this thesis, therefore, medical professionals are the gatekeepers for health (and, to varying degrees, to health-related services and products), and legal professionals (such as coroners) are gatekeepers for the law. Professionalization is the process by which health or the law (for example) become increasingly managed and controlled by such professionals. One outcome of this process is a change in the nature of public access to an organization or its concerns; fully professionalized medicine, for example, would mean that public access to medicine would exclusively be via professionals.

Part of the process of the professionalization of medicine involves the increase in the authority of medical practitioners and the body of knowledge that underpins their work. As noted above, physicians and doctors in the eighteenth century were more likely to be subject to satirical mockery than to be recipients of popular esteem. Over the course of the nineteenth century, however, medicine emerged as a profession: it developed uniform standards and training, it expected those who joined the profession to be qualified, it formed organized societies and journals, and more generally it accumulated to itself an expanding authority and power as well as autonomy. The passage of the 1858 Medical Act, resulting in the creation of the General Medical Council, was arguably the key event in this process of professionalization. Much discussion around such professionalization, particularly as it involved the creation of new disciplines of practice, has concerned Foucault's formula of 'knowledge becoming power'; as Michael Roberts, a historian of medical professionalization, has summarized, Foucault maintained that there was 'a mutation of knowledge into power... a technique of

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<sup>16</sup> Anthony Giddens, *Sociology* (Cambridge: Polity, 1989), p. 286.

<sup>17</sup> *Ibid.*, p. 287. (Emphasis in original.)

social control by the self-interested over the manipulable'. Although these are 'dominant narratives', Roberts suggests that

professional authority, however defined, rests on more than professional assertion... it requires some measure of cultural acceptance... such acceptance will be evident in historically specific ways, including a society's views on the nature of health and illness, on the nature, purpose and degree of necessity of suffering, and on the plausibility of medical claims to specialist expertise.<sup>18</sup>

Although this thesis will only indirectly engage with these debates, they are important since they highlight the cultural aspects of professionalization: to be accepted as a profession involves more than simply the possession of technical knowledge and expertise; it also involves some way of transmitting this knowledge and expertise so that it will be widely accepted by the public. Above all, this thesis will be concerned with the extent to which coroners became a professional body of legal officers over the nineteenth century without assuming that a theoretical model of knowledge/power is necessarily relevant (at least in the context of this thesis) to understanding this process. Thus, it will avoid a theoretical analysis and instead consider questions of coronial autonomy, of the emergence of standards of practice, and of attempts at greater organization among the wider body of coroners, and it will assess how far such attempts amounted to the professionalization of the coronership.

In using the two lenses of medicalization and professionalization, this thesis considers the extent to which the coronial inquest became a medico-legal inquiry, informed by the growing body of literature on medical jurisprudence as well as advances in forensics. In this respect medicalization arguably amounted to an attempted shift in the inquest from a legal arena to a medically dominated one. It involved the introduction of and a greater prominence given to medical expertise.

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<sup>18</sup> Michael J. D. Roberts, (2009), 'The Politics of Professionalization: MPs, Medical Men and the 1858 Medical Act', *Medical History*, 53 (2009), pp. 37–56, at p. 38.

### 3. Medicine, medical education, and reform

In order to assess the extent to which the coroner's inquest underwent a process of medicalization over the course of the nineteenth century, it is essential to consider the broader history of medicine over the period. Many of the most prominent debates about the coronial institution took place within the context of changing medical knowledge and practice. As will be discussed later in this thesis, different positions were taken on the question of whether the inquest should be framed as a primarily medical investigation. For some (notably Thomas Wakley), medicine embodied the knowledge, methods and practice most appropriate to the ideal role and function of the inquest; for others, medicine was at best a useful tool that could be used within what was still, and should remain, an essentially non-medical, legal institution. One reason such debates were so contested—and, at times, seemingly intractable—was that medicine itself was not a stable body of knowledge and practice. The complex process of coronial reform was happening alongside, and was closely bound up with, a parallel process of medical reform. Whether or not the inquest was medicalized over the course of the nineteenth century, it can only properly be understood against the background of concurrent changes to medicine.

Nineteenth-century medicine has been the subject of extensive scholarship.<sup>19</sup> It is neither necessary nor practicable here to rehearse the history and the scholarship in any detail; rather, for the purposes of this thesis it is sufficient for some general points to be made. Above all, as most historians have argued, the nineteenth century was an age of medical reform that established the basis for what has come to be regarded as modern medicine. At the beginning of the century, the doctor or physician, although an integral part of society, did not enjoy

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<sup>19</sup> Useful general studies of Victorian medicine include Ivan Waddington, *The Medical Profession in the Industrial Revolution* (Dublin: Gill & Macmillan, 1984); A. J. Youngson, *The Scientific Revolution in Victorian Medicine* (London: Croom Helm, 1979); M. Jeanne Peterson, *The Medical Profession in Mid-Victorian London* (Berkeley: University of California Press, 1978); and Jack Meadows, *The Victorian Scientist: The Growth of a Profession* (London: The British Library, 2004).



universal esteem, and was frequently the subject of mockery and biting satire; and, although medicine had deep roots within education and learning, with attendant training, qualifications and organized, learned societies, there was little in the way of a wider social medical infrastructure. By the end of the century, doctors had assumed a largely unchallenged social and professional eminence, as well as the trust that continues to attend medical professionals today; and, alongside the trust and esteem accorded to the individual medical professional, there had also developed an infrastructure that cemented the place of medicine in society.

Among the forms of this process were advancing knowledge, reformed practices and standards, the foundation of societies and learned journals, legislation and policy initiatives, and the establishment of hospitals. The London Fever Hospital was founded in 1802; Charing Cross Hospital in 1818; the Royal Free Hospital in 1828; University College Hospital, London, in 1833; the National Orthopaedic Hospital in 1836; King's College Hospital, London, in 1839; St Mary's Hospital in 1845; the Hospital for Sick Children (Great Ormond Street) in 1852; the Royal Hospital for Incurables at Putney in 1854; the National Hospital for Diseases of the Heart in 1858; the Hospital for Consumption and Diseases of the Chest and the National Hospital for the Paralysed and Epileptic, both in 1859; and the Royal London Ophthalmic Hospital in 1866.<sup>20</sup> In 1827, Astley Cooper, one of the leading surgeons and anatomists in the first half of the century, turned some cottages near Hemel Hempstead into a small hospital dispensing free medical services; similar cottage hospitals followed over the course of the century, notably that at Cranleigh in Surrey, founded by Albert Napper in 1859. The 1808 County Asylums Act established institutions for the mentally ill, and the 1845 County Asylums Act, together with the simultaneously passed Lunacy Act, brought mental illness more firmly under medical control (for example, by stipulating that every asylum had a resident physician). Over the

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<sup>20</sup> Anne Digby, *Making a Medical Living: Doctors and Patients in the English market for medicine, 1720-1911* (Cambridge: Cambridge University Press, 1994), pp. 12–13.

course of the nineteenth century, there was, therefore, an expansion of hospital care, much of it increasingly specialized.

Much of the drive behind this advance of formal medical care came from doctors and physicians themselves. An important feature of nineteenth-century medicine in Britain was its growing cohesiveness as a profession. Cohesion was not, however, a characteristic of medicine at the beginning of the century. In his 1830 survey of law relating to the medical profession, John Willcock stated that ‘the law recognises only three orders of the medical profession: physicians, surgeons and apothecaries’.<sup>21</sup> This tripartite division of medicine was reflected in the separate corporations representing each of the ‘orders’: the Royal College of Physicians, the Royal College of Surgeons (formed in 1800 as the College of Surgeons of London, and receiving its royal charter in 1843), and the Worshipful Society of Apothecaries. Physicians, it was supposed, belonged to a learned profession, were in possession of a degree in medicine, and concerned themselves exclusively with internal medicine (i.e. offering medical advice and prescribing drugs); surgeons practised a craft with their hands, restricting themselves to external medicine (i.e. surgery, operations and other medical care of the external body); and apothecaries were licensed to dispense drugs and to provide general medical advice. In reality, however, the lines between the three orders were becoming blurred, as a comment in the 1847 *London and Provincial Medical Directory* indicated:

The Physician, the Surgeon and the Apothecary make its sub-divisions; and the law and custom would seem distinctly to have defined the position and duties of each class... it is needless to observe, however, that practically this classification has become almost obsolete.<sup>22</sup>

The tripartite division of medicine reflected medical tradition rather than nineteenth-century medical practice. In the London hospitals, for example, the roles of surgeon and physician were

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<sup>21</sup> J. W. Willcock, *The Laws Relating to the Medical Profession, with An Account of the Rise and Progress of its Various Orders* (London, 1830), p. 30.

<sup>22</sup> *The London and Provincial Medical Directory* (1847), pp. xv–xvi.

increasingly interchangeable; and many surgeons were acquiring the license of apothecary as confirmation of the breadth of their practice.<sup>23</sup>

An important development in the first half of the nineteenth century was the emergence of the ‘general practitioner’.<sup>24</sup> Ivan Waddington has estimated that by the mid-1830s general practitioners provided as much as 90 per cent of medical care in England.<sup>25</sup> There was no universally agreed definition of what constituted a general practitioner, but much of the impetus behind this new type of medical professional stemmed from the 1815 Apothecaries Act. This legislation established a regulatory system and formal qualifications for apothecaries, with training that included formal hospital experience. Until 1829, apothecaries were licensed to charge only for the drugs they supplied, not for their services; from 1829, however, they could be remunerated for medical advice as well. Although Wakley described the Society of Apothecaries as the ‘Old Ladies’ or ‘Hags’ of ‘Rhubarb Hall’,<sup>26</sup> it was members of this medical order in particular who often fulfilled the growing social need for general practitioners.<sup>27</sup> With the expanding middle classes brought about by industrialization and urbanization came a demand for affordable, year-round, professional healthcare; this demand acted as a stimulus for professionalizing the medical practitioner, while at the same time the middle classes created a supply of educated men who could study for medical qualifications. The 1856 listing in

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<sup>23</sup> S. W. F. Holloway, ‘Medical Education in England, 1830–1858: A Sociological Analysis’, *History*, 49 (1964), pp. 307–11.

<sup>24</sup> The emergence of the general practitioner over the late-eighteenth and nineteenth centuries has been studied in detail by Irvine Loudon, *Medical Care and the General Practitioner, 1750–1850* (Oxford: Clarendon Press, 1986) and Anne Digby, *The Evolution of British General Practice, 1850–1948* (Oxford: Oxford University Press, 1999).

<sup>25</sup> Waddington, *Medical Profession*, pp. 16–17.

<sup>26</sup> Roy Porter, *Quacks: Fakers and Charlatans in Medicine* (London: Tempus Publishing, 2000), p. 193. As Porter noted, ‘Wakley was no mincer of words or respecter of reputations’. However, although a disparaging caricature, most apothecaries, at least until 1829, were small traders often likened to grocers rather than to medical professionals.

<sup>27</sup> The Society of Apothecaries addressed its members as ‘the General Practitioners of England and Wales’. It was not only apothecaries who were increasingly styled as general practitioners; many surgeons also went into general practice, and the Provincial Medical and Surgical Association claimed to represent ‘the surgeons in general practice’. See Holloway, ‘Medical Education’, p. 311.

Churchill's Medical Directory numbered 10,220 medical practitioners.<sup>28</sup> Over the first half of the nineteenth century, therefore, access to routine medical care became routine for the middle classes, and most areas of the country, especially urban areas, were well-stocked with medical practitioners.

The growth of general medical practice is an important context for understanding the history of the coroner's inquest, since it was the general practitioner who was most frequently called as a medical witness at an inquest, either because he had been attending the deceased or simply because he happened to be the doctor nearest to the scene of the death. In so far as the inclusion of medical testimony at inquests was becoming routine, this was aided by the existence of a growing number of medical professionals who could be called upon to give such evidence.<sup>29</sup> At the same time, the rise in general practice created medical professionals who relied upon building up a large fee-paying clientele; as well as providing medical care and advice, the general practitioner was running a business. The nineteenth-century debates about the remuneration of medical witnesses at inquests (discussed later in this thesis) took place against a background of an expanding class of men for whom fees in return for services were necessary and expected.<sup>30</sup>

It did not follow, however, that general medical practitioners were well qualified. Until the 1858 Medical Act (discussed below), there was no regulatory system in place with the result that unqualified practitioners could co-exist alongside qualified practitioners with few means for the public to distinguish one from the other. Among those qualified, the standard of qualification was often low, since there were numerous licensing authorities, all of which were

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<sup>28</sup> *Ibid.*, pp. 312–17.

<sup>29</sup> The 1873 *Medical Register* records that there were 3,166 provincial practitioners, of whom one in ten were physicians, more than four-fifths were surgeon-apothecaries, and the rest were either (according to their returns) solely surgeons or solely apothecaries; in addition, there were another 968 physicians, surgeons and apothecaries in London. See Digby, *Making a Medical Living*, pp. 13–14.

<sup>30</sup> Digby, *Making a Medical Living*, is the best account of the economics of general practice in the nineteenth century.

competing with each other for the lucrative business of examining candidates. The licence awarded by the Society of Apothecaries required no knowledge of anatomy or surgery (the former, in particular, being a relevant area for a medical witness at an inquest), and it was straightforward for many aspiring medical professionals to purchase continental medical qualifications.<sup>31</sup> In the view of one historian, the ‘quality of medical education in Britain was in the first half of the nineteenth century on average poor and in some respects deplorable’.<sup>32</sup> The combination of an unregulated system of medical qualifications and a growing demand for medical education, leading to more accessible and affordable access to training, had the effect of keeping standards low. Raising these standards was one of the principal aims of medical reformers.

Wakley reveals some of the conflicting approaches to medical education in the first half of the century. On the one hand, as reflected in his dismissive remark about apothecaries, he was an advocate of high professional standards for medical practice. On the other hand, he was a critic of traditional elitism in medical education and practice (he described the elite fellows who presided over medical education in London as ‘dirty minded bats’<sup>33</sup>) and he wanted to widen access to training. Hospital training was expensive; Irvine Loudon has estimated, based on an analysis of a medical student’s expenses in 1828–29, that ‘medical education would probably have cost £500, and it may well have been more’.<sup>34</sup> Fees for lectures had a reputation for being exorbitantly expensive.<sup>35</sup> Wakley, in his journal *The Lancet*, reproduced these

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<sup>31</sup> See Holloway, ‘Medical Education’, pp. 311–12. Churchill’s Medical Directory first appeared in 1845, but did not include provincial doctors until 1847; and the Medical Register did not appear until 1859. Consequently, there were few easy ways of determining whether an individual practitioner was qualified or not.

<sup>32</sup> Youngson, *Scientific Revolution*, p. 12.

<sup>33</sup> *The Lancet*, 1831–32, i, 2, cited in Peterson, *Medical Profession*, p. 26.

<sup>34</sup> I. S. L. Loudon, ‘A Doctor’s Cash Book: The Economy of General Practice in the 1830s’, *Medical History*, 27 (1983), pp. 249–68, at p. 251.

<sup>35</sup> A letter from Lionel Beale MB FRC in the *British Medical Journal* of 28 May 1864 indicates some of the suspicion surrounding lecturers in medicine. Responding to an accusation that London lecturers were interested only in money and in enhancing their own practice rather than in educating the next

lectures, much to the irritation of many of the lecturers.<sup>36</sup> Although of questionable value in terms of improving the quality of medical training, Wakley's somewhat unscrupulous practice was part of his attack on elitism. As Susan Lawrence has argued in relation to the eighteenth century, hospital lecturers had 'auras of public authority over patients, pupils, up-to-date theories and acceptable therapies' and were 'a central part of the new community's elite'.<sup>37</sup> Wakley aimed to demystify medicine and dilute its elitism by bringing openness and accessibility to medical knowledge and practice.

Elitism manifested itself in other ways. Until the foundation of University College London in 1828, Oxford and Cambridge were the only universities in England, and hence the only institutions offering degrees in medicine. Not only was the cost of attending these universities prohibitive to many, for non-Anglicans entrance was barred; the only option for those who wanted a medical degree but were excluded from Oxford and Cambridge on denominational grounds, was to train in Scotland or on the continent.<sup>38</sup> The few who had the resources to do the latter may have benefited from a better all-round education (at least in relation to the type of medical knowledge most relevant to the coroner's inquest), since the Scottish and continental universities rigorously trained students in medical jurisprudence, whereas English universities displayed 'almost total apathy towards the subject'.<sup>39</sup> The medical curriculum in England did broaden between 1840 and 1890, with the inclusion of auxiliary

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generation of doctors, Beale replied: 'I am confident that there are many more than three lecturers in London, lecturing and working hard, not for pay nor for practice, but to advance medical science.'

<sup>36</sup> As Wakley's biographer notes, this practice potentially deprived lecturers of a large source of income, since students typically paid fees of upwards of three guineas per course of lectures: Samuel S. Sprigge, *The Life and Times of Thomas Wakley* (Huntington, NY: Robert Krieger, 1897), p. 77.

<sup>37</sup> Susan C. Lawrence, *Charitable Knowledge: Hospital Pupils and Practitioners in Eighteenth-Century London* (Cambridge: Cambridge University Press, 1996), p. 211.

<sup>38</sup> Joan Lane, *A Social History of Medicine: Health, Healing and Disease in England, 1750–1950* (London: Routledge, 2001), p. 12.

<sup>39</sup> M. Anne Crowther and Brenda White, *On Soul and Conscience: The Medical Expert and Crime: 150 Years of Forensic Medicine in Glasgow*. (Aberdeen: Aberdeen University Press, 1988), p. 7. For a fuller discussion of medical jurisprudence, see the following section in this thesis.

subjects such as botany, medical jurisprudence, *materia medica* (the therapeutic properties of medicines) and obstetrics, but frequently these courses were left in the hands of junior medical men, the senior staff maintaining ‘control over the most advanced and prestigious courses, specifically anatomy and the principles and practice courses in medicine and surgery’.<sup>40</sup>

Wakley’s anti-elitist position unsurprisingly invited hostility from many medical men who regarded his popularizing approach as counterproductive to the aims of advancing medicine. For elitism can also be regarded as an important component of the drive to professionalize medicine. As Christopher Lawrence has argued, an historical language was constructed by the medical professions in the nineteenth century, and ‘professional recognition depended much more on rhetoric which brought to public notice the cultured practitioner of arcane skills’.<sup>41</sup> While this rhetoric, frequently in Latin, tended to create a closed elite, it was also a means of generating social cohesion and unity, and moreover it linked medical training with the type of education and learning associated with respectable gentlemen. Nor was it a one-way process, since the linking of classical learning with science meant that the rhetoric of science became part of the social vocabulary of the period, with the result that ‘physicians secured a vehicle for their professional recognition’.<sup>42</sup> The new and evolving medical language was used to show that the medical practitioner was a broadly educated gentleman who was ‘at one with his attitude to the classics, the basic sciences, the education of the medical mind and his status as a gentleman’.<sup>43</sup> Part of the drive of medical education in the nineteenth century involved demonstrating that medicine was a gentlemanly practice, as Holloway has argued: ‘The select group of English physicians were trained to be first and foremost gentlemen. They

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<sup>40</sup> Peterson, *Medical Profession*, p. 161.

<sup>41</sup> Christopher Lawrence, ‘Incommunicable Knowledge: Science, Technology and the Clinical Arts in Britain 1850–1914’, *Journal of Contemporary History*, 20 (1985), pp. 503–20, at p. 505.

<sup>42</sup> S. E. D. Shortt, ‘Physicians, Science and Status: Issues in the Professionalization of Anglo-American Medicine in the Nineteenth Century’, *Medical History*, 27 (1983), pp. 51–68.

<sup>43</sup> Lawrence, ‘Incommunicable Knowledge’, p. 512.

were familiar with the writings of Greek and Latin scholars: their medical knowledge was acquired in libraries rather than contact with the sick.<sup>44</sup> Criticisms were plentiful: for some, the elitism of physicians seemed designed to secure a monopoly in a marketplace overcrowded with general practitioners, quacks and alternative medical men,<sup>45</sup> while other Victorian observers complained that ‘scientific interests, and even intelligence, counted for less in a medical career than a man’s personal characteristics’.<sup>46</sup> Nevertheless, the construction of the doctor as a man of learning with the reputation and trustworthiness of the gentleman was one aspect of the professionalization of medicine.

The criticisms of Wakley and others about elitism were valid in that they identified one of the many divisions that ran through medicine in the first half of the nineteenth century. However, another important aspect of medical professionalization, and one that can be seen as attempting to bridge the divisions between elite practitioners and other medical men, was the role of the organized medical societies and the establishment of medical journals. Wakley’s *Lancet* was an example of the latter; the incorporated societies representing the three medical orders, and the formation of new learned societies (such as the British Association for the Advancement of Science, and the Provincial Medical and Surgical Association, founded in 1831 and 1832 respectively) of the former. However, the existence of the traditional three orders, the lack of standards, training and qualifications that applied across the board, and the proliferation of quacks and alternative medical men, resulted in an overall lack of cohesion in the first half of the century. Seventeen medical reform bills appeared before parliament between 1840 and 1858, but it was only in the latter year, with the passing of the Medical Act, that a fully regulated medical profession was established. Through its creation of the General

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<sup>44</sup> Holloway, ‘Medical Education’, p. 301.

<sup>45</sup> Keir Waddington, *An Introduction to the Social History of Medicine: Europe since 1500* (Basingstoke: Palgrave Macmillan, 2011), p. 9.

<sup>46</sup> Peterson, *Medical Profession*, p. 47.



Medical Council of Medical Education and Registration, a body that would oversee and regulate all medical training, a set of standards for medical qualifications was put in place, and the distinction between the qualified and unqualified medical practitioner was sharply drawn (although the unqualified were still allowed to practice). The three corporations representing physicians, surgeons and apothecaries persisted, but the 1858 legislation wove a unifying logic through the tripartite divisions, and in doing so was central to the process of professionalization that had been gathering pace over the first half of the century.

Medical developments over these years—the emergence of the general practitioner, the establishment of journals and societies, the construction of the medical man as a learned gentleman, and the legislation that put in place a regulatory system for the training of medical professionals—is the essential background to understanding the debates about medical witnesses at coronial inquests. At the beginning of the nineteenth century the reputation of medical practitioners was modest at best; but over the first few decades of the century there rapidly grew respect and trust in the medical man, one of the desired effects of the professionalization of medical practice.<sup>47</sup> That calls for the coroner's inquest to be placed more firmly within the sphere of medicine and medical men should be voiced from the 1820s onwards (as discussed later in this thesis) was not, given this context of medical professionalization, surprising.

#### **4. Medical jurisprudence**

The branch of medicine most directly relevant to the coroner's inquest is medical jurisprudence. In a standard nineteenth-century textbook on the subject, Alfred Swaine Taylor provided a succinct summary of this area of medicine:

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<sup>47</sup> See also Catherine Crawford, 'A Scientific Profession: Medical Reform and Forensic Medicine in British Periodicals of the Early Nineteenth Century', in Roger French and Andrew Wear (eds), *British Medicine in an Age of Reform* (London: Routledge, 1991), pp. 201–27.

medical jurisprudence—or as it is sometimes called, Forensic, Legal or State Medicine—may be defined to be that science that teaches the application of every branch of medical knowledge to the purposes of law; hence its limits are, on the one hand, the requirements of the law, and on the other, the whole range of medicine... all the branches of science are required to enable a court of law to arrive at a proper conclusion on a contested question affecting life or property.<sup>48</sup>

In the view of John Gordon Smith, professor of medical jurisprudence at University College London, medicine is the ‘knowledge required for the acquisition of the art of healing diseases’, and the use of such knowledge in judicial inquiry is ‘Forensic Medicine’, a branch of medical jurisprudence that also ‘comprehends the important study of Medical Police’.<sup>49</sup> Medical jurisprudence specifically concerns, therefore, the intersection of law and medicine, including the way the latter could be applied to the former. Its scope is broad, encompassing, among other things, questions about the presentation of medical evidence in a court of law, issues relating to medical ethics, and medical procedures relating to investigations into possible causes of death.

The role of forensic experts is now so deeply embedded in law and medicine (as well as in popular culture in the form of films and television programmes about forensic investigators<sup>50</sup>) that it is easily overlooked how forensics was not obviously a part of medicine in the early nineteenth century. Medicine was, after all, primarily concerned with the preservation of health and the curing of sickness; almost by definition, therefore, death fell outside the area and obvious competence of the physician, and in many cases might be taken as evidence of the failure of medicine. Hence death and its related issues seemed more logically

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<sup>48</sup> Alfred Swaine Taylor, *A Manual of Medical Jurisprudence*, 7<sup>th</sup> American edn revised by John J. Reese (Philadelphia: Henry C. Lea, 1873), p. 2.

<sup>49</sup> John Gordon Smith, *Hints for the Examination of Medical Witnesses* (London: Longman, 1829), p. 8. ‘Medical police’ will be discussed further below.

<sup>50</sup> For a recent study on the history of forensics in relation to crime scene investigation, the field of forensics that has most penetrated public consciousness, see Ian Burney and Neil Pemberton, *Murder and the Making of English CSI* (Baltimore and London: Johns Hopkins University Press, 2016). As Burney and Pemberton make clear, modern criminal forensic investigation emerged at the turn of the nineteenth and twentieth centuries.

to fall into the domain of religion and the law rather than of medicine. At the beginning of the nineteenth century, the idea that medicine should be concerned with investigating causes of death had scarcely any roots in English legal and medical culture. By the end of the century, however, forensics and medical expertise were firmly embedded in judicial processes.

The early drive towards establishing medical jurisprudence as a major branch of medicine was undertaken in Scotland, where both the medical and legal traditions, both influenced by continental European traditions, differed from those in England and Wales. In 1798 Andrew Duncan gave a lecture in Edinburgh in which he discussed ‘the function of medical police’;<sup>51</sup> and in 1807 Duncan’s son, also called Andrew, was appointed by the University of Edinburgh to its first chair of Medical Jurisprudence.<sup>52</sup> Two years later, the Scottish physician John Roberton published *A Treatise on Medical Police, and on Diet, Regimen, etc.* Taken together, these moves kept Scottish medical education aligned with that offered on the continent and formalized what was already a vigorous interest north of the border in how medicine might be applied to legal and social matters. The role of ‘medical police’ was understood to involve ‘applying the principles deduced from medical knowledge to the promotion, preservation and restoration of general health’, thereby broadening the conception of medicine to include wider health policy rather than simply the treatment of the individual patient.<sup>53</sup> Roberton, for example, advocated for ‘the Legislative body of this country to adopt a general systematic plan for [the] prevention [of disease]’,<sup>54</sup> maintaining that ‘the preservation and the prolongation of human life and human comfort’ have suffered by not being attended to

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<sup>51</sup> Carol A. G. Jones, *Expert Witnesses: Science, Medicine and the Practice of Law* (Oxford: Clarendon Press, 1994), pp. 73–4.

<sup>52</sup> See Matthew H. Kaufman, ‘Origin and History of the Regius Chair of Medical Jurisprudence and Medical Police Established in the University of Edinburgh in 1807’, *Journal of Forensic and Legal Medicine*, 14 (2007), pp. 121-130.

<sup>53</sup> Thomas R. Forbes, *Surgeons at the Bailey: English Forensic Medicine to 1878* (New Haven, CT, and London: Yale University Press, 1985), p. 8.

<sup>54</sup> John Roberton, *A Treatise on Medical Police, and on Diet, Regimen, &c.*, 2 vols (Edinburgh, 1809), 1, p. xlvi.

by men acquainted with medical science.<sup>55</sup> He called for a ‘council of health to be established, consisting of some of the principal members of the Legislature, some of the chief magistrates of each city, and several medical attendants’.<sup>56</sup> Such a proposal was an ambitious vision of medicine in harness with the power of the law and the state to effect general improvements to public health.

English universities were, however, slow to follow the example from Scotland. Havard has suggested that the ‘failure [of English universities] to appreciate principles of medico-legal investigation which had been accepted on the Continent for centuries led to the medical profession being discredited in English courts of law’.<sup>57</sup> Rather than the universities, it was the Society of Apothecaries (whose members were not held in the same esteem as university-trained physicians) who pioneered forensics and medical jurisprudence as part of the medical curriculum. In 1830 the Society made it a prerequisite for students to be examined in forensic medicine,<sup>58</sup> and all candidates seeking a licence to practice as an apothecary were obliged to attend lectures on medical jurisprudence. The new University College Hospital, London, offered medical jurisprudence as part of its degree in medicine, and the Royal College of Surgeons was teaching the subject by 1855, although it was not to be until 1884 that the Royal College of Physicians followed suit.<sup>59</sup> According to its College Calendar, the St Bartholomew’s medical school introduced two lectures per week on medical jurisprudence and one on forensic science; the lectures on the latter have been described as ‘theoretical [and] based on Scottish efforts... to incorporate the new science into the study of medicine’.<sup>60</sup> In 1845, St Bartholomew’s instituted a scholarship in medical jurisprudence. Initiatives such as these

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<sup>55</sup> Ibid., 1, p. ix.

<sup>56</sup> Ibid., 2, p. 354.

<sup>57</sup> J. D. J. Havard, *The Detection of Secret Homicide: A Study of the Medico-Legal System of Investigation of Sudden and Unexplained Deaths* (London: Macmillan, 1960), p. 8.

<sup>58</sup> Keir Waddington, *Medical Education at St Bartholomew’s Hospital, 1123–1995* (Woodbridge: Boydell Press, 2003), p. 66.

<sup>59</sup> Peterson, *Medical Profession*, p. 63.

<sup>60</sup> Waddington, *Medical Education*, p. 62.

reflected the growing prominence given to public health in English policy-making, and the need for medical experts to fulfil the roles that came with this development.

The standards of much of the instruction in medical jurisprudence have been regarded as ‘not rigorous’,<sup>61</sup> and an 1836 article on ‘Medical Coroners’ in the *Medical Gazette* suggests a contemporary view that much more still needed to be done to improve training in forensics:

That part of medical education, enabling the practitioner to make efficient examination into the causes of death, is only of comparatively recent introduction into the schools: it is there even still little attended to, and but partially encouraged: and it is a special department of medical science... not attainable in ordinary practice.<sup>62</sup>

Nevertheless, the advent of medico-legal courses within medical education—by 1833 medical jurisprudence was being introduced into medical schools—was a development that shaped social policy. Arising from this cultural shift were individuals such as Henry Letheby of the London Hospital, who combined various roles, including Medical Officer of Health for the City of London, physician, analytical chemist, professor of chemistry, food analyst and chief inspector of illuminating gas for the City of London.<sup>63</sup> Medical men increasingly played a role in the social policy initiatives of the nineteenth century, from vaccination programmes to reports on sanitary conditions. As Golan has stated, by the 1860s ‘a self-conscious scientific community had already been forged that had successfully challenged the intellectual authority of religion and metaphysics... the progress of science was to be equated with the progress of civilization’.<sup>64</sup> It was in the context of this new mentality that medical jurisprudence expanded within the medical curriculum, fuelling the drive towards ‘medical police’ and the increasingly important role of medicine within social policy.

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<sup>61</sup> Crowther and White, *On Soul and Conscience*, p. 7.

<sup>62</sup> *Medical Gazette*, 12 March 1836, p. 951.

<sup>63</sup> Jones, *Expert Witnesses*, p. 78.

<sup>64</sup> Tal Golan, *Laws of Men and Laws of Nature* (Cambridge, MA, and London: Harvard University Press, 2004), p. 108.

## 5. Expertise and medical witnesses

As Burney has observed, the ‘inquest was perhaps the most prominent point of regular contact between expert and lay knowledge’.<sup>65</sup> Although various kinds of ‘expert’ were called to give evidence in courts of law—watermen, industrialists, mariners or authority figures from institutions are examples of those who might give testimony at an inquest or other court—it was the emergence of the medical expert that was arguably the most significant development in the nineteenth century. Burney has commented on the definition and significance of the ‘expert’:

‘Experts’ are key figures in the history and historiography of the modern state, in large part because of a convergence between their model of knowledge making and the increasing stress placed on disinterestedness as the legitimating grounds for governmental action. Expert authority operates on the basis of detachment, secured through the carving out of fields of investigation, interpretation, and intervention that are deemed to require their own distinct (and contextually discontinuous) form of competence.<sup>66</sup>

Expertise involves the claim that complex social and political realities can be known, understood and managed.<sup>67</sup> The rise of the expert has been associated with a nineteenth-century revolution in government, according to which governance became more centralized, bureaucratic and expert.<sup>68</sup> The dilemma, as was recognized by contemporaries (notably John Stuart Mill), was how to reconcile the advantages of expert governance with the liberal desire for representative and popular democracy; or, in other words, how to balance the distribution

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<sup>65</sup> Ian A. Burney, ‘Viewing Bodies: Medicine, Public Order, and English Inquest Practice’, *Configurations*, 1 (1994), pp. 33–46, at p. 34.

<sup>66</sup> Burney, *Bodies of Evidence*, p. 8; See Appendix 5 of this thesis, ‘Prominent nineteenth-century forensic scientists and expert witnesses’, pp. 299–300.

<sup>67</sup> See Mary Poovey, *Making a Social Body: British Cultural Formation, 1830–1864* (Chicago: University of Chicago Press, 1995).

<sup>68</sup> See Oliver McDonagh, ‘The Nineteenth-Century Revolution in Government: A Reappraisal’, *Historical Journal*, 1 (1958), pp. 52–67; and Roy MacLeod (ed.), *Government and Expertise: Specialists, Administrators, and Professionals, 1860–1919* (Cambridge: Cambridge University Press, 1988).

of power between those who were skilled experts and the wider public.<sup>69</sup> As will be discussed later in this thesis, in the specific context of the coronial inquest the dilemma was how to include expertise within the inquest while also maintaining the popular nature of the court.

It was not a big leap from putting ‘medical police’ at the heart of public health (as discussed in the previous section) to placing them in courts, including the coroner’s court. Inquests had a potentially important role within preventative healthcare, since the identification of causes of death could serve the purpose of limiting those causes of death from arising in the future, and even perhaps of eradicating them completely. Consequently, forensics and medical jurisprudence came to take on more prominent roles within the legal system. As one historian of forensic science has argued, over the course of the nineteenth century ‘coroners increasingly called on the expertise of the “medical police” to fill the scientific and medical blanks that arose during the investigation and in criminal and civil proceedings’.<sup>70</sup> This expertise was the defining characteristic of the medical witness.

The expert witness has been described by Katherine Watson as ‘an expert... who, in a court of law, is permitted to give evidence of both fact and opinion, to help judges and juries come to accurate decisions’.<sup>71</sup> Whereas other court witnesses were confined to supplying evidence of the facts without personal opinions, the expert witness was expected to provide opinion based on the medical and scientific facts with which he was concerned. Charles Meymott Tidy,<sup>72</sup> countering the view that ‘expert evidence is far from the worthless thing that

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<sup>69</sup> John Stuart Mill, *Considerations on Representative Government* (Indianapolis: Bobbs-Merrill, 1958; first published, 1861), p. 91.

<sup>70</sup> Suzanne Bell, *Crime and Circumstance: Investigating the History of Forensic Science* (London: Praeger, 2008), p. 71.

<sup>71</sup> Katherine D. Watson, ‘Medical and Chemical Expertise in English Trials for Criminal Poisoning, 1750–1914’, *Medical History*, 50 (2006), pp. 373–90, at pp. 375–6.

<sup>72</sup> Charles Meymott Tidy (1843–92) was a sanitary and analytical chemist. He studied at the London Hospital taking LSA and MRCS in 1864. He obtained CM and MB at Aberdeen University in 1866. Oxford DNB Accessed 14.8.2019.

some would affect to regard it', emphasized the scientific basis to any evidence and opinions offered by the expert who takes the witness stand:

The skilled witness must form his opinion on the facts he has heard proved... it is not enough for a witness to run into court the minute he is wanted, but it is necessary that he should be able to say that his opinions are based on the evidence he has himself heard in the witness-box... Nothing is more horrible to contemplate than a traffic in evidence for gain or notoriety... Any evidence offered by the expert in the witness-box should be as honestly and truly his scientific belief, influenced by reasons as definite and as accurate, as if he was arguing the points in dispute before a scientific tribunal, competent to weigh his arguments and pronounce on his opinions with accuracy and precision.<sup>73</sup>

Alfred Swaine Taylor, whose expertise on poisons was called upon in many trials of the period, argued that 'unless the witnesses are fully acquainted with the facts, they can give no opinions, and they can only become fully acquainted with the facts by being allowed to be present and hearing the evidence in court'.<sup>74</sup> According to this view, it was imperative that expert witnesses, unlike other witnesses, were in court for the whole process to enable them to be familiar with the full evidence and facts of the case. Taylor stopped short, however, of suggesting that the expert witness should become a kind of *de facto* court official who might comment on the scientific basis of all evidence presented before the court, specifying that 'no opinion should be given for which the witness is not prepared to assign reason [and] no medical opinion should be expressed on facts or circumstances observed by others'.<sup>75</sup>

An example of the way expertise could transform courts of law was the growing use of psychiatric evidence, especially in relation to insanity defences against criminal charges.<sup>76</sup> Medical men, variously known as and referring to themselves as 'mad-doctors' or 'alienists',<sup>77</sup>

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<sup>73</sup> Charles Meymott Tidy, *Legal Medicine* (New York: William Wood, 1882), I, p. 14.

<sup>74</sup> Taylor, *Manual of Medical Jurisprudence*, p. 49.

<sup>75</sup> *Ibid.*, p. 55.

<sup>76</sup> Joel Peter Eigen, *Mad-Doctors in the Dock: Defending the Diagnosis, 1760–1913* (Baltimore and London: Johns Hopkins University Press, 2016).

<sup>77</sup> Sarah Hayley York suggests that 'alienist' was the preferred term of medical professionals who specialized in the treatment of mental illness, since it disassociated them from 'the negative



and specializing in the diagnosis and treatment of mental illness, were increasingly called upon to give evidence in relation to claims of insanity. This was part of a wider cultural shift of expanding ‘social organization of deviant groups and [a] clearer distinction between the criminal, poor, socially disruptive and insane members of the community’.<sup>78</sup> The expectation was that alienists had the same medical credentials as a physician. However, unlike regular physicians, toxicologists and obstetricians, alienists had less scope to offer their opinions to a court; their evidence—such as reporting on ‘incoherent conversation and burlesque behaviour’—had to compete with the fact that it could be given by anybody who witnessed the behaviour of the accused. Eigen suggests that ‘to distinguish their expert inference from neighbours’ “surface” impressions, medical witnesses from the beginning of the nineteenth century put forward delusion as the essence of derangement’.<sup>79</sup> Expertise was about developing knowledge and understanding of what lay beneath the surface and, hence, it was inaccessible to the general public.<sup>80</sup>

Expert evidence was, therefore, a potentially transformative new element within the legal and judicial processes, and those regarded as experts were entrusted with the task of presenting and interpreting evidence in ways that other witnesses could not because they lacked the knowledge or even ability to see it. However, the evidence provided by experts was in itself subject to challenges. This was because some commentators drew a sharp distinction between the evidence of alienists who dealt with matters of the mind and that provided by those whose expertise was backed by reason and scientific study of the physical. This raised the question of

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connotations of the mad-doctors’: ‘Suicide, Lunacy and the Asylum in Nineteenth-Century England’, unpublished PhD thesis, University of Birmingham (2009), p. 1, fn. 3.

<sup>78</sup> *Ibid.*, p. 6.

<sup>79</sup> Eigen, *Mad-Doctors*, p. 75.

<sup>80</sup> See Fraser Joyce, ‘Naming the Dead: The Identification of the Unknown Body in England and Wales’, PhD thesis, Oxford Brookes University, 2012, p. 237, on how bodily identification came to rely on minutiae such as fingerprinting (and, in the late twentieth century, on DNA evidence), evidence that is inaccessible and invisible to all but experts. See also Anne Joseph and Alison Winter, ‘Making the Match: Human Traces, Forensic Experts and the Public Imagination’, in Francis Spufford and Jenny Uglow (eds), *Cultural Babbage: Technology, Time and Invention* (London: Faber, 1996), pp. 194–203.

whether, and indeed how, expert evidence could fit into a legal context when the very basis of the expertise was subject itself to argument and disagreement. Prince Albert, an important benefactor of Victorian science, drew attention to this distinction in an 1859 address to the British Association for the Advancement of Science. ‘The moral and political sciences’ as he termed the evidence of alienists, were about ‘opinions and feelings, and their discussion frequently rouses passion’ whereas that provided by those dealing with the corporeal body took, ‘nothing on trust, nothing for granted, but reasoning upwards from the meanest facts established, and making every step sure before going one beyond, like the engineer in his approaches to a fortress’.<sup>81</sup>

As Golan states, this divergence of views on expert evidence led ‘to the curious spectacle’ in a public arena ‘of leading scientists zealously contradicting each other from the witness stand’.<sup>82</sup> Crawford makes much the same point adding, ‘the tendency of medical witnesses to contradict each other was seen as particularly deplorable... most medico-legal *cause célèbres* of this period became such because the expert witnesses involved vehemently disagreed’.<sup>83</sup> Yet, if Prince Albert seemed to value expert evidence based on reason and fact, other writers grappled with the apparent problem of how these very qualities were suited to the legal arena in which rhetorical persuasion and argument predominated. Dr Robert Angus Smith, who had campaigned with Henry Letheby to reform legal procedure in relation to expert evidence, was particularly concerned with the apparent contradiction of placing medical science before the courts. In an 1860 address to the Royal Society of Arts, he told his audience that, in a court of law,

The scientific man simply becomes a barrister who knows science. But, this is far removed from a man of science... if we allow him to become an advocate, we

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<sup>81</sup> Quoted in Golan, *Laws of Men*, pp. 108–9.

<sup>82</sup> *Ibid.*, p. 109.

<sup>83</sup> Crawford, ‘A Scientific Profession’, p. 215.

remove him from his sphere... we give him duties he was never intended to perform.<sup>84</sup>

In the view of Smith's friend Edwin Chadwick, however, the fault lay with the experts rather than with the law: 'what kept the class of scientists from fully agreeing with each other, was not the corruption of the legal system, but that of his fellow men of science, who let out their testimony for hire to any side that could pay for it'. Alfred Swaine Taylor offered a different view again, maintaining that the remedy for disagreement (and the resulting 'disagreeable position' occupied, in the eyes of the public, by the testimony in court of scientific men) lay in ensuring that experts had full knowledge of all the evidence: 'the differences between scientific men were rather those of opinion, than of facts... where they had not a quarter of the truth of the case'.<sup>85</sup> In Taylor's confident understanding of science, any disagreement would disappear if experts were apprised of all the facts of the case.

At the same time, however, Taylor was aware that other considerations came into play in a court of law. For example, given that lives and reputations were often at stake in the legal arena, he urged witnesses to be cautious when giving expert evidence and 'give the benefit of the doubt to the accused party' because, he continued, rather 'ten guilty men should escape, than that one, who is innocent, should suffer'.<sup>86</sup> In addition, he noted the difficulties associated with the inadequate understanding of science on the part of legal professionals. He suggested, for example, that few barristers were aware that 'the term "symptom" was confined to the living body and "appearance" to the dead', and that it was easy for confusion and misunderstanding to arise.<sup>87</sup> The challenge for expert witnesses was to use language and terminology appropriate

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<sup>84</sup> Quoted in Golan, *Laws of Men*, p. 111.

<sup>85</sup> Golan, *Laws of Men*, p. 115.

<sup>86</sup> Forbes, *Surgeons at the Bailey*, p. 70

<sup>87</sup> Taylor, *Manual of Medical Jurisprudence*, p. 55. To illustrate his point that barristers often had a basic misunderstanding of medical science, Taylor commented on a murder trial in which counsel asked an expert witness whether he had 'found any traces of "dysuria" in the faeces'; however, since dysuria is the term for painful micturition, which is obviously a 'symptom' of the living, it cannot possibly be detected as an 'appearance' at a post-mortem examination.

to a legal trial, and above all for it to be simple and accurate enough for everyone to understand it. Expertise in a legal setting required more, therefore, than knowledge of medical science; it demanded the ability to translate this knowledge into a language that the layperson could understand.

As will be discussed later in the thesis, Thomas Wakley's campaign for medically qualified coroners can be seen as a contribution to this wider debate about the distinctions between legal and different forms of medical knowledge, and how best to overcome the tensions between them. One approach was to advocate what amounted to a medicalization of the legal system (or, at least, those parts of it for which medical expertise was becoming an increasingly important element). Wakley (as will be seen) was the most vocal proponent of a full medicalization of coronial court procedures, but Taylor's views, as expressed above, also tended in that direction. Smith and Chadwick, on the other hand, tended to be more sanguine about the possibility of medical expertise adapting to and co-existing with legal processes that were different in kind from medical processes. But even they cautioned that experts could not fit easily into the legal arena.

A related issue concerned the quality of medical evidence, and, for some, the competence of medical men to testify. Crawford has argued that 'the actual status of medical expertise in courts left much to be desired in terms of dignity and authority';<sup>88</sup> in the view of Taylor, the 'appearance of a "doctor" in the witness box is but too often a signal for sport among gentlemen of the long robe'.<sup>89</sup> Taylor was of the opinion that 'proceedings at coroner's inquests are treated too lightly by medical men'.<sup>90</sup> For some, blame lay with the nature of legal and court procedures. Wakley believed that the coroners' courts were crowded with

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<sup>88</sup> Crawford, 'A Scientific Profession', p. 211.

<sup>89</sup> Taylor, *Manual of Medical Jurisprudence*, p. 38.

<sup>90</sup> *Ibid.*, p. 37.

‘incompetent, juvenile, babbling, medical witnesses’—although he held the legal system responsible, since there were no legal rules to ensure medico-legal investigations were conducted by practitioners competent in forensic medicine.<sup>91</sup> In 1839, in a reflection of a legal view on court proceedings that reformers such as Wakley were attempting to counter, the *Justice of the Peace* newspaper<sup>92</sup> declared: ‘It is not either in one case out of twenty that any medical skill is required, the cause of death being of itself sufficiently obvious’.<sup>93</sup> Another commentator advised experts not to ‘worry about technical rules of evidence [since] in the Coroner’s Court they are seldom applied strictly’.<sup>94</sup>

As noted above, however, some expressed concerns that medical witnesses were tempted by financial gain rather than scientific precision, and there was an acknowledgement that the poor quality of expert evidence often lay with the witnesses themselves rather than with court procedures. Any medical man might be called upon to give evidence at an inquest, and if necessary to perform an autopsy and carry out required tests.<sup>95</sup> Knowledge of forensic medicine differed markedly across the medical profession. The general practitioner was at the bottom of the forensic hierarchy. Nevertheless, he was frequently called to court to give evidence, and he could be ordered by the coroner to perform a post-mortem examination for which he had little or no training. Tensions became evident between general practitioners and specialists within the coronial system; developments in forensic techniques and technology

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<sup>91</sup> *The Lancet*, 2 (1831–2), pp. 621–5.

<sup>92</sup> *Justice of the Peace* sometimes called a newspaper, journal or magazine. First issued in 1837, published by Shaw & Co. The publication is a series of law reports.

<sup>93</sup> Cited in A. Keith Mant, ‘Forensic Medicine in Great Britain’, *The American Journal of Forensic Medicine and Pathology*, 8 (1987), pp. 354–61. The context for this comment by the *Justice of the Peace* was the recent election of Thomas Wakley as one of the Middlesex coroners (see Chapter Four below). Wakley was determined to promote far more post-mortem examinations, a move that was opposed by magistrates. In Watson’s view, many nineteenth-century coroners were inefficient and negligent, especially in their view that there was ‘no need for medical evidence unless there were obvious signs of violence on a corpse’: Watson, ‘Medical and Chemical Expertise’, p. 376.

<sup>94</sup> Stanley B. Atkinson, *Golden Rules of Medical Evidence* (Bristol: John Wright, 1902), p. 32.

<sup>95</sup> M. Anne Crowther and Brenda M. White, ‘Medicine, Property and the Law in Britain 1800–1914’, *The Historical Journal*, 31 (1988), pp. 853–70, at p. 856.

highlighted the inadequacies of the former and the need for the accelerated growth of specialists and specialisms within the system. The dilemma for general practitioners was that they did not want the adverse publicity when they exposed their lack of forensic knowledge and experience in the coroners' courts but nor did they want to lose out on the fees for giving evidence.<sup>96</sup>

General practitioners were closely followed in rank by the Metropolitan Police surgeons who, following their introduction in 1829, were employed initially to look after the welfare of police officers, but soon came to deal with sudden and suspicious deaths and to perform post-mortem examinations.<sup>97</sup> By the end of the nineteenth century the police surgeons' original functions and practices had largely become redundant. Based on his own experience, the coroner Dr William Wynn Westcott thought that:

The surgeons to the police are able specialists, especially as regards wounds and deaths from violence. A police surgeon of five years' standing has, in most cases, learned more about wounds from actual personal examination than any lecturer in forensic medicine.<sup>98</sup>

Police surgeons acquired expertise through practice, leading a coroner such as Westcott to prefer their evidence over that of many other experts in cases of violent death.

Due to the rise of the pathologist and the scientific methods and practices they helped to develop and implement, over the course of the century specialist pathologists took over the performance of post-mortem examinations from general practitioners and police surgeons. In cases of suspicious death, in particular when poison was suspected, competent analysts with specialist knowledge were needed. The two elite groups were, by the 1880s, the laboratory-based sciences of pathology and toxicology. There was no collective title of forensic science

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<sup>96</sup> Jennifer Ward, 'Origins and Development of Forensic Medicine and Forensic Science in England, 1823–1946', unpublished PhD thesis, Open University (1993), p. 5.

<sup>97</sup> *Ibid.*, p. 5.

<sup>98</sup> W. Wynn Westcott, 'Twelve Years' Experience of a London Coroner', *Transactions of the Medico-Legal Society*, 15 (1906–7), p. 19.

for these practitioners; the leaders in the field called themselves medical jurists or medical-legists.<sup>99</sup> With the provision of improved post-mortem facilities, expert witnesses could practise their profession and their evidence accordingly became more reliable. Since, as Crawford has argued, ‘the role of medical witness was often construed as an elevated office of public service... the practice of forensic medicine had the potential to win, for the profession, the gratitude and respect of the public at large’.<sup>100</sup> A kind of virtuous circle was in operation: professionalization meant the greater use of expert evidence; in turn, the presentation of that evidence had the potential to enhance the professional standing of medical and scientific men.

## **6. Forensic medicine**

The increasingly important role of the scientific and medical expert in court proceedings rested on forensic evidence that was trusted as valid and reliable. That reformers such as Wakley should call for the greater use of medical expertise in legal proceedings, and its routine use in cases of questionable death, was an example of the growing confidence in forensics. As will be discussed later in this thesis, Wakley’s campaign leading to the 1836 Medical Witnesses Act was a key development for the use of medical jurisprudence at inquests and the recognition of medical expertise as a powerful tool in the legal arena.

Forensics encompassed a multiplicity of tests and procedures designed to understand why a person had died. Meticulous classification and comparison were the hallmarks of the medico-legal approach.<sup>101</sup> The starting point of forensic investigation was the post-mortem examination. Most guides stipulated the importance of conducting an initial external examination of the body, inspecting the general condition of the corpse, and recording as much information as possible about the deceased, such as the probable age, height and weight, state

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<sup>99</sup> Ward, ‘Origins and Development of Forensic Medicine’, p. 2.

<sup>100</sup> Crawford, ‘A Scientific Profession’, p. 210.

<sup>101</sup> Bell, *Crime and Circumstance*, p. 129.

of nutrition, signs of disease, any peculiar abnormalities, and identifying marks on the skin, hair, eyes, and teeth. Such information could be crucial for the purposes of identifying the deceased. Not all tests that were performed on the continent were used in England. For example, entomology was a new forensic tool: since dead bodies attract various insects, by understanding the life-cycles and activities of these insects entomologists were able to ascertain an estimated time of death. Although French scientists were advancing entomology as a forensic tool in the mid-nineteenth century, it was not adopted in England until the twentieth century.<sup>102</sup>

The internal examination was at the heart of the post-mortem. Dissection had been part of medical training for centuries, but in the nineteenth century it became linked to other needs beyond that of introducing medical students to the inner workings of the body. Burney has suggested that the post-mortem was an example of

‘often instrumentally assisted’ diagnostic techniques designed to uncover commonalities between ostensibly different symptom complexes, and to elicit information capable of being embodied in comparative statistical representation of ‘cases’.<sup>103</sup>

Nevertheless, for much of the nineteenth century autopsies lacked a consistent and rigorous method. Arguably it was the demands of medico-legal processes that stimulated more systematic approaches to the autopsy. In 1844, William Guy stipulated that:

The great rule to be observed in conducting post-mortem inspections for medico-legal purposes is to examine every cavity and important organ. Even when the cause of death is quite obvious, it is well to observe this caution... The order in

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<sup>102</sup> Katherine D. Watson, *Forensic Medicine in Western Society: A History* (Oxford: Routledge, 2011), p. 138; Katherine Ramsland, *Beating the Devil's Game: A History of Forensic Science and Criminal Investigation* (New York: Penguin, 2007), p. 78; Nigel McCrery, *Silent Witnesses: The Story of Forensic Science* (London: Random House, 2013), p. 176.

<sup>103</sup> Ian Burney, ‘The Politics of Particularism: Medicalization and Medical Reform in Nineteenth-Century Britain’, in Roberta Bivins and John Pickstone (eds), *Medicine, Madness and Social History: Essays in Honour of Roy Porter* (London: Palgrave, 2007), pp. 46–57.



which the cavities are examined must depend mainly on the supposed cause of death.<sup>104</sup>

However, the pioneer of a standardized technique was the German physician Rudolf Virchow who, in 1874, introduced the professional protocol that would become internationally established; for Virchow, as with Guy, medico-legal requirements underpinned this approach to the autopsy. Unless there was a definite indication of the cause of death (in which case the pathologist ought to proceed directly to opening the relevant part of the body), Virchow's method followed a strict procedure, beginning with the cranial cavity and ending with the abdominal cavity, with each organ opened in a systematic sequence so as to perform the most thorough examination:

The method should be practiced, not mechanically, but systematically, as it has for its basis well-weighed experience and not mere casual observations... It has naturally been formed into shape from a double point of view. The first requirement was that it should permit of the most complete insight possible into the extent of the alterations in every organ; and, in the second place, in order to provide for a distinct demonstration, adapted for educational purposes.<sup>105</sup>

Throughout the autopsy Virchow recommended that all cavities should be examined to determine their state and the position and condition of the organs they contain, as well as to detect the presence of unnatural contents such as foreign bodies, gases, fluids or blood clots; in addition, fluids and coagula should be weighed or measured. The purpose of the examination was to discover the alterations in the organs and tissues that caused death. Although Virchow's method remains the basis for the modern post-mortem, it brought a novel rigour and system to the autopsy as practised in the nineteenth century.

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<sup>104</sup> William Guy, *Principles of Forensic Medicine*, 6<sup>th</sup> edn, revised by David Ferrier (London, 1888; first edn, 1844), p. 213.

<sup>105</sup> Rudolf Virchow, *Method of Post-mortem Examinations with Especial Reference to Medico-legal Practice*, trans. from the 4<sup>th</sup> German edn by T. P. Smith (Philadelphia: Blakiston, 1885), pp. 10–11, 121. Virchow was instrumental in understanding pathological process, and was the founder of the discipline of cellular pathology, developing a cell theory as a means to explain the effects of disease in the bodily organs and tissue.

As Alfred Swaine Taylor was keen to emphasize, forensics looked to a wide range of disciplines, including chemistry, toxicology, biology, botany and physics, all of which could ‘lend their aid as necessity arises; and in some cases all these branches of science are required to enable a court of law to arrive at a proper conclusion on a contested question’.<sup>106</sup> Some of the most notable developments in nineteenth-century forensics involved laboratory-based techniques that analyzed blood and other fluids. Toxicology, in particular, helped advance the status and reputation of forensics.<sup>107</sup> Forensic toxicology is an applied science that determines if human tissues and bodily fluids are contaminated by toxic substances and if any contamination has contributed to the cause of death. Prior to the nineteenth century poisons were difficult to detect, and it was widely believed both by contemporaries as well as by modern historians that many deaths were the result of undetected poisoning; advancements in toxicology were in large part driven by the medico-legal necessity to address the problem of killers getting away with their crimes.<sup>108</sup> The science of toxicology, therefore, both contributed to criminal investigation and was in turn boosted by legal developments.

One of the first textbooks on toxicology was Mathieu Orfila’s *Traité des Poisons* (Treatise on Poisons), published in 1814.<sup>109</sup> Orfila advanced toxicology both in academia and in the courtroom.<sup>110</sup> In England, Samuel Farr recognized the importance of toxicology, even if his approach—to feed the contents of a dead person’s stomach to an animal in order to discover

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<sup>106</sup> Alfred Swaine Taylor & John J. Reese, *Manual of Medical Jurisprudence*, V1, (Philadelphia: Henry O. Lea, 1878), p. 2.

<sup>107</sup> For the history of toxicology and the detection of poisons, see Ian A. Burney, *Poison, Detection and the Victorian Imagination* (Manchester: Manchester University Press, 2006).

<sup>108</sup> Katherine D. Watson, *Poisoned Lives: English Poisoners and their Victims* (London: Hambledon, 2004), pp. 7–11. Havard, *Detection of Secret Homicide*, also deals with this topic.

<sup>109</sup> James C. Whorton, *The Arsenic Century: How Victorian Britain was Poisoned at Home, Work and Play* (Oxford: Oxford University Press, 2010), p. 59.

<sup>110</sup> José Ramón Bertomeu-Sánchez and Agustí Nieto-Galan (eds), *Chemistry, Medicine and Crime: Mateu J. B. Orfila (1787–1853) and his Times* (Sagamore Beach, MA: Science History Publications, 2006).

if poison were present—now appears to be primitive.<sup>111</sup> A significant advance occurred with James Marsh's development of a test to detect the presence of arsenic.<sup>112</sup> Since arsenic was easy to obtain (it was used in the home and sometimes as a tonic) and to administer (it was tasteless and odourless), it was the poison of choice for those wishing to kill, even gaining a reputation as the 'inheritance powder'.<sup>113</sup> Although the Marsh test was initially inconsistent in its reliability, it served as the basis for ever more reliable tests as developed by physicians such as Hugo Reinsch and R. H. Chittenden.<sup>114</sup> Alfred Swaine Taylor was himself one of the pioneers of toxicology in England.<sup>115</sup> His book, *On Poisons in Relation to Medical Jurisprudence and Medicine* (1848),<sup>116</sup> which developed Orfila's classification of poisons, became a standard guide to the field; since it focused on those poisons most likely to be employed in homicides and suicides, it was invaluable for medico-legal investigations. Despite the expense of chemical testing for poisons, and some unreliability with the early tests that were developed, by the end of the nineteenth century toxicology had contributed to public confidence in the expert witness.<sup>117</sup>

Another pressing area for forensics was to develop a test that could detect the presence of blood. Prior to the 1850s there was no scientific way to determine whether a trace or stain

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<sup>111</sup> Samuel Farr, *Elements of Medical Jurisprudence* (London, 1819; first published, 1788), p. 53.

<sup>112</sup> James Marsh, 'Account of a Method of Separating Small Quantities of Arsenic from Substances with which it may be Mixed', *Edinburgh New Philosophical Journal*, 21 (1836), pp. 229–36.

<sup>113</sup> Watson, *Poisoned Lives*, pp. 31–52. The Arsenic Act of 1851 regulated the sale and possession of the poison; see Peter Bartrip, 'A "Pennurth of Arsenic for Rat Poison": The Arsenic Act, 1851 and the Prevention of Secret Poisoning', *Medical History*, 36 (1992), pp. 55–69.

<sup>114</sup> Chittenden published his method of calculating precise amounts of arsenic in a body: see R. H. Chittenden, 'The Distribution of Arsenic in a Human Body', *The American Chemical Journal*, cited in *Medico-Legal Journal* (1883–4), pp. 242–5.

<sup>115</sup> Louis Rosenfeld, 'Alfred Swaine Taylor (1806–1880), Pioneer Toxicologist – and a Slight Case of Murder', *Clinical Chemistry*, 31 (1985), pp. 1235–6; Noel G. Coley, 'Alfred Swaine Taylor MD FRS (1806–1880) Forensic Toxicologist', *Medical History*, 35 (1991), pp. 409–27.

<sup>116</sup> A second edition followed in 1859, updated to reflect the many advances in toxicology since publication of the first edition. Taylor also dealt with poisons in his *Manual of Medical Jurisprudence*, for example, on pp. 79–86.

<sup>117</sup> Forbes, *Surgeons at the Bailey*, pp. 138–9.

was blood or not.<sup>118</sup> In 1853 the Polish anatomist and physician Ludwig Teichmann invented a complex but effective test that could detect haematin. A more accurate and advanced procedure was developed by the German chemist Christian Schönbein in 1863. However, as Taylor commented, there was no reliable test to distinguish animal blood from human blood,<sup>119</sup> even if there were scientific experts who swore on oath in a court that they were able to make this distinction.<sup>120</sup> It was not until the precipitin test was introduced in 1897 that a consistently accurate means of detecting human blood was available to experts.

Over the course of the nineteenth century there was a steadily growing trust in forensics, a process that involved the recognition of medical and scientific expertise as a valuable contribution to law and justice. This trust most obviously manifested itself in the growing inclusion of expert witnesses in courts of law. Trust did not necessarily emanate from the forensic advances themselves; after all, much early forensic medicine remained unreliable, and the non-medical public (then, as now) were not sufficiently qualified or knowledgeable to judge whether any particular forensic advance had scientific merit. Rather, trust developed from professionalization: it was the construction of the professional medical man, whose knowledge and expertise appeared to answer questions that had hitherto seemed to defy the capabilities of the court of law, and it was the essential basis for those who argued that medicine should play a greater role in legal processes.

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<sup>118</sup> In the inquest into the death of Jane Jones (Good) in 1842, the coroner disagreed with the conclusions of several experts that red marks on various items (including a knife and an axe) were blood stains, arguing instead that they may well be red paint. This inquest is discussed below, p. 255.

<sup>119</sup> Taylor, *Manual of Medical Jurisprudence*, p. 305.

<sup>120</sup> Golan, *Laws of Men*, p. 151.

## 7. Conclusion

An important context for understanding the work of nineteenth-century coroners in London and Middlesex was the professionalization of medicine. As discussed above, during this period medicine cohered around regulated standards of training, qualification and practice; it was an age which saw both an expansion of hospital building and the emergence of the general practitioner; medical knowledge was advanced through journals, some of which were aimed at a general readership, and learned societies; medical men assumed a role in public health initiatives; and there were advances, and more importantly greater faith, in forensic medicine. These changes and reforms applied to medicine nationally, but London and Middlesex arguably experienced them in a sharper way than many other areas: a large proportion of the new hospitals were built in London (to accommodate the rapidly expanding population of the city and the notorious health problems that had long persisted in the capital), and the learned societies and journals were often based in London,<sup>121</sup> as were many of the pioneering figures in public health (such as Edwin Chadwick) and medico-legal experts (such as Alfred Swaine Taylor). A reforming medical culture was, therefore, prominent across London and Middlesex. As will be discussed in later chapters, several of the leading London and Middlesex coroners were closely associated with this medical culture.

The professionalization of medicine, the increasing attention to medical jurisprudence, and the emergence of the expert witness were developments likely to affect the coronership. Coronial inquests investigated death; the professionalization of medicine was in large part driven by the belief that health could be preserved, life extended and unnecessary deaths

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<sup>121</sup> It is worth noting, however, that the Provincial Medical and Surgical Association (PMSA), which became the British Medical Association in 1856, was founded in Worcester in 1832, extending its membership to London only in 1853. In 1840, the PMSA launched the *Provincial Medical and Surgical Journal* (at the time, one among many provincial journals), which became the *British Medical Journal* in 1857. On the history of the journal, see Peter Bartrip, *Mirror of Medicine: A History of the British Medical Journal* (Oxford: Oxford University Press, 1990). The story of medical professionalization is far from a London-centric one; indeed, it is hard to see how professionalization would have happened so rapidly had provincial doctors not been at the forefront of advancing the reputation of medicine.

avoided with the proper application of medical knowledge and practice to society; consequently, many saw the possibilities presented by the inquest to advance public health. The calls by some to, in effect, medicalize the inquest—by which should be understood medicalization in the broadest sense as meaning the introduction of at least some routine medical involvement in the inquest—did not make sense simply because of the evolving professionalization of medicine; they also made sense because the coronial system was widely regarded at the beginning of the nineteenth century as in need of significant reform, and medicalization offered an apparently compelling path for reformers to travel down. Before turning to a consideration of the individual coroners in London and Middlesex, therefore, it is necessary in the next chapter to survey the broader context of the state of the nineteenth-century coronial system.

## **CHAPTER THREE: THE NINETEENTH-CENTURY CORONIAL OFFICE AND INQUEST**

### **1. Introduction**

There is a continuity between the responsibilities of nineteenth-century coroners and their modern counterparts: the investigation into sudden or unnatural deaths is at the centre of their work. That key resemblance aside, the office and role of the coroner, as well as the procedure of the inquest, have changed considerably over the last two centuries. The purpose of this chapter is to summarize the coronial office and the inquest procedure as it was understood in the nineteenth century. It will outline the coronial system, how coroners took office, the duties and responsibilities of the coroner, and the purpose and conduct of the inquest. While there was broad understanding about how the system was constituted and should function, the coroner's role and office was a contentious subject throughout the period. This manifested itself both as an ongoing debate about whether, how and in what way the coroner's office should be reformed and as a series of legislative initiatives which actually did implement reforms to the office. As well as summarize the coronial office, this chapter will also, therefore, introduce the main areas of reforming debate and activity, some of which will be discussed in more detail in later chapters. As a result, the chapter provides an overview of the coronial office and inquest to prepare for the more thorough discussion of key topics in the rest of the thesis.

The best sources for a consideration of the way the coronial office was understood in the nineteenth century are various guides to coronial practice published at the time.<sup>1</sup> These

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<sup>1</sup> Somewhat surprisingly the existing scholarly literature has paid little attention to these texts as a body of writing. Both Burney and Fisher refer to various guides occasionally in their respective studies, but neither discusses them in any detail and little attempt is made to consider what insight such guides to practice provide for the way the coronial office was understood in the nineteenth century.

works were intended as practical books aimed primarily at coroners themselves; as will be seen below, there was no formal legal or medical qualification required to become a coroner, so many office holders had little training in or experience of the law or medical jurisprudence and would therefore have benefited from a compendium outlining coronial law and procedure.<sup>2</sup> The value of these texts, therefore, is that they explain the duties and responsibilities of the coronial office and how an inquest should be conducted in a way that described and explained the law as it existed, unencumbered (for the most part) by polemics or theorizing.

That said, these guides are worth studying as more than simply reliable surveys of coronial practice. Accordingly, this chapter will also address two questions raised by these guides. First, the very existence of the five texts under discussion is interesting. This may be illustrated by a comment in the preface to one of the works. When Joseph Baker Grindon (1790–1870)<sup>3</sup> was elected by the Corporation of Bristol to become one of the city’s coroners he immediately

sought for such information as would enable me to fulfil the duties of my Office... [and] discovered that the old Work of Umfreville, though defective upon many points, was the authority chiefly relied upon, and generally used by Coroners, and referred to by Professional Men, throughout the country.<sup>4</sup>

The book to which Grindon refers was Edward Umfreville’s *Lex Coronatoria* (1761). As Grindon noted in his later *Compendium of the Law of Coroners* (1850), so far as he could discover nothing had been published between Umfreville’s treatise and Grindon’s own revision

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<sup>2</sup> Pamela J. Fisher, ‘The Politics of Sudden Death: The Office and Role of the Coroner in England and Wales, 1726–1888’, unpublished PhD thesis, University of Leicester (2007), mentions several instances of unusual candidates for and occupants of the role: ‘a pig-killer who was scarcely able to write his name, and his successor... an illiterate labouring plasterer’ as coroners of Malmesbury (p. 81); an auctioneer who was elected coroner for Suffolk in 1875 (pp. 114–15); and a portrait painter who was only narrowly defeated in the election for coroner of Leicester (p. 84).

<sup>3</sup> Grindon was coroner for Bristol for 47 years, resigning his position in September 1869. He also became a Chancery solicitor on 14 June 1821. He died on 2 January 1870; for his obituary, see *Western Daily Press*, 5 January 1870, p. 3.

<sup>4</sup> Joseph Baker Grindon, ‘Preface’ to his revised edition of Edward Umfreville, *Lex Coronatoria: or the Law and Practice of the Office of Coroner* (Bristol, 1822; originally published, 1761), p. iii.



of Umfreville.<sup>5</sup> Yet between 1822 and 1851 five books were published specifically on coronial practice (including Grindon's revision of Umfreville's earlier work). This raises the question of why there was a comparative proliferation of such guides in the second quarter of the nineteenth century, given that nothing of any substance had been published in the preceding 60 years.

A second question that can be asked about the guides is of a comparative nature. Unsurprisingly there is a large overlap between the books, and much material is essentially duplicated across the different titles. However, there are also differences between the guides, both in their organization of material and in their different emphases. Accordingly, this chapter will also discuss what these differences can tell us about the nineteenth-century debates over the coronial office.

## **2. The guides to coronial practice and their authors**

As mentioned above, chronologically the first guide under discussion is *Lex Coronatoria: or the Law and Practice of the Office of Coroner*. Originally appearing in 1761, this was the only publication by Edward Umfreville (c.1702–86), a collector of legal manuscripts and, from 1754 until his death, a coroner for Middlesex.<sup>6</sup> The edition considered here is the 1822 revision by Joseph Baker Grindon, the coroner for Bristol. Grindon claims to have simply copied Umfreville's text, but 'rejecting its inaccuracies and redundancies, and introducing the modern decisions and Statutes to the present time, without materially altering either the text or the arrangement'.<sup>7</sup> While Grindon himself acknowledged that this may not have resulted in the ideal guide to coronial law and practice, it nevertheless indicates that in Grindon's estimation

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<sup>5</sup> Joseph Baker Grindon, *A Compendium of the Law of Coroners* (London, 1850), p. vii.

<sup>6</sup> On Umfreville, see J. H. Baker, 'Umfreville, Edward (bap. 1702?, d. 1786), collector of legal manuscripts', *Oxford Dictionary of National Biography*, 23 September 2004, Oxford University Press: <http://www.oxforddnb.com/view/10.1093/ref:odnb/9780198614128.001.0001/odnb-9780198614128-e-64026> [accessed 15 July 2018].

<sup>7</sup> Grindon, 'Preface' to *Lex Coronatoria*, pp. iii–iv.

Umfreville's *Lex Coronatoria* still served as an essentially reliable and useful work some 60 years after its first publication.

In 1850 Grindon published his own original guide: *A Compendium of the Law of Coroners*. The shortest of all the guides under discussion, the author modestly states that the 'Practice is all the reader will expect or value in a work written by a Coroner' and that his intention had been 'to provide a portable as well as useful book on the *practical duties* of a Coroner'.<sup>8</sup> He further notes in the preface that between his own earlier revision of Umfreville and his present work two further guides had appeared: these were *On the Office and Duties of Coroners* (1829) by Sir John Jervis (1802–56) and *A Treatise on the Law of Coroner* (1843) by Richard Clarke Sewell (1803–64).<sup>9</sup>

Jervis's treatise was by far the most important of the nineteenth-century guides to coronial law and practice since it quickly became established as the standard work of its kind throughout the nineteenth century and remains, with progressive revisions, the definitive guide to its subject matter; Jervis continues to lend his name to the authoritative survey of coronial law.<sup>10</sup> Its authority stemmed in large part from Jervis himself, one of the foremost legal figures of the first half of the century: he had already achieved distinction as a barrister by the time when, still in his twenties, he came to write his treatise on coroners; later he became a judge. He was also a Liberal Member of Parliament and in 1846 was appointed Solicitor General and then Attorney General during the premiership of Lord John Russell. His most significant contribution to legal reform were the so-called Jervis Acts of 1848, the effect of which was to modernize the local administration of justice by codifying and standardizing the powers of justices of the peace. One of the noteworthy features of this reform was Jervis's use of

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<sup>8</sup> Grindon, *Compendium*, pp. vii–viii. (Emphasis in the original.)

<sup>9</sup> Grindon mistakenly dates the latter work to 1834; *Compendium*, p. vii.

<sup>10</sup> Now titled *Jervis on Coroners*, the current edition (the 13th, published in 2014) was authored by Paul Matthews.

precedents appended to the Acts: these precedents provided numerous examples for justices of the peace to follow, thereby promoting a uniform system of local justice.<sup>11</sup>

Given his later use of precedents in relation to the magistracy, it is notable that in an ‘ample’ appendix to his 1829 treatise on coroners he similarly provided extensive precedents which outlined ‘inquisitions applicable to almost every means of death’.<sup>12</sup> Such precedents were to become a standard feature of all the subsequent guides. It is likely that Jervis was motivated to provide precedents because of his own poor opinion of contemporary coronial practice. As he stated in the preface to the first edition, ‘the office [of coroner]... has fallen from its pristine dignity into the hands of those who are, in some instances, incompetent to the discharge of even their present limited authority’. Recognizing that this was likely due not only to ‘the inefficiency of its officer’ but also to ‘the rust and relaxation inseparable from ancient institutions’, he evidently saw coronial reform as desirable but not a topic relevant to his present treatise:

A perfect restoration of this office, which undoubtedly contains the germ of vast public utility, is for the consideration of the legislature alone; but the efficient discharge of its existing authority may, in some measure, be facilitated by a simple and lucid arrangement of the law applicable to the duties at present incident to it.<sup>13</sup>

In so far as Jervis’s treatise can be seen to have had a reforming agenda, therefore, it consisted in its explication of the law as it then stood and its endeavour, through this explication, to reform coronial practice by promoting greater competence and consistency among coroners themselves.

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<sup>11</sup> See Joshua S. Getzler, ‘Jervis, Sir John (1802–1856), judge’, *Oxford Dictionary of National Biography*, 4 October 2008, Oxford University Press: <http://www.oxforddnb.com/view/10.1093/ref:odnb/9780198614128.001.0001/odnb-9780198614128-e-14795> [accessed 15 July 2018]; and D. Freestone and J.C. Richardson, ‘The Making of English Criminal Law (7): Sir John Jervis and his Acts’, *Criminal Law Review* (1980), pp. 5–16.

<sup>12</sup> Sir John Jervis, *On the Office and Duties of Coroners*, 3<sup>rd</sup> edn ed. by C.W. Lovesy (London, 1866; first edn, 1829), pp. viii–ix. Reference throughout will be made to the third edition. The quoted text is from the preface to the first edition which is reprinted in the 1866 edition.

<sup>13</sup> Jervis, *Office and Duties*, pp. vii–viii.

Sewell's *Treatise on the Law of Coroner* differentiated itself from the guides by Umfreville and Jervis through its attention to medical jurisprudence:

The branch of Medical Jurisprudence had been very slightly, if at all treated of by the authors who have preceded him [i.e. Sewell, writing of himself in the third person]; but it occurred to him that a practical treatise on the office of Coroner could hardly be considered complete, without at least touching on matters some acquaintance with which the experience of each day renders necessary. He has therefore consulted the best works on Medical Jurisprudence, and from them endeavoured to form a general summary, which may perhaps point the attention of the medical Coroner in the course of his examination to matters which might otherwise escape his notice, and assist the non-medical Coroner in forming a proper estimate of the professional testimony brought before him.<sup>14</sup>

Part Two of the *Treatise*, consisting of nine chapters, deals with the dead body and the forensic evidence that may be gleaned from it. Sewell emphasizes the 'many minute circumstances' that coroners and jurors need to attend to in the inquest, ranging from close observation of marks and wounds on the body, the medical history and state of mind of the deceased, the facts pertaining to the deceased's final hours, and the evidence of witnesses. With reference primarily to Theodric Romeyn Beck's *Elements of Medical Jurisprudence* (1823; seventh edition, 1842), Sewell provided a summary of the most up-to-date forensic knowledge.<sup>15</sup> Information is presented on, among other things, how to distinguish between different types of bruising, how to determine whether a body found in water died of drowning or not, how to ascertain whether a dead infant was born alive or not, how to interpret the evidence of wounds, how to discover whether noxious gases were responsible for death, and how to test for different types of poison.<sup>16</sup> Sewell highlights the careful observation and recording of details, an

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<sup>14</sup> Richard Clarke Sewell, *A Treatise on the Law of Coroner* (London, 1843), p. v.

<sup>15</sup> Theodric Romeyn Beck (1791–1855) was an American physician and author on medical jurisprudence. His *Elements of Medical Jurisprudence* was the first significant American work on forensic medicine and went through several editions. Sewell refers principally to the sixth and seventh editions; the latter was published in London.

<sup>16</sup> Sewell, *Treatise*, pp. 29–88. Various tables listing tests for poisons, and drawn from several sources on medical jurisprudence, are presented as part of the appendix (*ibid.*, pp. 241–6).

appreciation of the context in which a death occurred (including, for example, the season in which it occurred<sup>17</sup>), the necessity in most cases of a post-mortem examination, and the importance of the evidence of medical witnesses.<sup>18</sup>

As will be discussed in later chapters, Sewell's *Treatise* can be placed within the context of an ongoing debate about whether law or medicine was the most suitable background for a coroner. Sewell, a lawyer who eventually practised in Australia, wisely refrained from committing himself to either side of this debate; nevertheless, as a practical manual for coroners, his work is significant in its acknowledgement of the increasingly important role that medical jurisprudence was playing in the coroner's inquest. The information he presents, while only a distillation of the medical jurisprudence of his day, was designed to equip a coroner with a basic understanding of forensics sufficient to understand the evidence of medical experts at an inquest.

The final guide that will be considered in this chapter is William Baker's *Practical Compendium of the Recent Statutes, Cases, and Decisions affecting the Office of Coroner* (London, 1851). Baker (1784–1859) was a Limehouse solicitor who had been elected coroner for the Eastern District of Middlesex in an acrimonious contest with Thomas Wakley.<sup>19</sup> As with Grindon's work from the previous year, therefore, Baker's *Compendium* stemmed from the practice of an active coroner with more than 20 years' experience of the office. Baker himself commented that his immersion in the coronial responsibilities of a densely populated urban area had 'enabled [him] to collate, from time to time, some valuable information on the

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<sup>17</sup> Sewell comments (*Treatise*, p. 60), for example: 'the signs of drowning in winter will appear notwithstanding the body has laid from fifteen to eighteen days in the water: in summer, from the third to possibly the sixth or eighth day of immersion. Exposure to the air after the body is taken out of the water, quickly dissipates them, particularly in summer. Putrefaction then goes on so rapidly, that a very few hours are sufficient to effect this.'

<sup>18</sup> On poisons, for example, Sewell writes (*Treatise*, p. 88) that 'Every thing must be left in every case to the evidence of medical witnesses'.

<sup>19</sup> See below, pp. 114–15, for further discussion of this contest.

duties of coroner, whilst the practical execution of his office has brought under his notice almost every species of death, arising from felonious, accidental, and other causes'.<sup>20</sup> The *Compendium* presents an insight into the experience of a London and Middlesex coroner, reflecting the evolving demands on those coroners working in urban areas. Baker regarded his treatise as supplementing the earlier coronial guides; in particular, as described on the title-page, the *Compendium* pays attention to 'the new enactments relating to the poor, police, registration, General Board of Health, removal of nuisances, prevention of disease, sewers, etc.' as well as 'the laws and decisions in relation to burial-clubs, riotous assemblies, steam-boat navigation, rail-road travelling, collisions, etc. and the explosions of steam-boilers, mines and gas, and cases on poisons'.<sup>21</sup> The *Compendium* was intended to serve, therefore, as a vital guide to contemporary coronial practice in light of the various legal and social changes of the previous two decades. This is in itself testament to the extent to which, at least from the perspective of a busy urban coroner such as Baker, the coronial office was having to respond and adapt to these rapidly changing legal and social developments.

### **3. The antiquity and dignity of the coronial office**

Writers on the coronership usually drew attention to the antiquity of the office. While such historical commentary was of limited practical application, it did serve to emphasize the deep roots of the coronial office in English law and administration, and it had the potential to form part of the polemical armoury of those who wished to defend the office against the threat of abolition. Historical arguments, particularly those which linked the antiquity of the office to

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<sup>20</sup> William Baker, *A Practical Compendium of the Recent Statutes, Cases, and Decisions affecting the Office of Coroner* (London, 1851), p. iv.

<sup>21</sup> *Ibid.*, title-page.

popular liberties, were employed, for example, by radicals associated with Wakley's campaigns for reform.<sup>22</sup>

Most modern accounts of the history of the coronial office date its formal origins to 1194 and the Articles of Eyre in which an officer was established to 'keep the pleas of the crown' (*custos placitorum coronae*).<sup>23</sup> The coroner was thereby instituted as a royal official whose primary function was to pursue revenue that was due to the crown, above all from forfeitures following suicides and homicides, as well as from shipwrecks and the discovery of buried treasure ('treasure trove' as it was known), all of which remained areas of coronial work into the twenty-first century.<sup>24</sup> Although this late twelfth-century origin of the office was the most secure dating among constitutional historians, some writers speculated that coroners could be found even further back in English history. Sewell notes that coroners are 'very ancient officers at common law', and in a footnote repeats verbatim Jervis's claim that 'it is evident that Coroners existed in the time of Alfred'.<sup>25</sup> Grindon's 'Introduction' to Umfreville's *Lex Coronatoria* provides the most extensive historical discussion among the coronial guides; here, too, an origin in the reign of Alfred the Great is proposed.<sup>26</sup> Although Baker's

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<sup>22</sup> See below, pp. 111–15.

<sup>23</sup> Charles Gross, 'The Early History and Influence of the Office of Coroner', *Political Science Quarterly*, 7 (1892), pp. 656–72, at p. 656. The 'History' section of the Coroners' Society website provides the same date: <http://www.coronersociety.org.uk/history> [accessed: 2 January 2017]; R. F. Hunnisett, *The Medieval Coroner* (Cambridge: Cambridge University Press, 1961), p. 1.

<sup>24</sup> R. F. Hunnisett (ed.) notes in his 'Introduction' to *Wiltshire Coroners' Bills, 1752–1796* (Devizes: Wiltshire Record Society, 1981), p. xxviii: 'Medieval coroners had important and colourful duties. As well as holding inquests upon dead bodies, they presided at the ceremony of abjuration of the realm at which felons who had taken sanctuary were permitted to leave the country with impunity; they attended the county court to legalize and record the promulgation of outlawries and the process leading up to it; and their presence was necessary at appeals (private accusations) of felony, including appeals of approvers (accusations by felons against their accomplices). They also had to attend a multiplicity of superior courts with their records. Additionally, there was no limit to the number and variety of administrative duties which they might be required to perform on special orders, and the county coroners had often to act in place of the sheriff. In the middle ages, therefore, coroners had something approaching full time employment'.

<sup>25</sup> Sewell, *Treatise*, pp. 1–2; Jervis, *Office and Duties*, pp. 2–3.

<sup>26</sup> Grindon, 'Introduction' to Umfreville, *Lex Coronatoria*, pp. vii–viii. Later (p. xi) it is stated that 'the office of coroner is so ancient that its commencement is not known', but that the 'coroner seems at least coeval with the sheriff', thereby implying its origin in the Anglo-Saxon period.

*Compendium* does not treat the antiquity of the office specifically, he does include as an appendix a translation of relevant parts of Britton's thirteenth-century summary of English law.<sup>27</sup>

The antiquity of the office was often coupled with commentary on its dignity, particularly as part of a lamentation about the decline in this dignity. As noted above, in the preface to the first edition of his coronial guide Jervis considered the office to have fallen from its former 'pristine dignity', coupling its 'great antiquity' with its original 'high dignity' in his opening sentence.<sup>28</sup> Grindon had similarly commented that the 'dignity of the office was originally great and the power extensive'.<sup>29</sup> Both Grindon and Jervis saw a mark of this ancient dignity in the fact that originally coroners were not remunerated, Jervis remarking that 'Anciently, this office was of so great dignity that no Coroners would condescend to be paid for serving their country'.<sup>30</sup>

This observation about the once unremunerated coronial role led Grindon, in his edition of Umfreville, to suggest one reason for the supposed decline of the institution. He argued that the original dignity of the office was reflected in the requisite qualification of the holders of that office: according to a statute from the reign of Henry III, coroners were not to be drawn from a social rank below that of knight, thereby guaranteeing that the coroner was both a significant freeholder and a man of substance and high social status; by the reign of Edward III, however, 'there was a deficiency of knights for public service', with the result that 'coroners

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<sup>27</sup> Baker, *Practical Compendium*, pp. 394–400. The power and authority of the thirteenth-century coroner were more extensive than in the nineteenth century; that Baker presents this medieval paraphrase of thirteenth-century coronial law without commentary or question might be read as a pointed reminder to those critics of the coronership who wished to reduce further coronial authority of the impeccable legal basis for that authority.

<sup>28</sup> Jervis, *Office and Duties*, p. vii.

<sup>29</sup> Grindon, 'Introduction' to Umfreville, *Lex Coronatoria*, p. xii.

<sup>30</sup> Jervis, *Office and Duties*, p. 75. See also Grindon, 'Introduction' to Umfreville, *Lex Coronatoria*, p. xxxii: 'in ancient times... [the coroner's] duties were then gratuitously performed'. Sewell, *Treatise*, p. 210, repeats verbatim the words of Jervis.



are to be elected of *lawful and fit persons*'.<sup>31</sup> This widening of the social pool from which coroners were drawn, coupled with the resultant and progressive diminution of the social rank expected of a coroner, may, Grindon suggested, have been factors in the overall decline of the office. It is possible that he posited this argument for polemical reasons, for he followed this speculation with a comment on the coronial office of his own time:

It is to be regretted, that an office of so much responsibility, and in which the presiding officer is frequently placed in the situation of a judge in the most important cases of criminal enquiry, is often committed to hands very incompetent to the performance of its duties; but the truth appears to be, that the present reputation and dignity of the office are insufficient, and the fees are too small to induce gentlemen of fortune and rank to solicit the appointment, and it is consequently left to be contested for by those to whom the very inadequate fees are an object of attraction, or to professional men who have other sources of income, but whose industrious habits and legal knowledge usually qualify them for the office in a more especial manner.<sup>32</sup>

Grindon's suggestion that inadequate fees had resulted in a decline of coronial competence touched on one of the recurring themes in nineteenth-century debates on the office: the problem of how coroners should be remunerated. By framing this within an historical argument, Grindon was able to show that the low contemporary reputation of coroners did not derive from any intrinsic features of the office, since it was evident (and on this all the authors of the coronial guides were in agreement) that the office had once been one of 'pristine dignity'. This argument may have been useful for advocates of coronial reform, since it could associate reform less with innovation and radicalism and more with 'restoration' and conservatism. J. J. Dempsy, for example, in proposing a set of reforms to the coronial office that would have augmented its power beyond anything previously seen, took care to note the claim that the coroner's court could be dated back to 'the reign of Alfred the Great, whose name as a legislator is alone sufficient to stamp it with importance and dignity'; in Dempsy's view this constituted

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<sup>31</sup> Grindon, 'Introduction' to Umfreville, *Lex Coronatoria*, pp. xiii–xiv. (Emphasis in the original.) See also Jervis, *Office and Duties*, pp. 10–11.

<sup>32</sup> Grindon, 'Introduction' to Umfreville, *Lex Coronatoria*, pp. xxxiii–xxxiv.

an excellent and overpowering argument in its [i.e. the coroner's court] favour at the outset, considering that the office owes its existence to a monarch the sapiency of whose laws has never been questioned, and whose whole aim and object in their formation were his country's welfare, his country's happiness.<sup>33</sup>

However historically unsound such a claim may have been, there was evidently a rhetorical benefit for defenders of the coroner's court to emphasize its ancient and apparently impressive lineage. As Burney has argued, the strategy of linking reforms to ancient tradition was prominent in the rhetoric employed by Thomas Wakley and other defenders of the coronial office throughout the first half of the nineteenth century.<sup>34</sup>

#### **4. Types of coroner and their appointment**

Historically county coroners were expected to be drawn from the social rank of knights.<sup>35</sup> As noted above, a supposed deficiency of men of knightly status led to a statute from Edward III's reign that coroners should be elected simply from 'the most meet and lawful people that shall be found in the said counties to execute the said office'. Although the requirement of knighthood had never been repealed, Jervis was of the view that its intent 'to prevent the elections of persons of mean ability' was 'sufficiently answered by choosing men of good substance and credit'. Nevertheless, he also commented that 'the Coroner ought to have sufficient property to maintain the dignity of his office', while acknowledging that no precise definition of 'sufficient property' had ever been laid down by statute.<sup>36</sup> The law was undoubtedly vague on these points: Umfreville merely records that coroners need to be chosen among men 'of sufficiency, and of lawful and fit men', and that ultimately it was the

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<sup>33</sup> J. J. Dempsy, *The Coroner's Court, Its Uses and Abuses; with Suggestions for Reform* (London, 1858), pp. 5–6. Dempsy's work is discussed in greater detail in this thesis below, pp. 199-203.

<sup>34</sup> Ian A. Burney, *Bodies of Evidence: Medicine and the Politics of the English Inquest, 1830–1926* (Baltimore and London: Johns Hopkins University Press, 2000), pp. 16–51.

<sup>35</sup> The qualification for borough coroners was different; see below, pp. 90–91.

<sup>36</sup> Jervis, *Office and Duties*, pp. 10–12. See above, p. 87, fn. 30.

responsibility of the county ‘to fix upon a person to grace the place, and not the place the person’.<sup>37</sup> Jervis also cited the opinion of the Elizabethan and Jacobean jurist Edward Coke that coroners ought to have five qualities: a coroner ‘should be *probus homo* [an honest man]; *legalis homo* [a legal man]; of sufficient knowledge and understanding; of good ability and power to execute his office according to his knowledge; and, lastly, of diligence and attendance for the due execution of his office’.<sup>38</sup> While these suggested qualities are scarcely more precise than the property qualification, the view that a coroner should be a legal man was relevant to the debate whether law or medicine was the most appropriate training for the coronership, a topic that will be discussed in more detail in Chapter Four below. That Jervis should make a point of including Coke’s opinion—and, for all the authority of Coke on legal matters, this was an opinion without any statutory foundation—is possibly evidence of Jervis’s own thoughts on the legal/medical debate.

In the nineteenth century there were different types of coroner. The responsibilities of office were common to all types, but the jurisdiction and means of appointment to office varied between them. The guides distinguish between three kinds of coroner: coroners who held office by virtue of another office; those who held office by virtue of a charter, commission or privilege; and those who were elected to office.

Among the small group of coroners who were so by virtue of office, the Lord Chief Justice of the Court of the Queen’s Bench was the most prominent example. A more numerous, and decidedly more complex group, were the franchise coroners. These were coroners whose appointment lay in the privilege of a particular individual, usually an estate holder. The two most cited examples of such coronerships were the Coroner of the Admiralty, whose responsibility extended to investigating deaths at sea, and the Coroner of the Verge, whose

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<sup>37</sup> Umfreville, *Lex Coronatoria*, p. 100.

<sup>38</sup> Jervis, *Office and Duties*, p. 13.

responsibility covered deaths within the monarch's household. In addition, there were several dozen<sup>39</sup> franchise jurisdictions that were in the control of lay or ecclesiastical owners. Until 1836–7, when the ecclesiastical jurisdictions were abolished, the Archbishop of York and the Bishops of Durham and Ely had the right to appoint coroners within their liberties in the counties of Yorkshire, Nottinghamshire, Durham and the Isle of Ely. Among the lay jurisdictions, which survived until 1926, the Duchy of Lancaster was the largest, holding the right to appoint coroners in numerous jurisdictions throughout the country, often in townships, and sometimes pertaining to single manors, that had the potential to create jurisdictional disputes with county coroners.<sup>40</sup> In London and Middlesex the Duchy held parishes in Clapham, Edmonton and Enfield, as well as three small parishes by the Strand, St Clement Danes, St Mary le Strand and St John Baptist Savoy.<sup>41</sup> Often the same individual held multiple coronerships, unsurprisingly so given the small size and attendant impracticalities of many of these franchise coronerships. William John Payne junior (1822–84), for example, already coroner for the Duchy of Lancaster liberties in London and Middlesex from 1857, added the City of London and Southwark to his coronial portfolio in 1872.

Further complicating the coronial map of England and Wales in the nineteenth century were the borough coronerships. In 1835, prior to reforming the system as it applied to boroughs, parliamentary commissioners identified 142 boroughs in which the borough charter had enshrined the right to appoint a coroner.<sup>42</sup> The method of appointing a coroner varied from

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<sup>39</sup> A precise figure is hard to ascertain at any one time; Fisher, 'Politics of Sudden Death', p. 65, states that there were about 80 franchise jurisdictions in England and Wales in 1726. Some of the ecclesiastical jurisdictions disappeared in the nineteenth century, but franchise jurisdictions were not finally absorbed into the county system until 1926.

<sup>40</sup> Fisher, 'Politics of Sudden Death', pp. 65–76, is the best discussion of the franchise coronerships.

<sup>41</sup> Thomas R. Forbes, 'Coroners' Inquisitions from London Parishes of the Duchy of Lancaster: the Strand, Clapham, Enfield, and Edmonton, 1831–1883', *The Journal of the History of Medicine and Allied Sciences*, 43 (18), pp. 191–203.

<sup>42</sup> Fisher, 'Politics of Sudden Death', pp. 76–90, is the best discussion of borough coronerships. As she notes, some very small boroughs (with populations below 3,000) had coroners, whereas other large boroughs did not have the right to appoint their own coroner.

charter to charter. In some boroughs the coronership went to the head of the corporation by virtue of office; in other boroughs the coroner was elected by aldermen, councillors or freemen of the borough. As a result of the Municipal Corporations Act of 1835 a common system of government was applied to the largest boroughs throughout England and Wales, with the exception of London which was not covered by the legislative reforms. After this Act, only those boroughs which applied for and were granted a separate quarter sessions had the right to elect a coroner, the sole condition being that the coroner had to be ‘a fit person, not being an alderman or councillor’—an even less precise set of criteria than that for county coroners. This led initially to a reduction in the number of borough coroners—in 1838 there were 107 boroughs with coroners—although the figure fluctuated over the rest of the century. An example of the effect of this legislation was in Bristol, where Grindon had served as coroner. The 1835 Act reduced the number of coroners in Bristol from two to one; one of the pre-1835 coroners resigned his office, while Grindon successfully stood for election to the one remaining post, thereby providing continuity through the reforms.<sup>43</sup>

The 1835 Municipal Corporations Act, although not encompassing London, went some way to standardizing the coronial office in boroughs. Since coroners were elected by corporations as a result of the Act, it foreshadowed the 1888 reform of the coronial office according to which all coroners were to be officials appointed by the county or borough rather than elected by popular vote. Interestingly, later editions of Jervis reflected the 1835 reform by including borough coroners among the third type of coroner, those who held office by election; previously borough coroners came under the category of those holding office by charter.<sup>44</sup> Nevertheless, until the 1888 reforms the election of county coroners was of a substantially different nature to that of borough coroners.

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<sup>43</sup> Fisher, ‘Politics of Sudden Death’, pp. 83–4.

<sup>44</sup> Jervis, *Office and Duties*, p. 9. Cf. Umfrville, *Lex Coronatoria*, p. 91, where borough coroners come under the second type of coroner.

County coroners formed the majority of all coroners. The number of coroners serving a county could vary. Jervis, after noting that some counties had six coroners, others four or two, and some only one, pointed out that there was no statutory limit, and that it was at the discretion of the Lord Chancellor to issue writs for the election of additional coroners in a county.<sup>45</sup> As will be discussed in the next chapter, Middlesex benefited from the addition of further coroners through a redivision of the county's coronial districts.

One of the key features of county coroners was (until the reform of the system in 1888) their election by popular vote. Grindon noted that this made them unique among judicial officers.<sup>46</sup> A writ for election arose on the death (or, more rarely, removal from office) of the previous incumbent. The electorate consisted of all adult male freeholders within the county district where a vacancy had arisen.<sup>47</sup> There was no minimum size or value to the ownership of a freehold, and this ensured a broader electorate than for parliamentary elections as well as the potential for dubious electoral tactics (for example, by registering multiple people to the freehold of a particular property).<sup>48</sup> Jervis's *Office and Duties of Coroners* provides a thorough account of the laws governing coronial elections, and it is not necessary here to go into them in detail.<sup>49</sup> It is worth noting, however, that contesting an election could be financially onerous for the candidates; in addition to the costs of canvassing and the payments to election agents, many candidates, in order to maximize their chances of success, provided transport to the polls for electors. Recouping their outlay on electoral contests could take some coroners many years.<sup>50</sup>

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<sup>45</sup> Jervis, *Office and Duties*, p. 6. Both Sewell, *Treatise*, p. 6, and Grindon, *Compendium*, p. 3, follow Jervis word for word.

<sup>46</sup> Grindon, 'Introduction' to Umfreville, *Lex Coronatoria*, p. ix.

<sup>47</sup> Fisher, 'Politics of Sudden Death', p. 56, mistakenly states that women freeholders were entitled to vote. In fact, as in other types of election in the period, it was made explicit that women did not have voting rights. See, for example, Jervis, *Office and Duties*, p. 26.

<sup>48</sup> Fisher, 'Politics of Sudden Death', pp. 26–7.

<sup>49</sup> Jervis, *Office and Duties*, pp. 13–29.

<sup>50</sup> Fisher, 'Politics of Sudden Death', pp. 31–2.

Not all elections were contested; furthermore, in a significant number of cases the withdrawal of all candidates bar one meant that a contest was abandoned before voters had an opportunity to go to the polls. Based on her analysis of 184 coronial elections over the period 1785–1849, the research of Fisher has shown that less than a third of all elections went to a poll. There were, however, interesting fluctuations in the pattern of elections. Between 1800 and 1819, for example, in 52 contests studied by Fisher exactly half (26) were uncontested, the remainder splitting almost evenly between abandoned contests (14) and contests which went to a poll (12). In the decade 1820–9, however, there was a marked increase in the number of contested elections: 16 out of 31 contests went to a poll, with nine uncontested elections and six contests that were abandoned before the poll. The number of contests declined over the following 20 years, although most elections began as a contest: out of 55 coronial elections between 1830 and 1849, ten were uncontested and 17 went to the polls, while the remainder (28) began as contested elections but ended up without the need for a poll. Further data presented by Fisher also points to unusually intense electoral activity in the 1820s and (to a slightly lesser degree) 1830s. The average votes cast in polls between 1800 and 1816 were in the range of 1,100–1,200. However, in five polls in the years 1817–21 there was a mean number of 2,257 votes cast; between 1822 and 1826 the average number of votes cast over six polls was 3,453; in eight polls between 1827 and 1831 on average 4,063 votes were cast in each election; and between 1832 and 1837, 1,891 votes were cast on average across six polls, a significant drop from the previous decade though still a notably higher figure than that of the first decade and a half of the century.<sup>51</sup>

One should be cautious about drawing too firm a conclusion from this data, not only because the sample remains small and derives from sources (particularly newspaper reports) that may not be wholly reliable, but also because Fisher has persuasively demonstrated in her

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<sup>51</sup> Fisher, 'Politics of Sudden Death', pp. 38–40.

thesis the importance of understanding the local context for elections. Nevertheless, her research does suggest that coronial elections were increasingly sites of contest in the 1820s that engaged a markedly higher level of interest on the part of the electorate than they had hitherto. One explanation for this may have been the more fervent politics of the 1820s during which party conflict was intense and radicalism was posing an increasingly high profile and popular challenge to the establishment. Fisher has shown how a large number of coronial elections were essentially political contests: sometimes they were used as a means to test the political waters of a county prior to a parliamentary election; at other times they were used to consolidate or to expand a political party or grouping within the county.<sup>52</sup>

Once elected a coroner usually held office for life.<sup>53</sup> Should the coroner himself wish to resign, then he was required to issue a writ to this effect giving the reasons; old age, ill health, and insufficient lands to maintain the dignity of the office were among the usually acceptable grounds for this writ to be granted. There were also procedures for the removal of coroners, either by the Lord Chancellor or through a petition of freeholders of the county. Typical grounds for such removal from office were convictions for extortion or any misdemeanour while in office.<sup>54</sup> An 1831 work by Reginald Bray, *Concise Directions for Obtaining the Lord Chancellor's Orders for the Election and Removal of Coroners of Counties*, includes an appendix of various cases involving the removal of coroners; among the examples are cases of misconduct, imprisonment, absenteeism, and drunkenness.<sup>55</sup>

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<sup>52</sup> Fisher, 'Politics of Sudden Death', pp. 24–63. As Fisher argues, pp. 59–63, various reforms after 1832 to the overall electoral system and workings of parliamentary politics were a factor in the depoliticization of coronial election contests.

<sup>53</sup> In some boroughs coroners were appointed on an annual basis, particularly in those boroughs where the mayor or head of corporation served as coroner.

<sup>54</sup> Jervis, *Office and Duties*, pp. 94–8.

<sup>55</sup> Reginald Bray, *Concise Directions for Obtaining the Lord Chancellor's Orders for the Election and Removal of Coroners of Counties* (London, 1831), pp. 39–110. Rather like the precedents in Jervis's *Office and Duties*, the examples, with their outcomes, are presented as models of how coroners, petitioners and other officials should frame their writs.



## 5. The jurisdiction of coroners and the inquest process

William Baker began his guide on coronial law and practice with the succinct and simple point that ‘Coroners are conservators of the Queen’s peace, and become magistrates by virtue of their election and appointment’.<sup>56</sup> In doing so he was emphasizing the nature of coronial jurisdiction, and pointedly contributing to an often fractious debate concerning the respective authorities of coroners and justices of the peace. Baker’s claim rested on historical foundations, although ones that he himself did not elaborate. Grindon, however, in his introductory essay to Umfreville’s *Lex Coronatoria*, did address from an historical perspective the idea of the coroner as possessing the powers of a magistrate, although in ways that suggest Baker’s point was more contentious than it appears. Noting that coroners were initially conservators of the peace and magistrates, and indeed that they remain the only such individuals who hold office by virtue of election, he also commented that one of the reasons for the decline in coronial authority may have been the creation of justices of the peace.<sup>57</sup>

As, in effect, magistrates, coroners possessed the privilege to apprehend felons, those guilty or suspected of guilt at the inquest, individuals who were present at the time of a person’s death, and burglars and robbers.<sup>58</sup> Umfreville commented on the competency of the coroner in relation to criminal matters, stating that in some cases, including those concerned with capital crimes, the confessions of felony before a coroner had been the only evidence on which a conviction was returned. His view was that ‘the coroner’s inquest is of far better authority than the warrant and commitment of a justice of the peace’ and that it ‘appears to be settled that a

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<sup>56</sup> Baker, *Practical Compendium*, p. 1. The same point is made in Jervis, *Office and Duties*, pp. 30–1, and Sewell, *Treatise*, pp. 23–4.

<sup>57</sup> Grindon, ‘Introduction’ to Umfreville, *Lex Coronatoria*, pp. viii–ix, xxxiii. He gave (pp. xv–xvi) the specific example of how, with the creation of justices of the peace, redress in civil grievances no longer fell within the responsibilities of coroners.

<sup>58</sup> Jervis, *Office and Duties*, p. 31.

coroner's inquest, therefore, is of superior authority to the commitment of a justice of the peace'.<sup>59</sup>

There was, however, little that was definitively settled or clear about the jurisdiction of coroners with respect to justices of the peace. While coroners had in principle the right to issue warrants in respect to other felonies, they had no authority to hold an inquest in relation to such felonies. The coroner's power to hold an inquest extended, apart from the rare instances of treasure trove and shipwreck, only to cases of sudden, unnatural or violent death, as well as to deaths of any kind in prison. But even the inquest itself could be a site of contention with magistrates, such that coroners were frequently reasserting their right of jurisdiction over sudden deaths.

The coroner's inquest was governed by a mixture of well-established procedures and a requirement to exercise individual judgment. Jervis's *Office and Duties* provided the most authoritative guide to the process by which an apparently violent or unnatural death became the subject of a coroner's inquest. As Jervis stated: 'In all cases of violent and unnatural deaths, the vill or hundred (or, even in the case of a natural death of a *prisoner*, the gaoler) ought to send for the Coroner, before the body is buried, and, if possible, whilst it remains in the same situation as when the party died.' A coroner who did not respond promptly to this notification was liable to punishment by a fine.<sup>60</sup> It was down to the judgment of the coroner whether a death was to be regarded as unnatural or violent and hence whether an inquest should be held, or whether it was a sudden but natural death and one that accordingly did not necessitate an inquest.<sup>61</sup>

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<sup>59</sup> Umfreville, *Lex Coronatoria*, pp. 108–10.

<sup>60</sup> Jervis, *Office and Duties*, p. 239.

<sup>61</sup> This decision was, however, one that touched on an area of controversy that will be dealt with further below in the discussion of the remuneration of coroners.

There was no fixed building for the purpose of the coroner's court. Occasionally an inquest would be held in the house of the deceased, but this usually applied only if the premises were sufficiently spacious. More typically inquests were held in taverns or public houses near where the body lay.<sup>62</sup> Particularly important was that an inquest be conducted in such a way that it was a public court. Although coroners had the legal power to exclude anyone from an inquest, including 'the public generally', Sewell advised that such a power should be exercised only in exceptional circumstances, since it is 'obvious that, in many cases, publicity assists not only the investigation of truth, but the detection of guilt'.<sup>63</sup> This led to some criticism from commentators who believed that such locations were an undignified place for so solemn a duty as investigating a human death, and some reformers proposed that a dedicated building be provided for the inquest.<sup>64</sup> Joshua Toulmin Smith, on the other hand, believed there were numerous advantages to this practice of holding inquests in private or public houses:

It has no cumbersome and costly machinery, which can only be worked by functionaries at some mysterious central abode. It brings the eye of the Law directly home to every spot; so that no fact shall escape the searchingness of direct inquiry, and that every man shall know and feel the immediate presence of the course of Justice.

It was, in Smith's estimation, 'one of the most admirable parts of the Institution'.<sup>65</sup>

If a coroner decided to hold an inquest his first duty was to summon a jury. It was at the discretion of the coroner how many jurors to summon as long as there were at least 12 and no more than 23 jurors; verdicts required the agreement of 12 jurors, not unanimity.<sup>66</sup> Grindon

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<sup>62</sup> Grindon, *Compendium*, p. 34.

<sup>63</sup> Sewell, *Treatise*, p. 155.

<sup>64</sup> See, for example, Dickens's and Dempsy's calls for reform of this aspect of the inquest, pp. 175 and 199 below.

<sup>65</sup> Joshua Toulmin Smith, *The Parish: Its Powers and Obligations at Law, as Regards the Welfare of every Neighbourhood, and in Relation to the State*, 2<sup>nd</sup> edn (London, 1857), p. 380. For the debate around holding inquests in public houses, see Burney, *Bodies of Evidence*, pp. 80–2.

<sup>66</sup> Jervis, *Office and Duties*, p. 253. Jervis did not provide a figure for the maximum number; Baker, *Practical Compendium*, p. 35, suggests 23 as an appropriate number.

recommended summoning 15 or 17 jurors in cases of homicide, but only 12 in cases of accidental death; Jervis simply advised coroners to have more than 12 jurors.<sup>67</sup> Often as many as 20 men were summoned in order to form a jury of 12 or 13.<sup>68</sup> There were guidelines on the selection of jurors—for example, from which locality they should be selected—but these lacked statutory force; indeed, the only requirement was that jurymen were ‘good and honest’ and were not foreigners, convicts or outlaws, although both Jervis and Grindon recommend that a jury should be composed of householders.<sup>69</sup>

For all the guidelines and recommendations, however, the procedure was viewed dimly by some commentators. Dempsey, for example, suggested that jury selection was a part of the inquest process in need of ‘revision, and an almost entire change’. He noted that ‘the trader and the working man’ were disproportionately called upon to serve on juries: ‘it is pretty certain that in nineteen Coroner’s Juries out of twenty the jury is composed of tradesmen and persons who are put to extreme inconvenience by so attending’. One reason for this was likely to have been the haphazard way in which jurors were selected, often only an hour or less before the inquest was due to begin (which, in Dempsey’s view, meant that juries often began proceedings in a ‘bad spirit... thinking more of general business matters of life than the administration of justice’, with the result that important matters were ‘hurried over’). Often, Dempsey reported,

perfect strangers, mere passers-by, have been stopped and empaneled on a Coroner’s Jury... evidently a very improper proceeding, as a passer-by might really be a friend or partizan of an accused person, even the unknown murderer, who would thus throw himself in the way to be summoned, and by the influence he

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<sup>67</sup> Grindon, *Compendium*, pp. 34–5; Jervis, *Office and Duties*, p. 329. Sewell, *Treatise*, p. 162, notes the practice of some coroners to swear an odd number of jurors to prevent an even division among the jury; it is not, however, clear, given the requirement to have the agreement of at least 12 jurors how such a practice would assist in reaching a definite verdict.

<sup>68</sup> Dempsey, *Coroner’s Court*, p. 18.

<sup>69</sup> Jervis, *Office and Duties*, pp. 252–3; Grindon, *Compendium*, p. 35. The only exceptions to this requirement concerned deaths in the monarch’s household, inquests for which were before juries selected from household yeomen, and deaths in prison, for which the jury was to be composed of six prisoners as well as six members drawn in the usual way.

might bring to bear, through a superior judgment, upon his fellow jurors, imperil the fair administration of justice.<sup>70</sup>

Although Dempsy was inclined to hyperbolic exaggeration in his account of the abuses of the coronial system, his observation on the loose procedure for selecting a jury echoed the personal experience of Charles Dickens as recounted in *The Uncommercial Traveller*: as a young man, quite by chance one morning, he was accosted by the beadle to serve on a jury; a householder informed him that the beadle expected to be bought off (one of the reasons why professional men may have been able to avoid serving on a coroner's jury), although Dickens decided to disappoint the beadle by accepting the summons.<sup>71</sup> On occasion coroners struggled to assemble a jury: Thomas Wakley complained at an inquest that he was holding in Marylebone that he 'found less difficulty in getting a jury at the village of Perivale, Middlesex, though in that parish there were only 32 inhabitants, and not a sufficient number of inhabitant householders to constitute a jury' than he did in the more populous Marylebone.<sup>72</sup>

It was possibly because of such haphazard practices that the coronial guides presented various forms relating to the jury: Jervis included within his appendix a set form for the coroner's proclamation for defaulting jurors, as well as the oaths required of the jury foreman and other jurors; Sewell provided the form of words for warrants to summon jurors, as well as a careful account of how failure to follow proper procedures (for example, in the proper recording of jurors' names) may result in an irregular inquest that could be declared void; and Grindon, as well as the warrants and oaths, included proclamations that the coroner should make to the jury when opening an inquest.<sup>73</sup> Such forms and precedents ensured that coroners

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<sup>70</sup> Dempsy, *Coroner's Court*, pp. 18–20.

<sup>71</sup> Charles Dickens, *The Uncommercial Traveller* (Cambridge, 1869), pp. 274–6.

<sup>72</sup> *Glamorgan, Monmouth and Brecon and Merthyr Guardian*, 30 May 1840, p. 4. 'A Malthusian Parish', <https://newspapers.library.wales/>.

<sup>73</sup> Jervis, *Office and Duties*, pp. 403–4; Sewell, *Treatise*, pp. 181, 247–8; Grindon, *Compendium*, pp. 147–51.

across England and Wales were in a position, by consulting these guides, to follow correct procedure uniformly and consistently.

Once a jury had been assembled and sworn in the inquest proper began. Usually it followed a simple path: first the body was viewed; next, witnesses, including a medical witness, were summoned and questioned; finally, the jury delivered its verdict. The ‘view’ of the body was the subject of some debate over the course of the century, and it will be discussed more fully in Chapter Eight below. Here it may be noted that the ‘view’, which was supposed to take place at the same time as the swearing in of the jury, was a required feature of the inquest and that without one an inquest would be ‘void’: in the words of Jervis, ‘So essential is the view to the validity of the inquisition, that if the body be not found, or have lain so long before the view, that no information can be obtained from the inspection of it, or if there be danger of infection from digging it up, the inquest ought not to be taken by the Coroner’.<sup>74</sup> A body could be disinterred in order to be viewed, although any inquest verdict might be quashed if it was supposed that the body was in too advanced a state of decomposition to make the view a useful exercise. Above all, while it was not necessary to hold the entire inquest in the presence of the dead body, it was clear that the authority of the coroner’s inquest derived from the body and its visible, physical presence before the court: it was the corpse that underpinned the jurisdiction of the coroner’s inquest.

Once the body had been viewed witnesses were summoned. It was expected that the first finder of the body would give evidence and there would frequently also be a medical witness who may be asked to perform a post-mortem examination by the coroner. The use of autopsies is likely to have been far more common than has traditionally been supposed: Carol

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<sup>74</sup> Jervis, *Office and Duties*, pp. 39–41. Elsewhere (p. 91) Jervis noted that the coroner would be guilty of a criminal offence if he held an inquest without a view. See also Sewell, *Treatise*, p. 156; and Umfreville, *Lex Coronatoria*, p. 152 (where a case is cited in which the subject of an inquest improperly held without a view subsequently turned up alive).

Loar has suggested, arguing against the views of David Harley, that in relation to sixteenth- and seventeenth-century inquests that while ‘autopsies were undoubtedly far from routine, they probably occurred with greater frequency than Harley suggests, even though they are rarely, if ever, mentioned in the formal inquest’.<sup>75</sup> As will be discussed in Chapter Four below, the law on medical witnesses was changed in 1836 with the introduction of remuneration for medical witnesses coupled with an obligation on the part of medical practitioners to provide evidence to an inquest if summoned by a coroner; this legislation instituted a more robust procedure to ensure that medical testimony was reliable and took a more prominent role in the inquest. Jurors were entitled to request a further medical witness if they were dissatisfied with the evidence of the first witness,<sup>76</sup> and both the coroner and jurors could ask questions of witnesses.<sup>77</sup> There was rarely counsel in a coroner’s inquest; the court was understood as one concerned with the finding of facts concerning a death rather than a court in which criminal responsibility for a death would be established. The inquest was expected to establish the circumstances of a death that today would be in the hands of a police investigation: for example, if a body were discovered in woodland, the coroner was to establish whether the deceased had died there or elsewhere, and if the latter to ascertain how the body was transported; the coroner ought also to take note of all wounds apparent on the body, their breadth and depth, and with what weapons they may have been caused.<sup>78</sup>

Once the testimony of witnesses had been heard, the jury delivered its verdict; in many cases it seems that the verdict was reached almost immediately, but otherwise the jurors retired to a room where they were ‘kept without meat, drink, or fire’ until they had reached a verdict

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<sup>75</sup> Carol Loar, ‘Medical Knowledge and the Early Modern English Coroner’s Inquest’, *Social History of Medicine*, 23 (2010), pp. 475–91, at p. 479. Cf. David Harley, ‘Political Post-Mortems and Morbid Anatomy in Seventeenth-Century England’, *Social History of Medicine*, 7 (1994), pp. 13–26.

<sup>76</sup> Grindon, *Compendium*, pp. 124–8; Jervis, *Office and Duties*, pp. 83–7.

<sup>77</sup> On the rules governing witnesses, see Grindon, *Compendium*, pp. 128–31; Jervis, *Office and Duties*, pp. 257–66.

<sup>78</sup> Sewell, *Treatise*, pp. 31–2.

on which at least 12 of them agreed.<sup>79</sup> The coroner's role was to assist the jury in understanding the evidence, for which reason it was increasingly urged that coroners had a good knowledge of medical jurisprudence,<sup>80</sup> but not to direct the jury towards a particular verdict. Juries did not always reach expected verdicts:<sup>81</sup> at one of Wakley's inquests, the jury decided that the death of a man who had been carelessly shot by a work colleague was accidental rather than the result of any criminal act, a verdict that 'created marked sensation'.<sup>82</sup> The jury was also allowed to add a rider to its verdict if it wished. The jurors and the coroner would then sign the verdict to confirm it, and the coroner would release the body for burial. Considerable importance was attached to the form in which the final verdict was presented to avoid inquest verdicts being quashed by other courts. Sewell, for example, included in his *Treatise* extensive appendices of sample forms for verdicts on a wide range of possible deaths to serve as models to be adapted for almost every conceivable type of homicide or suicide.<sup>83</sup>

Although the inquest was not a criminal trial, there was an expectation that a verdict would identify who was responsible for someone's death. In cases of homicide it was also expected that the verdict would determine the nature of the homicide itself, for example, whether it constituted murder or manslaughter. It is perhaps this feature of the nineteenth-century coroner's inquest that differs most markedly from the modern inquest. In certain respects the inquest had functions that today are performed by the police and the Crown Prosecution Service in relation to homicide: it conducted preliminary inquiries and an investigation into a death, it identified suspects, and it determined whether a suspect or suspects

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<sup>79</sup> Jervis, *Office and Duties*, p. 258.

<sup>80</sup> See, for example, Grindon, *Compendium*, p. 17.

<sup>81</sup> On the self-informing jury, jurors' use of conscience in reaching their verdicts at inquests, and the occasional clashes between these verdicts and authorities, see Carol Loar, "Under Felt Hats and Worsted Stockings": The Uses of Conscience in Early Modern English Coroners' Inquests', *The Sixteenth Century Journal*, 41 (2010), pp. 393–414.

<sup>82</sup> *The Observer*, 27 July 1856, p. 7: 'Fatal Accidents'.

<sup>83</sup> Sewell, *Treatise*, pp. 260–336.



had criminal charges to answer. Coroners could not inquire into accessories after the fact of homicide, but they could inquire into accessories before the fact.<sup>84</sup>

Nevertheless, as will be discussed later in this thesis, this was a contentious area, especially in so far as the jurisdiction of coroners, magistrates and the police overlapped. Whether or not the coroner's court was preparing an indictment was an issue on which even the authoritative Jervis was not definitively precise:

The Coroner's inquest is to ascertain truly the cause of the party's death, and is rather for information of the truth of the fact, than for accusation; it is not so much an accusation on an indictment, as an inquest of office to inquire truly how the party came to his death. An inquisition is, nevertheless, an indictment within the meaning of the 24 & 25 Vict. c. 100, s. 6.<sup>85</sup>

Similarly, in the same work, Jervis provided a concise definition of the inquisition, namely the formal, written verdict:

An inquisition, properly so called, is the written statement of the verdict or finding of a jury returned for the purpose of a particular inquiry, as distinguished from an indictment, which is an accusation by the oaths of jurors returned to inquire generally of all offences within the county. Where it contains the subject-matter of accusation it is equivalent to the finding of a grand jury, and the parties may be tried and convicted upon it.<sup>86</sup>

Grindon, on the other hand, more explicitly states that 'the inquisition is an indictment proceeding from the coroner and his jury, as an indictment may be considered an inquisition found by the general jury'.<sup>87</sup> In Baker's view, 'the justice of the peace, or police magistrate, has no power to find an indictment against any person, or to say that any person must and shall be tried,—that can only be done by a grand jury at sessions, or a coroner's jury finding a bill against him'.<sup>88</sup> It is perhaps significant that both Grindon and Baker were practising coroners

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<sup>84</sup> Jervis, *Office and Duties*, p. 126; Sewell, *Treatise*, p. 28.

<sup>85</sup> Jervis, *Office and Duties*, p. 45. See also Umfreville's distinction between an indictment and an inquisition: *Lex Coronatoria*, pp. 106–8.

<sup>86</sup> Jervis, *Office and Duties*, p. 273. Sewell, *Treatise*, p. 174, repeats these words, adding that 'In some respects... the inquisition requires greater strictness than an indictment'.

<sup>87</sup> Grindon, *Compendium*, p. 131.

<sup>88</sup> Baker, *Practical Compendium*, p. 35.

writing at a point when tensions and battles over jurisdiction with magistrates were especially acute.

That the inquest was closely bound up with the criminal justice system is apparent from the extensive coverage of the law regarding homicide given in all the coronial guides. Umfreville's *Lex Coronatoria*, for example, devotes the first part of the treatise to homicide, offering careful distinctions between murder, manslaughter and suicide, as well as clear directions on the difference between lawful and unlawful homicide;<sup>89</sup> Jervis discusses homicide over nearly 100 pages, citing numerous cases;<sup>90</sup> as noted above, Sewell's *Treatise* includes a long appendix detailing verdicts relating to numerous types of homicide, and the main body of the work includes discussion of, for example, the question of mental soundness on the part of alleged murderers and how to tell whether the accused is feigning insanity or is genuinely mad.<sup>91</sup> Coroners were expected, therefore, to have a thorough knowledge of the law as it related to homicide, with an ability to understand the often complex law regarding justifiable homicide, the notion of 'malice', the definition and culpability of accessories before the fact, and specific instances of homicide such as those resulting from duelling.

## **6. Conclusion**

The publication of five coronial treatises between 1822 and 1851 is evidence of two things: first, that the coroner's office had assumed a more prominent place in legal debates; and second, that a process that might be labelled professionalization was occurring. In relation to the former, it had become apparent (as will be discussed more fully in relation to Thomas Wakley) that the coroner's inquest had become caught up in the debates surrounding reformist politics,

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<sup>89</sup> Umfreville, *Lex Coronatoria*, pp. 1–59. The remaining chapters of the first part of Umfreville's treatise concern deodands, flight and forfeiture, and whether infants and 'idiots' can commit homicide.

<sup>90</sup> Jervis, *Office and Duties*, pp. 150–233.

<sup>91</sup> Sewell, *Treatise*, pp. 92–4.

and that many radicals saw the inquest as a potential ally to their cause. Jervis was far from being a radical and it is possible that his thorough presentation of coronial law was, at least in part, a means of presenting a clearer, and perhaps more sober, understanding of the function and roles of the coroner than was to be found among some of the radicals. Baker's treatise, on the other hand, was written by a campaigning coroner at a time when an agenda for reform was being pushed by the Coroners' Society, in which Baker was a key figure, and a time when disputes with magistrates over fees and jurisdiction were proliferating. Of all the treatises, Baker's was the most polemical and the one that most staunchly defended the coronership against the claims and criticisms of magistrates.

The treatises also contributed to a growing sense of the need to professionalize the coronership. Again, this will be discussed more fully later in the thesis, particularly in relation to the formation of the Coroners' Society. But it is important to note not only the clear exposition of coronial law and inquest procedure that each treatise contained, but also their inclusion of numerous forms and precedents. One of the aims of coronial reformers, and especially of the Coroners' Society, was to establish a more uniform set of practices and procedures throughout the entire body of coroners in England and Wales. The treatises were an important part of this process: by providing forms covering every aspect of the inquest, from the swearing in of jurors to the correct wording for different categories of homicide, they ensured that all coroners had ready access to uniform, consistent and best practice. In addition, the guides by Sewell and Baker are evidence of medicalizing tendencies in the coronership. Although both authors were lawyers rather than medical men, in different ways their treatises emphasized how advances in medicine, and above all medical jurisprudence, should be harnessed to the inquest. Baker (who will be discussed more fully later in this thesis) emphasized in his *Practical Compendium* the potential for coroners to benefit public health, while Sewell's *Treatise* included a detailed discussion of forensics based on the latest

knowledge in the field. Baker and Sewell approached the coronership, therefore, from the perspective of lawyers willing to embrace advances in medicine. Their works can be regarded as offering a path towards professionalization and moderate medicalization of the coronial system.

By the 1850s, therefore, in part due to the existence of these guides to coronial law and practice, the coronership had a readily understandable legal framework and a basis for pushing for further reforms of the office, above all for it to become salaried. Before discussing these reforms in greater detail, it is necessary to consider some of the key figures in the coronial reforming movement: Thomas Wakley, perhaps the foremost of all the nineteenth-century reforming coroners and the one who most clearly made the case for the medicalization of the inquest, and then some of the other London and Middlesex coroners, most of whom were important and active members of the Coroners' Society.

## CHAPTER FOUR: THOMAS WAKLEY AND CORONIAL REFORM

### 1. Introduction

Many of the London and Middlesex coroners discussed in this thesis combined their coronial work with other activities. As will be discussed in the next chapter, for coroners such as Edwin Lankester and William Hardwicke, for example, the responsibilities of their office formed one part of a wider concern with medicine, science and public health; similarly, individuals such as William Payne (both father and son) and William Baker actively promoted reform, both of the coronial office as well as in the wider social arena (the subject of later chapters of this thesis). This linking of the coronial office with the cause of reform—indeed, the idea that coroners were uniquely placed to address issues that went beyond the ostensibly limited task of determining the facts surrounding an individual's death—owed much to the work of the most influential of the London coroners under discussion in this thesis, Thomas Wakley (1795–1862), coroner for the Western District of Middlesex from 1839 until his death.

Wakley is a central figure in this thesis just as he was a central figure in medical and social reform in the nineteenth century. A man of prodigious energy and industry, his initial choice of medicine as a vocation soon gave way to a career as a journalist and editor, politician and coroner. Across these various roles he was at the forefront of debates about medicine, health and social reform, repeatedly emphasizing his own concern to fight injustice and campaign on behalf of the poor and vulnerable. This made him an undoubtedly controversial figure in his own time, a fact accentuated by Wakley's public persona as an often uncompromising, intemperate and occasionally aggressive campaigner.<sup>1</sup> In the words of Roy

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<sup>1</sup> Edwina Sherrington, 'Thomas Wakley and Reform, 1823–62', unpublished DPhil thesis, University of Oxford (1973), pp. 346–7, presents a balanced summary of Wakley as a reformer, noting that 'he

Porter, and referencing the medical journal that Wakley founded and edited, he was ‘the time-honoured iconoclast, sticking the lancet in’.<sup>2</sup> Wakley may have been a difficult character, with personality traits and a rhetorical style that could inspire both devotion and deep hostility, but he was almost impossible to ignore.

The purpose of this chapter is to assess Wakley’s career as a coroner and as a campaigner for coronial reform. In particular, it aims to consider his coronial activities within the wider context of his life and work; in doing so it seeks to address how Wakley attempted to turn the coronial role from being more than simply a locally important but largely minor office into one that was ideally placed to deal with some of the most pressing social concerns of the day. It will consider how far this involved Wakley fashioning a new conception of the coronial office. A key part of this discussion will be Wakley’s campaign to make medicine the basis of coronial activity: not only was he the first medically qualified coroner to serve in London, but he was also a vigorous advocate of medical rather than legal qualifications as the proper requirement for a coroner.

The chapter will begin with a brief consideration of Wakley’s life and work aside from his coronial activity. There already exist several useful and relevant studies of the overall life, and this section will do no more than summarize these. Samuel Squire Sprigge’s 1897 biography, *The Life and Times of Thomas Wakley*, is the fullest account of its subject, although it is characterized by an uncritical, eulogizing approach, perhaps unsurprisingly from a biographer who had been commissioned by Wakley’s sons to write the life of their father; in

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had his faults... He was aggressive, self-opinionated, and at times excessively confident about the justice and inevitable success of all his causes’; she notes that his humanitarian interests were widely shared, ‘on these matters he was not indispensable’. Nevertheless, Sherrington praises Wakley’s energy and his legacy in the form of enduring laws and institutions, the General Medical Council, coronial principles and *The Lancet* justifies the label (applied to Wakley by his sons) of ‘genius’.

<sup>2</sup> Roy Porter, *Disease, Medicine and Society in Britain, 1650–1900* (London: Reaktion Books, 2001), p. 254.

addition, Sprigge was to become editor of *The Lancet*, the journal founded by Wakley, in 1909.<sup>3</sup> Several studies and biographies have been published since Sprigge's volume, such as Charles Brook's *Battling Surgeon: A Life of Thomas Wakley* (1945), Edwina Sherrington's unpublished thesis on 'Thomas Wakley and Reform, 1823–62', and John Hostettler's *Thomas Wakley: An Improbable Radical* (1993); a recent essay in *The Lancet* by David Sharp, 'Thomas Wakley (1795–1862): A Biographical Sketch' (2012), is the best and most up-to-date among the succinct accounts of its subject's life and work.<sup>4</sup> Following this summary of Wakley's life and work the chapter will consider Wakley's coronial career, above all by discussing his first (failed) bid to be elected to coronial office, his campaign for medically qualified coroners, and various important inquests which elevated his profile as a coroner. The chapter will conclude with a broader assessment of Wakley's contribution to coronial reform.

## 2. The life of Thomas Wakley

Perhaps the most salient point about Wakley's childhood and early life is that, when seen in the perspective of his later career, he was an outsider. Wakley's later prominence, even notoriety, as a writer, politician and coroner in London was essentially 'self-made'. In this respect he resembled many of his fellow coroners of the nineteenth century: the coronial office was frequently taken up by men from relatively humble backgrounds for whom the routes to

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<sup>3</sup> See the biographical entry on Wakley's eldest son: Stephen Lock, 'Wakley, Thomas Henry (1821–1907), journal editor and surgeon', *Oxford Dictionary of National Biography*, 23 September 2004.

Oxford University Press:

<http://www.oxforddnb.com/view/10.1093/ref:odnb/9780198614128.001.0001/odnb-9780198614128-e-36681> [accessed: 15 July 2018].

<sup>4</sup> Samuel S. Sprigge, *The Life and Times of Thomas Wakley* (Huntington, NY: Robert E. Krieger Publishing, 1897); Charles Brook, *Battling Surgeon: A Life of Thomas Wakley* (Glasgow: The Strickland Press, 1945); Charles Brook, *Thomas Wakley* (London: Socialist Medical Association, 1962); Sherrington, 'Thomas Wakley and Reform, 1823–62'; John Hostettler, *Thomas Wakley: An Improbable Radical* (Chichester: Barry Rose Law Publishers, 1993); David Sharp, 'Thomas Wakley (1795–1862): A Biographical Sketch', *The Lancet*, 379 (2012), pp. 1914–21: See also W. F. Bynum, 'Wakley, Thomas (1795–1862)', *Oxford Dictionary of National Biography*, 23 September 2004, Oxford University Press: <http://www.oxforddnb.com/view/article/28425> [accessed: 2 January 2017].

the most prestigious careers in law and medicine were largely inaccessible due to straitened financial and social circumstances.<sup>5</sup>

He was born into a farming family in Membury, Devon in 1795, the youngest son of 11 children to a father who, on his marriage certificate, was unable to sign his own name.<sup>6</sup> The young Wakley attended grammar schools in Chard and Honiton, but about his childhood little is known apart from a curious, and ultimately mysterious, episode when, at the age of ten, he was sent on a ship owned by the East India Company and captained by a friend of his father, to Calcutta. However, Wakley's experience as a Midshipman was soured, according to Hostettler, following the death of the Captain on the return journey and Wakley arrived home 'without his sea chest and bitterly complained of the severe hardships he had encountered.' What hardships Wakley witnessed or experienced is unknown, Hostettler continues, as he never spoke about his 'torments'.<sup>7</sup>

Although unknown when Wakley actually arrived back in England, what is known is that he returned to education attending a grammar school, possibly Wellington School near Taunton, before commencing a series of apprenticeships at the age of 15.<sup>8</sup> First, he was apprenticed to an apothecary in Taunton; following this he was an apprentice to his brother-in-law, a surgeon-apothecary in Beaminster; his final apprenticeship was in Henley-upon-Thames, to a medical family. In 1815, following these medical apprenticeships, he enrolled as a pupil at the hospitals of St Thomas's and Guy's, while also privately studying anatomy.

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<sup>5</sup> For a consideration of the backgrounds of the London and Middlesex coroners, see the next chapter.

<sup>6</sup> Sharp, 'Wakley', p. 1914.

<sup>7</sup> Hostettler, *Thomas Wakley*, p. 7. See also, Sprigge, *Life of Wakley*, pp. 5–6. Bynum speculates that the incident may have influenced Wakley's later coronial campaign against flogging and brutality in the armed forces: Bynum, 'Wakley, Thomas'. One of Wakley's most high-profile inquests was on the death of Private Frederick James White of the Seventh Hussars, the Hounslow Heath inquest of 1846. The verdict of the inquest was that White had died as a result of a flogging. The publicity and controversy around this death and its subsequent inquest led to public opinion turning against corporal punishment in the armed forces. Nevertheless, it was not until the Army Act of 1881 that flogging was finally abolished as a punishment.

<sup>8</sup> Hostettler, *Thomas Wakley*, pp. 7-8.



Wakley seems to have been a popular, hard-working student, and to have acquired a reputation for his skills at cricket, billiards, quoits, chess and boxing.<sup>9</sup> At the same time he eschewed the ‘coarse life of most medical students’; in the view of Sprigge, Wakley’s student life indicated that he was an ‘innate Puritan... to [whom] the coarse riots of the dissecting room were only revolting... [and] he was abstemious by nature and cleanly by temperament.’<sup>10</sup>

By 1817 he had qualified for membership of the Royal College of Surgeons and was able to set up in private practice in the City. His career in medicine received a boost through his marriage in 1820 to Elizabeth Goodchild (1799–1857), the daughter of a wealthy lead merchant. Wakley’s father-in-law helped him set up in a stylish and elegant practice in Argyll Street, London. However, the expectation of life as a successful medical practitioner abruptly ended in August 1820 when Wakley was violently assaulted in his home by a gang who then set fire to his house, destroying it. Although the assailants were never apprehended, it is likely that they were a radical group who wrongly believed Wakley to be responsible for the posthumous decapitation of those hanged for the Cato Street conspiracy. Eventually, after protracted legal battles with his insurance company, the Hope Fire Assurance Company, who initially refused compensation on the grounds that he had ‘increased his [insurance] cover shortly before the fire’, Wakley was compensated for his loss. What ultimately swayed the judgement in Wakley’s favour was the evidence provided by witnesses and the collapse of evidence from ‘a Bow Street Runner’ who had produced ‘a dummy wearing Wakley’s blood-stained clothes to show the cuts in [Wakley’s] shirt, coat and waistcoat did not coincide with the cuts in the skin’.<sup>11</sup> Nonetheless despite his eventual success in court, the damage to his reputation and practice was such that he decided to abandon a clinical career shortly after.<sup>12</sup>

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<sup>9</sup> Hostettler, *Thomas Wakley*, pp. 10–11. His physical strength and energy was already notable: he regularly walked the round trip between his family home in Devon and his lodgings in London.

<sup>10</sup> Sprigge, *Life of Wakley*, p. 77.

<sup>11</sup> Hostettler, *Thomas Wakley*, pp. 31–33.

<sup>12</sup> Sprigge, *Life of Wakley*, pp. 30–61. Hostettler, *Thomas Wakley*, pp. 28–33.

It was in the wake of this personal and professional misfortune that Wakley made the acquaintance of William Cobbett, the radical journalist and reformer, as well as Walter Channing, the Boston physician and founder of the *New England Journal of Surgery*.<sup>13</sup> With their encouragement Wakley founded *The Lancet* in 1823, a journal which he was to edit for the rest of his life and which was to serve as one of the primary means for publicizing his reforming agenda.<sup>14</sup> *The Lancet* was conceived as a journal to advance medical science through its exposure of quackery, incompetence, malpractice and corruption (especially nepotism);<sup>15</sup> it also reproduced the lectures of eminent surgeons, often without their permission, as a means of making them accessible to all.<sup>16</sup> As Wakley explained in relation to the choice of title for his journal, a ‘lancet can be an arched window to let in the light or it can be a sharp surgical instrument to cut out the dross and I intend to use it in both senses’.<sup>17</sup> It was a conscious attempt to open up medical knowledge and debate to a wider public, and was populist in both style and content (early issues contained chess problems, for example). Not everyone appreciated Wakley’s journalism: he was sued for libel on more than one occasion; the *Medical Times* declared that ‘Wakley’s conduct raises an issue... that there can be no court of justice unpolluted which this libellous journalist, this violent agitator and this sham humanitarian is

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<sup>13</sup> Sharp, ‘Wakley’, p. 1915, casts doubt on whether Wakley ever met Channing in person.

<sup>14</sup> After Wakley’s death, his sons became the editors; indeed, *The Lancet* was edited by a member of the Wakley family for 86 years. On Wakley’s son, also Thomas, who was to take over as editor of *The Lancet*, see Lock, ‘Wakley, Thomas Henry (1821–1907)’. An advertisement in *The Times*, 21 December 1847, p. 7, publicizes both *The Lancet* and the younger Wakley’s medical career: ‘Operative surgery.—Amputation at the shoulder-joint in a patient aged 71, successfully performed under the influence of ether by Thomas Wakley, Esq., surgeon to the Royal Free Hospital. Also amputation of the arm in a man aged 75, under the influence of ether, successfully performed by Thomas Wakley, Esq. Perfect recovery of both patients. These cases exhibit the most extraordinary proofs of the safety and value of the use of ether vapour in operative surgery. The “Lancet” of Saturday last, Dec. 18. contains full reports of these highly interesting cases. Price 7d., stamped for post 8d. Order of any bookseller or newsvender.’ For the report, see *The Lancet*, 50 (1847), pp. 648–51.

<sup>15</sup> Brook, *Thomas Wakley*.

<sup>16</sup> Wakley was sued by one professor, but won the case, the judgment declaring that public lectures should be publicly available; see Hostettler, *Thomas Wakley*, pp. 46–7.

<sup>17</sup> Bynum, ‘Wakley, Thomas’. The early years of *The Lancet* are discussed in Brittany Pladek, “‘A Variety of Tastes’”: *The Lancet* in the Early Nineteenth-Century Periodical Press’, *Bulletin of the History of Medicine*, 85 (2011), pp. 560–86.

allowed to disgrace';<sup>18</sup> and the Medical Reading Society of Bristol was of the opinion that *The Lancet* was 'injurious to the respectability and best interests of the profession'.<sup>19</sup>

Despite the occasional criticism of his bombastic and belligerent style, Wakley's editorship of *The Lancet* established his reputation as a leading proponent of medical reform as well as a figure associated with radical politics.<sup>20</sup> However, it became clear to Wakley that journalism alone was not enough to advance the cause of reform. Hence it was that in 1830 he campaigned to become coroner for the Eastern District of Middlesex; unsuccessful on that occasion, he was finally elected coroner of the Western District in 1839 (as discussed in the next section). In addition, he sought out a political career. After failing in his bid to become the Member of Parliament for Finsbury in 1832 and 1834, he was finally successful in 1835, standing in the election as an independent radical. He held the Finsbury seat until his retirement from politics in 1852. During his parliamentary career Wakley made more than 900 contributions to debates across a range of issues, from support for the 'Tolpuddle martyrs' and Chartism to opposition to the New Poor Law; law reform, prison and workhouse reform, taxation, transport, copyright law, and the Church were among the subjects on which Wakley made contributions.<sup>21</sup> Unsurprisingly, however, it was on medical issues that he particularly made an impact: he was a prominent supporter of medical regulation, assisting in the drafting of bills during the 1840s which helped prepare the path that was to culminate in the Medical

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<sup>18</sup> Wakley received £350 of damages from the *Medical Times* for those remarks which were made in reference to the Hounslow Heath inquest in 1846; see Elisabeth Cawthon, 'Thomas Wakley and the Medical Coronership – Occupational Death and the Judicial Process', *Medical History*, 30 (1986), p. 198.

<sup>19</sup> Sharp, 'Wakley', p. 1918. On Wakley's journalism see Mary Bostetter, 'The Journalism of Thomas Wakley', in Joel H. Wiener (ed.), *Innovators and Preachers: The Role of the Editor in Victorian England* (London and Westport, CT: Greenwood Press, 1985), pp. 275–92.

<sup>20</sup> Wakley's political interests were to the fore in two journals he published: *The Ballot*, a short-lived political journal of 1831–2, and *A Voice from the Commons*, an even shorter-lived journal in 1836; see Sharp, 'Wakley', p. 1919.

<sup>21</sup> Sharp, 'Wakley', p. 1918; Bynum, 'Wakley, Thomas'; John Hostettler, 'Thomas Wakley – An Enemy of Injustice', *The Journal of Legal History*, 5 (1984), pp. 60–75; Hostettler, *Thomas Wakley*, pp. 81–108.

Act of 1858 (legislation passed after Wakley's retirement from politics), and he was prominently involved in the Medical Witnesses Act of 1836 (discussed below).

A generous and often extravagant provider of hospitality to his friends in his London home or on his estate at Harefield Park (now the site of Harefield hospital), Wakley remained a combative editor of *The Lancet* and a diligent coroner for west Middlesex until the very end of his life.<sup>22</sup> At his death the College of Surgeons paid tribute to Wakley's 'extraordinary energy and indomitable perseverance' (if, less convincingly, to 'his tact'), and stated that 'the members of the medical profession in this country are principally indebted [to him] for the great reforms that have been promoted in the medical corporations', adding that,

the public at large owe a deep obligation for the great services rendered by him to promote a more efficient system of medical education, thereby securing more competent practitioners, to whose care might be entrusted with greater safety the limbs and lives of Her Majesty's subjects.<sup>23</sup>

Two of Wakley's sons, Thomas Jr and James, took over the editorship of *The Lancet* after his death; his third son, Henry, pursued a career as a barrister, perhaps a surprising choice given Wakley's often critical approach to the legal profession.

### **3. Wakley and the coronial office: the campaign for a medical coronership**

Wakley's first attempt to become a coroner was in 1830 when he contested the vacant position in the Eastern District of Middlesex. His opponent in the contest was William Baker, the lawyer who would later write the *Practical Compendium of the Recent Statutes, Cases, and Decisions affecting the Coroner*. With the support of leading radicals such as Henry Hunt and Francis

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<sup>22</sup> Suffering from tuberculosis, Wakley went to Madeira in 1861 to recuperate. It was there that, as a result of a fall the following year, he died from a haemoptysis. True to style, it seems that right up to his death Wakley was involved in antagonistic activity: while exploring the possibility of transporting fruit trees from Madeira to England, he threatened local wine producers with an inquiry into malpractice on their part; Sharp, 'Wakley', p. 1920.

<sup>23</sup> *The Observer*, 8 June 1862, p. 5: 'College Surgeons of England'.

Place, Wakley fought the campaign on the basis of four slogans:<sup>24</sup> ‘Wakley and Medical Reform’; ‘Wakley and the Sovereignty of the People’; ‘Reason and Science against Ignorance and Prejudice’; and ‘Wakley and the Open Court’. Harnessing Wakley’s longstanding campaigns against medical corruption with a conception of the coronial office as a bastion of traditional English liberties, these slogans embodied the combination of populism, medical reform and science at the heart of his campaign. In the radical view, by proposing that the power of science and medicine to arrive at the truth should be at the centre of the inquest, it was argued that the coroner’s inquest would stand as an open and public court that would expose injustice and defend the poor and weak. One of Wakley’s arguments was that a legal coroner could not afford the publicity of an open court since his actions in a coroner’s court could only discredit him and demonstrate his incompetency when dealing with medical matters and causes of death. In the words of Burney, Wakley was ‘offering an alliance between medical science and popular politics’.<sup>25</sup>

In a highly charged contest Wakley frequently made the distinction between his own medical training and Baker’s lack of it. At the hustings he asked: ‘was it not monstrous to elect as a coroner, someone who knew nothing of dead bodies?’<sup>26</sup> It was this issue of doctor versus lawyer that ran through a frequently boisterous campaign conducted before crowds that often numbered between 10,000 and 20,000 people (and, at a gathering on Clerkenwell Green on the final day of the poll, 60,000).<sup>27</sup> But with the vocal support of radicals such as Hunt, it was clear that the ‘Wakley / Baker contest was a political campaign as well as a campaign for a medical coronership’.<sup>28</sup> It has been suggested that ‘England never saw such an election epic for the

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<sup>24</sup> *The Times*, 20 September 1836, p. 6.

<sup>25</sup> Ian A. Burney, *Bodies of Evidence: Medicine and the Politics of the English Inquest, 1830–1926* (Baltimore and London: Johns Hopkins University Press, 2000), p. 17.

<sup>26</sup> *The Times*, 10 September 1830, p. 4.

<sup>27</sup> Gordon H. H. Glasgow, ‘The Election of County Coroners in England and Wales, circa 1800–1888’, *Legal History*, 20 (1999), p. 89.

<sup>28</sup> *Ibid.*, p. 80.

coroner's office' as the contest between Wakley and Baker.<sup>29</sup> It was, however, Baker who triumphed in the poll, although not without accusations from Wakley and his supporters of vote-rigging.<sup>30</sup>

Wakley's call in this election for coroners to be medically qualified—and, indeed, the very fact that he was, unusually, a medical man standing for election to a position which traditionally had been filled by legal men—was part of a much longer campaign he had waged on this issue.<sup>31</sup> In the late 1820s he used the pages of *The Lancet* to argue that the coronial office should be restricted to those with medical qualifications.<sup>32</sup> He argued against the 'imbecility and ignorance of coroners' on the grounds that their background was predominantly legal rather than medical:

A lawyer in the shape of a coroner! A man who could not apply a plaster to a sore finger but who will explain to you the anatomy and physiology of the brain and the surgical treatment of its various antecedents... let us hope for a speedy and effectual reform.<sup>33</sup>

He was not alone in this view. George Rogerson, a surgeon and an unsuccessful coronial candidate from Liverpool, and whose brother Joseph was a doctor and coroner for Wigan, echoed Wakley's views in a letter published in the *Medical Gazette*. Arguing for the necessity of electing medically qualified coroners, Rogerson suggested that coroners' courts needed reform by the application of the science of medicine,

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<sup>29</sup> Ian A. Burney, 'Decoding Death: Medicine, Public Inquiry and the Reform of the English Inquest, 1836–1926', unpublished PhD thesis, University of California (1993), p. 52.

<sup>30</sup> *The Times*, 20 September 1830, p. 6; *The Lancet*, 2 October 1830, pp. 40–2.

<sup>31</sup> An intriguing possibility, given Wakley's origins in the provinces, is that his campaign was an attempt to promote a more 'provincial' approach to the coronership within the metropolis. R. F. Hunnisett has shown that in Wiltshire in the second half of the eighteenth century every county coroner had a medical qualification. However, Hunnisett also describes this finding as 'striking', suggesting that 'Wiltshire may well have been unique in this respect in the eighteenth century'. 'Introduction' to Hunnisett (ed.), *Wiltshire Coroners' Bills, 1752–96* (Devizes: Wiltshire Record Society, 1981), p. xlviii.

<sup>32</sup> Thomas Wakley, 'Necessity of a legal education to coroners', *The Lancet*, 1827–8, pp. 266–9; and idem, 'Address to the readers of the Lancet', *The Lancet*, 1829–30, p. 3. See also D. Zuck, 'Mr Troutbeck as the Surgeon's Friend: The Coroner and the Doctors—An Edwardian Comedy', *Medical History*, 39 (1995), pp. 259–87.

<sup>33</sup> *The Lancet*, 2 (1828–9), p. 754.

Which alone can effectively administer justice through the detection of the cause of death... [T]he inquiry [into the causes of death] is strictly *medical*, and the requisite information is afforded by anatomy, pathology and surgery... and can only be attained by the aid of material medica, chemistry and toxicology.

In his response, the editor of the *Medical Gazette* replied that:

the Coroner, in his capacity as judge, may have some *little* difficulties of law to disturb him occasionally – for instance, certain questions, which it is for him to decide, with respect to what is, and what is not, to be admitted as *evidence*; and the law of *evidence*... is not one of the simplest in our English jurisprudence.<sup>34</sup>

The lines of the opposing arguments were made clear here. On the medical side it was argued that it made no sense for an investigation requiring anatomical, pathological and surgical knowledge to be presided over by someone with no knowledge of any of these topics; on the legal side it was countered that the coronial inquest was first and foremost a court of law in which an understanding of such things as rules of evidence were essential to its effectiveness.

Nevertheless, these arguments were open to various refinements. *The Lancet* cited an 1830 article in the London newspaper *The Examiner* which expressed an anti-legal position by suggesting that lawyers were concerned not with the truth but with maintaining an easy life for themselves:

The ignorance and imbecility displayed by coroners, on the most important occasions, are certainly extremely disgraceful... Those who usually perform the duties of their office in the worst manner are the mere technical lawyers. Their chief desire appears to be to get through their business in the shortest time, that is, with the greatest ease to themselves.<sup>35</sup>

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<sup>34</sup> *Medical Gazette*, 12 March 1836, p. 951: ‘Medical Coroners’; Gordon H. H. Glasgow, ‘Three Liverpool Doctors and their Coronal Ambitions: A Historical Perspective to the Medico-Legal Conflicts Surrounding the Elections of 1837, 1867 and 1891’, *Transactions of the Historic Society of Lancashire and Cheshire*, 154 (2005), pp. 63–91.

<sup>35</sup> ‘Coroner for Middlesex’, *The Lancet*, 1830, p. 905. See also a letter to the editor in the same issue of *The Lancet*, ‘Observation on the Coronership’, by John Gordon Smith, MD, Professor of Medical Jurisprudence at the University of London, p. 907.

Similarly, Wakley, at his hustings during the contest with Baker, contrasted the truth-seeking that lay at the heart of medicine with the sophistry underpinning the work of lawyers:

Mr Baker, as a lawyer, would, if he were elected ‘be fettered by legal sophistry and precedents’ and would think nothing right that happened to be new; just like the judges, who, one noodle after another decide as their predecessors.<sup>36</sup>

The counter argument was voiced by George Young, a London shipping merchant (and, from 1832, a Member of Parliament): ‘[The medical coroner] will draw the attention of the jury from the plain and straightforward investigation of facts, into the labyrinth of his own scientific inquiries’.<sup>37</sup> Young was touching on the fear that medical men would turn the inquest into ‘an object of medical professionalizing strategies, medical propaganda, and medical curiosity’.<sup>38</sup> Moreover, it was suggested that medical coroners would hold more inquests than necessary in order to satisfy their professional curiosity and prove their medical proficiency—‘for mere pleasure’ as an 1839 editorial in *The Observer* expressed it.<sup>39</sup>

Wakley used *The Lancet* to promote his campaign for medically qualified coroners throughout the late 1820s and 1830s, presenting evidence that supported his position in the form of letters from medical professionals. For example, Wakley published a letter in 1829 from a doctor who had treated an alcoholic man who subsequently died from his addiction; however, the jury at his inquest recorded a verdict of manslaughter based on some minor injuries the deceased had received several months earlier and from which, in the opinion of the medical man, he had fully recovered; at the subsequent criminal trial at the Old Bailey, the defendant was acquitted as soon as the doctor’s evidence was presented. ‘Thus’, concluded the correspondent, ‘was the county put to the expense of a prosecution which it ought to have been spared’.<sup>40</sup> In an 1833 issue Wakley published a letter by John Wiblin, a medical professional,

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<sup>36</sup> *The Times*, 14 September 1830, p. 4, cited in Burney, *Bodies of Evidence*, p. 18.

<sup>37</sup> *The Times*, 13 September 1830, p. 1, cited in Burney, *Bodies of Evidence*, p. 19.

<sup>38</sup> Burney, *Bodies of Evidence*, p. 19.

<sup>39</sup> *The Observer*, 29 September 1839, p. 4: ‘Mr Wakley Threatened Inquests’.

<sup>40</sup> *The Lancet*, 1829, p. 463.



in which Wiblin accused coroners' inquests of 'looseness' and 'slovenly' conduct. At an inquest before Mr Carter, Wiblin alleged that he had been told by the coroner 'that it was a matter of little consequence what medical men said'. At another inquest Wiblin's desire to perform an autopsy was refused, with the coroner and jury coming instead and with alacrity to a verdict of death by 'visitation of God' (a vague but standard verdict for unexplained deaths); Wiblin complained to *The Lancet* that 'it is quite possible that the woman became a corpse by criminal means', and wondered 'how many murders must escape detection!'<sup>41</sup> Joseph Curtis, a doctor from Camden, argued in a letter to *The Lancet* that whereas 'medical science could afford but little assistance to the jury [in the time of our Saxon ancestors],... in the present day it can rarely be dispensed with at inquests'. However, Curtis was of the view that coroners were all too ready to steer inquests towards verdicts of accidental death or death by visitation of God, 'summary means to the coroner of getting rid of the duty he has before him'. Curtis related how, at his own appearance before inquests, he had been denied the opportunity to perform an adequate medical examination, and that his report on the bruising on the head of one deceased person who had been found in a river was dismissed by the coroner, the eventual verdict simply being 'found drowned'.<sup>42</sup> At another inquest, described by a doctor in *The Lancet*, the coroner had ignored the medical evidence that indicated poisoning and instead steered the jury towards a verdict of death by 'apoplexy' despite there being, in the opinion of the correspondent, no evidence at all to support such a verdict.<sup>43</sup> By publishing a steady stream of accounts such as these of inquests at which legally qualified coroners treated medical evidence with disdain and juries, under misguided direction from the coroner, reached unsatisfactory and unjustified verdicts, Wakley was able to keep the debate alive and prominent, thereby fuelling his campaign.

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<sup>41</sup> *The Lancet*, 1833, pp. 36–7.

<sup>42</sup> *The Lancet*, 1834, pp. 77–8.

<sup>43</sup> *Ibid.*, pp. 974–5.

While this debate was ostensibly between the respective claims of medicine and the law to be at the heart of the coronial office, it might also be seen as about the professionalization of medicine itself. Medical reform was a key part of Wakley's campaigns for coronial (and political) office, and in particular he was an advocate of greater regulation within medicine. As discussed in Chapter Two above, a tripartite division existed within the medical occupations, summed up by one scholar in terms of 'the physician who could claim to belong to a learned profession, the surgeon, who practised a craft and the apothecary who followed a trade'.<sup>44</sup> Moreover, the lack of medical regulation meant that numerous quacks operated, offering apparently medical treatments that were nothing of the sort. Wakley, for example, was a longstanding critic of homeopathy, believing this practice had no place within medicine.<sup>45</sup> As a politician Wakley was to play a prominent role in attempting to introduce a system of registration and regulation for medical practitioners, supported by a reform of medical training and the criminalization of quackery. Although the Medical Act of 1858, which led to the creation of the General Medical Council, fell short of Wakley's desired reforms, it was nevertheless the culmination of decades of debate and campaigning for medical reform in which Wakley had made key contributions.<sup>46</sup> In the context of this reforming activity, his arguments for a medical coronership may have been as much to do with his concern to professionalize medicine as they were to his desire to reform the office of coroner. The coronership, although for the most part an office occupied by legal men, offered the potential of furthering the broader cause of medical professionalization. As an institution thrust into public prominence due to the radical politics of the early nineteenth century, it could be argued that it was in an ideal position to have the cause of medical reform hitched to it. This is not to

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<sup>44</sup> S. W. F. Holloway, 'Medical Education in England, 1830–1858: A Sociological Analysis', *History*, 49 (1964), pp. 299–324.

<sup>45</sup> See below, p. 146, fn. 122.

<sup>46</sup> Michael J. D. Roberts, 'The Politics of Professionalization: MPs, Medical Men, and the 1858 Medical Act', *Medical History*, 53 (2009), pp. 37–56.

suggest that Wakley and fellow reformers were disingenuous in their concerns for coronial reform; rather, they saw a mutually beneficial connection between the twin causes of coronial and medical reform. The medicalization of the coronial office would contribute to the professionalization of medicine.

#### **4. The Medical Witnesses Act, 1836**

Having failed in his 1830 bid to become coroner for the Eastern District of Middlesex, Wakley had to wait until 1839, when the death of Thomas Sterling created a coronial vacancy in the Western District of the county, for another opportunity to secure coronial election. In the intervening years, however, he was at the forefront of an important reform to the coroner's inquest: the Medical Witnesses Act, passed by parliament in 1836, which sought to make more robust the use of medical evidence at inquests and to provide for the proper remuneration of those doctors summoned to provide this evidence.

The campaign for expert medical witnesses was not another version of the campaign for medically qualified coroners. As Glasgow has commented, these were two different approaches to reform:

The adaptation of the Victorian inquest to the demands of science and medical expertise had different meanings. To some, it meant the implementation of the 1836 Medical Witnesses Act. To others, it meant not the provision of objective medical evidence, but the establishment of medical coronerships.<sup>47</sup>

Both approaches addressed a common concern: the need for medical expertise at the coroner's inquest. For many, Wakley's often strident and uncompromising call for medically qualified coroners went too far, since his insistence on medical expertise seemed to imply the exclusion of all other forms of expertise at the inquest. Much less controversial among those who sought

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<sup>47</sup> Gordon H. H. Glasgow, 'The Campaign for Medical Coroners in Nineteenth-Century England and Wales and its Aftermath', *Mortality*, 9.2 (May 2004), p. 152. Glasgow's article was published in two parts: the second part appeared in *Mortality*, 9.3 (August 2004).

coronial reform, and one more likely to achieve legislative results, was the campaign to put in place a standardized system of medical witnesses.

The Medical Witnesses Act endeavoured to address the arbitrary system of medical evidence at coroner's inquests prior to 1836. A witness, usually a local general practitioner with varying amounts of expertise, often with little or no understanding of forensics and limited or no experience of conducting a post-mortem, was expected not only to give evidence but also to give it freely. Unsurprisingly, the lack of remuneration led to a reluctance on the part of many medical men to provide evidence. In an 1835 issue of *The Lancet* Wakley published a letter from Samuel Richards, a doctor who had been asked to give evidence at an inquest held before Thomas Sterling; in response to the coroner's question as to the cause of death, Richards replied: 'I cannot give a conscientious medical opinion without making a post-mortem examination of the body, and I shall neither give the one nor perform the other without receiving a proper remuneration.' Richards concluded his letter by suggesting that 'if all medical men invariably refused to give opinions and make inspections, we should soon see your [i.e. Wakley's] assertion verified that remuneration is due to them on those occasions.'<sup>48</sup> Another letter published by Wakley in the same year, from a surgeon named William Robins, similarly recorded the medical man's refusal to perform a post-mortem without remuneration; Thomas Sterling, the coroner, refused the request for payment, instead taking evidence from another medical man that did not include an autopsy, leading to a verdict that Robins regarded as unsatisfactory.<sup>49</sup> In a petition signed by 29 physicians and surgeons and published by Wakley in *The Lancet*, various arguments were made against the practice of not remunerating medical evidence: post-mortem examinations exposed those who conducted them to health risks; medical men were obliged to attend the discovery of a dead body and to present evidence in

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<sup>48</sup> *The Lancet*, 1835, p. 291.

<sup>49</sup> *Ibid.*, p. 88.

court, at a loss of their own time; the evidence of medical men was of a higher status than ‘the mere casual evidence of bystanding citizens’; and the qualifications and training of medical men was the basis on which their professional status and the quality of their evidence rested, and hence should be regarded as professional evidence and remunerated accordingly.<sup>50</sup> As with Wakley’s broader campaign for medical coroners, he was in a powerful position to conduct and advance his campaign for the remuneration of medical witnesses through the pages of the journal he edited.

The Medical Witnesses Act introduced a statutory payment of one guinea for medical witnesses who gave evidence at inquests and two guineas if a post-mortem examination had been ordered. Section 21 of the Act stated that if the deceased had been attended by a medically qualified practitioner at his death or during his last illness, it was this practitioner who would be summoned as the relevant medical witness at the inquest. If the deceased had not had a qualified practitioner in attendance in either circumstance, the coroner could call, as medical witness, any officially qualified medical practitioner in practice near to where the death occurred; it also made provision for the coroner to order a second post-mortem, and also accorded the privilege to the jury, provided that a majority of its members supported the request, to apply in writing to the coroner for a second medical witness to give evidence as well as for a further post-mortem examination to be conducted. The Act did not stipulate any requirements for medical witnesses beyond that of being medically qualified, and thus it did not address the problem of their lack of specialist knowledge of forensics or pathology. However, by making it a statutory requirement for medical witnesses to attend an inquest if summoned, and by remunerating that witness for his time and efforts, the Act firmly established medical evidence at the heart of the inquest.

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<sup>50</sup> *Ibid.*, p. 457.

Although Hostettler has suggested that ‘legal coroners had largely frustrated the purpose of the *Medical Witnesses Act* by refusing to call medical witnesses on the grounds of economy’, he provided no evidence to support this claim.<sup>51</sup> Indeed, in the immediate aftermath of the legislation, Wakley went to some lengths in the pages of *The Lancet* to demonstrate, in the face of criticisms directed towards the reform, how well the Act was working by printing letters from coroners confirming that medical witnesses had been remunerated.<sup>52</sup>

### **5. Wakley as a coroner**

Wakley estimated that his unsuccessful 1830 bid to become a coroner had cost him £7,000. This made him cautious of applying for the post of coroner for West Middlesex in 1839, but with financial and electoral backing from supporters, he ultimately decided to stand for election. He won the contest with a comfortable majority, making him the first medically qualified coroner to hold office in London; his beaten opponent was, no doubt to Wakley’s satisfaction, a lawyer.

Wakley held his first inquest on 26 February 1839 into the death of a 69-year-old man by the name of Peter Spence. The court assembled at the King’s Arms Public House, High Holborn, where Wakley impressed upon his 18-strong jury that theirs was a melancholy duty and that it was necessary to pay attention to the evidence ‘that they might elucidate the real cause of a fellow creature’s death’. Accompanied by the jury, he went to Spence’s home to view the body and carried out a ‘strict external examination’ on the deceased. Mr Bell, who had been clerk to the late Mr Sterling, Wakley’s predecessor, took the depositions from Mr Spence’s son and his apprentice, George Maddox. The deceased had been suffering from chest

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<sup>51</sup> Hostettler, *Thomas Wakley*, p. 110.

<sup>52</sup> *The Lancet*, 1836–7, pp. 377–84. The nature of the criticisms was often personal, an indication of the personal hostility that Wakley’s abrasive character often generated in others. *Ad hominem* attacks were a feature of many of Wakley’s disputes with others.

pain and had been found dead by his son and the 13-year-old Maddox. Once the jury had heard all the evidence, Wakley asked them if they wished to hear any further evidence; in Wakley's opinion, there had been 'nothing before them to show the actual cause of death', suggesting that for a jury to return a proper verdict they should know the 'order of the disease'. On this occasion, however, he was willing to leave the verdict to the discretion of the jury; they returned the verdict of 'Natural Death by a Visitation of God'.<sup>53</sup>

After the jury had delivered its verdict, Wakley wished to offer 'a few observations with respect to the important subject of medical evidence'. According to the Times report, Wakley informed the jury that:

The object of law generally was not... formed so much for the detection of crime as to prevent its occurrence. With that conviction, he was led to believe that coroners' inquests, from their first institution, were of the first importance in a moral point of view, as regarded the administration of criminal law. In his [Wakley's] opinion, even with respect to the case they [the jury] had just decided upon, a *post mortem* examination was truly desirable, although there was no discrepancy in the evidence. It might transpire that an individual, heir to property, might wish to get rid of a second person, who stood between the former's speedy possession of it, and for that purpose might administer to him morphiate, the principle of opium, and cause death. To detect if such had been done, it was necessary in all cases of sudden death that a *post mortem* examination should take place, but not so much so in cases resulting from known accidents, or palpable instances of suicide. He intended to put the county to as little expense as possible; but he should feel it his duty, where no judgment could be fairly formed from an external appearance of a body, always to order a *post mortem* examination. (Hear, hear.)<sup>54</sup>

Wakley used his first inquest, therefore, as an opportunity to set out his agenda as a coroner: inquests had a moral function, with the prevention of crime as their primary rationale; in this moral task of preventing crime, medical evidence took centre stage, since it was only such evidence that could determine in many cases whether a crime had been committed.

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<sup>53</sup> *The Times*, 27 February 1839, p. 6.

<sup>54</sup> *Ibid.*

In an inquest in early 1840 on the death by possible starvation of a workhouse inmate, Wakley responded to a juror's question about neglect by stating:

Yet that [determining the charge of neglect] is not the purpose for which the inquest is instituted. The better way will be for us to adjourn the investigation, in order that an examination of the body may take place, with the view of ascertaining if the deceased died of any disease, or whether his death was or was not accelerated by want.<sup>55</sup>

As he then explained to the juror, only once the medical evidence had been ascertained would it be appropriate to make further inquiry into the workhouse practices. At this inquest, therefore, Wakley offered a clear and coherent explanation of the primacy of medical evidence and how the moral function of the inquest would flow from that. However, analysis of reports on Wakley's inquests in *The Times* in 1840 and 1841 casts doubt on whether he fully honoured his own commitment. Of 45 inquests reported on by the newspaper, a post-mortem is mentioned in only 14 of them.<sup>56</sup> In several of these inquests, it was clear that a post-mortem was unnecessary—the 'known accidents, or palpable instances of suicide'. But in other cases, such as those of sudden death, one might expect a post-mortem given Wakley's comments after the Spence inquest. An apparently perfunctory inquest on the death of a young prisoner seemed satisfied with the governor's evidence that the deceased suffered from asthma,<sup>57</sup> an inquest on a patient in a lunatic asylum concluded that he had died a natural death by paralysis, without

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<sup>55</sup> *The Times*, 10 February 1840, p. 6.

<sup>56</sup> The reports appear in the following issues of *The Times* (those mentioning a post-mortem are designated P) in 1840: 3 January, p. 7 (P); 15 January, p. 7 (two inquests); 29 January, p. 7; 10 February, p. 6 (P); 28 February, p. 6; 7 March, p. 7 (P); 19 March, p. 6 (P); 30 March, p. 6 (P); 18 April, p. 7; 21 April, p. 6; 25 April, p. 7; 21 May, p. 6; 28 May, p. 5; 18 July, p. 6; 23 July, p. 6; 10 August, p. 7; 14 August, p. 7; 21 August, p. 6; 7 September, p. 7; 2 November, p. 6; 4 November, p. 6 (P); 7 November, p. 7 (P); 10 November, p. 7; 28 November, p. 3; 2 December, p. 6 (P); 4 December, p. 3; 9 December, p. 6 (P); 11 December, p. 7 (P); 12 December, p. 6; 19 December, p. 5. In 1841: 27 February, p. 6; 5 March, p. 6 (P); 24 March, p. 6 (P); 8 April, p. 6; 13 April, p. 5; 21 April, p. 6 (P); 30 April, p. 5; 24 May, p. 5 (P); 12 June, p. 14; 16 June, p. 7; 3 July, p. 7; 7 July, p. 5; 8 July, p. 7; 7 August, p. 7; 10 August, p. 7.

<sup>57</sup> *The Times*, 15 January 1840, p. 7.



recording any medical evidence to support this;<sup>58</sup> another apparently perfunctory inquest on a 33-year-old prisoner at Coldbath-fields House of Correction makes no mention of a post-mortem and concludes with little fuss that it was a natural death;<sup>59</sup> an inquest into a 33-year-old pauper who had died in a workhouse from apparent starvation and exhaustion presents little medical evidence;<sup>60</sup> and post-mortems are not mentioned in reports on a 53-year-old professor who was found mysteriously drowned,<sup>61</sup> on an 18 year-old, also found drowned,<sup>62</sup> or on a 15-year-old girl whose death was either suicide or murder (an open verdict was recorded).<sup>63</sup> It is likely that in many of these cases the newspaper simply did not report the medical evidence, but it is also possible that Wakley did not rigorously follow his own agenda in every inquest.

An example of Wakley's flexibility about medical evidence came in his handling of a complaint about an inquest held by his deputy, George Mills, in 1846. Mills was a London-based surgeon who had been appointed deputy coroner 'for the western division' of Middlesex by Wakley and the Lord Chancellor in 1843.<sup>64</sup> The inquest had been on the death of a young woman, twenty-two year old, Rosetta Brown', who was found in her employer's cellar with her throat cut; a carving knife by her side. There was evidence pointing to suicide, as well as evidence pointing to murder as Miss Brown was virtually decapitated. The deceased's

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<sup>58</sup> *The Times*, 18 April 1840, p. 7. Immediately upon concluding this inquest at Hanwell Lunatic Asylum, Wakley heard of another body that was about to be removed. He determined that it required an inquest and arranged for one immediately (and acceding to the complaints of the original jury about this second inquest by hastily summoning a new jury). Wakley 'minutely examined' the body himself, presenting (somewhat irregularly) the medical evidence at an inquest he was presiding over. The verdict was natural death.

<sup>59</sup> *The Times*, 21 May 1840, p. 5.

<sup>60</sup> *The Times*, 27 February 1841, p. 6.

<sup>61</sup> *The Times*, 30 April 1841, p. 5.

<sup>62</sup> *The Times*, 12 June 1841, p. 14.

<sup>63</sup> *The Times*, 16 June 1841, p. 7.

<sup>64</sup> *The Times*, 28 August, 1843, p. 7, 'First Appointment under the Coroners Bill'. There is some confusion over George Mills's name. Although he is listed by the Coroners' Society as G.J. Mills up to 1847 after which date his name does not reappear, in articles in *The Times* he is described as deputy coroner to Wakley, George Ireland Mills (see *The Times*, 9 January, 1844, p. 6, 'The Deputy Coroner for Middlesex') and signs a letter to the Editor of the paper in the same way (see *The Times*, 7 December 1846, p. 5, 'To the Editor of the Times'). Mills died in May 1850.

employer told the inquest that ‘She had been much depressed in mind’. She had claimed that she ‘would rather die than be married to a man named Payne’, to whom she was betrothed. Mills, however, had refused to hear many witnesses, and he also refused to hold a post-mortem. Although the jury were dissatisfied with his conduct of the inquest, they were talked round into recording ‘that the deceased destroyed herself, but in what state of mind there was no evidence to prove’.<sup>65</sup> Two months later, relatives of the deceased complained to Wakley about the inquest. Although Wakley met the relatives on two occasions, he attempted to dissuade them from having the body disinterred, on the grounds that, if the deceased had indeed killed herself, it would bring ‘great exposure’ to the family. Two days later, *The Times* printed a letter from Wakley’s deputy, in which Mills wrote that he had been authorized by Wakley ‘to state that he [Wakley] was, and is, perfectly satisfied that the unfortunate girl perished by the act of her own hand, that no other person was present when the catastrophe occurred, and that no one is criminally responsible for the fatal calamity’.<sup>66</sup>

Wakley also attracted criticism for his conduct as a coroner. In February 1840, he covered for William Baker in the Eastern District and spent (according to the report) most of the inquest criticizing the area (Wapping) and the people who lived there; once the verdict had been delivered, he embarked upon a political harangue of all those in court, which received ‘but little sympathy’.<sup>67</sup> Two further critical stories were printed over the following weeks: in

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<sup>65</sup> *London Daily News*, 5 November, 1846, pp. 4-5. ‘Repugnance to Matrimony’. The news report does not mention how a woman could nearly decapitate herself or elaborate on the depth of the cut.

<sup>66</sup> *London Daily News*, 3 April, 1847, p. 3, ‘Mysterious Affair in St. Pancras’; *The Times*, 3 April 1847, p. 5 (report on the complaint to Wakley); 5 April 1847, p. 5 (Mills’s letter). The editor of *The Times* commented (somewhat uncritically) that it would never again trust the source of the original story. *The Medical Times*, Vol. 15, 1847, p. 370.

<sup>67</sup> *The Times*, 28 February 1840, p. 6. The newspaper ends its report by commenting that Wakley ‘retired apparently in very low spirits at the specimen of *genus homo* he had found in Wapping’. In 1840, Wakley did not have a deputy, his clerk was Mr Bell who had been clerk to the late coroner Mr Sterling, Wakley’s predecessor. See ‘Inquest into the death of Dina Batkins, 1840’, *The Times*, 28 February, 1840, p. 7. An act of 1843 made it lawful for coroners of any county to appoint a deputy; the appointed person needed no particular qualifications. ‘The use of deputies was not regulated by statute until the Coroners Act of 1887’, Olive Anderson, *Suicide in Victorian and Edwardian England* (Oxford: Oxford

one, Wakley was criticized for not allowing the press to attend an inquest into the death of a prisoner;<sup>68</sup> in the other, he was accused of abusing his position by allowing his clerk, Mr Bell who lacked any medical or legal qualifications, to deputize for him.<sup>69</sup> In both cases, hypocrisy is implied: in the former, Wakley is being accused of going against his apparent commitment to an open court,<sup>70</sup> in the latter, he was accused of flouting his own insistence on the importance of medically qualified coroners. *The Times* also reported in great detail on an inquest into two sudden deaths: Wakley arrived two and a half hours late (only once a messenger had been despatched to find him dining at the House of Commons); the newspaper commented on the annoyance this caused to those summoned to give evidence, as well as the distress it caused the relatives of the deceased, before reporting that Wakley arrived making a joke, quickly read the evidence, and directed the jury to make a verdict (natural death).<sup>71</sup>

In light of this thesis's consideration of professionalization, Wakley seems to have been guilty of frequent unprofessional coronial practice. However, it is also possible that the press (as well as magistrates) were hostile to some of his reforming intentions. There was, in particular, opposition to one of his first directives as a coroner which was to order all institutions in his district to report to him every death occurring within their walls. Wakley's directive was met with some alarm, and 'a largely hostile daily press immediately tapped into

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University Press, 1987), p. 28-9, n. 57; Wakley would have his legally qualified son, Henry Membury Wakley, hold inquests as his deputy, see the case of Pearce, 1848, p. 145-6, n. 121, of this thesis.

<sup>68</sup> *The Times*, 7 March 1840, p. 7. A post-mortem was held, and a verdict of natural death was recorded.

<sup>69</sup> *The Times*, 11 March 1840, p. 6. Wakley accepted that he had been in the wrong, and he reimbursed Mr. Bell the £40, 9s, and 7d which had been disallowed by the magistrates.

<sup>70</sup> In an inquest held in a private house later in the year, a similar complaint was made by reporters about being denied access. Wakley told them: 'If I admit you into my court when held in a private house, I admit the public, which I conceive I have no right to do. I shall always feel most happy to see authorized reporters for the public press at my inquests, when they are public ones, and also in private houses, if they have the authority of the owner or occupier of such house to be present': *The Times*, 2 November 1840, p. 6.

<sup>71</sup> *The Times*, 28 May 1840, p. 5.

this rich vein of cultural anxiety'.<sup>72</sup> According to a report in *The Scotsman* in 1839, the Middlesex Sessions launched an inquiry into Wakley's practice as a coroner, since the 'feeling was general that several needless inquests had lately been holden, and that the fees in such cases should be withheld'.<sup>73</sup> An *Observer* editorial interpreted Wakley's order to hold more autopsies as evidence of the coroner's unsavoury 'predilections for dissecting' and his seeming willingness to flaunt public standards of decency by 'mangling without reasonable motive', and argued that:

The Middlesex citizenry was reaping the bitter harvest of electing a medical coroner more concerned with pressing his own narrow professional agenda than with either the public good or the good of medicine as a whole... Mr Wakley ought to know that an inquest can neither be held for mere pleasure nor his mere profit, nor to enable him to sit in judgement on his brother medicals who are in practice, nor to show off his own surgical learning.<sup>74</sup>

Similarly, a letter to *The Times* made the longstanding charge of medical violation: 'The loss of one's relation is distressing enough without... an additional harrowing of the feelings by the coroner's inquest, and, perhaps, the application of the knife'.<sup>75</sup> Wakley began his coronial career, therefore, facing hostility from the press and the fear that his calls for a more medical inquest would in fact lead to distressing violation of corpses. Much of this hostility could be attributed to a sensationalist press, and to the fact that Wakley had made a number of enemies over the years. Such was the press outcry that Wakley, never usually one to shun publicity, decided to refuse providing newspaper reporters with information about when and where his inquests were to be held.<sup>76</sup>

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<sup>72</sup> Burney, *Bodies of Evidence*, p. 55.

<sup>73</sup> *The Scotsman*, 19 October 1839, p. 2.

<sup>74</sup> *The Observer*, 29 September 1839, p. 4: 'Editorial'.

<sup>75</sup> *The Times*, 5 October 1839, p. 6.

<sup>76</sup> *The Spectator*, 3 October 1839, p. 1007: 'The Metropolis'.

Wakley's directive followed from his desire to expose 'the ignorance, negligence or misconduct of public functionaries'; in order to do this, he believed that inquests should be held on all deaths in public hospitals.<sup>77</sup> As an MP he had been a strong opponent of the New Poor Law Act and seconded a motion to repeal the Poor Law Amendment Act; he was a consistent critic of the restriction of outdoor relief. In Norman Longmate's view, Wakley was 'the workhouse's most vocal and persistent critic' in parliament; and while his fellow parliamentarians styled him as 'the member for medicine', Wakley liked to add the label 'member for the poor' to this description.<sup>78</sup> However, Wakley was in fact 'convinced that the sick poor are much better accommodated and attended to in union workhouses than under the old system, and if this were generally known I feel certain I would not be called upon to hold so many inquests on persons who have actually died for fear of going into a workhouse'.<sup>79</sup> Indeed, he believed that to champion the cause of medicine was also to champion the poor, since those in poverty had often justifiable fears about what would be done to them in hospitals and workhouses.<sup>80</sup> Wakley thus began the coronership with the intention of scrutinizing the conditions within institutions by insisting on his jurisdiction over all deaths that occurred within their walls, with the aim to reform those institutions.

Newspaper reports of inquests indicate that Wakley appears to have been true to his word about assiduously investigating deaths of the poor. In a much-discussed 1839 inquest on the death of Thomas Austin, a 79-year-old pauper in the Hendon Union workhouse who died of scalding after falling into a copper vat, Wakley's persistence in ordering the disinterment of the body and taking to task the officials who, in his view, had failed to properly notify the death

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<sup>77</sup> *The Lancet*, 2 (1827–8), p. 532.

<sup>78</sup> Norman Longmate, *The Workhouse* (London: Pimlico, 2003), p. 109.

<sup>79</sup> *The Cambrian*, 14 November 1840, p. 4. 'Union Workhouses and the Sick Poor'.  
<https://newspapers.library.wales/>.

<sup>80</sup> Ruth Richardson, *Death, Dissection and the Destitute: The Politics of the Corpse in Pre-Victorian Britain*, second edn (London: Phoenix, 2000), p. 270.

illustrated ‘the basic disputes between coroners, county magistrates and the Board of Guardians of Workhouses’ and ‘casts light on the otherwise dark and sordid chapter of early Victorian history by providing factual evidence of workhouse conditions’.<sup>81</sup> In November 1840, Wakley held an 11-hour inquest (*The Times* commented on its length) into the death of a young woman from apparent starvation. Much of the inquest concerned the behaviour and responsibility of officials and a surgeon in relation to the death; the jury’s verdict was: ‘We find that Elizabeth Friry died from fever, bought [sic] on by the want of good and sufficient nourishment; and that the jury cannot separate without expressing their disapprobation of the conduct of the relieving officer and of the surgeon in not being more prompt in their attention to the wants of the deceased.’<sup>82</sup> Three days later, Wakley wrote to *The Times*, complaining that it was only by chance he had been informed of the death of Friry: ‘I have of late felt it to be my duty to institute inquiries respecting deaths which have happened among the destitute poor’, but this had been hampered by magistrates withholding fees for constables who inform coroners of deaths; ‘the abolition of the payment in question is calculated to operate with fearful severity on the condition of destitute poor persons’.<sup>83</sup>

A notorious case concerned another institution for the poor, a school in Tooting run by Peter Drouet, where in 1849 a cholera epidemic broke out, resulting in the deaths of 180 children.<sup>84</sup> The deaths came under the jurisdiction of the Surrey coroner, William Carter,<sup>85</sup> who

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<sup>81</sup> Gordon Glasgow, ‘Pray Sir, How Many Paupers Have You Boiled?’ *Thomas Wakley, Workhouses and the Poor Law, circa 1834–1847* (Cambridge: EAH Press, 2012), p. 24. See reports on this case in *The Times*, 3 October 1839, p.6; 5 October 1839, p. 6. It is also discussed by Joe Sim and Tony Ward, ‘The magistrates of the poor? Coroners and deaths in custody in nineteenth-century England’, in Michael Clark and Catherine Crawford (eds), *Legal Medicine in History* (Cambridge: Cambridge University Press, 1994), Chapter 10, pp. 249–50.

<sup>82</sup> *The Times*, 4 November 1840, p. 6.

<sup>83</sup> *The Times*, 7 November 1840, p. 5.

<sup>84</sup> A. W. C. Brice and Kenneth J. Fielding, ‘Dickens and the Tooting Disaster’, *Victorian Studies*, 12 (1986), pp. 227–44; Peter de Loriol, *Famous and Infamous Londoners* (Gloucestershire: The History Press, 2004).

<sup>85</sup> William Carter (1806–92) was a lawyer and coroner for East Surrey (known as the Newington District) between 1836 and his death.

decided that inquests were unnecessary. Some children had been removed before death to other districts, and some from the Holborn union were placed in the Royal Free Hospital, Middlesex, where, upon their deaths, they came under the jurisdiction of Wakley. The inquests over which Wakley presided ‘found that the children at the Tooting institution were badly fed, clothed and housed’.<sup>86</sup> A manslaughter verdict was found against Drouet by the coroner’s jury, but he was acquitted at his trial at the Central Criminal Court;<sup>87</sup> negligence could not be proved as the cause of death, when cholera was clearly the cause and neglect a contributory factor. Whether Carter’s reason not to hold inquests was in order to save time and money cannot be said with any certainty. Wakley’s fellow coroner, William Baker, commented that

it is a remarkable fact, that during the late raging of the cholera in the northern parts of the county of Surrey, bordering on the metropolis, there was no inquiry instituted in that county into the causes of the numerous cases of death which there occurred, but that inquiries, to a considerable extent, took place in Middlesex, into cases which had their origin, as to the primary cause of death, in Surrey... It is somewhat difficult to account for the apathy which would appear to have prevailed amongst those, whose duty it most unquestionably was to have called for such inquiries.<sup>88</sup>

Baker, himself an active coroner who believed the role entailed a broader responsibility to public health, recognized Wakley’s assiduous efforts to transform the coronial office into one that would bring social benefits beyond the administering of justice. What is certain is that Wakley, true to his principles, sought to ensure that the inquest did not simply involve determining the direct cause of death but would also consider the indirect factors which may have contributed to death. In doing so he was keen to ascertain accountability for the deaths of the Drouet school children. The case demonstrates Wakley’s belief that the coroner’s inquest

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<sup>86</sup> Michael Alpert, *London 1849: A Victorian Murder Story* (Harlow: Pearson, 2004), p. 80.

<sup>87</sup> *Old Bailey Proceedings Online*, April 1849, trial of Bartholomew Peter Drouet (t18490409-919) [accessed: 2 January 2017]. Drouet was himself ill at the time and died in the same year as his trial.

<sup>88</sup> William Baker, *Practical Compendium of the Recent Statutes, Cases, and Decisions affecting the Coroner* (London, 1851), pp. v–vi. Baker goes on to praise the role of the General Board of Health in relation to this case, and he considers the wider issue of cholera epidemics raised by the case on pp. 122–4.

was a powerful means to scrutinize the conditions and management of institutions, and hence that the coroner was uniquely placed to act as a progressive force for social good.

However, beyond expressing censure, and sometimes laments about the state of society,<sup>89</sup> there were limits as to what a coroner could do to reform such institutions. At the 1858 inquest into the death of William Walters, who had been taken to a workhouse after being found in a state of starvation and exhaustion, Wakley and the jury expressed ‘astonishment and indignation’ that no medicine or stimulant had been given to the deceased; the verdict was, nevertheless, death by exhaustion, with the jury recording ‘regret’ over the conduct of the workhouse surgeon.<sup>90</sup> Furthermore, Wakley was not immovably critical of institutions: at an inquest into ‘a drunken lunatic’ who hanged himself in a padded cell in the St Pancras workhouse, Wakley stated that ‘the complaint made to him was that this man had lost his life through being placed under restraint, whereas the contrary was the fact. He had really lost his life by being allowed his liberty too soon.’ Wakley ‘did not consider that there was blame to be attributed to anyone’.<sup>91</sup>

Nevertheless, Wakley was not deterred from using his role as a coroner to push for social benefits. At an 1840 inquest on a 13-year-old boy who drowned in swimming baths in Pentonville while the proprietor of the baths was briefly attending a gentleman (and after the proprietor had warned the boy and his friend not to go into the water), Wakley concluded after the jury’s verdict of death by drowning that ‘the public health much benefitted by such establishments, but he thought that a person connected with the establishment should always

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<sup>89</sup> At an 1841 inquest into the death of a 33-year-old woman from starvation and exhaustion in a workhouse, Wakley expressed despair at the state of a society in which others (for example, her fellow poor) did not provide her with nourishment: *The Times*, 27 February 1841, p. 6.

<sup>90</sup> *The Observer*, 30 May 1858, p. 7: ‘Coroners’ Inquests’.

<sup>91</sup> *The Observer*, 26 October 1856, p. 8: ‘Suicide of a Drunken Lunatic in St Pancras Workhouse: Coroner’s Inquest’.



be in attendance'.<sup>92</sup> The death of a man who suffocated in the mud and water of a ditch in Portobello Lane prompted some of the jurors to comment that the road was a disgrace to the parish; Wakley endorsed these views, expressing surprise that a parish as rich as that of Kensington allowed one of its roads to fall into such a state, and promising to write to the parish authorities about the matter.<sup>93</sup> The death of a platelayer who had been struck by a train on the line near Kew Junction led Wakley to recommend that a bell be suspended at the junction in order to warn platelayers of approaching trains; the jury's verdict in the case was accidental death.<sup>94</sup>

After presiding over several inquests involving the deaths of children who were run over while playing in the street, Wakley 'suggested the propriety of having a piece of ground allotted in each district suitable for the recreation of children', adding that he would use 'the full extent of his power' to support such an initiative.<sup>95</sup> An inquest into a child who had died as a result of a brain haemorrhage, and whose parents had attempted to revive the infant by immersing him in warm water, led Wakley to recommend 'parents in all such cases to obtain prompt medical assistance, and not to trust to their own treatment', adding that a 'warm bath often proved fatal in such cases, and instead the face should be dashed with cold water'.<sup>96</sup> Sometimes Wakley pushed for precise and highly local benefits: at an inquest into the death of a woman who, after having a fit, fell to her death through an unfastened gate leading to an underground store, Wakley noted that a similar accident had occurred near the same spot and pointed out that 'there was great danger to children or passengers if the gate was continually left open'; the deceased's husband did not blame anyone, and Wakley, after the jury had

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<sup>92</sup> *The Observer*, 10 August 1840, p. 3. Wakley's belief in the health benefits of swimming led him to be a prominent supporter of the British Swimming Society after its foundation in 1841; Sharp, 'Wakley', p. 1920.

<sup>93</sup> *The Observer*, 15 February 1857, p. 7: 'Deaths from Various Causes'.

<sup>94</sup> *The Observer*, 18 April 1859, p. 7: 'Fatal Accidents'.

<sup>95</sup> *The Scotsman*, 10 April 1839, p. 2.

<sup>96</sup> *The Observer*, 15 February 1857, p. 7: 'Deaths from Various Causes'.

returned a verdict of accidental death, ‘required Mr Lewis [the owner of the store] to promise not to leave the gate unguarded, as a verdict of manslaughter would be returned, if a fatal accident should happen there hereafter’.<sup>97</sup>

He was outspoken in his condemnation of the practice of using gin as a means of calming young children,<sup>98</sup> and he was determined to alert the public to the dangers presented by poisons. At an inquest into the death of Mr G. Pearce, a musical instrument maker, in 1845, the jury’s verdict of suicide after consuming essential oil of bitter almonds was easily reached; however, the surgeon who provided medical evidence at the inquest ‘stated that it was entirely unnecessary that either prussic acid or the above mentioned poison [essential oil of bitter almonds] should be vended so freely, as a preparation for culinary purposes, containing the flavour and odour, but entirely divested of the poisonous qualities, had recently been manufactured... and was on sale... generally’—Wakley ‘expressed his desire that so important a fact should be generally known to the public’.<sup>99</sup> At an inquest on a cab driver named William Watts who died after taking tartaric acid which had mistakenly been dispensed to him instead of Epsom salts, Wakley instructed the father and son druggists who had been responsible for the mistake ‘to consider what reparation you can make to the widow for the loss you have inflicted upon her’. When the men responded that they could only afford to cover the widow’s medical expenses, Wakley became indignant, perhaps influencing the jury both to return a verdict of manslaughter and to raise a subscription for the widow.<sup>100</sup> At an 1857 inquest, which Wakley himself described as ‘extraordinary’, into the unexplained death of a man after consuming Egyptian ‘locust nuts’ (of which Wakley had no knowledge, but was informed by

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<sup>97</sup> *The Observer*, 1 February 1857, p. 7: ‘Coroners’ Inquests’.

<sup>98</sup> *Glamorgan, Monmouth and Brecon Gazette and Merthyr*, 19 February 1840, p. 4. ‘Gin’.  
<https://newspapers.library.wales/>.

<sup>99</sup> *The Observer*, 14 July 1856, p. 7: ‘Suicides’. That Wakley’s comments were reported in *The Observer* was itself the publicity Wakley was seeking.

<sup>100</sup> *The Observer*, 6 January 1845, p. 4: ‘Coroners’ Inquests’.

the jury that they were a type of dried fruit), the coroner adjourned the inquest in order to conduct further analysis of the deceased's stomach and the 'locust nuts', since 'it was important for the public welfare to ascertain whether this new importation was poisonous'.<sup>101</sup>

Over his career Wakley presided over numerous suicides; at one such inquest he commented that it 'was extraordinary the number of suicides that took place in the neighbourhood of London, and it was really thought nothing of', adding that 'they happened more frequently in the hot months, and it was an error to suppose that they chiefly took place in November'.<sup>102</sup> Like many coroners, Wakley was often prepared to recommend a verdict of insanity in cases of suicide. There is, however, no evidence that Wakley was making a clinical diagnosis of insanity: the only medical witnesses mentioned in reports are surgeons who performed autopsies, and Wakley appears, when judging the deceased's state of mind, to have been largely guided by common sense or humane instincts than by medicine. He seems to have been particularly moved (as mentioned below) by cases of young women who had killed themselves after they had discovered the faithlessness of their lovers. On the other hand, he was less inclined to guide the jury towards an insanity verdict when there were not so apparent reasons why someone had taken their own life.

At an inquest held in Tottenham Court Road on Caroline Hobbs, an 18-year-old woman who had taken her own life after discovering the faithlessness of her lover,

on the recommendation of the coroner [Wakley], the jury humanely recorded, instead of a verdict of 'felo de se', which the case appeared to call for in consequence of the great coolness and premeditation evinced in the determined act, an open one to the effect that the deceased committed suicide, but there was no evidence to prove the state of her mind at the time she committed the deed.<sup>103</sup>

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<sup>101</sup> *The Observer*, 22 February 1857, p. 7: 'Coroners' Inquests'.

<sup>102</sup> *The Observer*, 29 May 1859, p. 7: 'Suicides'.

<sup>103</sup> *The Observer*, 23 November 1856, p. 7: 'Love and Suicide'. According to the report in *The Times*, 19 November 1856, p. 9 ('Love and Suicide'), upon reading the deceased's final letter to her mother, 'there was scarcely a dry eye in the room'.

Wakley commented that he had ‘rarely met with a more melancholy case’, but, although melancholia was commonly linked to suicidal tendencies,<sup>104</sup> there is no indication that he was using ‘melancholy’ in any medical sense; rather it was being used not to allude to the possible state of mind of the deceased, but to the potential effect of the case on those in the court.<sup>105</sup> Wakley conducted two other inquests on suicides on the same day: in one, the jury left it open as to the state of mind of a melancholic 25-year old woman who had cut her own throat, while in the other, on a labourer who had hung himself, the verdict was insanity.<sup>106</sup> The following year, at an inquest on the death of Catherine Powell, a serving woman who had killed herself with strychnine, Wakley expressed his hope that the case ‘would be duly recorded in medical jurisprudence’, since the deceased apparently showed no external signs of poisoning; as to the verdict, Wakley indicated to the jury that Powell had taken her own life, and he left it to jurors to consider her state of mind: the jury recorded a verdict of suicide, ‘leaving the condition of the deceased’s mind an open question’.<sup>107</sup> At an inquest into a woman who killed herself and her two children, Wakley commented to the jury that the deceased was ‘a kind-hearted, gentle creature’ whose actions were ‘quite inconsistent with her nature’ and were rather those of a ‘maniac’; the jury proceeded to a verdict stating that the deceased was ‘not... in a sound state of mind’. Wakley then ‘made some forcible observations on the imprudence and danger of young men contracting marriages with members of families where symptoms of lunacy had manifested themselves’, suggesting that such marriages invariably brought ‘misery’ to men. When a juror suggested that people do not usually consider such things, Wakley replied that ‘it was not that people did not think of such things, but unfortunately other feelings too frequently overpowered the judgment’.<sup>108</sup>

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<sup>104</sup> Olive Anderson, p. 406.

<sup>105</sup> At his very first inquest (see above, pp. 125–6), Wakley described the duty of the court as a ‘melancholy’ one.

<sup>106</sup> *The Observer*, 23 November 1856, p. 7: ‘Love and Suicide’.

<sup>107</sup> *The Times*, 3 January 1857, p. 10: ‘Suicide by Strychnine’.

<sup>108</sup> *The Observer*, 20 June 1859, p. 7: ‘Double Murder and Suicide in St Pancras’.

These inquests supply evidence that Wakley was able to temper his rationality and often abrasive logic with humanity. But they also indicate some of the limits of medicalization in the inquest: Wakley routinely ordered post-mortems, but there are no records that he ever called for an alienist to give evidence. The medical evidence that came before his inquests was the physical evidence provided by the body; in so far as the mind (or what we would think of as mental health) played a role in someone's death, it was viewed primarily from the perspective of human sensibilities. Whereas criminal courts were increasingly seeing experts on mental health (alienists) provide evidence in relation to defences of insanity,<sup>109</sup> the coroner's court remained wedded to the physical and the corporeal.

Towards the end of his career as coroner Wakley became especially concerned with infanticide, thereby both responding to the 'moral panic' (and, arguably, hysteria) around infanticide and contributing to it.<sup>110</sup> At an inquest held in Marylebone in 1859 on the death of a newborn baby boy, the medical evidence was that the child had been born alive and healthy to a person unknown before being subsequently abandoned; in the view of the surgeon, the baby had died from neglect. In summing up, Wakley 'said he believed where a mother endeavoured to conceal the birth of a child she desired its destruction, and if it died from the wilful neglect she was guilty of murder as much as if she cut its head off'. He urged the jury to return a verdict of wilful murder in the hope of 'terrifying and deterring women from committing it'; the jury duly followed Wakley's guidance.<sup>111</sup> Shortly afterwards Wakley met

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<sup>109</sup> Joel Peter Eigen, *Mad-Doctors in the Dock: Defending the Diagnosis, 1760–1913* (Baltimore and London: Johns Hopkins University Press, 2016).

<sup>110</sup> Anne-Marie Kilday, *A History of Infanticide in Britain, c.1600 to the Present* (Basingstoke: Palgrave Macmillan, 2013) is the best introduction. There are many ways to interpret this 'moral panic'. The argument of Aeron Hunt, for example, is that 'infanticide became a powerful cultural term because it focused anxieties surrounding contemporary challenges to the gendered definition of public and private, threatening to reveal the constructedness of that apparently natural dichotomy': 'Calculations and Concealments: Infanticide in Mid-Nineteenth Century Britain', *Victorian Literature and Culture*, 34 (2006), pp. 71–94, at p. 90.

<sup>111</sup> *The Observer*, 28 August 1859, p. 7: 'Deaths from Various Causes'.

the board of directors of the Marylebone workhouse to whom he ‘expressed his conviction that there were hundreds of children buried as “stillborn” in the cemeteries of the metropolis who had positively been murdered’. It was suggested by one doctor that Wakley, ‘far from... having overstated the cases of child murder’, was likely underestimating the problem.<sup>112</sup> The following year, at an inquest on a child who died of malnutrition in a workhouse, Wakley ‘remarked that thousands of illegitimate children put out to nurse... were destroyed through neglect annually in this country’.<sup>113</sup> Whether or not Wakley was exaggerating the scale of the problem, he was using his position as coroner to highlight a laxity in the certification of infant death, and the subsequent interment of deceased infants, that potentially resulted in cases of infanticide evading detection.<sup>114</sup> This campaign has echoes of Wakley’s earlier inquest into the case of the Peter Drouet school which is discussed above (pp. 133–5). It is also notable that Wakley was primarily interested in detecting occurrences of infanticide, not in explaining why they occurred. Anne-Marie Kilday has commented that ‘by the 1830s, the relationship between puerperal insanity and infanticide was widely accepted by medical men, and it was soon acknowledged by the courtroom too’.<sup>115</sup> Although Kilday has credited Wakley (along with Edwin Lankester) for drawing attention to infanticide,<sup>116</sup> there is little indication that he was interested in maternal insanity beyond its potential as evidence that a crime had been committed. His belief, for example, that better detection of infanticide (and the consequences for mothers) would ultimately act as a deterrent suggests a limited appreciation of or willingness to understand puerperal insanity.

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<sup>112</sup> *The Observer*, 26 September 1859, p. 3; *The Manchester Guardian*, 27 September 1859, p. 3.

<sup>113</sup> *The Observer*, 15 April 1860, p. 7: ‘Coroners’ Inquests’.

<sup>114</sup> *The Observer*, 3 October 1859, p. 5: ‘Unprotected State of Infantile Life’.

<sup>115</sup> Kilday, *History of Infanticide*, p. 171. See also Katherine D. Watson, *Forensic Medicine in Western Society: A History* (Oxford: Routledge, 2011), p. 108: ‘The link between childbirth and insanity was encapsulated in the diagnosis of puerperal insanity... an important step in the medicalization of infanticide.’

<sup>116</sup> Kilday, *History of Infanticide*, p. 171.

Wakley's long career as one of the Middlesex coroners involved presiding over inquests into a wide range of deaths. The evidence presented by the reports on many of these inquests indicates that Wakley approached his role diligently and energetically—and perhaps, at times, over-zealously too. His arguments for a medical coronership were translated, once he had attained office, into a highly active coronership: Wakley routinely insisted upon thorough medical evidence—he ordered post-mortems as a matter of course—and he used his office to recommend reforms that would benefit public health. The case of Catherine Powell (above, pp. 135–6) may be illustrative of his medical approach: he seemed most interested in the post-mortem evidence that revealed not only strychnine poisoning but also unexpected non-external effects of this poisoning; Wakley believed this was a matter of high medico-legal importance that he hoped would be researched further; but when it came to the deceased's mental state (as opposed to her physical state at death), he was content to let the jury decide on Powell's state of mind.<sup>117</sup> For Wakley, the medical coronership combined the surgeon's attention to the body as the prime site of medical knowledge and inquiry, with a more 'popular' approach to the inquest: this 'popular' approach manifested itself in his willingness to leave non-corporeal matters to the jury (and to base his own pronouncements on such matters on human sympathy rather than medicine) and to regard the inquest as an arena of public interest and reform. As discussed above, his interest in infanticide is an example of how he attempted to use the inquest to publicize an issue that in his view was in need of attention; the following section discusses some other prominent cases that reveal Wakley's reforming approach to the coronership.

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<sup>117</sup> Further evidence of Wakley's approach to the evidence of insanity comes from an 1840 inquest into the mysterious death of a gentleman. On the jury was, unusually, Wakley's fellow coroner, John Henry Gell (see Chapter Five below), who suggested to Wakley that the surgeon could testify as to the deceased's sanity; Wakley refused to allow such testimony, and the jury recorded the simple verdict of 'found dead': see *The Times*, 18 July 1840, p. 6.

## 6. Conclusion

Wakley was an undoubtedly complex character. His dogged, often outspoken campaigns on behalf of social reform, and his presentation of himself as a representative and champion of the poor, won him loyal supporters as well as fierce enemies. He consistently opposed legislation such as the Anatomy Act and the New Poor Law Act on behalf of the poorest members of society. His approach to the coronership was deeply informed by his belief that the inquest was an ideal means to promote reform and defend the poor and oppressed. As Glasgow has written, Wakley was ‘the stalwart, almost apocalyptic, anti-poor law campaigner, member of parliament and county coroner... the best known of the county coroners of the period, believing that the coroner was “the peoples’ judge” with the primary responsibility to detect and prevent crime and to check official negligence’.<sup>118</sup> Wakley cast the coroner into the role of a ‘magistrate of the poor’.<sup>119</sup>

The coroner’s court was being invigorated in the 1820s and 1830s, in part due to the potential that political radicals saw in the inquest as an instrument for promoting reform, and in part due to the work of figures such as Jervis in providing a more robust understanding of the legal responsibilities of the coroner. Wakley’s contribution to this process stemmed not only from the energy he brought to his role as coroner for western Middlesex but also to his unrelenting campaign to place medical evidence at the heart of the inquest; in doing the latter, Wakley had a conception of medicine as a means to effect social reform.

As the first medically qualified coroner in London and Middlesex, Wakley was important as a model and spokesperson for the idea of the medically-based inquest. By the time of his death in 1862, Mary English has calculated that there were at least 59 medically qualified

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<sup>118</sup> Glasgow, ‘*Pray Sir*’, p. 1.

<sup>119</sup> Sim and Ward, ‘The Magistrate of the Poor?’, in Clark and Crawford (eds), *Legal Medicine in History*, p. 263.



coroners throughout England and Wales, approximately one in six of all coroners.<sup>120</sup> This was a significant increase on the situation a half century earlier. That Wakley had medicalizing tendencies is clear: his often overt hostility towards lawyers, and the vigour with which he promoted not only his own medical credentials as making him especially suited to hold coronial office but also the principle that all coroners should have medical qualifications, are evidence of his belief that medicine lay at the heart of the ‘moral’ function of the inquest. But to characterize Wakley as a dogmatic medicalizer would be to go too far. Although he wished to make more regular use of post-mortems, he did not insist upon them when the causes of death were clear from external evidence. Furthermore, Wakley’s conception of medicine only extended so far: there is no evidence from his inquests that he was especially interested in mental health as an area requiring expertise in an inquest. Wakley’s belief that the inquest could be based on greater medical expertise while at the same time remaining the ‘people’s court’ manifested itself in practice through a balance between insisting upon expert evidence on the physical body and allowing jurors to determine non-corporeal matters; in cases of suicide, for example, he would commonly use physical evidence to guide jurors towards a verdict of suicide, while leaving it up to them to determine the deceased’s state of mind. On non-corporeal matters relating to death, therefore, his approach was more ‘commonsensical’ and ‘popular’ than medical. Above all, the inquest was the ‘people’s court’ because it could serve as a platform for pursuing social reform. In this respect, the medical basis of the inquest amounted to a medicalization of social reform.

He was, however, aware of the limitations of medicine, although he appears to have regarded them as only temporary. In an inquest into the death of a 61-year-old from starvation

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<sup>120</sup> Mary English, *Victorian Values: The Life and Times of Dr Edwin Lankester, M.D. F.R.S.* (Bristol: Biopress, 1990), p. 137.

in a workhouse, Wakley was critical of the surgeon's view that the death was from 'natural causes':

True, from natural causes producing the effects which we have seen in the melancholy spectacle of his body. I am bound to say that medical testimony does not always relieve us from the difficulties for which *post mortem* examinations are made. It is the fault of the imperfections of medical science, which have not yet been surmounted. Medicine is incomplete as a science; it is its nature at present to be so. We do not know what life is; consequently we are often unable to tell what is death. But suppose now that a horse is in a pound without grass, and day after day he gets weaker and weaker, until at last he dies, and a veterinary surgeon is sent for to examine the body, and says when he has done, that he has found a tumour in the brain, and that that killed the horse, and that he did not die from starvation. That might satisfy the surgeon, but it would not do for you or me, because we should have got a palpable cause already before us, and the tumour would not be a palpable cause of his death. But we are not disposed to think, in this great and wealthy country, that people cannot die from want of food, and many of us frame our opinions upon this belief, however manifest its incorrectness may be made by particular facts. We are repugnant and unwilling to believe that starvation can occur in England. Such a feeling may have operated in the mind of the surgeon, even after seeing the extraordinary state of this man's body—its perfect emaciation.<sup>121</sup>

He appears to suggest here that if surgeons extend their medical gaze beyond what they have been trained to observe (the internal structure and operation of the body, for example) and apply it to society as a whole, then a much more scientific understanding of that society would be achieved. The statement indicates that Wakley's aspirations were those of the medicalizer.

He was also an important figure in the professionalization of the coronial system: his public prominence and zealous advocacy of the coronership were powerful weapons in promoting the office. But his contribution to professionalization should be qualified. His frequently abrasive personality often created antagonism and risked becoming counter-productive. Moreover, it is not clear that Wakley had a clear sense of the need for greater professionalism, beyond his belief that the coronial system would be improved were coroners

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<sup>121</sup> *The Times*, 5 March 1841, p. 6.

to be medically qualified and medical evidence to be at the heart of the inquest. As will be seen in Chapter Six, Wakley, although an early committee member of the Coroners' Society, was largely detached from its activities (he attended only four meetings in its first year of existence, the joint lowest of the seven committee members). His contribution to nineteenth-century professionalization was primarily in the field of medicine: his energies were directed towards medical reform that ultimately led to the 1858 Medical Act. Frustrated in his own experience of medical training and practice, arguably the one constant in his various campaigns was to reform medicine. Seen in that light, his campaigns for medically qualified coroners and the remuneration of medical witnesses arguably had less to do with professionalizing the coronial system and more to do with professionalizing medicine.<sup>122</sup>

Wakley nevertheless remains a key figure in the history of the nineteenth-century coronership. He gave to the coronial office a publicity and profile that ensured it remained at the heart of debates over social, legal and medical issues; it would have been hard to question the relevance of the coroner's inquest in the face of Wakley's energetic advocacy of the inquest's importance. At a time when the coronership was often subject to ridicule and was

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<sup>122</sup> One inquest, which attracted some notoriety at the time, reveals both Wakley's capacity for unprofessional behaviour himself and his interest in the professionalization of medicine. It concerned an inquest presided over by his deputy: his own legally qualified son, Henry Membury Wakley in October 1848. The younger Wakley, who had, by this point, replaced George Mills as deputy coroner, had taken an inquest into the death of a man that was allegedly due to homeopathic practices, which resulted in him committing the deceased's brother, C.T. Pearce 'to Newgate, on a charge of manslaughter' (*The Economist*, 15 December, 1849, p. 1387). Wakley senior had long taken exception to homeopathic practitioners as 'liars, fraudulent men, knaves and madmen' (British Homeopathic Association, *The Coroner's Jury Perverted; Being the History and the Evidence and the Trial of Dr. C.T. Pearce, in Connexion with a Coroner's Verdict for Manslaughter, Obtained Under the Presidency of Mr. H.M. Wakley, Deputy-Coroner of the Western Division of Middlesex* (London: W & J Piper & Bailliere, 1849), p. 3) and the English Homeopathic Association as 'an audacious set of quacks and its supporters noodles and knaves, the noodles forming the majority and the knaves using them as tools' (Brook, *Battling Surgeon*, p. 144), and a bitter dispute ensued between Wakley and the Association. The latter charged that Wakley was guilty of nepotism in appointing his own son as deputy (*The Coroner's Jury Perverted*, p. 62); after all, Wakley had once written about nepotism in medical practice: 'We deplore the state of society which allows various sets of mercenary, goose-brained monopolists and charlatans to usurp the highest privileges... This is canker-worm which eats into the heart of the medical body' (*The Lancet*, 1 [1838-9], pp. 2-3). William Baker discusses the case in his *Practical Compendium*, p. 133. Hostettler, *Thomas Wakley*, p. 141, comments that 'this was the only occasion for a complaint against [Wakley's] son as deputy coroner'.

regarded by some as moribund, Wakley brought to the office dynamism and a sense of both social importance and professional standing.

## **CHAPTER FIVE: THE CORONERS OF LONDON AND MIDDLESEX, c.1820–88**

### **1. Introduction**

London coroners were frequently at the forefront of debates and reforms over the coronial office. Since London was the nation's capital city, the centre of law and government, and the biggest city by far with the country's most diverse demographic profile, the experiences, workload and duties of the coroner in London were different to those typical of coroners elsewhere. Accordingly, the background of London coroners and their engagement with politics and the law was frequently more extensive than that of coroners in other parts of the country. As has been discussed in the previous chapter, Wakley was a prime example of the coroner who combined his duties with a wide range of other activities, and who saw his coronial office not as a useful side activity but rather as one that was intimately connected with his broader reforming intentions. London was the ideal, and arguably only, place in which a career such as Wakley's could have occurred, on account of its position as a centre of law, politics, journalism and publishing, as well as the challenges of poverty, disease, mortality and injustice that it daily presented to a reformer and coroner such as Wakley. It is perhaps not surprising, therefore, that several of the nineteenth-century London and Middlesex coroners saw in their role the potential for social reform.

This chapter provides an overview of the coroners of London and Middlesex, c. 1820–88. It presents the historical and social context in which the broader themes of the thesis should be studied, and it considers in detail some of the many coroners who held office in London and Middlesex during these years. This is not intended to be a complete list of all London and Middlesex coroners from 1820 to 1888; rather, it will present information about certain leading coroners as a basis for understanding the type of individual who took up the role of coroner in

the city during these decades. It will ascertain whether they were legally or medically qualified (or both), hence shedding light on the extent to which the coronership in London and Middlesex became more medicalized over the century. By presenting biographical information about the coroners, it will also consider their coronial practice in relation to professionalization. The background, education and career paths of the individual coroners provide insight into the nature of the coronial office and how far it may be deemed, in London and Middlesex, to have become a profession.

## **2. The administration of London and Middlesex in the nineteenth century**

The wider social context for coronial practice in London was a city expanding both demographically and geographically. In 1850, Henry Mayhew, taking the Metropolitan Police district as his guide (a ‘fifteen-mile-wide circle centred on Charing Cross, plus some outlying parishes which distributed the neatly drawn circumference’), calculated that there were 315 parishes, 3,686 miles of streets, 365,520 inhabited houses, 13,692 uninhabited houses and 5,754 houses under construction.<sup>1</sup> Such figures capture something of the sprawling complexity of the metropolis in the Victorian period. But on their own they do not reflect the full extent of the challenges facing those, among them coroners, who were attempting to govern and administer the city. For London and Middlesex, one of the counties into which the city expanded, were at the heart of profound demographic changes over the course of the nineteenth century.<sup>2</sup> In 1800 about four out of every five people in Britain lived in rural and coastal communities; by 1900 rapid growth had led to a huge demographic shift with the result that

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<sup>1</sup> Liza Picard, *Victorian London: The Life of a City 1840–1870* (London: Weidenfeld & Nicolson, 2005), p. 59.

<sup>2</sup> For an overview, see Robert Woods, *The Demography of Victorian England and Wales* (Cambridge: Cambridge University Press, 2000).

almost 80 per cent of the population were by then living in urban areas.<sup>3</sup> Much of this shift was due to the growth of the capital city, by far the largest conurbation in the country.

The population of London was almost one million according to the first official census of 1801; by 1871 London's population of 3.2 million constituted one out of every seven people in England and Wales; when the London County Council was established in 1889, the population of the metropolitan area of the city had risen to four million; a further half million were added to this figure by 1901.<sup>4</sup> Industrialization and migration had resulted in a rapid process of urbanization throughout Britain, presenting challenges and stretching the resources of the vastly enlarged cities of the nineteenth century; in London, population growth was further stimulated by the city's status as the centre for commerce and trade not only within Britain itself but also globally, since London was the hub of Britain's expanding overseas empire.<sup>5</sup> Such demographic growth led, unsurprisingly, to problems of overcrowding, and the health issues that resulted from this; it also ensured that London was home to a significantly high transient population.<sup>6</sup> These were challenges that few coroners outside London had to face, and none on the scale that confronted the capital city's coroners.

A Royal Commission on Municipal Corporations attempted to address the governance needs of London in the context of the profound changes that were occurring to the city. The city was described, in the Commission's 1837 report, as beset by a 'chaotic and confusing pattern of government and a prevalence to corruption and inefficiency'.<sup>7</sup> The Committee proposed the establishment of one governmental body that would cover the entire metropolis,

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<sup>3</sup> Richard Barnett, *Medical London: City of Diseases, City of Cures* (London: Strange Attractor Press, 2008), p. 141.

<sup>4</sup> Roy Porter, *London: A Social History* (London: Penguin, 2000), pp. 226–9; Stephen Inwood, *A History of London* (London: Macmillan, 1998), p. 411; I. M. Barlow, *Metropolitan Government* (London: Routledge, 1991), p. 49.

<sup>5</sup> Porter, *London*, p. 397.

<sup>6</sup> *Ibid.*, pp. 324–8.

<sup>7</sup> Barlow, *Metropolitan Government*, p. 49. The Municipal Reforms Act had been passed in 1835, a government attempt to reform urban governance; however, London was not covered by the Act.

but the Commission's report lacked power and conviction and was consequently ignored.<sup>8</sup> Reform was revisited in 1854, this time leading, through the Metropolis Local Management Act, to the creation of the Metropolitan Board of Works in 1855. A compromise based on the existing parish structure—and one that often sat uneasily with the Corporation of London, the ruling body in the City of London—the Board of Works existed until the 1880s and was responsible for improving, among other things, the sewerage, paving and lighting of the city. Its success in these areas was often limited, but, as Roy Porter has concluded, the Board of Works did at least give 'some coordination to municipal administration'.<sup>9</sup> A new Conservative government in 1886 endeavoured to reform London and to introduce a national system of county councils. The Local Government Act of 1888 was responsible for the creation of the London County Council which replaced the Metropolitan Board of Works.<sup>10</sup>

At the heart of the metropolis was the City of London itself, an area of one square mile whose boundaries had remained unchanged since the thirteenth century. The City was under the control of the Corporation of London, who resisted attempts to expand the boundaries. Outside the small nucleus of the City, the larger metropolitan area strayed into the counties of Middlesex, Kent and Surrey.<sup>11</sup> From 1855 the southeast of London, where the population density was especially high, was administered with sections of Kent and Surrey as part of the aforementioned Metropolitan Board of Works. Southwark formed a borough of Surrey and was made up of parishes which increasingly came under the influence and jurisdiction of the City of London.

Middlesex (see Appendix 1, p. 291) bordered London and was divided into six administrative hundreds (see Appendix 2, p. 292). As the map shows, Middlesex extended from

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<sup>8</sup> William A. Robson, *The Government and Misgovernment of London* (London: Allen & Unwin, 1939), p. 21.

<sup>9</sup> Porter, *London*, p. 319. See also Inwood, *History of London*, pp. 432–8.

<sup>10</sup> Inwood, *History of London*, p. 440.

<sup>11</sup> Barlow, *Metropolitan Government*, pp. 49–50.



Enfield and the East India docks in the east to Chertsey, Staines and Uxbridge in the west, encompassing therefore all those areas which today form north and west London. During the nineteenth century Middlesex never had a county town; London was regarded as its administrative centre for most purposes and provided different locations for the various, mostly judicial, county commitments. The County Assizes for Middlesex were held at the Old Bailey in the City of London, and the site for the Middlesex Quarter Sessions was at Clerkenwell Green until the creation of the Middlesex County Council in 1889.<sup>12</sup> Prior to 1889 the City of London was geographically located in Middlesex (and for this reason the coroners for London and Middlesex came under the jurisdiction of the Middlesex magistrates), and London was bounded by the hundred of Ossulstone to the west, north and east, although it remained essentially independent of the county for most purposes. With the 1889 reorganization of local government, approximately 20 per cent of the area of Middlesex, along with one third of its population, was transferred to the new County of London. The remainder of Middlesex became an administrative county governed by the Middlesex County Council.<sup>13</sup>

It was not, therefore, until the end of the nineteenth century that London underwent administrative restructuring that attempted to address the widespread challenges of governing a metropolis of its size and complexity. For coroners, the size and diversity of the city presented a constant and demanding workload. Peter Ackroyd has calculated that, for the year 1870, ‘every eight minutes, of every day of the year, someone died in London; every five minutes, someone was born’.<sup>14</sup> The scale and ceaseless turnover of birth and death were features of life in the cities, and above all in London, creating a social context for the work and concerns of government, legal and health professionals unlike that found throughout the majority of the

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<sup>12</sup> Clive Emsley, Tim Hitchcock and Robert Shoemaker, ‘London History – London’s Rural Hinterlands’, *Old Bailey Proceedings Online*, <http://www.oldbaileyonline.org/static/Rural-middlesex.jsp> [accessed: 2 January 2017].

<sup>13</sup> Barlow, *Metropolitan Government*, pp. 48–97.

<sup>14</sup> Peter Ackroyd, *London: The Biography* (London: Vintage, 2001), p. 576.

rest of the country. William Baker wrote of ‘the varied, arduous, and important duties, which the daily and almost hourly occurrences, particularly in the densely crowded and pauperized districts, call upon the coroner to fulfil in the execution of the law’,<sup>15</sup> a view based on his own long career as a Middlesex coroner:

The experience of twenty years in one of the most busy portions of the metropolitan district, containing a dense, and, for the most part, a poor population, abounding in works of very considerable extent and magnitude, comprising almost every species of manufacture, a frontage to the river Thames for a distance of six miles, the whole of the collier pool, and nearly all the great docks for shipping... has brought under [my] notice almost every species of death, arising from felonious, accidental, and other causes.<sup>16</sup>

Baker’s reflections were likely to have been familiar to many of London’s coroners, surrounded as they were by an overcrowded city in which perceptions of high rates of crime, disease and mortality were an everyday feature of life. It may be more than coincidence that Baker’s work on the urban challenges facing a coroner was published in the same year as Henry Mayhew’s *London Labour and the London Poor* (1851). Both books demonstrate an acute sense of the social impact on the city of urbanization and rapid demographic change.

It is likely that these perceptions of social problems did not always accord with the reality. Robert Shoemaker, for example, has argued that ‘what is distinctive about London crime [in the nineteenth century] is not its severity or frequency, but the depth of evidence the records of its prosecution provide’; serious crime was associated with London because of ‘the accessibility of the courts, intense policing, an omnipresent print culture, and the nature of the available sources’.<sup>17</sup> Nevertheless, it was the perception that mattered to contemporaries; and

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<sup>15</sup> William Baker, *A Practical Compendium of the Recent Statutes, Cases, and Decisions affecting the Office of Coroner* (London, 1851), p. 3.

<sup>16</sup> *Ibid.*, p. iv.

<sup>17</sup> Robert Shoemaker, ‘Forty Years of Crime in London’, *The London Journal*, 40 (2015), pp. 89–105, at pp. 89–90. Cf. Peter King, ‘The Impact of Urbanization on Murder Rates and on the Geography of Homicide in England and Wales, 1780–1850’, *The Historical Journal*, 53 (2010), pp. 671–98, where King reassesses recent scholarship suggesting that low homicides were linked to urbanization; instead, King finds the evidence often points to significantly higher homicide rates in urban areas than in rural areas.

coroners were both responding to perceived problems, as well as adding to the perception through their own endeavours to address the problems.

### **3. Mortality and disease in London and Middlesex**

The rapid population growth experienced by London over the course of the nineteenth century placed a tremendous strain on the city's resources, in particular its fresh water supply, waste disposal and sewage systems; it also caused a housing crisis and overcrowding. The greatest challenge for the city authorities became, therefore, that of keeping its growing and densely packed population nourished, healthy and free from disease.<sup>18</sup>

No aspect of life suffered such severe deterioration as that of public health.<sup>19</sup> London was a notoriously unhealthy city with elevated risks of illness and premature death for its large population, particularly those belonging to the lower social classes. Health and mortality were affected by the part of the city in which an individual lived, the nature of his or her occupation, and whether his or her income was sufficient to afford a substantial diet.<sup>20</sup> Poor living conditions also impacted on the infant mortality rate. Indeed, according to the epidemiologist and medical statistician William Farr (1807–83) the infant mortality rate in the slum areas of London in the 1820s and 1830s had been 153 per 1,000 live births.<sup>21</sup>

Although more adults and children died from health issues other than infectious diseases, greater public and political concern was shown over the latter, unsurprisingly given the risk of sudden and frightening epidemics that could lead to brief spikes in the mortality

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<sup>18</sup> Beverley Cook, 'A reflection on sickness and poverty in London in the late 19<sup>th</sup> century', *London Catalyst* (2014), available at: <http://www.londoncatalyst.org.uk/newsite/wp-content/uploads/2014/11/LondonCatalystMofLpovertyessay2013-doc.pdf> [accessed: 2 January 2017]. See also Inwood, *History of London*, pp. 411–43.

<sup>19</sup> Ursula R. Q. Henriques, *Before the Welfare State: Social Administration in Early Industrial Britain* (London: Longman, 1979), p. 117.

<sup>20</sup> See the essays in Robert Woods and John Woodward (eds), *Urban Disease and Mortality in Nineteenth-Century England* (London: Batsford, 1984).

<sup>21</sup> Barnett, *Medical London*, p. 145.

rate.<sup>22</sup> Some diseases, such as smallpox for which a vaccine had been developed by Edward Jenner in the 1790s, had become less of a problem in the nineteenth century, but many others were responsible for the deaths of large numbers of people.<sup>23</sup> Cholera, typhus and influenza were particularly deadly among the young and malnourished in the urban slums. In Edwin Chadwick's 1842 *Report on the Sanitary Conditions of the Labouring Population of Great Britain, and on the Means of its Improvement*, figures were included which demonstrated that in Great Britain in 1839 'for every person who died of old age or violence, eight died of specific diseases'.<sup>24</sup> The mortality figures for the middle classes of London were lower than for crowded districts like Shoreditch or Whitechapel, an indication of the vastly different sanitary and hygiene conditions between poor and affluent areas of the city.<sup>25</sup> Polluted water became an urgent problem as the population grew, and it caused various diseases, but none as virulent and communicable as cholera. Poor storage of water, contaminated supplies to the communal water pumps (one pump often serving an entire neighbourhood of families), and the worsening pollution of the Thames combined to create the conditions for the rapid spread of disease.<sup>26</sup> Cholera was responsible for four major mortality crises between the years 1831 and 1866, the so-called 'cholera years'.<sup>27</sup> Afflicting its victims with a painful and degrading death, cholera spread rapidly and indiscriminately. Physicians of the time were helpless to prevent its spread or to treat those who succumbed to it. A disease such as cholera required collective action at the political level. Such action did occur over the course of the century leading to the decline

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<sup>22</sup> Michael Brown, 'From Foetid Air to Filth: The Cultural Transformation of British Epidemiological Thought, c. 1780–1848', *Bulletin of the History of Medicine*, 82 (2008), pp. 515–44.

<sup>23</sup> Anne Hardy, 'Smallpox in London: Factors in the Decline of the Disease in the Nineteenth Century', *Medical History*, 27 (1983), pp. 111–38. See also Hardy, 'Diagnosis, Death, and Diet: The Case of London, 1750–1909', *Journal of Interdisciplinary History*, 18 (1988), pp. 387–401.

<sup>24</sup> Edwin Chadwick, *A Report on the Sanitary Conditions of the Labouring Population of Great Britain* (London, 1842), p. 3.

<sup>25</sup> Bruce Haley, *The Healthy Body and Victorian Culture* (Cambridge, MA, and London: Harvard University Press, 1978), p. 9.

<sup>26</sup> Inwood, *History of London*, pp. 420–1; Haley, *Healthy Body*, p. 9.

<sup>27</sup> Barnett, *Medical London*, pp. 140–1.

of infectious diseases such as whooping cough, scarlet fever, tuberculosis, typhoid, smallpox, typhus and cholera, and contributing to improved health among the population of London by the end of the century.<sup>28</sup>

Politicians began to accept a more direct role in a wider range of urban social issues, particularly matters of public health.<sup>29</sup> A series of Vaccination Acts in 1840, 1853, 1867, 1871 and 1873 made vaccination freely available to the population and, from 1853, compulsory for infants. Although this legislation was controversial, and many ignored the law, it demonstrates the growing attention to public health during the Victorian period. The 1848 Public Health Act established a General Board of Health and a central authority, chaired by Chadwick, to administer the Act and to oversee the reform of sanitation. As part of these statutory reforms new responsibilities were created for physicians in the area of public health through the appointment of Medical Officers of Health to supervise sanitation in each London parish.<sup>30</sup> Some London and Middlesex coroners occupied the position of Medical Officer. Both Edwin Lankester and William Hardwicke (discussed later in this chapter), coroners for Central Middlesex, served as Medical Officers. In addition, one of the most notable successes of the Metropolitan Board of Works was the creation of an extensive underground sewerage system, a vital contribution to the battle against water-borne infectious diseases.<sup>31</sup>

By the end of the century, therefore, significant advances had been made against infectious diseases and the unsanitary conditions that led to epidemics. The coronial system under discussion in this thesis operated within this context of an increasing awareness of the action, in particular the collective action by those in authority, required to combat disease, as well as a growing confidence (discussed in Chapter Two above) in the potential for medicine

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<sup>28</sup> Inwood, *History of London*, p. 417.

<sup>29</sup> Porter, *London*, pp. 313–21; Inwood, *History of London*, p. 420.

<sup>30</sup> Barnett, *Medical London*, pp. 146–7.

<sup>31</sup> On Victorian efforts to improve sanitation in London, see Lee Jackson, *Dirty Old London: The Victorian Fight Against Filth* (New Haven, CT, and London: Yale University Press, 2014).

to achieve large-scale social progress. Whereas in 1831 the government's response to the outbreak of cholera was to call a day of national prayer and fasting,<sup>32</sup> within little more than a decade individuals such as Chadwick were producing detailed reports on social conditions and legislators were debating and passing laws that sought to address directly the means to improve hygiene and sanitation. As will be discussed in Chapters Six and Seven below, many coroners saw themselves as a key part of this collective political and legal response to the challenges posed by disease and mortality.

#### **4. The London and Middlesex coroners**

London and Middlesex were served by both county and franchise coroners.<sup>33</sup> At the beginning of the nineteenth century there were five coronial areas: two county districts in Middlesex, and three franchise coronerships. The latter were the Liberty of the Duchy of Lancaster (as mentioned in Chapter Three, the Duchy of Lancaster held parishes in London and Middlesex for which a coroner was appointed); the City and Liberty of Westminster; and the City of London and Borough of Southwark, technically two areas but traditionally served by one franchise coroner. These franchise coronerships covered the relatively small areas of the City and Westminster. Most of the metropolis fell within other counties, Middlesex in particular. For coronial purposes, Middlesex was, until 1862, made up of two districts, the Eastern and the Western. In 1862, doubtless due to rapid demographic changes, the Western District was divided into two: a Central District, and a now much reduced Western District. The Eastern District remained intact until 1888 when it too was divided into separate districts, the North

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<sup>32</sup> Porter, *London*, p. 315.

<sup>33</sup> See Chapter Three above for a discussion of the differences between county, borough and franchise coroners. For a full list of coroners, organized by coronial district, who served London and Middlesex during this period, see Appendix 3 of this thesis, p. 293.

Eastern and South Eastern districts. Hence, by the end of the period under consideration in this thesis Middlesex was served by four coronial districts.<sup>34</sup>

Of the London and Middlesex coroners who held office in the nineteenth century, only two have received full biographical studies: Wakley and Dr Edwin Lankester (1818–74; in office, 1862–74), the coroner for the Middlesex Central District.<sup>35</sup> The lives and careers of the other coroners can be broadly reconstructed from obituaries, contemporary reports and, in some cases, their own writings. The discussion that follows is not an attempt to present detailed studies of the individual coroners (although many of them would be worth close scholarly attention); rather, it presents some general features of the men who held coronial office in London and Middlesex in the nineteenth century. The aim is to outline the nature and character of the coronial office in this largely urban area, and in particular to consider how far this nature and character fits with a tendency towards professionalization and medicalization.

Given that election to the coronial office was for life, it is unsurprising that most of the coroners served for long periods, often up to their own deaths. George Danford Thomas (1846–1910; in office, 1881–1910), coroner for the Middlesex Central district, died during an adjournment of the inquest into the death of the victim of Dr Crippen. Indeed, Thomas continued to serve despite extended periods of poor health: he came under attack from the London County Council over the number of his inquests being taken by his deputy and secretary of the London Coroners' Society, Walter Schröder, due to Thomas's health

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<sup>34</sup> In 1892 there was a further reorganization, in large part following the creation of the new County of London in 1889. For coronial purposes the County was divided into eight districts: Southern, Central, Western, Eastern, South Western, South Eastern, North Eastern and Penge, each of which had a county coroner selected by the county council. There were also four franchise coronerships: Westminster, the Duchy of Lancaster, the Tower Liberty, and the Borough of Southwark. Of the four Middlesex districts following the 1862 division of Western Middlesex and the 1888 division of Eastern Middlesex, most were transferred to the new County of London districts, and Middlesex was reorganized into three, much reduced, county coronial districts: the Western and Central districts, and a newly-constituted Eastern District.

<sup>35</sup> Mary English, *Victorian Values: The Life and Times of Dr Edwin Lankester, M.D. F.R.S.* (Bristol: Biopress Ltd, 1990).

problems.<sup>36</sup> The Lord Chancellor, satisfied that Thomas was able to do his job, refused the council's application to have Thomas removed from office. In the *British Medical Journal's* obituary for Thomas, the journal admitted that it had played 'no small part' in this criticism of the coroner, and believed that it had been 'more or less directly the cause of Doctor Danford Thomas's final illness'.<sup>37</sup> Similarly, in the City of London and Southwark, Thomas Shelton held office from 1788 until his death in 1829; and his successor, William John Payne senior (1799–1872; in office, 1829–72) held office for more than four decades until his own death. In the Eastern District of Middlesex, William Baker (1784–1859; in office, 1830–59), served as coroner for nearly three decades; Baker was succeeded by John Humphreys (1820–86; in office, 1859–86), who also held office for nearly three decades. After Humphreys, Wynne Edwin Baxter (1844–1920; in office, 1880–87 [Sussex], 1886–88 [Middlesex Eastern District], 1888–91 [Middlesex South East District], 1892–1920 [City of London and Liberty of the Tower of London]), who held various coronerships in a 40-year career, was the final coroner for the Eastern district before its partition in 1888. In the Middlesex Western District, Thomas Sterling (1755–1839; in office, 1816–39) served as coroner for 24 years until his death, when he was succeeded by Wakley; the latter was succeeded by Thomas Bramah Diplock (1830–92; in office, (1868–92), who also held office for 24 years until his death.

Such long tenures in office were likely to have ensured continuity and stability in the London and Middlesex coronerships. In the Liberty of Westminster, for example, there were only two coroners who held office in this period: John Henry Gell (1770–1856; in office, 1816–45) and Charles St Clare Bedford (1810–1900; in office, 1845–88). Moreover, although Gell stood down as coroner in 1845, due to 'his advanced age and onerous and increasing duties',<sup>38</sup>

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<sup>36</sup> Walter Schröder was also Deputy Coroner for Middlesex and Surrey. *The London Gazette*, 23 July, 1897, p. 4127.

<sup>37</sup> *British Medical Journal*, 13 August 1910, p. 416.

<sup>38</sup> *Morning Advertiser*, 3 May, 1845, p. 3. 'Resignation of Mr Gell'.



he continued to serve in the less arduous and time-consuming role as Bedford's deputy for the rest of his life, thus ensuring a smooth transition from one officeholder to the next. Only two of the coroners covered by this thesis held office for less than a decade: William Hardwicke, who succeeded Lankester in Central Middlesex in 1874 and held office until his death in 1881, and James Bird who was coroner for the new Western District from 1863 until 1868.<sup>39</sup>

Most of the coroners took up office in their thirties or forties. The youngest elected coroner in this period was Payne senior, who was 30 when he assumed office; Payne's son, William John Payne junior (1822–84; in office, 1857–84 [Duchy of Lancaster], 1872–84 [City of London and Southwark]), was 50 when he succeeded his father, but he had already held coronial office for the Duchy of Lancaster for the previous fifteen years. Only Sterling, who became coroner for Western Middlesex at the age of 61, and Samuel F. Langham (1824–1908; in office, 1884–1901), who succeeded Payne junior as coroner for the City of London and Southwark, appear to be outliers; otherwise, the coronial office was consistently taken up by men in early middle age, who then remained in office for long periods, usually until their deaths.

The evidence suggests, therefore, that the coronial office appealed to men who still had long careers ahead of them. Moreover, that these men remained in office for long periods suggests that the coronership was not viewed by them as a stepping-stone to better things; rather, they regarded the office as one in which they would willingly serve for the rest of their careers. As noted previously in this thesis, the coronial office was not universally respected, salary was insecure for much of this period, and the conditions, particularly those pertaining to the inquests themselves, were notorious for frequently being ramshackle and disorderly. Moreover, a coronership in the metropolis was not a position to be taken lightly, nor one that

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<sup>39</sup> Baxter is a partial exception, in that he held various coronerships over his long career as coroner; he remained in his final office for nearly three decades.

provided a conveniently occasional occupation that could supplement other work. The workload facing the London and Middlesex coroners was immense, and it almost certainly increased over the course of the century: Shelton presided over more than 6,000 inquests in his 41-year career;<sup>40</sup> later in the century, Payne junior was holding around 250 inquests per year in the City of London;<sup>41</sup> and Thomas held around 40,000 inquests during his career of nearly three decades as the coroner for Central Middlesex.<sup>42</sup> Nevertheless, all of the London and Middlesex coroners in this period appeared to have served with diligence and commitment over many years.

It is equally unsurprising that such a challenging position was not one sought by the well-to-do amateur. It is notable that a number of the London coroners came from humble origins. As noted in the previous chapter, Wakley came from humble rural origins and was essentially a self-made man. Similarly, Lankester came from a poor Suffolk family and, due to financial circumstances, ceased schooling at the age of 12. He then worked as an assistant to various surgeons, one of whom, Thomas Spurgeon of Saffron Walden, undertook to further his education. With money from friends, Lankester enrolled at the new University of London in 1834, where he studied medicine, qualifying as a Member of the Royal College of Surgeons in 1837. He was also a licentiate of the Society of Apothecaries and was already marking himself out as a distinguished natural scientist and doctor. He travelled abroad in 1839, graduating, after only six months of study, with an M.B. from the University of Heidelberg. In 1841 he obtained a licence from the Royal College of Physicians to practise medicine in the provinces, although in 1845 he failed the examination for a London licence; he gave up clinical practice

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<sup>40</sup> Thomas R. Forbes, 'Crown's Quest', *Transactions of the American Philosophical Society*, 68 (1978), pp. 8–11.

<sup>41</sup> 'An Inquest-room for the City', *British Medical Journal*, 14 April 1877, p. 460. In a report in this issue of the *British Medical Journal* where it was noted that Payne proposed a 'proper inquest-room', it was stated that there were about 250 inquests per year in the City, of which 90 were held in hospitals. This deserves to be noted since a house surgeon could be called to give evidence for no fee.

<sup>42</sup> 'Obituary: George Danford Thomas, M.D. Brux.; Senior Coroner for London', *British Medical Journal*, 13 August 1910, p. 416.

as a result. Like Lankester, Hardwicke lacked the status or wealth to pursue studies at Oxford or Cambridge, instead studying at University College Hospital, London. After graduation he became a member of the Royal College of Surgeons and took up the position of deputy coroner to Lankester from 1871. He had previously failed in a coronial bid, losing the election to Thomas Diplock in 1868, the expense of which led to Hardwicke's bankruptcy.<sup>43</sup>

Other London and Middlesex coroners in this period also appear to be self-made men who forged their own careers out of relatively modest upbringings. Thomas was the son of a Yeovil vicar. After schooling in Bath, he trained at St Mary's Hospital, London, becoming a member of the Royal College of Surgeons in 1871. Subsequently he gained a degree in medical jurisprudence in Brussels, and he was also called to the bar after successful studies at the Inner Temple. Baxter had been educated at Lewes Grammar School, as well as receiving private tuition from the Reverend P. Frost at Sussex Square, Brighton. Breaking away from the family printing business, he subsequently studied law, qualifying as a solicitor in 1867. He did not, however, turn his back completely on the print trade, since he was vice-president of the Provincial Newspaper Society between 1871 and 1877. From an early age Baxter became interested in local government and in 1868 he was appointed Junior Headborough for Lewes. His move to London did nothing to diminish his political drive, and he was appointed under-sheriff of London and Middlesex on two occasions, the first between 1876 and 1879, and then again from 1885 to 1886; he was also junior high constable in 1878.<sup>44</sup> He was fluent in French and translated scientific books from French into English. One such book was Henri Van

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<sup>43</sup> Donald Prichard, 'The Office of Coroner 1860–1926: Resistance, Reluctance and Reform', unpublished PhD thesis, Greenwich University (2001), p. 157. Lankester, too, was on the brink of bankruptcy at his death, an indication of the expense involved in fighting coronial elections.

<sup>44</sup> *East London Observer*, 9 October, 1920, p.3. 'Death of Mr Wynne Baxter'. See Paul Begg, Martin Fido and Keith Skinner, *The Complete Jack the Ripper A to Z*, (London: John Blake Publishing Ltd, 2010), pp. 48-49. Also, Adam Wood, 'Inquest, London. The Life and Career of Wynne Edwin Baxter', 3 May 2005, [www.casebook.org/dissertations/rip.baxter.html](http://www.casebook.org/dissertations/rip.baxter.html)

Heurck's *The Microscope* (1893), a work that related to Baxter's position as fellow and treasurer of the Royal Microscopical Society.<sup>45</sup>

It is also notable how many of the coroners had prepared for office by previously serving as a deputy coroner. Payne junior became deputy to his father in 1843, a position he held until he became coroner for the Duchy of Lancaster in 1857. Langham had been deputy coroner for Westminster from 1849 as well as Payne's deputy for the City of London and Duchy of Lancaster. Hardwicke had been deputy to Lankester from 1871, prior to succeeding Lankester in 1874. Gell had been deputy to his father Anthony (1733–1817) in Westminster before succeeding him; and, as noted above, Gell later became deputy to his own successor, Bedford. Many of the London and Middlesex coroners in this period seem, therefore, to have regarded the office as a profession that involved career progression and the accumulation of experience.

What is certainly apparent is that the London and Middlesex coronerships tended to attract energetic men who had fashioned their own paths in life and were still at relatively early stages in promising careers. Most of these careers were in law or medicine. As already seen, Wakley, Lankester, Hardwicke and Thomas had pursued medical careers. Lankester, although having to abandon clinical practice following his failure to obtain a licence, nevertheless made a name for himself as a lecturer and natural scientist. He was elected a fellow of the Linnean Society in 1840 and the Royal Society in 1845, and he was the author of several books on a range of scientific subjects, from botany to dermatology, from natural history to microscopical studies (he was the president of the Microscopical Society, as well as one of the editors of the

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<sup>45</sup> Lankester, like Baxter, was also a member of Royal Microscopical Society and its President from 1858-9. Lankester recognised the importance of the microscope to the study of anatomy. "What eyes are to the blind", he said, "the microscope is to those who see. Imperfect indeed would be our conception of the anatomy of the human body, if we were dependent on the unassisted eye". English, *Victorian Values*, p. 54. However, 'there was no general recommendation that medical students should be taught microscopy until 1869'. M. Pelling, *Cholera, Fever and English Medicine, 1825-1865*, (Oxford: Oxford University Press, 1978), p. 154, cited in English, *Victorian Values*, p.54.

*Quarterly Journal of Microscopical Science*). Likewise, Diplock had studied medicine at St George's and St Mary's Hospitals, learning anatomy from Samuel Lanes (1802–92), the surgeon and founder of St Mary's hospital and its medical school. Diplock qualified as a Member of the Royal College of Surgeons in 1853 and three years later obtained the degree of MD from the University of St Andrews. He conducted research on ruptured hearts, contributing an article on the subject to the *Medical Times* in 1872.<sup>46</sup>

In addition to these medical coroners, Gell, the Westminster coroner, styled himself as an apothecary (despite there being no evidence to show that he had trained or qualified as such). His father had married Frances Dalby, the daughter of Joseph Dalby, owner of an apothecary's shop in Welbeck Street. Dalby had concocted 'Dalby's Carminative', a quack medicine for stomach ailments, passing on the 'secret recipe' to his daughter (wife to Anthony Gell and mother of John Henry Gell). Joseph Dalby's entry in the archives of Westminster Abbey records that he 'was the inventor of the "sweet boon to children" known as Dalby's Carminative'.<sup>47</sup> Anthony Gell took over the business in 1784, adding his name to the mixture. An undated flier in the collection of the Museum of the Royal Pharmaceutical Society states:

For the purpose of authentication, this medicine was compounded by Mr Anthony Gell (Coroner for Westminster) husband of Frances... to whom the secret was confided... and after his death in 1817... succeeded by his son Mr John Henry Gell (also Coroner for Westminster).<sup>48</sup>

Most of the London and Middlesex coroners in this period had a legal background and training. Shelton was a lawyer and clerk of the peace, and he viewed the coronership as a branch of criminal law. Pamela Fisher cites him as an example of how, by the early nineteenth century, 'it appears that care was being taken in many boroughs to select a suitable person to this role

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<sup>46</sup> 'Letter from Dr Thomas B Diplock', *Medical Times and Gazette*, 30 March 1872, p. 383.

<sup>47</sup> Baker, *Practical Compendium*, p. 147, refers to Dalby's Carminative in the context of a discussion of infanticide and 'the baneful effects of the practice of quieting infants by narcotics'. It is likely that Gell was a 'druggist' rather than a qualified apothecary.

<sup>48</sup> <http://www.westminster-abbey.org/our-history/people/gell-family> [accessed: 2 January 2017].

[of coroner].<sup>49</sup> Payne senior was a Sergeant-at-Law as well as ‘citizen and gun-maker’. According to Anderson, he was ‘one of the most professional of that generation... he belonged to a dynasty of old-style City office-holders’.<sup>50</sup> In addition to his coronial duties, he also held the post of Chief Clerk at the Guildhall from 1833 until he was called to the bar in 1843. Like Shelton, his predecessor, Payne brought to the coronial role legal and social respectability. Payne’s son was also a lawyer; he had been called to the bar at Lincoln’s Inn in 1844.<sup>51</sup> Payne junior’s successor was also from a legal background: Langham was a lawyer in his family firm of solicitors in Holborn; his son, Arthur Cuthbert Langham, was also employed as a solicitor for the family firm and served as the deputy coroner to his father.<sup>52</sup> Bedford was a licensed attorney from 1833; Baker was a London lawyer who, as already noted in this thesis, wrote *A Practical Compendium of the Recent Statutes, Cases, and Decisions affecting the Office of Coroner* (London, 1851), a coronial guide in which the author engaged with recent legislation and many of the debates affecting the work of the coroner;<sup>53</sup> Humphreys, who succeeded Baker, became a solicitor in 1842 and was a Justice of the Peace for Tower Hamlets; and Sterling, Bird and Baxter also had legal training and practice.

Of the 20 coroners listed in Appendix 3 (p. 293), five had a background in medical training. This was only marginally higher than the estimated national average for medically trained coroners: Burney has calculated that between 1880 and 1905 about 15% of coroners in England and Wales were medically trained, a figure similar to that arrived at by English.<sup>54</sup>

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<sup>49</sup> Pamela J. Fisher, ‘The Politics of Sudden Death: The Office and Role of the Coroner in England and Wales, 1726–1888’, unpublished PhD thesis, University of Leicester (2007), p. 80.

<sup>50</sup> Olive Anderson, *Suicide in Victorian and Edwardian England* (Oxford: Clarendon Press, 1987), p. 37.

<sup>51</sup> *The Law Times*, 3 (March 1844 to October 1844), p. 212.

<sup>52</sup> David O’Flaherty, ‘The Diplocks, the Bramahs, a Rather Cross Historian, and the Scalping of a Library’, *Jerianne’s Rib*, 2007 at <http://davidoflaherty.blogspot.co.uk/2007/12/diplocks-bramahs-and-rather-cross.html> [accessed: 2 January 2017].

<sup>53</sup> See Chapter Three above, pp. 84–5, on the *Practical Compendium*. On Baker’s election contest with Wakley, see Chapter Four above, pp. 115–17.

<sup>54</sup> Burney, *Bodies of Evidence*, p. 174, n. 6; English, *Victorian Values*, p. 137.

However, Payne, Baker and Langham (to name just three of the legally trained coroners) demonstrated an acute interest in medical jurisprudence, and Thomas had gained a degree in medical jurisprudence in Brussels. For all that Wakley often couched his campaign for a medical coronership in terms of a battle between the legal and medical officeholders (as he had his election contest with Baker), it appears in fact that among the London and Middlesex coroners common concerns and approaches, encompassing both law and medicine, were more to the fore than any disagreements. Indeed, the most striking feature of the coroners was how many of them combined the coronership with a reforming drive.

Payne senior was a tireless campaigner in defence of the coronial system. For example, in a discussion of suggestions that the power of coroners to commit to trial should be removed, Payne wrote (in a letter reproduced in William Baker's *Practical Compendium*):

The coroner's jury appears to me to be of far greater importance than any other, because the investigation is conducted before a judicial officer, in open court, by the oaths of at least twelve men..., and they are bound to hear evidence on all sides, both for and against any person who may be suspected; and they are consequently the most likely to form a correct judgment on the matter before them.

In Payne's view, since the coroner is elected by the people, 'before such an officer (if properly qualified), with an independent jury, in open court, justice can hardly fail to be properly administered.'<sup>55</sup> Like his father, Payne junior was also a campaigner on coronial issues: he argued for special courts for coroners to hold inquests and proper facilities for the storage of dead bodies, complaining that the present amenities were 'a source of discomfort to himself and the jurors, and a means of diminishing the value of the evidence', and lamenting that, because many inquests were held in public houses, 'the witnesses can obtain drink'.<sup>56</sup> Langham, the successor to Payne junior, was active in the Coroners' Society, serving as its

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<sup>55</sup> Baker, *Practical Compendium*, pp. 35–6.

<sup>56</sup> 'An Inquest-room for the City', *British Medical Journal*, 14 April 1877, p. 460.

secretary from 1846 and becoming its president and treasurer from 1887 until his resignation in 1894.<sup>57</sup> He expressed reforming ideas on the value of the coroner's inquest, notably in an article he contributed to the 1865–6 first issue of the *Journal of Social Science*. As Burney has commented, Langham valued the inquest for 'its capacity to secure the fruits of a progressive liberal polity'.<sup>58</sup> Moreover, in his article for the *Journal of Social Science* Langham had raised the issue of the poor remuneration of coroners;<sup>59</sup> his own coronial salary was £1,190 per annum.

Humphreys was elected president of the Coroners' Society on the death of Payne senior in 1872. He also held strong Liberal political views and he was consulted by the government on a Bill intended to deal with the office and duties of the coroner; he was considered an expert among his colleagues and peers. On his death in 1886, the *British Medical Journal* stated in its obituary that 'the country has lost in him one who, for nearly 28 years, conducted the duties of his responsible office with great ability, dignity and circumspection'. The obituary, which noted that Humphreys left behind a wife, son and daughter, went on to say that he had an 'eminently judicial mind coupled with an excellent knowledge of surgery [which] peculiarly qualified him for the post' of coroner, praise that reflected the ongoing campaign in the pages of the *British Medical Journal* for coroners to be medically qualified.<sup>60</sup>

Baker, as already discussed in this thesis, was a significant contributor to coronial reform. His *Practical Compendium* reveals a coroner with a keen sense of how the coronial office fits into a broader concern with public health. Through a discussion of numerous legislative initiatives and recent inquests, Baker defended the inquest system against the

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<sup>57</sup> 'Coroners' Society of England and Wales Minute Books, 1 & 2, 1846–1902' (2010), p. 328.

<sup>58</sup> Ian Burney, *Bodies of Evidence: Medicine and the Politics of the English Inquest, 1830–1926* (Baltimore and London: Johns Hopkins University Press, 2000), p. 48; Samuel F. Langham, 'The Office of Coroner', *Journal of Social Science*, 1 (1865–6), pp. 129–31. See below, pp. 203–206, for a fuller discussion of this article and Langham's view on the coronership and its connection to the cause of reform.

<sup>59</sup> Langham, 'Office of Coroner', p. 129.

<sup>60</sup> 'Obituary, Sir John Humphreys, J.P., D.L.', *British Medical Journal*, 27 November 1886, p. 1063.



criticisms of those who believed it unnecessary. Baker's view was that the notorious and scandalous cases in which some people were getting away with murder, such as the apparent poisoning of an entire family of children in Norfolk which had initially gone undetected,<sup>61</sup> arose from 'a misplaced and ill-timed parsimony [which] presumed to hold in check the legitimate inquiry of the coroner, and thereby suffered the murderers to escape the retributive justice of the law'.<sup>62</sup> He devoted an entire chapter to discussing the problem of burial clubs (a form of insurance scheme to cover the costs of burying an infant), arguing that they were responsible for the widespread murder of children—and murders that often went undetected due to the reluctance of magistrates to pay for inquests.<sup>63</sup> Using statistical evidence and presenting data in the form of tables, Baker noted that 'it is a remarkable fact, that it is in those counties in which the justices have been most busy in preventing inquests, that the cases of poisoning have been most prevalent'.<sup>64</sup>

Baker was also an advocate of the need for coronial inquests to be held in all cases of fire.<sup>65</sup> Citing an old statute to the effect that coroners had once inquired into suspected arson, he argued that where coroners had held inquests into fire (as some coroners in London had done) there was a clear public benefit. He again directed criticism towards those magistrates who believed this was an area for justices of the peace: 'cases which have occurred tend to show, that though magistrates may have the power to prosecute [for arson], they are not likely to exercise it, unless it is previously made manifest by a court of inquiry, that some persons are implicated, against whom they may direct their proceedings'.<sup>66</sup>

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<sup>61</sup> This case, which attracted considerable publicity at the time, is discussed in Fisher, 'Politics of Sudden Death', pp. 149–50.

<sup>62</sup> Baker, *Practical Compendium*, p. 44.

<sup>63</sup> *Ibid.*, pp. 52–71.

<sup>64</sup> *Ibid.*, p. 66.

<sup>65</sup> *Ibid.*, pp. 101–12.

<sup>66</sup> *Ibid.*, p. 107.

Although the *Practical Compendium* does not provide evidence of Baker's own practice as a coroner, it does capture the complex experience faced by an urban coroner. The work discusses legislation, statistical data, individual inquests and case law, medical information and the broader commentary on the coronership, and it covers an extensive range of types of death, as well as the multiple and complex considerations required by a coroner to investigate them properly. It presents a defence of the coronership as a full-time, professional office that entailed not only the administration of justice but also a wider concern with public health and social improvement.

Lankester, like Wakley, was a campaigner for medical reform. He was also a believer in the contribution medicine could make to social reform. In 1854 he set up a cholera committee in the parish of St James's, Westminster, as a response to the outbreak of that disease, through which he was able to prove John Snow's epidemiological theory of the disease. Two years later he was appointed the first Medical Officer of Health for St James's and Westminster, a position he held until his death. He appointed a sanitary inspector and instituted a vaccination programme against smallpox, he provided regular information to residents on how to avoid cholera, and he prepared statistically detailed annual reports in a bid to reduce poverty, disease and mortality.

A committed reformer (including on the advancement of women), in many respects Lankester was the natural heir of Wakley, whose campaigns he had supported. It was fitting, therefore, that Lankester was elected coroner for Central Middlesex upon Wakley's death; however, in successfully fighting this contest Lankester accumulated financial debts from which he never recovered. Even more than Wakley, Lankester saw the coronership as a means to reform society, using the office to tackle social problems such as infanticide, registration of

births and deaths, and workhouse conditions.<sup>67</sup> This determination to use the inquest beyond the simple investigation of death aroused considerable opposition from magistrates who would, on occasion, refuse him funds.

Hardwicke, like his friend Lankester before him, also served as a Medical Officer of Health (in his case, for Paddington). The *British Medical Journal* described Hardwicke as ‘a man of some mark and excellent endeavour’ and his career as ‘laborious and useful’ in which ‘from the first [Hardwicke had] shown a strong sense of public duty and an earnest desire to help forward sanitary, social and medical reforms’. Nevertheless, the *Journal* commented that he fell short of ‘possessing the high order of abilities’ of Wakley and Lankester, in particular criticizing him for showing favours to prisoners, paupers, the distressed and the sick; Hardwicke had emphasized that the coroner’s inquest was ‘as much for a rich man as for a poor one’.<sup>68</sup>

## 5. Conclusion

London and Middlesex presented a workload and challenges that would have been unfamiliar to the majority of the county coroners in England and Wales. Given the demands of the role, it is not surprising, therefore, that London and Middlesex coronerships tended to be occupied by a certain type of individual: relatively young (typically in their thirties or early forties) when first assuming office, already established as a professional either in law or medicine, and in possession of the energy and ambition of the self-made man. Most of the London coroners came from modest backgrounds. That many of them achieved eminence not only as coroners but in other fields too suggests that the London and Middlesex coronerships were particularly accessible to those from family backgrounds that lacked good connections or money. Equally,

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<sup>67</sup> Lionel Rose, *Massacre of the Innocents: Infanticide in Great Britain, 1800–1939* (London: Routledge and Kegan Paul, 1986), pp. 58–62; English, *Victorian Values*, p. 62.

<sup>68</sup> *The Times*, 27 February 1875, p. 5.

their professional eminence is testimony to their energetic ability to overcome the social hurdles they met. It is in this respect that men such as Wakley, Lankester, Hardwicke, Gell and Payne senior were self-made men. It might be said that they brought to the office of coroner a determination to fashion it in their own image: they wished to elevate the coronership into an office that was professional, eminent, valued and capable of effecting real social change. Perhaps their most important contribution to professionalization, therefore, was in the way they embodied the professional: they devoted themselves full time to their coronial roles, and, as noted both by contemporaries and later historians, in diligent and responsible ways; and they were men who acquired respectable standing socially, as well as within either medicine or the law.

The professionalization that these coroners, whether they had medical or legal training, brought to the office took various forms, examples of which were: Wakley's campaign for a medical coronership; Baker's *Practical Compendium*; Langham's advocacy of coronial reform; Payne's formation of the Coroner's Society (as discussed in the next chapter); and the linking of the coronial inquest with their work as Medical Officers of Health by Lankester and Hardwicke. More generally, the London and Middlesex coroners embraced medical jurisprudence and social science, the former to ensure the inquest took advantage of advances in medicine, science and forensics, the latter to translate these advances into wider social benefits through the use of statistical evidence and sanitarian endeavours.

The London and Middlesex coroners were, therefore, ideally qualified and suited to the task of reform. At the same time, the coronial office in London, on account of the particular social and health challenges with which it had direct contact, as well as its proximity to the leading institutions and people who could effect reform (notably, parliament and its members), would appear to be an ideal role for these men. Therefore, it is perhaps unsurprising that the leading architects of coronial reform in the nineteenth century—above all, the attempts to

professionalize the office and to ensure that inquests were founded on a more rigorous medical basis—came from among the London and Middlesex coroners. Nevertheless, it would be wrong to characterize reform in this period as an exclusively ‘London’-driven phenomenon. For it is notable that a number of coroners had provincial backgrounds (Wakley, Lankester, Baxter and Thomas, for example). Given the importance of provincial medical societies to the wider medical reforms of the nineteenth century, it is possible that these coroners were bringing ‘provincial’ reforms to the capital.<sup>69</sup> Reform of the coronial office may have been initiated and taken shape among the London coroners, but the impetus for reform may have come from the provinces as much as it did from London.

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<sup>69</sup> On the relationship between the provinces and medical professionalization—notably in the form of the Provincial Medical and Surgical Association—see above p. 76, fn. 121. Given the challenges of governing and administering to London society in the nineteenth century, it was arguably the provinces that provided the models for good governance.

## CHAPTER SIX: REFORMING DEBATES

### 1. Introduction

The previous two chapters have introduced some of the key London and Middlesex coroners at the heart of both social and coronial reform in the nineteenth century. That the coroner's office and inquest was in need of reform—and what we might understand as professionalization—became increasingly apparent in the 1820s and 1830s. Wakley's campaign for medical coroners was, in its often strident criticisms of legal coroners, a more general critique of the inquest and a recognition that unless the coronership responded to social changes and medical advances it would become an increasingly anachronistic institution. It is significant in this respect that the new defenders of the coronial inquest—radicals such as Cobbett, Hunt and Place, who saw in it a defence both of the poor and of traditional English liberties—backed an individual such as Wakley who emphasized less English liberties and more the possibilities for a reformed coronership opened up by medical advances. The potential irony of Wakley's position was not lost on one of his opponents, the shipping merchant George Young. By putting medicine at the heart of the inquiry, to the extent that even the coroner himself was a medical rather than a legal man, the danger was that the jury would simply be guided through evidence they barely understood to a verdict that had, in effect, been determined by the coroner himself. As Young suggested, Wakley's campaign for a medical coronership represented

an insolent attempt to unite in one the offices of judge, witness, and jury, and virtually to abolish in this portion of our judicial institutions one of the most cherished bulwarks of rational liberty.<sup>1</sup>

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<sup>1</sup> *The Times*, 14 September 1830, p. 4, cited in Ian A. Burney, *Bodies of Evidence: Medicine and the Politics of the English Inquest, 1830–1926* (Baltimore and London: Johns Hopkins University Press, 2000), p. 20.

For many, therefore, Wakley's vision of reform would lead to anything but reform; indeed, it risked destroying the very things that reformers felt most urgently needed defending and advancing.

Hence different ideas of reform potentially competed against one another. Nevertheless, there were also broad areas of agreement among coroners and commentators alike on some of the aspects of the coronial office that most demanded attention. In particular, debates tended to focus on the apparently ramshackle nature of the inquest, which was frequently cast as a ludicrous occasion populated by amateurish individuals and guided by unclear regulations. The implicit message of such accounts was that the coronial office could be compared unfavourably with more formal law courts that were staffed by more professional men. The purpose of this chapter is to consider some of the debates that arose over the coronership in the middle decades of the nineteenth century, in particular by discussing two responses to these debates: first, parliamentary legislation that directly addressed the coronership; and second, the formation in 1846 of the Coroners' Society which, in theory at least, gave to the coronial office for the first time a basis for a cohesive, organized and corporate engagement with the issues most affecting it. Burney has argued that the Coroners' Society did not so much create a corporate identity as supplant an unwelcome one:

Anxiety over their status both within the English legal and political structure and with the public at large had long been a feature of coroners' corporate identity, and it had been largely the desire to improve their image that had prompted the formation of the Coroners' Society in 1846.<sup>2</sup>

Although this understates the extent to which the Society saw itself as concerned with more than simply image, it was certainly the case that there was a widespread negative perception of coroners. Frederick Lowndes, a surgeon, at the end of an article on the coronial inquest,

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<sup>2</sup> Burney, *Bodies of Evidence*, p. 20.

commented: ‘My apology must be that, by a strange contradiction, it is one of the peculiarities of the coroner’s court in this country, that it never can be discussed without exciting ridicule.’<sup>3</sup>

In the next section I discuss arguably the most famous nineteenth-century writing on coroners and their inquests, that of Charles Dickens.

## 2. The Dickensian inquest

Charles Dickens was not only a distinguished novelist but also an eminent critic of the coroners’ inquest in the mid-nineteenth century. As Ian Burney states in *Bodies of Evidence*, ‘Both in novelistic satire...and somewhat more systematically in his journalistic writings, he depicted scenes of degraded inquest proceedings.’<sup>4</sup> Dickens, therefore, provides a valid primary source in regards to the coroners’ inquest and his observations can and do provide important historical evidence about how inquests were held.

An example of this appears in the novel *Bleak House* (1853), where Dickens’s narrator states, ‘The Coroner frequents more public-houses than any man alive. The smell of sawdust, beer, tobacco-smoke, and spirits, is inseparable in his vocation from death in its most awful shapes.’ Without doubt the most famous nineteenth-century literary depiction of a coroner’s inquest, Dickens drew a ludicrous and ramshackle scene. The inquest into the death of the character Nemo from an opium overdose is held in the Sol’s Arms, just around the corner from the lodgings at Krook’s establishment where Nemo’s body lies. The ridiculous beadle—‘an imbecile civilian’ in the view of a watching policeman—is described serving jury summonses, with each juror’s name spelled incorrectly, and inviting the mockery of the attendant crowd. The court is likened to a ‘fair’: a game of skittles is in progress when the coroner arrives; the jurors and sundry others are crowded in a first-floor room of the pub, some leaning against a

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<sup>3</sup> *London Medical Gazette*, 2, 20 October 1877, p. 432.

<sup>4</sup> Ian A. Burney, *Bodies of Evidence: Medicine and the Politics of the English Inquest, 1830–1926* (Baltimore and London: Johns Hopkins University Press, 2000), p. 83.



piano, others ‘among the spittoons and pipes’; the coroner himself sits beneath ‘the pendant handle of a bell, which rather gives the Majesty of the Court the appearance of going to be hanged presently.’<sup>5</sup> Filing out of the pub, ‘something after the manner of a straggling funeral’, the jurors make their way to view the body; on their return they hear, after the evidence of the surgeon who attended the body, incoherent and irrelevant testimony from a woman, before the coroner rules that a young boy who might provide information concerning the deceased cannot be admitted as a witness.<sup>6</sup> Finally the jury are asked to return a verdict on whether Nemo’s death was an accident or whether it was suicide. The jury quickly decide on the former, bringing the inquest to a conclusion. Later that evening, in the same room of the pub, Little Swills, a comic vocalist, recreates the inquest in music, himself acting the part of the coroner. It is a fittingly ridiculous mimicry of what comes across from the narrative as a ludicrous event.<sup>7</sup>

It is likely that Dickens intended his comic depiction of the coroner’s inquest as more than just entertainment for his readers. Possibly the author had the serious aim of drawing attention to the failings of the coronial inquest. This idea is supported by the fact that Dickens also wrote about inquests in *Household Words*, a weekly magazine he edited throughout the 1850s. Indeed, in 1850, two years prior to the publication of the *Bleak House* inquest scene, Dickens had written an essay on the coroner’s inquest which appeared in the first issue of the magazine. The opening sentences of ‘A Coroner’s Inquest’ make clear what Dickens thought of the setting and conduct of the inquest:

If there appeared a paragraph in the newspapers, stating that her Majesty’s representative, the Lord Chief Justice of the Queen’s Bench, had held a solemn Court in the parlour of the ‘Elephant and Tooth-pick,’ the reader would rightly conceive that the Crown and dignity of our Sovereign Lady had suffered some derogation. Yet an equal abasement daily takes place without exciting especial wonder. The subordinates of the Lord Chief Justice of the Queen’s Bench (who is,

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<sup>5</sup> Charles Dickens, *Bleak House*, (London: Hazell, Watson & Viney, Ltd, c.1933), p. 121. Chapter 11 (pp. 115-126) of the novel, in which the coroner’s inquest appears, was first published in June 1852 as part of the fourth instalment of *Bleak House*.

<sup>6</sup> *Ibid.*, pp. 122-3.

<sup>7</sup> *Ibid.*, pp. 124-5.

by an old law, the Premier Coroner of all England) habitually preside at houses of public entertainment; yet they are no less delegates of Royalty—as the name of their office implies—than the ermined dignitary himself, when surrounded with all the pomp and circumstance of the law’s majesty at Westminster.

For Dickens, this was all a sign of ‘our thoroughly commercial nation’: while legal action over debt ‘is tried in an imposing manner in a spacious edifice, and with only too great an excess of formality’, when it comes to an inquest on a human death “‘the worst inn’s worst room” is deemed good enough’.<sup>8</sup>

To give substance to his criticisms of the inquest he decided to observe one.<sup>9</sup> The inquest he attended was held in ‘a back parlour of the Old Drury Tavern, Vinegar Yard, Drury Lane... amidst several implements of conviviality, the odour of gin and the smell of tobacco-smoke’. After the jury were sworn in, the entire company made the short walk around the corner to a baker’s shop where the deceased lay. The value of this viewing of the body by the coroner and jury, a legal requirement for an inquest, is called into question by Dickens. His objections were twofold. First, the experience was unpleasant and unsanitary. The necessity of keeping the body where it lay until the inquest viewed it, especially in crowded lodgings, was evidently unhygienic; and, as Dickens pointed out, even if the body had been moved due to its lying in an unreasonably cramped space, there would have been no place to take it to for a viewing apart from ‘the tap-room of a public-house’.<sup>10</sup>

His second objection specifically concerned justice itself. He noted that a lawyer would assert that the ‘first necessity [was] that jurors should have no opportunity of communicating with witnesses, except when before the Court’. Yet two important witnesses admitted and guided the jury around the baker’s shop, and only ‘the strong sense of propriety’ of the 15

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<sup>8</sup> Charles Dickens, ‘A Coroner’s Inquest’, *Household Words*, 1 (1850), p. 109.

<sup>9</sup> Dickens had previously served as a juryman on an 1840 inquest presided over by Wakley, about which he later wrote in *The Uncommercial Traveller*; see above, Chapter Three, p. 100.

<sup>10</sup> Dickens, ‘A Coroner’s Inquest’, pp. 110–11. The view, and the various debates about this practice, are discussed in Chapter Eight below.

jurymen forestalled private communication between the witnesses and the jurors. Dickens recounted an earlier case in which such private conversation had influenced the eventual verdict of the jury.<sup>11</sup> Matters improved little once the jury had returned to the Old Drury Tavern for the inquest proper to begin. Witnesses were questioned ‘in an undecided rambling manner, and were so interrupted by half-made remarks from the jurors and other parties in the room, that it was a wonder how the report of the proceedings, which appeared in the morning newspapers, could have been so cleverly cleared as it was of the chaff from which it was winnowed’. Individuals unconnected with the case casually conversed with the jury without strong objection from the coroner. The ‘whole affair’ had, in Dickens’s view, ‘the air of an ill-played farce’; and yet, he noted, he was informed by ‘a competent authority’ that the proceedings at the Old Drury Tavern ‘formed an orderly and superior specimen of their class’. The final verdict was one of manslaughter against the husband of the deceased.<sup>12</sup>

Dickens ended his essay with a suggested ‘remedy for the inherent vices of “Crown’s quests.”’ He proposed that houses for the dead be built, thereby enabling the removal of ‘mortal remains from that immediate and fatal contact—fatal, morally as well as physically—which is compulsory among the poorer classes under the existing system of sepulture.’ In particular, he believed that such ‘dead-houses’ are essential in cases of death that come before the coroner. The justification for the present ‘peripatetic’ system was ‘the assumed necessity of the jury seeing the bodies on the spot and in the circumstances of death’. But this necessity was ‘unreal’, as evidenced by the inquest Dickens attended at which the body had been moved to a table and opened by a surgeon. ‘Surely’, he argued,

removal to a wholesome and convenient reception-house, would not disturb such appearances as may be presumed to form evidence. As it is, the only place among the poor in which medical men can perform the important duty of examination by *post mortem* dissection is a room crowded with inmates—or the tap-room of the nearest tavern.

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<sup>11</sup> *Ibid.*, p. 111.

<sup>12</sup> *Ibid.*, p. 112.

Finally, he urged ‘that a suitable Coroner’s Court-house be attached to each of the proposed reception-houses’. By doing this, ‘a degree of order, dignity, and solemnity’ in the inquest would be preserved allowing the coroner to ‘perform his office in a manner worthy of a delegate of the Crown’.<sup>13</sup>

Both Dickens’s essay on the inquest and his satirical account of an inquest in *Bleak House* are interesting for several reasons. Most obviously they present information on the functioning and procedure of the inquest: the summoning of witnesses and jurors by the beadle; the swearing-in of the jury; the viewing of the body; the questioning of witnesses by a coroner and jury; the verdict; and, more generally, the setting and atmosphere in which the greater proportion of city inquests would have been held. More significantly they are evidence of two prevailing attitudes towards the inquest and the office of the coroner: first, that these were important legal institutions, charged as they were with investigating human death; and second, in an echo of widespread complaints, that the inquest had fallen into a lamentably undignified state and was in urgent need of reform. Dickens was adding his voice, therefore, to those of others who promoted coronial reform, and it amounted to what was, in effect, a re-thinking of the way society dealt with death. Social class was, of course, a factor in Dickens’s complaints; but more than that he addressed the fundamental and essentially human importance of how death was managed and investigated, particularly in the context of the challenging environment of nineteenth-century London. Unsurprisingly the coroner’s inquest occupied a central place within this debate, for the inquest concerned who had jurisdiction over the body, how a death was to be investigated, and what was the appropriate involvement of law and medicine in this human experience.

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<sup>13</sup> *Ibid.*, pp. 112–13. For Dickens’s influence in debates of the time see, for instance, Claire Tomalin, *Charles Dickens: A Life*, (London: Penguin Books, 2012).

### 3. The Coroners' Society

In 1843 a committee was formed, the purpose of which was to discuss the perception of the coroner's office as obscure, insignificant and unimportant.<sup>14</sup> One course of action was to project the united front of a corporate body of proficient and competent men by establishing a recognized professional body for coroners. In January 1846, from number 1, Church Yard Court, Temple, London, William Payne, lawyer and coroner for the City of London and Borough of Southwark, sent out a circular to his 'brother coroners' in which he stated: 'I have thought it extremely desirable that some co-operation should take place between Coroners in England, in order to the more effective discharge of the duties of their office'.<sup>15</sup> He advocated that a 'general body' of coroners could cope with costs more efficiently, it could support the rights and privileges of the office and of each other, and it would provide the unity of a professional society which, among other things, could make a stand against what they considered was the obstructive behaviour of many magistrates. Writing to as many of the coroners in England and Wales as possible (he sent out 317 letters), Payne urged them to pass on his circular 'to any of my brother Coroners, [and to] please mention it to any you may meet', inviting them to the inaugural meeting of the Society and encouraging those unable to attend due to distance to inform him by letter of their views on his proposition.<sup>16</sup>

The first meeting of the Coroners' Society took place in Payne's chambers in London on 4 February 1846. Eleven coroners assembled from Northampton, Kent, Dorset, Lancashire, Suffolk, two from Devon and four from London and Middlesex districts. In addition, Payne had received 33 letters of support for the Society. Those at the meeting formed a management committee consisting of seven members and voted Payne chairman of the Society. Four

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<sup>14</sup> Olive Anderson, *Suicide in Victorian and Edwardian England* (Oxford: Clarendon Press, 1987), p. 109.

<sup>15</sup> The 'Coroners' Society of England and Wales Minute Books, 1 & 2, 1846–1902' (2010). Published in Cheshire by the 'Coroners' Society of England and Wales'.

<sup>16</sup> Coroners' Society Annual Report, 1846, 1, p. 1. Annual Reports can be found in the Minute Books.

members of the committee met again on 10 February to establish the rules and regulations of the Society and to introduce William Baker, the coroner for the Eastern District of Middlesex, who had been appointed Treasurer. The initial rules and regulations were simple: all coroners, as well as their deputies, throughout England and Wales would be admissible as members. In addition, the rationale behind the Society was made clear:

The Society is formed for the purpose of better ascertaining in questions of difficulty, the duties which devolve upon Coroners and generally to promote such Amendments in Law, as may to the Society appear desirable and necessary.<sup>17</sup>

Fees were agreed at one guinea per annum, paid in advance, from the first day of January each year, and the committee members were named.

Five of the seven members of the management committee were drawn from London and Middlesex coroners: William Payne (the President, and coroner for the City of London), William Baker (the Treasurer, and coroner for East Middlesex), Charles St Clare Bedford (coroner for the Liberty of Westminster), Thomas Higgs (coroner for the Duchy of Lancaster), and Thomas Wakley (coroner for West Middlesex). The other two members of the committee were Charles Carttar, the coroner for Kent and Greenwich, and Charles Carne Lewis, the coroner for Brentwood in Essex. Of these, however, neither Wakley nor Lewis attended meetings on a regular basis, with the result that the core of the committee's work was in the hands of Payne, Baker, Bedford, Carttar and Higgs, as well as Samuel Langham, who was appointed Secretary in April 1847. The following table lists the number of meetings each committee member attended (in 1846 there were 11 monthly meetings plus two special meetings; and in 1847 there were 12 monthly meetings plus three special meetings):

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<sup>17</sup> Coroners' Society Minute Books, 1, 3 March 1846, p. 7.

Table 1: Coroners' Society Committee Attendance, 1846–7

Name	Number of meetings attended in 1846	Number of meetings attended in 1847	Total number of meetings attended 1846–7
William Baker	7	12	19
Charles St C Bedford	12	11	23
Charles Carttar	7	12	19
Thomas Higgs	11	11	22
Charles Lewis	2	2	4
William Payne	11	14	25
Thomas Wakley	3	1	4

Source: Coroners' Society Minute Books, 1.

Evidence of Wakley's somewhat detached relations with the Society also comes from his absence from the first General Meeting in May 1847 (from which, of the committee members, Bedford was also absent). It is plausible, however, that the primary value of Wakley's inclusion on the committee was the profile he gave the Society due to his prominence as a journalist and Member of Parliament.

Overall membership of the Society gradually increased over the first two years of its existence. By mid-1846, 21 coroners had sent their one guinea subscription; by May 1847 this had increased to 59, nine of whom were from London and Middlesex as listed in the following table:

Table 2: London and Middlesex members of the Coroners' Society, 1847

Name	District	Name	District
Baker, William	East Middlesex	Higgs, Thomas	Duchy of Lancaster

Baker, William, Jr	East Middlesex? <sup>18</sup>	Payne, William	City of London & Southwark
Bedford, C St C	City & Liberty of Westminster	Wakley, Thomas	West Middlesex
Carttar, Charles	Kent & Greenwich	Walton, William	Tower of London <sup>19</sup>
Gell, John H	City & Liberty of Westminster		

Source: Coroners' Society Minute Books, 1.

At the first General Meeting of the Society in May 1847, which was attended by 13 coroners, the committee stated that they had not called for that year's subscription fees until they had 'ascertain[ed] whether the General Meeting is in favor of the continuance of the Society'. The minutes then record that 'Your Committee however consider the Association highly beneficial to Coroners in General and earnestly press upon this Meeting the necessity of using its exertions to induce all Coroners to become Members.'<sup>20</sup> Confidence was certainly high by January 1848 when Langham, in a bid to encourage new members, informed coroners that there would be an entrance fee of 10s. 6d. in addition to the one guinea annual subscription for new members from May of that year. As if the incentive of promptly joining in order to avoid this new entrance fee were not enough, Langham added:

the benefits of having the advice and assistance, in questions of difficulty and importance, of the Committee of this Society, has already been highly appreciated; and, although the Society has not been in existence for any great length of time, each year has brought with it considerable additions to its numbers, and it is confidently expected that it will continue to receive that support by which alone it

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<sup>18</sup> William Baker Jr's marriage was announced in 1841 in the *The Gentleman's Magazine*, p. 424. It refers to him as the son of William Baker, Coroner for Middlesex, but there is no mention of his coronial district or position; a plausible guess is that he was serving as deputy coroner to his father in East Middlesex.

<sup>19</sup> William Walton is listed in *The Post Office London Directory*, 1843, as Steward and Coroner for the Tower of London.

<sup>20</sup> Coroners' Society Minute Books, 1, pp. 35–6.



can be rendered practically useful to the body whose interests it seeks to support and extend.<sup>21</sup>

In all, 18 per cent of the coroners of England and Wales had paid their guinea and taken up membership of the Coroners' Society according to the minutes of 1846.<sup>22</sup>

There was some basis for Langham's claim that the Society was 'practically useful'. Apart from the normal business of promoting the Society to coroners, managing subscriptions and taking care of administration, the Society was above all preoccupied with two areas of activity during its first two years of existence: assisting and advising coroners whose fees were being withheld by magistrates; and updating coroners on parliamentary legislation and court decisions affecting their work. The first three reports issued by the Society over 1846 and 1847 (which were sent to every coroner in England and Wales, whether or not the coroner was a member of the Society) illustrate these concerns.

The first report began by stating that it was 'forward[ing] to the Coroners in general, information of such circumstances as have lately occurred, a knowledge of which may be useful to the body at large'. It then proceeded to summarize the recent Abolition of Deodands Act (discussed in the next chapter), before turning to problems experienced by Devon coroners whose fees were being withheld by magistrates (and on which the committee had held their special meetings in 1846), since 'the Justices of the Peace had come to a determination not to allow the costs of any Coroner's Inquest where the verdict shewed that the party had died from natural causes'. The Society noted that one result of this 'was that many cases of death which ought to have been enquired into, were not reported to the Coroners'. This was an ongoing dispute which had gone before the Court of Queen's Bench. Although it had not been resolved, the Society was clearly attempting to fashion a corporate response to the issue. After citing the

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<sup>21</sup> Letter from Samuel F. Langham, on behalf of the Coroners' Society, to coroners, January 1848: Coroners' Society Minute Books, 1, p. 63.

<sup>22</sup> Coroners' Society Minute Books, 1, 3 March 1846, pp. 7–9.

notorious recent case of undetected poisoning in Norfolk, and a parliamentary response to this case which was critical of the consequences occasioned by withholding coroners' fees,<sup>23</sup> the Society offered some cautious general advice to all coroners on the question of the necessity of inquests, but one which reminded them of the legal position:

It becomes, therefore, highly important, not only that Coroners should exercise a sound discretion with regard to the cases in which it may be necessary to hold Inquests, but that they should not suffer their authority to be interfered with, nor Inquests to be improperly prevented by any persons whatever; and so jealous is the law of the protection of human life, that the refusal or wilful neglect of parties to give notice to the Coroner of a death requiring an Inquest, is an indictable offence, and no doubt, on conviction, would receive exemplary punishment.<sup>24</sup>

The report then considered the issue of whether coroners should hold inquests on fires, noting that 'there appears to be but one opinion as to the importance and utility of them, and though all have not yet adopted the practice, yet it is gaining ground in many parts of the kingdom'. That coroners should hold inquests on fires seems to have been a particular concern of Payne, Baker referring in his *Practical Compendium* to Payne's determination to pursue this practice despite the uncertain legal basis for doing so,<sup>25</sup> and it is telling that the report refers specifically to 'the City of London and Borough of Southwark [Payne's coronial district], where the number of houses is greater than in any other local district in the kingdom, [and where] the whole of the Inquests in cases of Fire during the last twelve months was only eleven, though an Inquest was held in every case of sufficient importance to require it'.<sup>26</sup> The value of the Society to coroners in relation to these issues was then emphasized:

It will be obvious to the Coroners generally, that if any public good is to be accomplished, all should join in promoting it; and it must be admitted that the

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<sup>23</sup> Pamela J. Fisher, 'The Politics of Sudden Death: The Office and Role of the Coroner in England and Wales, 1726–1888', unpublished PhD thesis, University of Leicester (2007), pp. 149–50, discusses the Norwich poisonings in relation to disputes over coronial fees.

<sup>24</sup> Coroners' Society Minute Books, 1, pp. 17–18.

<sup>25</sup> William Baker, *A Practical Compendium of the Recent Statutes, Cases, and Decisions affecting the Office of Coroner* (London, 1851), p. 112.

<sup>26</sup> Coroners' Society Minute Books, 1, pp. 18–19.

questions yet undecided do materially affect the best interests of the public as well as the whole body of Coroners, and that it would be unjust to those individuals who take them up, to leave them to bear expense. If Coroners in general would so unite, many questions and matters of importance would from time to time be considered and promoted for the public benefit.<sup>27</sup>

Similarly, in the second year of its existence the Society continued to discuss the issue of coronial fees. At a special meeting in June 1847, convened to discuss the issue of Devon coroners not receiving their fees, Richard Bremridge, the recently elected coroner for Devon (and, later in the year, Member of Parliament for Barnstaple), attended, and the Society's second report returned extensively to this issue, with details of various contentious inquests as well as a more general problem in Manchester where magistrates had been especially obstructive. The report noted with a touch of diplomacy that the 'Committee perceive with regret, that a growing spirit of hostility has been manifested towards the Coroners of some districts by a *few* of the Justices of the Peace'.<sup>28</sup> Again the report offered some considered advice to coroners that they 'enquire into the probable necessity for holding an Inquest before it is appointed, in order that there may not be even a shadow of complaint against them in that respect' and that it was:

one of their objects... to prevent any irregularity which may inadvertently creep in, in the discharge of the public duties of the office... and by the promotion of an uniformly correct mode of practice to ensure the confidence, not only of so highly honourable a body of men as the Justices of the Peace, but the public in general.<sup>29</sup>

As Burney has noted, one of the aims of the Society was to improve the image of coroners, and the advice offered in the second report suggests a touch of anxiety that coroners themselves may have been responsible for some of the problems arising with magistrates. But this was not only about image: there was a clear attempt on the part of the Society to advance uniformity of practice and a professionalism with a view to benefiting wider society and to strengthening

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<sup>27</sup> Ibid., 1, p. 19.

<sup>28</sup> Ibid., 1, p. 29. (Emphasis in the original.)

<sup>29</sup> Ibid., 1, p. 31.

coroners as a body against what were perceived to be unjust attacks from certain magistrates. Part of this agenda to improve and unify the practice of coroners involved providing information on recent cases and legislation. The third report consisted largely of details of important recent inquest verdicts and legal decisions.<sup>30</sup>

Over its first two years of existence, therefore, the Society proved highly active in several areas relating to the coronial office, as well as successful in attracting new members. However, this initial surge in membership was not sustained, and it seems that the Society struggled to attract significant numbers of new members over the coming years. A guinea was a substantial amount to the rural coroners who only held two or three inquests a year at that time, and it may explain the reluctance on the part of some to join.<sup>31</sup> The Coroners' Society surmised that the low membership and the lack of attendance at the Society's Annual General Meetings were due to the meetings always taking place in London and to the poor general communications to members. It was put to the attendees at the Society's meeting in 1854 that, 'in consequence to the Committee being composed almost exclusively of Metropolitan Coroners, an impression was thought to exist in the minds of some of the County Coroners, that their interests were not sufficiently represented'.<sup>32</sup> The meeting agreed that it was fully aware of the situation but explained that London coroners had been elected onto the committee as it was considered these members would be more likely to attend meetings.

The dominance of London coroners on the Society's committee is apparent in 1854 when six out of 11 members represented the capital (and three others were from areas adjoining London and Middlesex):

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<sup>30</sup> *Ibid.*, 1, pp. 53–5.

<sup>31</sup> PP 1851 (148) XL111.403: 'Return of Number of Inquests held by Coroners in Counties, Cities and Boroughs in England and Wales, 1843–49'.

<sup>32</sup> The Coroners' Society Minute Books Vol 1, 6 June 1854, p. 335.

Table 3: Committee members of the Coroners' Society, 1854

Name:	District:
William Payne, President	City of Southwark
William Baker, Treasurer	Eastern Middlesex
Samuel F. Langham, Secretary	City of London and Southwark
Thomas Wakley	West Middlesex
Richard Bremridge	Barnstaple, Devon
Thomas Higgs	Liberties of the Duchy of Lancaster
Charles C. Lewis	Brentwood, Essex
Charles St Clare Bedford	City and Liberty of Westminster
Charles Carttar	West Kent and Greenwich
Rupert Clark	Reading, Berkshire
William Marshall	Ely

Source: Coroners' Society Minute Books, 1, 1854, p. 337.

Between 1854 and 1874 the number of members of the Society barely increased.<sup>33</sup> According to the Society's minutes for 1874, there were 64 members, of whom six were from London:

Table 4: London and Middlesex members of the Coroners' Society, 1874

Name	District	Name	District
Bedford, C St C	City & Liberty of Westminster	Payne, Wm. Jr	City of London & Southwark
Humphreys, John President	East Middlesex (33 Spatial Square)	Ratcliffe, J.R.	Stepney

<sup>33</sup> See Appendix 6 of this thesis, pp. 301-319, for detailed lists of members for the years 1848, 1850, 1857, 1866, 1878, 1885 and 1887. Although there has not been scope to analyse this data in detail, the figures show a membership peak in 1857, followed by a decline to 1878, after which the figures remain stable. The figures also show that an overwhelming majority of members were from outside London, but that there was a noticeable, albeit small, increase in the proportion of members who were London coroners.

Manning, W. T.	Coroner for the Queen's Household	Richards, J.G.	(33 Spatial Square) ? District
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Source: Coroners' Society Minute Books, 1, 1874, p. 821.<sup>34</sup>

Notwithstanding the struggle to expand membership of the Society, the existence of such an organization was an important step forward for coroners. Payne's energy and initiative in founding the Society have been singled out for praise.<sup>35</sup> However, there were early tensions between some of its leading figures. Based on his own experience in using *The Lancet* to counteract national press hostility and promote his reforming agenda, Wakley twice attempted to persuade the Society to link up with a legal journal or to establish a dedicated coroners' journal to disseminate and promote the Society's message.<sup>36</sup> Whatever the possible merits of this idea, nothing came of it, possibly because of hostility between Payne and Wakley arising from a public argument the two of them had conducted in the pages of *The Times* and *The Lancet* in 1842.<sup>37</sup> Wakley, like Payne, was an early member of the Coroners' Society; whether or not their dispute from four years previously affected their ability to work together is not known, but it is not inconceivable that Payne, conscious of Wakley's often belligerent and

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<sup>34</sup> There is, however, a question mark over the reliability of this source. In 1854 Samuel F. Langham had been the Society's Secretary, but his name was omitted from the 1854 list of coroners' names. Langham was deputy coroner for the City of London and Southwark from 1849, and coroner for that district from 1884–1901. Moreover, there is no mention in the list of members of the society of William Carter of East Surrey, Charles Carttar of Kent and Greenwich (who had been listed in 1847), Thomas Diplock of West Middlesex and William Hardwicke of Central Middlesex, who were all still active coroners in 1874.

<sup>35</sup> J. D. J. Havard, *The Detection of Secret Homicide: A Study of the Medico-Legal System of Investigation of Sudden and Unexplained Deaths* (London: Macmillan, 1960), p. 66.

<sup>36</sup> The Coroners' Society Minute Books, 1, 29 December 1851, p. 253; *ibid.*, 3 May 1853, p. 310.

<sup>37</sup> The dispute centred on an inquest conducted by Payne on the suicide of a young woman. The surgeon in the case had testified that, although not pregnant, the victim was not a woman of 'virtue'. Wakley condemned this evidence as unnecessary and as likely to bring the coroner's office into disrepute, accusing Payne of making the inquest 'a public nuisance, instead of a public benefit'. Payne defended his inquest by arguing that it was important to establish all the facts to determine why the woman may have killed herself. Wakley countered by calling Payne 'a very vain and silly person' and claiming that 'pomp and idle pretention shall not screen the folly of which he has been guilty', irritated as he was that Payne had styled himself coroner for London rather than, more properly, coroner for the City of London. See *The Times*, 24 October 1842, p. 5, and *The Lancet*, October 1842, pp. 179–80.

aggressive style in the pages of *The Lancet*, thought that the coroners would be ill-served by a publication along those lines. Moreover, he may have considered that the more pressing task for the Society was the promotion of professional practice among his fellow coroners, something which the published reports better served rather than a public journal. Whether or not the Society would have benefited from a journal in its early years, it is clear that from the very beginning it was characterized by a vigorous engagement with the pressing need to impart unified and professional practice among all coroners.

#### **4. The remuneration of coroners**

The debates around coronial reform took place alongside legislative initiatives (the subject of the following chapter). To a large extent most of these initiatives concerned the financial aspects of the coronial system. The most significant legislation of the eighteenth century affecting the coronership had been an Act of 1751 which repealed older legislation from 1487 and 1509 on the remuneration of coroners. Previously a coroner had been remunerated only in cases of felonious death: he was paid 13s. 4d. from the goods and chattels of the perpetrator of the crime.<sup>38</sup> An Act from 1509 decreed that coroners were to hold inquests on all deaths by misadventure, though they were not to receive a fee for them.<sup>39</sup> From 1751, however, coroners were to receive a fee of £1 per inquest as well as 9d. per mile to cover their travelling expenses.<sup>40</sup> These fees were to be approved and paid by magistrates out of the county rates, and to a certain extent it was at the discretion of magistrates whether or not to pay them. In addition, coroners' expenses—such as payment of officials and witnesses, and hire of rooms

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<sup>38</sup> 8 Henry VII. c. 2 (1487): 'it is ordained, that the Crouner have for his fee, upon every inquisition taken upon the view of the body slain, thirteen shillings and fourpence of the goods and chattels of him that is slayer and murderer'. Fisher, 'Politics of Sudden Death', p. 229, suggests the possibility that this encouraged coroners to persuade juries towards verdicts of murder even when the evidence for such a crime was flimsy.

<sup>39</sup> 1 Henry VIII, c. 7 (1509).

<sup>40</sup> 25 George II, c.29 (1751–2): An Act for giving proper reward to Coroners for the due execution of their duty.

for the inquest—would be paid up front, with the coroner submitting a claim for reimbursement at the Quarter Sessions; again, magistrates had to approve these expenses. The legislation had stipulated that coroners were to be remunerated for all inquests ‘duly held’, but there was no precise definition of what ‘duly held’ meant. This system, although addressing the problem of coronial remuneration, was understandably open to abuse: by coroners, since there was a financial incentive to hold unnecessary inquests; and by magistrates, since there was a financial incentive to withhold fees and reimbursement of expenses wherever possible.<sup>41</sup> The 1751 Act created, therefore, a potential, and perhaps inevitable, area of conflict between coroners and magistrates.

It is worth commenting that there has been a tendency among some historians to exaggerate these tensions. Fisher, for example, has argued that the parsimony of magistrates was far more than a simple irritant to coroners. In her conclusion to her thesis she asks: ‘is it possible that a deliberate and measured decision was taken [by magistrates] to ensure that certain types of murder would not be discovered?’ Although she suggests that it is ‘perhaps a step too far to suggest that they were deliberately trying to prevent murders from being detected’, she argues that magistrates must have known by their actions in reining in spending on coroners’ inquests that this would have been the effect of their policy.<sup>42</sup> Fisher is understandably hesitant in pushing this argument too far: initially she suggests that magistrates cannot be accused of ‘recklessness’, but then subsequently considers them guilty of ‘a reckless disregard for the well-being of their residents’.<sup>43</sup> Similarly, a central argument in Havard’s

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<sup>41</sup> William Blackstone, *Commentaries on the Laws of England*, 4 vols (Oxford, 1765–9), 1, p. 336, commented: ‘although formerly no coroner would condescend to be paid for serving his country... yet for many years past they have only desired to be chosen for the sake of the perquisites... which now amount to so considerable a sum as to be highly burdensome to the county’; as quoted in Fisher, ‘Politics of Sudden Death’, pp. 158–9, who comments that Blackstone’s view gave support to those magistrates suspicious of the activities of coroners.

<sup>42</sup> Fisher, ‘Politics of Sudden Death’, pp. 239–40.

<sup>43</sup> *Ibid.*, p. 254.



*Detection of Secret Homicide* was that the action of magistrates probably allowed many murders to go undetected, above all, of course, those involving poisons.<sup>44</sup>

Recognizing the potential for abuse within the system is not the same, however, as proving that abuse occurred. There are obvious difficulties with suggestions that people may have been getting away with murder; it is almost certain that in every age some murders escape detection, but it is almost impossible to ascertain at the distance of more than a century what proportion of nineteenth-century deaths fall into the category of undetected homicide. But there are further difficulties with Fisher's argument that there was widespread abuse of their position on the part of magistrates. The main statistical evidence provided by Fisher covers the decade 1850–9 and identifies the proportion of inquests for which fees were disallowed.<sup>45</sup> The figures confirm one of the central and most valuable arguments of her thesis, namely that there was notable local variation within the coronial system. For example, in both the West Riding and Durham between 1850 and 1856 not a single inquest fee was disallowed; but in the years 1857–9, 16.2% of West Riding inquests and 14.4% of Durham inquests had their fees disallowed by magistrates. Over the decade as a whole this meant that 3.4% of West Riding inquests and 4.1% of Durham inquests went unremunerated for their coroners, comparatively high figures among the set of counties analysed by Fisher. There does appear to have been a noticeable increase in the proportion of fees disallowed in the final three years of the decade, but for the decade as a whole the figures were low. In Lancashire, the second largest county in the study in terms of number of inquests, only 12 inquests out of 10,401 in the years 1850–6 had their fees disallowed, and only 88 in the decade as a whole, representing 0.6% of all inquests, admittedly an unusually low figure. In Middlesex, the largest county in the survey, there were 16,808 inquests in the period 1850–6, of which fees were disallowed in 311 (1.9%) of them; in the

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<sup>44</sup> Havard, *Detection of Secret Homicide*. Anderson, *Suicide*, p. 17, has suggested that Havard did not fully appreciate the magistrates' position.

<sup>45</sup> Fisher, 'Politics of Sudden Death', p. 173.

years 1857–9, fees were disallowed in 254 (3.5%) out of 7,358 inquests; in total, magistrates disallowed the fees in 565 (2.3%) of Middlesex inquests in the 1850s. This would have meant that, on average in Middlesex, about one inquest per week had its fees disallowed, no doubt an incidence that cumulatively would have been an increasing irritant to the coroners; at the same time, however, the coroners were being paid their fees for over 40 inquests per week. It is impossible to tell whether the magistrates were justified in disallowing these fees, but it would be surprising if there had not been some inquests among such a large number where there might have been strong suspicions that they had been unnecessary. What does seem clear from the statistical evidence is that it hardly supports a claim that magistrates were systematically withholding fees; if anything, given the arrangement in which magistrates were expected to approve the payment of fees, as well as to answer to county ratepayers, the figures could be interpreted as a reasonable, plausible and balanced outcome of such a system.

Unsurprisingly, coroners were aggrieved that on occasion they were not paid for their inquests, and it is possible that some modern commentators have taken these complaints about the unjust parsimony of magistrates too much at face value. As discussed above, one of the main concerns of the Coroners' Society was to assist and advise coroners who were encountering difficulties with magistrates, although the Society was careful to note that these problems only involved a 'few' of the magistrates. The Society circulated a copy of a *Times* leader from 29 January 1850 in which the Middlesex magistrates unanimously agreed a more rigorous approach to ascertain whether a coronial inquest had been necessary or not, complaining that many officials were unnecessarily reporting deaths to coroners. The article noted an increase in inquests, and quoted one individual at the magistrates' meeting as saying that it was 'a matter of interest to [the officials] to get as many of these inquiries as he could' on account of the fee he was paid for each inquest. The article noted the material facts of death in Middlesex, and the important role that inquests played in allaying public suspicions. It also

conceded that there may occasionally be ‘a few inquests more than are needed to be held’. But, it continued, ‘in return for this excess of expenditure we enjoy a great amount of security’.<sup>46</sup> That the Society decided to circulate this sympathetic article indicates that it was making this issue one of central concern. It was an issue that recurred repeatedly throughout the Society’s reports; for example, it commented on the situation in Staffordshire where an unusually high number of inquest fees were being disallowed.<sup>47</sup>

The Society was aware, however, that magistrates may have been justified in disallowing fees for some inquests. In its tenth report, from 1851, it made the point of reminding coroners that their

inquisitions should be drawn with great care and accuracy, and no difficulty can present itself regarding this, when it is considered that the Society held out to the members the great advantage of having them drawn or settled by Counsel without any expense to the individuals. And they are led more especially to allude to this in consequence of two inquisitions for murder being quashed at the last Assizes by the Lord Chief Justice Jervis for defects, and his Lordship made the unpleasant remark that ‘the counties seemed to pay the Coroners for making blunders’.<sup>48</sup>

It was no doubt particularly embarrassing that John Jervis, the esteemed authority on coronial law, had noted the incompetence of some coroners.

But it also appears that the Society used this issue as a means of increasing its own membership. The Society’s eighth report records its

regret that so many Inquisitions of Coroners, who are not members of the Society, have of late been set aside, owing to the defective manner in which they have been drawn; whereas by becoming members of the Society, all Coroners, in cases of difficulty, might have their Inquisitions drawn or settled for them.<sup>49</sup>

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<sup>46</sup> *The Times*, 29 January 1850, reprinted and circulated by the Coroners’ Society: Coroners’ Society Minute Books, 1, pp. 153–4.

<sup>47</sup> Coroners’ Society Minute Books, 1, p. 147. In Fisher’s statistical survey, Staffordshire magistrates disallowed 6.9% of inquests in the decade 1850–9, by far the highest number of all the counties she focuses on: ‘Politics of Sudden Death’, p. 173.

<sup>48</sup> Coroners’ Society Minute Books, 1, p. 211.

<sup>49</sup> *Ibid.*, 1, p. 165.

The Society was not only suggesting, therefore, that coroners who joined would, by benefiting from its advice and assistance, avoid difficulties with magistrates, but also subtly implying that there may be questions over the professionalism of those coroners who were not members of the Society. In short, coroners were to believe that membership of the Society conferred invaluable benefits and was an important step in an individual's developing professional practice.

While there is no doubt that disallowance of fees was at times problematic, and that it revealed a fundamental flaw in the system of coronial remuneration, it is possible that coroners, as well as the Coroners' Society, had an incentive to exaggerate their grievances. Understandably they hoped that the system would be reformed. This was all the more the case since, from the 1830s, the coronial system was increasingly becoming a subject of parliamentary attention (the subject of Chapter Seven of this thesis).

## **5. Populists and sanitarians**

A key question within the debates over the reform of the coronial office was whether the inquest was the place to prove criminal culpability. Those coroners who have been termed 'populists' (or 'traditionalists' as they were once labelled) thought this was the purpose of the inquest; 'sanitarians', on the other hand, believed that the coroners' court was designed to determine the cause of death and implement preventative action for the future.

Olive Anderson has most clearly discussed the populist/sanitarian distinction, seeing both as different versions of radical approaches. In her view populism was connected with the coronership through

populist vestry politicians, who believed the coroner's primary function was to check private crime and official negligence, whose watchwords were popular

liberties, the ancient constitution, and no centralization and whose prophet was Joshua Toulmin Smith.<sup>50</sup>

Among those who displayed populist views was Wakley. As coroner for West Middlesex he saw the coroner's court as a place for identifying the culpable; he saw no reason for a local magistrate to preside over a case where his jury had determined a person's guilt. Wakley would consequently send that person directly into custody to await trial in the criminal court, an act that understandably antagonized and caused friction with the magistrates. Populist-minded coroners such as Wakley and his fellow Middlesex coroner William Baker were adamant that death caused by the negligence of officials in and out of institutions warranted punitive responses. Similarly, the coroner for Westminster, Charles St Clare Bedford, in a letter to the chairman of a Middlesex magistrates' inquiry in 1850 stated that he did not consider the first object of the coroner to be 'the promotion of sanitary measures'; rather,

I consider the first object of the coroner to be the prevention, detection and punishment of crime. The effect that such enquiries may have in deterring crime, I consider to be incalculable.<sup>51</sup>

In Anderson's view this coronial attitude had considerable public support since there were those in the community 'who believed the coroners' primary function was to check private crime and official negligence'.<sup>52</sup>

Anderson's second kind of radical were the sanitarians, 'public hygienists of the utilitarian sort, who believed the coroner's first object should be "the promotion of sanitary matters", who agitated for the use of experts'.<sup>53</sup> One area where experts were deemed necessary

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<sup>50</sup> Anderson, *Suicide*, p. 24. Joshua Smith (1816–69) was a radical British political theorist and lawyer, and a proponent of local self-government who looked back to the Anglo-Saxons for examples of such government.

<sup>51</sup> Middlesex Magistrates April Quarter Sessions 'Report of the Committee appointed at the Michaelmas Sessions, 1850, as to the Duties and Remuneration of Coroners and the Resolutions of the Court' (April Quarter Sessions 1851), pp. 42–3, cited in Donald Prichard, 'The Office of Coroner 1860–1926: Resistance, Reluctance and Reform', unpublished PhD thesis, Greenwich University (2001), p. 64. As Prichard comments, these were 'obvious displays of populist values'.

<sup>52</sup> Anderson, *Suicide*, p. 24.

<sup>53</sup> *Ibid.*

was that of coroners' investigations. The sanitarians' philosophy was that the coroner's court was a place to identify the causes of medical problems and to make sure they were not repeated. The sanitarians believed that if, for example, there was an outbreak of cholera where lives were lost, it was far more important to trace the source in order to eradicate it and prevent the disease from reoccurring than it was to find out who was culpable for the outbreak; populists would be more focused on the prosecution of negligent officials.

It is worth emphasizing that both populists and sanitarians supported the idea of applying medical knowledge to the inquest. Michael Ryan, the British medical ethicist, believed that forensic medical experts were essential to secure a true and meaningful verdict at a coroner's inquest.<sup>54</sup> Populists saw the importance of medical expertise in determining with forensic accuracy criminal culpability. For sanitarians, medical expertise was essential to their vision of how inquests could address wider issues of public health. Sanitarians recognized the importance of correct and accurate death certification; a reliable system would provide an indispensable method for collating statistics and developing means to eradicate the causes of many types of death. Coroners were expected to advise on preventative measures but, the sanitarians argued, were moving blindly due to a lack of crucial information. In addition, the data collated from death certificates would assist in the ability to develop public health policy; that single cog in the great wheel moving the coroners' inquest forward would transform the lives of the impoverished and destitute of the latter half of the nineteenth century.

Sim and Ward have commented on a fundamental conflict between the conceptions of the inquest, between the idea that it was a purely scientific investigation and the notion that it

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<sup>54</sup> Michael Ryan, *Manual of Medical Jurisprudence* (London: Renshaw and Rush, 1831). Ryan (1800–1840) has been described as 'a prolific writer, editor of the *London Medical and Surgical Journal*... [and he] appears to have been the only person in Great Britain, during the middle nineteenth century, to attempt to produce a systematic account of medical ethics'; see Howard Brody, Zahra Meghani, and Kimberly Greenwald (eds), *Michael Ryan's Writings on Medical Ethics* (New York: Springer, 2009), p. 3. Ryan was Wakley's peer and they were known occasionally to disagree.

was an investigation into the question of culpability. As they have noted, Middlesex magistrates considered that all conflicts would be better resolved by abolishing the coroner's inquest and adopting a system with professional medico-legal investigators, an aim that 'would have transferred many of the coroners' powers to the magistrates'.<sup>55</sup> In the face of this challenge to the inquest, neither the populist nor the sanitarian approach was likely on its own to have comprised the best defence of the inquest. However, both embodied important principles that went to the heart of the reforming debates; and they were united in their belief that expert medical knowledge was crucial to the survival and future of the inquest.

## **6. Two examples of calls for reform**

Thomas Wakley was far from alone in calling for reform of the coronial office. As we have seen above, the Coroners' Society embodied a broad reforming voice on behalf of the coronership. In this section I will consider in detail two examples of individuals calling for reform. The first, by a member of the press named J. J. Dempsy, illustrates a populist approach to reform; the second, by the coroner Samuel F. Langham, presents a more sanitarian approach. However, what is most interesting about them is the considerable overlap between the two: both saw the coroner as a type of guardian, and as someone whose role was, at least in part, to prevent crime (including the crimes of officials in their neglect of those who were in their charge) and to reduce the dangers of poor public health.

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<sup>55</sup> Joe Sim and Tony Ward, 'The Magistrate of the Poor? Coroners and Deaths in Custody in Nineteenth-Century England', in Michael Clark and Catherine Crawford (eds), *Legal Medicine in History* (Cambridge, 1994), pp. 245–67.

## J. J. Dempsy

In 1858 there appeared a treatise entitled *The Coroner's Court: Its Uses and Abuses; with Suggestions for Reform*, by one J. J. Dempsy, who was described on its title-page as 'a member of the metropolitan press, and author of a pamphlet on the London main drainage'. The treatise was 'addressed to the legislature and the people of the United Kingdom'.<sup>56</sup>

Dempsy began by commenting on the attention that had been focused on the coroner's court in the decade or so prior to the publication of his work, including discussion of the 'necessity, usefulness, and power' of the coroner's court; indeed, he noted, the jurisdiction of coroners had frequently been called into question, even leading to doubts whether there was any need at all for the office. His sympathies are immediately clear, since he highlighted the numerous cases of 'secret poisoning' that had been 'brought to light' by the coroner's inquest, as well as the 'cases of gross cruelty, at the hands of callous, inhuman officials, [which] have been at the same time exposed'. Dempsy's view was that the power and dignity of the coroner's court should be 'strengthened and upheld'.<sup>57</sup>

After touching on the antiquity of the court,<sup>58</sup> Dempsy identified the essence of the court:

A people's Court!—a Court in which justice is administered by the people, guided by the legal acumen and advice of their own elected representative, the president of the Court being elected by the people. Here at once is provided a shield against oppression and injustice, should, unfortunately, an arrogant, illiberal, and oppressive administration ever again come into power.<sup>59</sup>

Dempsy employed similar arguments to those used by Wakley and Hunt nearly 30 years earlier, as well as those presented by William Payne (and discussed in the previous chapter): the coroner's court is a protector of traditional English liberties and the guardian of the poor and

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<sup>56</sup> J. J. Dempsy, *The Coroner's Court, Its Uses and Abuses; with Suggestions for Reform* (London, 1858), title-page.

<sup>57</sup> Dempsy, *Coroner's Court*, pp. 3–5.

<sup>58</sup> See above, pp. 85–7.

<sup>59</sup> Dempsy, *Coroner's Court*, pp. 6–7.



oppressed. It was because the coroner, as a representative of the people, pursues criminals of all types, from common murderers to officials responsible for deaths, that the coroner's court was uniquely positioned as the guardian of the people. Without the court, Dempsy suggested that:

Open murder and secret crime might run riot, or from inattention to statutory regulations, the population be so destroyed or physically weakened that the whole frame work of society might be broken up—the operative and commercial elements all but destroyed, or at least hurled into such a state of prostration, that our flourishing empire, the wonder of the world, would be brought to utter ruin—nay, the descendants of a warlike race would become the puny sickly playthings of more stalwart arms, and their once free and boasted land scorned and despised among nations.<sup>60</sup>

In this hyperbolic view, the entire wealth and greatness of Britain and its empire rested on the coroner's court, without which the whole edifice would collapse. But Dempsy saw numerous signs of just such a danger arising, cataloguing various recent abuses that suggested police and magistrate interference in the coronial process was threatening the liberty of the people. In particular, he noted that the court had 'degenerated', notably 'where Coroners allow themselves to become trammelled by the interference of the county magistrates until the inquiries are simply confined to some special case of suicide, sudden death, or evident murder'.<sup>61</sup> Dempsy preferred to see the coroner investigate '*every case where the cause of death is unknown*'.<sup>62</sup> By doing so, coronial inquests would prevent secret murders.

Dempsy specifically proposed various reforms. He urged that elections be extended rather than restricted, so that all coroners were elected; and, moreover, that all voters in parliamentary elections should be entitled to vote in coronial elections. In addition, he argued that coroners should be paid a salary (anticipating the Coroner's Act of 1860, discussed in the

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<sup>60</sup> Ibid., pp. 8–9.

<sup>61</sup> Ibid., pp. 9–13.

<sup>62</sup> Ibid., p. 13. (Emphasis in the original.)

next chapter);<sup>63</sup> and that special, fixed courts be established for the inquest.<sup>64</sup> As noted above (p. 99), Dempsy urged reforms to the methods of selecting a jury. In relation to the inquest itself, he argued that much more extensive use should be made of post-mortems; that coroners should have the power of arrest, remand and bailing, and that special jails be put at the disposal of coroners; that coroners should have the power to fine those guilty of causing death through culpable neglect as much as £100, including those apothecaries responsible for selling poisons (and, in addition, that coroners should be given the power to enter the shops of apothecaries and chemists to investigate whether they were selling poisons); that coroner's inquests be extended to cases of arson, even when no lives had been lost; and that coroners had the power to summon juries and Medical Officers to deal with any public health issues, and that they should be given responsibility to put into place preventative measures and to hold criminally responsible those who did not comply with the coroner's proposed measures.<sup>65</sup> Dempsy also suggested that inquest juries should have the option of delivering a 'not proven' verdict, especially given the difficulty of obtaining conclusive medical evidence in many cases.<sup>66</sup>

Turning to the office itself, Dempsy urged that coroners have deputies, 'at least in those districts, such as in the county of Middlesex, and the city of London, where the area is very extensive, and the population numerous'; the deputy should be someone well-versed in medical jurisprudence.<sup>67</sup> Coroners already had deputies;<sup>68</sup> but coroners were not assisted by another official proposed by Dempsy, namely a public prosecutor, a 'member of the legal profession well versed in medical jurisprudence' who would lay the facts of the case before the inquest

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<sup>63</sup> *Ibid.*, pp. 14–15. Dempsy's suggestions for how the salary should be determined were not, however, those set out in the legislation.

<sup>64</sup> *Ibid.*, pp. 15–17.

<sup>65</sup> *Ibid.*, pp. 21–3 (on post-mortems and the use of medical evidence), 23–6 (on the power to arrest, remand and bail, and to fine), 27 (on arson), 27–34 (on preventative measures and criminal responsibility relating to public health).

<sup>66</sup> *Ibid.*, pp. 35–6.

<sup>67</sup> *Ibid.*, pp. 36–7.

<sup>68</sup> See below, pp. 224–27, for a discussion of the 1843 Act giving statutory recognition to deputy coroners.

for the prosecution and would be lead prosecutor in any subsequent criminal trial. In Dempsy's view, such an official was necessary in all cases where human life was under investigation, and the want of such a figure meant that 'many fouls [had gone] unpunished'. Moreover, such a public prosecutor 'would be the poor man's representative in all cases of alleged parochial inhumanity and neglect' and in all matters concerning public health issues which led to loss of life.<sup>69</sup> Above all, Dempsy insisted on the role of medical evidence in the inquest. He cited a case involving Wakley in which it was only due to the coroner's own medical expertise that a suicide was detected; the case illustrated the dangers of relying upon medical certificates, when it would be preferable for a thorough medical examination at the inquest itself.<sup>70</sup>

Dempsy advocated that such proposals be adopted as soon as possible within legislation, notwithstanding that some, such as that concerning deputies, were already in statute, while others would have involved such a radical overhauling of the criminal justice system that they were impractical. Nevertheless, he commented 'that some legislative interference is required in effecting a change in the present duties of the Court'; those he had suggested would 'make it one of the most popular and important institutions of the country'. Crucially, it would prevent 'magistrates and the police from *at all* interfering with the duties of the Coroner'.<sup>71</sup>

Dempsy was articulating, albeit in an occasionally somewhat florid way, concerns and reforming ideas that had been current since the 1820s. In many respects it was a traditionally populist argument he presented: there is an emphasis on the coroner's role in establishing and prosecuting criminal culpability. Indeed, had the coroner's court gone down the road outlined by Dempsy (and, before him, Wakley) it would have become firmly embedded in the criminal justice system. But it is also worth noting that Dempsy presented certain sanitarian arguments

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<sup>69</sup> Dempsy, *Coroner's Court*, pp. 37–9.

<sup>70</sup> *Ibid.*, p. 41.

<sup>71</sup> *Ibid.*, p. 43. (Emphasis in the original.)

about the role of the coroner's inquest in addressing the issue of public health, even if these were closely linked to ideas about establishing criminal responsibility for negligence in the area of public health.

Samuel F. Langham.

The argument that, far from stretching their jurisdiction too broadly as some magistrates supposed, coroners were in fact under-utilized in the cause of reform and progress was made by Samuel F. Langham in 1865 in the inaugural issue of the *Journal of Social Science*. Edited by the prominent London coroner Edwin Lankester, the *Journal* sought to make public the papers discussed at the annual congresses of the National Association for the Promotion of Social Science. This reformist organization was founded in 1857 by Lord Brougham with the aim to apply the findings of social science to areas such as public health, penal reform, education, labour and the understanding and prevention of crime. Lankester, in his introduction to the first issue of the *Journal*, likened the foundation of the Association to that of the Royal Society in the seventeenth century.<sup>72</sup> Langham's contribution to the first volume was a short article on 'The Office of Coroner', a role with which the author was familiar in his capacity as deputy coroner to William Payne in the City of London and Southwark.<sup>73</sup>

In Langham's view, few institutions could compare with the 'usefulness' of the coronial office; the coroner was 'the guardian of the poor, the unprotected, and the friendless', and, because he held office via public election rather than court appointment, he was 'free from that influence which is inseparable from a Court nominee'. Despite this, he complained that, 'strange as it may seem, the real value and importance of the office of coroner is not sufficiently

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<sup>72</sup> Edwin Lankester, 'Introduction', *Journal of Social Science*, 1 (1865–6), p. 7.

<sup>73</sup> On Langham, see Chapter Five of this thesis.

estimated by the public, for want of measuring its advantages not only by what it does, but what it *prevents*'; this low value attached to the coroner's office was reflected in the remuneration of his work which, as Langham noted, had progressively declined in real terms.<sup>74</sup> He argued that inquests into prison deaths perfectly illustrated the value of coroners. Where once penal institutions were sites of 'cruelty and tyranny which never met the light of day', thanks to the work of the eighteenth-century prison reformer John Howard prisoners in his own day received 'considerate care and attention'. But rather than this state of affairs reducing the necessity of coroner's inquests into all prison deaths, as some argued, Langham came to a different conclusion: inquests were essential since 'the coroner is now called upon to be the watchful guardian of the public';

the very fact that there will be an inquest, conducted not by the nominee of the Government, or the magistrates who have the control of the gaols, but by an independent officer and by a jury uninfluenced by any consideration but that of arriving at the truth, imparts a value to the inquiry in its *preventive* character which keeps every officer, from the governor, the medical officer, and the meanest official, to the faithful discharge of his allotted duty.<sup>75</sup>

Langham's emphasis on the role of the coroner in preventing a return to oppression and cruelty in prisons led him to suggest that the inquest might be more widely employed. For example (and notwithstanding the trace of anti-Catholicism in his argument) he proposed that inquests might be extended to deaths in 'religious houses' where 'there are not wanting many who think that undue restraint is imposed on females who in early life have pledged themselves to perpetual vows from which they would be gladly released'. Langham did not commit himself to a view on whether he thought such suspicions had foundation or not; rather, he argued that

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<sup>74</sup> Samuel F. Langham, 'The Office of Coroner', *Journal of Social Science*, 1 (1865–6), p. 129. (Emphasis in the original.)

<sup>75</sup> *Ibid.*, pp. 129–30.

a coronial inquiry into the conditions in such religious houses would establish the truth of the matter, either allaying public suspicions or providing a basis from which to reform abuses.<sup>76</sup>

Langham envisaged the coronial inquest as going far beyond the investigation of deaths; for him, the coroner, as an official elected by and accountable to the public, was ideally placed to protect the public more generally. To do this would involve expanding the number of inquests on the principle that, if all sudden and unexplained deaths were subject to an inquest, many abuses which had either directly or indirectly led to those deaths would be exposed, and hence individuals would be less likely to perpetrate such abuses in the future if they knew of their probable exposure by a coroner. Above all, it was ‘the poor and the outcast’ who Langham believed would be protected by vigorous coronial activity: ‘Instances might be multiplied without end in which the coroner has stood as the guardian of the poor and the friendless, and, by timely exposure, *prevented* many a death.’ A notable case in point was Thomas Wakley’s 1846 inquest into the death of John Frederick White which had exposed the ‘torture’ of flogging in the army; but, he noted, there were numerous cases in which the coroner had brought to light the deaths of apprentices from overwork which served as ‘a beacon to warn the public of the ruin which awaits the sons and daughters of toil, and thus *prevented* others from falling a prey to a similar fatality’.<sup>77</sup>

Ending his defence of the coronial office by noting the role of the inquest in cases of preventable disease through its potential to draw attention to the causes of disease, Langham concluded that ‘the office of coroner is capable of and does in reality effect... beneficial results to the public’. He did not propose any specific reforms of the office, but did insist on the importance of maintaining ‘its independence and usefulness’.<sup>78</sup> Nevertheless, it is clear from Langham’s article that simply maintaining the office, in the face, perhaps, of indifference and,

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<sup>76</sup> *Ibid.*, p. 130.

<sup>77</sup> *Ibid.*, pp. 130–1. On the Wakley case, see Chapter Four of this thesis, p. 111, fn. 7.

<sup>78</sup> Langham, ‘Office of Coroner’, p. 131.

indeed, outright criticism on the part of the public and magistrates, was not sufficient for his reforming purposes. There may have been a rhetorical purpose to couching his argument as one of preserving and maintaining the traditional role of the coroner, but in reality Langham was advocating a radical expansion of the coroner's inquest, not only in terms of the number of deaths that came before a coroner but also in relation to the wider reforming purpose of the inquest itself.

### **7. The controversy over remanding for trial and the coroner's jurisdiction**

An example of the populist approach to the coroner's inquest which created controversy with the magistrates concerned the question of remanding for trial. Above all, this was a conflict over jurisdiction.

Coronial legislation instructed the coroner that if he held an inquest and had before him a person suspected of murder, manslaughter or accessory to murder before the fact, he had to arrange for that person to be held in custody prior to a trial if the jury brought in a verdict of murder or manslaughter.<sup>79</sup> If a suspect was not present in court, it was the coroner's responsibility to issue a warrant for his or her arrest. Coroners gave their evidence against the party charged to the Officer of the Court before the court opened.<sup>80</sup> Later in the century the coroner was able to grant bail for the offence of manslaughter.<sup>81</sup>

This coronial prerogative could raise tensions between coroners and magistrates, since it tended to intrude upon the recognized role of magistrates in the criminal justice process. Wakley, in particular, was unafraid to take the magistrates on. He overcame their attempts to

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<sup>79</sup> 'The Coroner cannot grant bail in cases of manslaughter... The justices do not have the power to bail any person committed or detained by the coroner': 11 & 12 Vict. c. 42. s.23, as quoted in the 'Coroners' Society Minute Books, 1 & 2, 1846–1902', October 1848.

<sup>80</sup> 7 Geo. IV. c. 64 ss. 2 & 3. [26 May 1826]: An Act for improving the Administration of Criminal Justice in England.

<sup>81</sup> 22 Vict. c. 88 s.1 [19 April 1859]: An Act to enable Coroners of England to Admit to Bail Persons charged with manslaughter.

prevent him from using his remanding power by having suspects admitted straight to Newgate prison, thereby bypassing the magistrates, and appearing directly before a high court judge; he was 'severely censured by the justices' for acting in such a way.<sup>82</sup> The magistrates considered this power to be their prerogative only. Wakley, however, was not prepared to lose this privilege, often citing a case he had presided over: William John Marchant appeared before Mr Justice Littledale at the Old Bailey on 17 June 1839, having been committed to trial by Wakley; Marchant was found guilty of wilful murder, having been before no other magistrate than the coroner.<sup>83</sup>

The authority of the coroner was a contentious and controversial matter for the magistrates, and coroners like Wakley made sure they took advantage of every aspect of legal power afforded to them. He expected anyone suspected of causing death to appear in person before his court at the inquest into the death of the victim. This was a legally confirmed power that coroners had. Nevertheless, it was a power that could cause controversy. For example, Wakley caused uproar when Joseph Connor was indicted for the wilful murder of Mary Brothers' alias Tape in April 1845.<sup>84</sup> Mary Brothers' body was found late on the night of 31 March; the inquest was held before Wakley on Thursday 3 April 1845. Wakley adjourned the inquest until Connor was in custody; he had not yet been apprehended. The adjournment was so that Connor could be brought in front of Wakley and his jury for the purposes of identification.

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<sup>82</sup> Havard, *Detection of Secret Homicide*, p. 172.

<sup>83</sup> *Old Bailey Proceedings Online*, June 1839, trial of William John Marchant (t18390617-1802) [accessed: 3 January 2017]. William John Marchant, aged 18 years, was found guilty of the wilful murder of Elizabeth Paynton and sentenced to death. The Old Bailey report simply states that 'He was also charged on the Coroner's inquisition with the like offence; to which he pleaded GUILTY'.

<sup>84</sup> *Old Bailey Proceedings Online*, May 1845, trial of Joseph Connor (t18450512-1051) [accessed: 3 January 2017].



Connor was arrested on 4 April.<sup>85</sup> He admitted to murdering Mary, claiming this was because she had given him a sexually transmitted disease. Wakley went to Bow Street police station to request that the prisoner be transferred to his custody to enable the inquest into Mary's death to be resumed. Wakley's request was, however, refused; the inspector on duty told Wakley that Connor was to appear before the magistrate on Saturday 5 April and would remain in police custody.<sup>86</sup> This started a chain of events that brought to the fore tensions between the coroner, the magistrates and the police, a hostility where finances played only one part. Wakley applied for a writ of *habeas corpus* to be directed to the governor of Newgate prison questioning the validity of Connor's detainment and requiring justification of his custody in Newgate. The judge, Mr Baron Rolfe, observed that he was not aware that a *habeas corpus* had ever been granted in such a case and, despite Wakley's persistent argument, refused the application for Connor to appear before Wakley and his court.<sup>87</sup> When the inquest resumed Wakley said he would not recapitulate all the evidence, and the jury returned a verdict of murder by person or persons unknown, even though Connor had made a full confession. The jury were expected to name the perpetrator of a crime and believed that if they had not seen him they could not safely identify him; hence their verdict that Mary Brothers' was 'murdered by a person or persons unknown' despite all the evidence, including a confession, clearly pointing to Connor. The jury added the rider that they believed the conduct of the police authorities had prevented them from pursuing their investigation in a more satisfactory manner, adding their gratitude for the 'strenuous endeavours' of Mr Wakley to get justice done and recognition that he had 'put himself at considerable expense'.<sup>88</sup> It was this expense that stopped Wakley pursuing the matter in the Court of Queen's Bench.

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<sup>85</sup> *The Times*, 5 April 1845, p. 1: 'Murder in St. Giles'. In this article Brothers' alias Tape is incorrectly named as Mary Roberts.

<sup>86</sup> *The Times*, 7 April 1845, p. 6: 'Murder in St. Giles'.

<sup>87</sup> *The Times*, 10 April 1845, p. 7: 'The St Giles Murder'.

<sup>88</sup> *The Times*, 1 May 1845, p. 8: 'Murder in St. Giles'.

A similar episode took place in March 1840 when Wakley opened an inquest with a jury of 15 householders in the parish of St Mary, Islington. The inquest, held at the Barnsbury Castle public house, was to investigate the circumstances of the murder of 66-year-old Mr John Templeman. The coroner and jury ‘viewed’ the body in Mr Templeman’s cottage where he had been found with fatal head injuries. The deceased was described as ‘a mangled corpse and a truly appalling spectacle’.<sup>89</sup> The inquest was adjourned. On resuming the inquiry on 23 March, the police inspector James Miller told Wakley that three people were in custody for murder. Wakley then started one of his many battles with the magistrates; he wanted the three prisoners brought before his court but the magistrates refused. While he waited for a reply to yet another request for the prisoners’ appearance, he agreed to hear the evidence of the surgeons, Mr Edward Roe and Mr Lord, who had performed the post-mortem examination on Mr Templeman. The cause of death was definite and medically confirmed by reliable medical witnesses. By this time Wakley learned that his request to the magistrates had been refused and the prisoners would not be present at his court; he decided to adjourn the inquest.<sup>90</sup> On 26 March Wakley won his dispute with the magistrates and the prisoners were taken to the tavern and presented to the coroner and jury.<sup>91</sup> Wakley made much of the resumption of the inquest, emphasizing to the court in a speech the superior importance of the coroner’s role to that of the magistrates. The verdict of the coroner’s jury in the John Templeman case was returned on 30 March and it was declared that ‘Richard Gould, otherwise Arthur Nicholson, was guilty of wilful murder upon the body of John Templeman’.<sup>92</sup>

Relationships between coroners and magistrates were coming under increasing strain over the first few decades of the nineteenth century. Magistrates were accused of holding back

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<sup>89</sup> *The Times*, 19 March 1840, p. 6: ‘The Murder at Islington’.

<sup>90</sup> *The Times*, 24 March 1840, p. 7: ‘The Atrocious Murder at Islington’.

<sup>91</sup> *The Times*, 27 March 1840, p. 7: ‘The Atrocious Murder at Islington’.

<sup>92</sup> *The Times*, 31 March 1840, p. 6: ‘The Murder at Islington’. For further details about this case, see *Old Bailey Proceedings Online*, June 1840, trial of Richard Gould, alias Arthur Nicholson (t18400615-1696) [accessed: 3 January 2017].

the development of the application of forensic medicine to the inquest due to their parsimonious actions. William Baker, for example, claimed that many coroners ‘were really afraid to call in medical or other aid’ due to the possibility of magistrates disallowing the fees, which would leave the coroner liable to remunerate the medical witness out of his own pocket.<sup>93</sup> Fisher has observed that petty rivalries were confronted as both legal and medical professions developed and pushed to claim the office of coroner as their own.<sup>94</sup> She articulates well the trials and tribulations borne by coroners trying to pursue their profession and facing a long battle with magistrates over money available for complete, thorough and fair inquests, which were deemed by some justices to be costly and unnecessary. Forbes has also commented that ‘the function of the coroner was seriously impeded by legal and administrative roadblocks which greatly retarded the development of forensic medical knowledge’;<sup>95</sup> magistrates, through their tendency towards parsimony, obstructed the coroner’s use of the medical witness at inquests. In Havard’s view the struggle between coroners and magistrates held back the progress of medical science: ‘magistrates entered upon a vicious campaign of obstructing the medico-legal investigation of sudden deaths’.<sup>96</sup> However, forensic procedures were expensive and, initially, not always reliable (as discussed in Chapter Two above and Chapter Eight below).

There were many cases in which coroners faced attempts by magistrates to overrule their decisions on various issues, and there were points of law that took decades to clarify and define. Controversial concerns were not resolved quickly because coronial legislation was not high on the parliamentary agenda. Nevertheless, vigorous campaigning, particularly on the part of the Coroners’ Society, did eventually result in legislative action, as will be discussed in the next chapter.

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<sup>93</sup> Baker, *Practical Compendium*, p. 31.

<sup>94</sup> Fisher, ‘Politics of Sudden Death’, ‘Abstract’.

<sup>95</sup> Thomas R. Forbes, *Surgeons at the Bailey: English Forensic Medicine to 1878* (New Haven, CT, and London: Yale University Press, 1985), p. 15.

<sup>96</sup> Havard, *Detection of Secret Homicide*, p. 51.

## 8. Conclusion

This chapter has shown that calls for reform of the coroner's office and inquest came from different quarters: from coroners themselves, as would be expected, but also from writers and journalists such as Dickens and Dempsy. There were similarities in the calls for reform, although only Dickens among the authors discussed in this chapter focused more on the details of procedure than on broader issues relating to sanitary measures or popular liberties. It is tempting to distinguish between alternative reforming visions, those of populists and those of sanitarians, but in fact most reformers combined features of both. This is not actually that surprising, for both approaches to reform were founded on the idea that medical evidence lay at the heart of the inquest; although there were distinctive emphases in the sanitarian and populist visions, they might best be seen as different but related ways of envisaging how medical evidence and expertise, properly instituted, could transform the inquest. Both Wakley and Baker, for example, although in many respects examples of populists, can also be seen as important contributors to the sanitarian approach to the coronership. What this above all illustrates is the way that medical expertise opened up new ways of thinking about the coronial office and inquest—and ways that suggested a potential enlargement of the jurisdiction and powers of the coroner to the alarm of other officials, most notably magistrates. Medicalizing tendencies, which were intimately connected to ideas of social reform, could be interpreted as a threat to other institutions and officials.

As we shall see, these visions of reform were never fully realized. In part, this was because many coroners were cautious about pushing them too far. The discussions among members of the Coroners' Society indicate a willingness to conciliate, rather than to antagonize, magistrates where appropriate. It is telling that Wakley, although a committee member of the Society, was neither prominent nor active. Wakley's often abrasive, antagonistic

and individualistic approach to reform did not fit the more moderate, corporate ethos of the Society.

The establishment of the Coroners' Society was one of the enduring coronial reforms of the nineteenth century. By providing a corporate identity for the coroners of England and Wales, the Society ensured that the coronership could embark on a process of professionalization in which all coroners subscribed to a set of standard practices. The professional standing of a coroner was set on a path whereby it would no longer depend on the character, performance and social standing of the individual coroner; instead, professionalism would emanate far more from the corporate body of coroners. The process was undoubtedly gradual, but it was arguably essential, since without such a corporate voice the coronership was open to the criticisms that it was a somewhat arbitrary system, too reliant on the whims and particular practices of individual coroners. Coupled with the legislation to be discussed in the next chapter, the formation of the Society ensured that the period from 1846 to 1860 was one of rapid and vital change in the coronial system.

## **CHAPTER SEVEN: REFORMING LEGISLATION**

### **1. Introduction**

As discussed in the previous chapter, a succession of legislative initiatives over the nineteenth century affected the coronial office. The passage of the Medical Witnesses Act in 1836 was the first piece of legislation since 1751 directly to concern the coronial inquest. It marked the beginning of a comparatively intense period of legislative activity amounting to a set of important reforms to both the coronial system and the inquest itself. This chapter will consider this body of legislation (with the exception of the Medical Witnesses Act, which was discussed in relation to Thomas Wakley in Chapter Four). After initially surveying the political context for the legislative initiatives, the chapter will then treat the legislation in chronological order, from the 1836 Births, Deaths and Marriages in England Registration Act, to the 1887 and 1892 Coroners Acts.

### **2. Politics and the inquest**

Professionalization is invariably shaped, and often driven, by the wider political context in which it takes place. The reform of a practice or occupation so that it becomes more professional is, at least in part, a response to social, political and cultural pressures, some of which may even threaten the survival of the practice or occupation. It is not coincidental, therefore, that reforms to the coronial inquest occurred during a period of rapid social change and within the context of the broader reforming culture of the period. Industrialization led to deep and extensive social, economic and political upheavals during the nineteenth century. The Peterloo Massacre of 1819, when cavalry killed 15 demonstrators who were calling for electoral reform, led to a legal clampdown on reform. But the violence of the Luddites in the

second decade of the century, the Swing Riots of 1830, and the Plug Boiler riots of 1842 are just some of the many examples of tensions and upheavals in the early nineteenth century.<sup>1</sup> The social and economic changes led, for example, to the emergence of organized working-class movements, most notably Chartism, named after the *People's Charter*, a manifesto that set out the principles of universal male suffrage, annual general elections, secret ballots, and constituencies of equal size. Active from 1838 until the 1850s, Chartism was a response to the 1832 Reform Act, which had led to only a modest increase in the size of the electorate in England and Wales (those without property remained ineligible to vote).<sup>2</sup> Another series of important statutes that attracted working-class protest were the Corn Laws, enacted from 1815 to 1846, which protected English farmers from cheap foreign imports of grain by imposing tariffs on imports, a policy that benefited landowners at the expense of workers. Samuel Sprigge, in his biography of Thomas Wakley, suggested that this protectionist legislation added to the unrest of the time since the 'poor were kept permanently hungry' causing 'wide-spread and serious disaffection'.<sup>3</sup>

In this context of nineteenth-century movements for reform, Burney has highlighted the 'coronership's constitutional significance', emphasizing how the coroner's role was presented by some radicals and reformers as 'a part, and a most important part, of the *ancient institutions* of the country'.<sup>4</sup> For example, William Cobbett, in his *Political Register*, argued that the

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<sup>1</sup> Eric Hobsbawm and George Rudé, *Captain Swing* (London: Lawrence and Wishart, 1969).

<sup>2</sup> Dorothy Thompson, *The Chartists: Popular Politics in the Industrial Revolution* (London: Temple Smith, 1984); David Goodway, *London Chartism, 1838–48* (Cambridge: Cambridge University Press, 1982); Malcolm Chase, *Chartism: A New History* (Manchester: Manchester University Press, 2007). The classic work on the creation of an English working-class consciousness is E.P. Thompson, *The Making of the English Working Class* (London: Victor Gollancz, 1963; revised edition, 1968).

<sup>3</sup> Samuel S. Sprigge, *The Life and Times of Thomas Wakley: Founder and First Editor of the "Lancet"* (London: Longman, Green & Co, 1897), p. 254.

<sup>4</sup> Ian A. Burney, 'Making Room at the Public Bar: Coroners' Inquests, Medical Knowledge, and the Politics of Nineteenth-Century Reform', in James Vernon (ed.), *Re-reading the Constitution: New Narratives in the Political History of England's Long Nineteenth Century* (Cambridge: Cambridge University Press, 1996), pp. 123–53.

coronership was ‘the institution for the protection of life and limb... part of the constitution of which we ought to be particularly jealous’.<sup>5</sup> Wakley was perhaps the foremost coroner who made this ‘constitutional’ aspect of the coronership central to his understanding of the role. His campaigns to reform the coronership were frequently linked to his wider political activity, particularly as this manifested itself in his writings in *The Lancet*. Following his defeat by William Baker in the Middlesex coronial election of 1830, Wakley threw himself even more actively into the fight against economic and social injustice. He became involved with the National Union of the Working Classes (NUWC), founded in 1831 in the wake of the failure of the Reform Bill and regarded by the Home Office as a ‘hotbed of sedition and blasphemy’; Wakley addressed the organization regularly and took the chair on 11 July 1831.<sup>6</sup>

An example of how the inquest could be caught up in the volatile politics of the time involved one of the many unlawful assemblies held across London by the NUWC. A demonstration at Cold Bath Fields, London on 13 May 1833 turned into a riot in which a police constable, Robert Culley, was stabbed to death.<sup>7</sup> The subsequent inquest revealed the frequent tensions between the authorities and the public; police conduct was often criticized by the press and the public, and there was a popular perception that police brutality was routinely used against protesters. The coroner presiding over the inquest into Culley’s death was Thomas Sterling, Wakley’s predecessor, who directed the jury to bring in a verdict of ‘Wilful murder by person or persons unknown’; the jury, however, brought in a majority verdict of ‘justifiable homicide’, which was met by popular celebration from the crowds in the street and further

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<sup>5</sup> *Cobbett’s Political Register* (CPR), 80.9, 1 June 1832, p. 538, as cited by Burney, ‘Making Room at the Public Bar’.

<sup>6</sup> John Hostettler, *Thomas Wakley: An Improbable Radical* (Chichester: Barry Rose Law Publishers, 1993), pp. 58–63.

<sup>7</sup> Gavin Thurston, *The Clerkenwell Riot: The Killing of Constable Culley* (London: Allen & Unwin, 1967).



afield as the news of the verdict spread.<sup>8</sup> The jury's representative explained the verdict of justifiable homicide on the following grounds:

that no Riot Act was read, nor any proclamation advising the people to disperse; that the Government did not take the proper precautions to prevent the meeting from assembling; and that the conduct of the police was ferocious, brutal and unprovoked by the people; and we moreover, express our anxious hope that the Government will, in future, take better precautions to prevent the recurrence of such disgraceful transactions in the Metropolis.<sup>9</sup>

Sterling told the jury that their verdict was disgraceful, and it was subsequently quashed by the High Court. The jury had rejected the verdict Sterling had tried to impose on them and the coroner's inquest was caught up in the political unrest of the times. The jury members had become heroes, reflecting the mood of the public. The Milton Street Committee, a group of City men with radical leanings, arranged for the jury and their families to be taken on the Thames river boat *Endeavour* for a celebratory outing and each juror received a silver medallion inscribed 'in honour of the men who nobly withstood the dictation of a coroner';<sup>10</sup> the boat was cheered from the banks of the river and the bridges crossing the Thames.

It was clear, however, that the coroner's inquest had the potential to be drawn into the political ferment of the time. Although the sole purpose of the inquest was to ascertain the cause of death, the handling of Culley's inquest is evidence of how the inquest could go well beyond its official remit. As Burney has argued, the Culley inquest and the legal quashing of its verdict 'fed directly into the process of political polarization in the wake of the 1832 Reform Act, whereby the sense of betrayal among resolute Radicals led to their increasing alienation

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<sup>8</sup> It was even a topic of discussion in France. Referring to comments in the French press, *The Times*, on 21 May 1833, p. 4, warned the French republicans that the British were not on the highway to join them in democratic polity.

<sup>9</sup> Thurston, *The Clerkenwell Riot*, p. 129.

<sup>10</sup> David Rosenberg, *Rebel Footprints: A Guide to Uncovering London's Radical History* (London: Pluto Press, 2015), p. 4.

from mainstream opinion'.<sup>11</sup> Fisher has also recognized the potential of the inquest to be used as a political weapon or an ethical or moral tool, and how the coroner had the means to make it a powerful instrument:

The novel feature of the 1840s was the harnessing of the power of the inquest on a regular and systematic fashion in an attempt to achieve political ends... the inquest could be an immensely powerful forum... even when it was not being turned to political ends, it could still act as a force for good.<sup>12</sup>

From the mid-eighteenth century, the potential existed for the inquest to be used in a political way, and this power was harnessed by strongly politically minded coroners and their political supporters. The legislation from this period took place against this context of a coronial office and an inquest that had, to a certain extent, been used as part of the political agenda of radicals and reformers. Legislative activity was not, therefore, solely concerned with technical reforms to the coronial system that would improve its professionalism and efficiency; they also had one eye on how the inquest had long been open to politicization. Indeed, one of the aims of professionalization was arguably the intentional blunting of the inquest's potential to be a political weapon in the hands of reformers and radicals.

### **3. Births, Deaths and Marriages in England Registration Act, 1836**

As well as the Medical Witnesses Act, another piece of legislation from 1836 was relevant to the coronial office: the Births, Deaths and Marriages in England Registration Act.<sup>13</sup> The aim of the Act was to 'provide the Means of a Complete Register of the Birth, Deaths and Marriages

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<sup>11</sup> Ian A. Burney, *Bodies of Evidence: Medicine and the Politics of the English Inquest, 1830–1926* (Baltimore and London: Johns Hopkins University Press, 2000), p. 38.

<sup>12</sup> Pamela J. Fisher, 'The Politics of Sudden Death: The Office and Role of the Coroner in England and Wales, 1726–1888', unpublished PhD thesis, University of Leicester (2007), p. 250.

<sup>13</sup> 6 & 7 Will. IV, c. 86. Births, Deaths and Marriages in England Registration Act [17 August 1836]. There were no penalties for failure to register a death; consequently, even after 1837, not all deaths were registered and some of the deaths that were registered had no cause of death recorded. Some of the recorded causes of death were almost certainly unreliable since there was no requirement that the cause be certified by a qualified medical practitioner.

of His Majesty's subjects in England' by creating a national system of county registrars who were to record every birth, marriage and death in their county. Since the statute applied only to people baptized into the Church of England, it was inevitably an incomplete system of registration. Moreover, there were no penalties for the failure to register a death, although registration became obligatory from 1874 onwards.<sup>14</sup> Nevertheless, the Act, in tandem with other early nineteenth-century initiatives such as the national census, is evidence of the beginning of a national bureaucratic system that heralded a more coherent and thorough official recording and monitoring of the population.<sup>15</sup>

Following the passing of the Act, civil registration of deaths in England and Wales began on 1 July 1837, replacing the old parish system of registration implemented by Thomas Cromwell in 1536. This new regime of registration is a well-researched area;<sup>16</sup> here I will consider only those issues affecting the role of the coroner. The Act led to the appointment of a Registrar General for England and Wales and the establishing of the General Register Office (GRO) as well as a structure of civil registration districts. The districts were based on poor law unions, groups of parishes that cared for the poor, which meant on occasion placing those in need in the workhouse. Each registration district was under the control of a Superintendent Registrar; registrars were appointed to issue certificates for deaths that occurred in their areas.

Under the Act the coroner was required to inform the registrar of the findings of his jury at the conclusion of each inquest.<sup>17</sup> Medical certification of London deaths was not

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<sup>14</sup> 37 & 38 Vict. c. 88, 7 August [1874]: An Act to amend the law relating to the Registration of Births and Deaths in England.

<sup>15</sup> For a broader introduction to registration, which puts it in the wider context of demographic change, see Robert Woods, *The Demography of Victorian England and Wales* (Cambridge: Cambridge University Press, 2000).

<sup>16</sup> See, for example, Edward Higgs, *Life, Death and Statistics: Civil Registration, Censuses and the Work of the General Register Office, 1836–1952* (Hatfield: Local Population Studies, University of Hertfordshire, 2004).

<sup>17</sup> 6 & 7 Will. IV, c. 86, s25.

required until 1874 and a medical certificate was not required to register a death;<sup>18</sup> it was still within the law to dispose of a body before the death was registered. The number of unregistered deaths fell after 1874 when amendments passed by parliament introduced penalties for failing to register a death. Over a decade later, the Coroners Act of 1887 stated that a ‘coroner, upon holding an inquest upon any body, may, if he thinks fit after view of the body... authorise the body to be buried before verdict and before registry of the death’.<sup>19</sup>

An 1866 letter to the *British Medical Journal* from Dr James Hill sought publicity for a case he had handled which highlighted some of the problems of the new system of registration.<sup>20</sup> Dr Hill attended a ‘young man... suffering from acute bronchitis’, visiting his patient on ‘several consecutive days’ and assisting in what initially appeared to be a gradual recovery. However, 13 days after treatment began Dr Hill was informed of his patient’s deterioration and arrived to find the young man dead. He explained to the family that there would have to be a post-mortem examination to ascertain the exact cause of death and that he could not issue a death certificate. After refusing a second time the request for a certificate, Dr Hill attempted to facilitate communication between the coroner and the family. Four days later the doctor inquired why the coroner had not replied; he learned that the district registrar had registered the death and issued a death certificate without any communication with Dr Hill. The doctor asked two questions: ‘was it gentlemanly conduct on the part of the coroner to take no notice of my letter?’ and ‘was it legal for the registrar to register the death?’ It was the local registrar’s responsibility to find out about deaths and issue a certificate; Dr Hill’s case may have been one where the coroner, if he had been told, was satisfied that there was no need for a post-mortem examination and inquest on account of the victim having received a doctor’s

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<sup>18</sup> Thomas R. Forbes, ‘By What Disease or Casualty: The Changing Face of Death in London’, *Journal of the History of Medicine and Allied Sciences*, 31 (1976), pp. 395–420.

<sup>19</sup> 37 & 38 Vict. c. 88 s. 19 (1): Coroners Act [1887].

<sup>20</sup> *British Medical Journal*, 5 May 1866, p. 477: ‘A Question Regarding Registration of Death’.

diagnosis and been treated for two weeks. It is possible that the registrar and coroner considered, maybe together or maybe independently, that Dr Hill's role in the matter was over and it was no longer necessary to inform him of any decisions made. This case suggests that the regime of certification was not always effective and that changes in the law regarding death certification were needed; it was hoped, therefore, that the 1874 Act would necessitate that doctors and coroners work more closely together and that the legislative amendments would encourage better communication and clarify the legislation that regulated the certification of death.

However, there was no great improvement in the system until the law in relation to coroners was codified in the Coroners Act of 1887. Even then, in 1893 a Select Committee<sup>21</sup> of the House of Commons reported a 'large number of deficiencies in the law especially as it applied to certification and registration of deaths and burials'.<sup>22</sup> The Committee took evidence from over 30 witnesses, including medical practitioners, metropolitan coroners and the Registrars General of England and Ireland, and agreed unanimously on 'ten definite recommendations' which were described as 'drastic' and 'revolutionary'.<sup>23</sup> The report stated that there was a 'loose' system in place and that 'in no case should a death be registered without production of a certificate of the cause of death signed by a registered medical practitioner, or by a coroner after inquest'. The absolute necessity for this proposal was the many bodies being buried without any medical evidence as to the cause of death. The *British Medical Journal* recorded, for the year 1898, 10,441 cases of which 7,940 had been referred to, and then rejected

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<sup>21</sup> The committee was appointed to 'inquire into the sufficiency of the existing Law as to the Disposal of the Dead, for securing an accurate Record of the Causes of Death in all cases, and especially for detecting them where Death may have been due to Poison, Violence or Criminal Neglect'.

<sup>22</sup> D. Zuck, 'Mr Troutbeck as the Surgeon's Friend: The Coroner and the Doctors—an Edwardian Comedy', *Medical History*, 39 (1995), p. 261. The *British Medical Journal*, 1 December 1900, p. 1579, suggested that 'the Report of the Select Committee on Death Certification of 1893... is not as well-known as it deserves to be'.

<sup>23</sup> *British Medical Journal*, 1 December 1900, p. 1579: 'Death Certification'. The full recommendations are set out in this article.

by, a coroner.<sup>24</sup> These deaths were classified as ‘uncertified’ in the absence of a medical certificate. The 1893 committee highlighted that the deaths of adults of working age ‘were rarely uncertified’, whereas the deaths of infants and elderly people, whose age rendered them ‘as a class, a burden on their friends’, were far more likely to go uncertified. Moreover, it expressed the conviction that ‘vastly more’ deaths occurred from ‘foul play and criminal neglect’ than the law recognized.<sup>25</sup> As discussed above in relation to the concerns of both Thomas Wakley and William Baker about the deaths of infants, and their belief that many of these deaths amounted to undetected infanticide, coroners had been highlighting the deficiencies in the registration of deaths for several decades.<sup>26</sup>

Despite the flaws in the Registration Act, it marked a growing awareness of the importance of collecting accurate statistics and their role in the drive to improve public health and to advance medical knowledge. Coroners, by being brought into the system of medical certification and registration of deaths, became involved in this new statistical task. Indeed, in certain respects they were central to the process, since the epidemiologist and medical statistician William Farr (1807–83) believed that it was essential for coronial inquests to produce verdicts based on proper medical analysis which could then be used within the broader statistical analysis of health and mortality.<sup>27</sup> Many coroners, too, understood the vital role that statistics could play in containing and stopping outbreaks of infectious diseases.

Nevertheless, even in 1882 the majority of inquests failed to specify a pathological cause of death, resorting to the simple, but medically useless, verdict of death by ‘natural

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<sup>24</sup> *Ibid.*, pp. 1579–80.

<sup>25</sup> The 1893 committee report was cited in ‘The Shipman Report’, p. 53. The latter, published in January 2005, investigated the activities of the General Practitioner Harold Shipman who was suspected of murdering more than 250 of his patients (he was convicted of murdering 15 patients, but further trials were not held).

<sup>26</sup> See above, pp. 140-1, 167-8, of this thesis in regards to infanticide.

<sup>27</sup> Burney, *Bodies of Evidence*, p. 61.

causes'.<sup>28</sup> It took many decades to organize a working system for registering births, marriages and deaths. For reformers such as the private practitioner Henry Rumsey,<sup>29</sup> the aim was 'to create a new structure to shore up death certification procedures'.<sup>30</sup> Rumsey's proposal was to take the certification of death by medical practitioners 'as the basic unit for statistical facts'. These certificates would not only highlight negligence, unprofessional practice or error made by medical practitioners, but would also identify the malpractice of quacks. Rumsey believed that 'the plain fact remains that a very large proportion of coroners' inquests leave the cause of death wholly unexplained'. He was in favour of the employment of a medico-legal officer who, as the public certifier, would determine the cause of death and register it accordingly. Both medical practitioners and coroners strongly opposed this proposition, with the result that it took many years to establish a workable system.

The Select Committee reported that 'it should be made impossible for any person to disappear from his place in the community without any satisfactory evidence being obtained of the cause of his disappearance'.<sup>31</sup> Their 1893 report further suggested that 'in each sanitary district a registered medical practitioner should be appointed as public medical certifier of the cause of death in cases in which a certificate from a medical practitioner in attendance is not forthcoming'.<sup>32</sup> This recommendation was not received well, since both medical practitioners and coroners regarded it as intruding upon their powers and their authority over the corpse.

The report also recommended that 'stillbirths which have reached the stage of development of seven months should be registered upon the certificate of a registered medical practitioner, and that it should not be permitted to bury or otherwise dispose of the stillbirth

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<sup>28</sup> Zuck, 'Mr Troutbeck', p. 260.

<sup>29</sup> Rumsey (1809–1876) was a private practitioner from Chelmsford who introduced the term 'state medicine' and campaigned for accurate death registration to be linked to the reform of the inquest. A summary of his life appears in his obituary in the *British Medical Journal*, 11 November 1876, p. 638.

<sup>30</sup> Burney, *Bodies of Evidence*, pp. 66–7.

<sup>31</sup> *British Medical Journal*, 24 November 1900, p. 1510: 'Death Certification'.

<sup>32</sup> *British Medical Journal*, 1 December 1900, p. 1579: 'Death Certification'.

until an order for burial has been issued by the registrar'.<sup>33</sup> The suspected destruction of neonates was a difficult problem to oversee, monitor and police. For a foetus to be viable it must be able to sustain a life independent of its mother. The Committee suggested a foetus from seven months would need a birth certificate before it could be given a death certificate irrespective as to whether the mother, midwife or doctor declared it stillborn: 'As for being born alive, the legal test is not whether the child has breathed, but whether it was wholly expelled from the mother's body before dying'.<sup>34</sup> Havard has suggested that in England registration of stillbirths as deaths would probably have been unacceptable to lawyers, since 'by definition a stillbirth has had no separate existence and has not lived; since it has never lived it cannot have died'.<sup>35</sup> The killing of a newborn once it is expelled from the mother's body constitutes homicide, a crime that carried the death penalty. The Select Committee of 1893 attempted to make 'child destruction' easier to detect by demanding the necessity of a medical certificate from a medical practitioner or midwife.

Had coroners, doctors and other agencies cooperated more effectively, the obviousness of a dependable and reliable death certification and registration system would have been apparent; a death certificate should have been a mandatory requirement and the registration of a death compulsory, but the Act of 1836 proved to be virtually ineffective. Although the legislation appears flawed in hindsight, the slow pace of remedying its deficiencies owed much to the professional jealousies of doctors and coroners who were resistant to what they perceived to be potential intrusion upon their authority. The debate on the subject continued for decades; the system's failings were laid out clearly in the 1893 report, which considered the system as

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<sup>33</sup> *British Medical Journal*, 24 November 1900, p. 1510: 'Death Certification'.

<sup>34</sup> P. Matthews, *Jervis on the Office and Duties of Coroners with Forms and Precedents* (London: Sweet and Maxwell, 2002), p. 336: s14–27. In relation to this determination of birth, it was considered immaterial whether the umbilical cord had been cut or not.

<sup>35</sup> J. D. J. Havard, *The Detection of Secret Homicide: A Study of the Medico-Legal System of Investigation of Sudden and Unexplained Deaths* (London: Macmillan, 1960), p. 115.



‘dangerously defective’ and suggested that it played ‘into the hands of the criminal classes’. In Burney’s view ‘inquests... [were] a dangerously loose supplement to the certificate regime’ and the regime was ‘singularly ill-equipped’ and unfit for purpose.<sup>36</sup>

If a medical practitioner did not attend a death, the local registrar could register the death at his discretion. The ‘sole statutory qualification for the office [of registrar] was that he was not a publican, an undertaker, or a debtor’.<sup>37</sup> In other words, no medical practitioner was required to certify a death with an exact cause. Furthermore, with the cause of death where an inquest was held dependent on the judgement of an unqualified, lay jury and with, in many cases, deaths not being reported to the coroner this decision being made by a man not medically trained, it is evident the medicalization of the system had not yet evolved.<sup>38</sup> Also lacking was a professional aspect to the system despite the recognition by coroners of the vital role that statistics played in recording the accurate cause of deaths which, in turn, might enable progress to be made in reducing the number of deaths from disease or unexplained deaths.

#### **4. An Act to Allow Coroners to Appoint a Deputy, 1843**

Decades of debate had preceded this Act.<sup>39</sup> Coroners were traditionally expected to take full responsibility for the proceedings of the inquest irrespective of the size of their workload. This proved difficult in some urban districts and, in recognition of this, the 1843 Act made it a legal requirement for a coroner to appoint a deputy.

The role of the deputy coroner was developed during the nineteenth century. Jervis had stated that the ‘judicial duties of the Coroner must be discharged by the coroner himself, and

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<sup>36</sup> Burney, *Bodies of Evidence*, pp. 13, 61.

<sup>37</sup> *Ibid.*, p. 62.

<sup>38</sup> See the case of Dr Hill above on pp. 219-20 of this thesis: *British Medical Journal*, 5 May 1866, p. 477. ‘A Question Regarding Registration of Death’.

<sup>39</sup> 6 & 7 Vict. c. 83. [22 August 1843]: An Act to Amend the Law Respecting the Duties of Coroners.

cannot be deputised'.<sup>40</sup> The swearing-in of the inquest jury and then the compulsory 'view' of the body had to be performed and supervised by the coroner himself. Jervis made it clear that the power of the coroner cannot be deputed and 'the inquest cannot be proceeded in by a deputy' and the coroner had to 'discharge the duties of his office personally'.<sup>41</sup>

However, it was clear that this legal situation had become increasingly impractical. Many coroners had legal or medical practices which meant they may be called away from their coronial districts or duties; some coroners were Members of Parliament and had other business to attend to, and in urban areas a coroner's workload could be heavy, which made the appointment of a deputy a necessity. By the end of the nineteenth century many urban coroners were holding five or six inquests a day. It would not have been possible to hold as many inquests as were needed if the coroner had not been allowed to engage a deputy who could take on a quantity of this coronial work. Some coroners were criticized for their choices, while others were accused of off-loading a large portion of their work onto their deputies, but it is clear that deputy coroners were becoming in practice an essential part of the coronial system. Hence, the situation regarding the engagement of deputy coroners was reviewed, resulting in the 1843 Act which began by stating that 'the coroners of counties have sufficient Authority of Law [to appoint deputies]' and continued:

that from and after the passing of this Act it shall be lawful for every coroner of any county..., by writing under his hand and seal, to nominate and appoint... a fit and proper person, such appointment being subject to an approval of the Lord High Chancellor... to act as his deputy in the holding of inquests.<sup>42</sup>

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<sup>40</sup> John Jervis, *A Practical Treatise on the Office and Duties of Coroners: With an Appendix of Forms and Precedents* (London: Sweet & Maxwell, 1829), p. 54.

<sup>41</sup> *Ibid.*, p. 55.

<sup>42</sup> R. Henslowe Wellington, *The King's Coroner: Being a Complete Collection of the Statutes Relating to the Office Together with a History of the Same* (London: William Clowes, 1905), p. 3.

It went on to state that the acts of that deputy would amount to ‘the acts and duties of the coroner by whom such appointment was made’; the coroner would, therefore, carry vicarious liability for his deputy.

According to the Act of 1843, as well as the Coroners Act of 1887 which consolidated the law in this respect (and which is discussed below), the deputy had to be ‘a fit person having land in fee sufficient in the same county whereof he may answer to all manner of people’;<sup>43</sup> as with the coroner, no other qualifications were necessary. When coroners submitted their quarterly accounts to the county magistrates for approval and payment, these accounts were required to indicate how many inquests had been held by their deputies. Fees would be paid to the county coroner and he would then remunerate his deputy a fee that was proportionate to his own salary.

The position of deputy coroner was only viable while the coroner who engaged him was in practice. If, for example, the coroner died, the deputy’s post became vacant, although it was usual in practice for the deputy to remain in post until a replacement was found. He would, during this period, receive the same remuneration as the out-going coroner. Likewise, he would have the same jurisdiction and powers as the coroner and be subject to the ‘same obligations, liabilities and disqualifications as that coroner and he shall generally be subject to the provisions of the Coroners Act’.<sup>44</sup>

Although the formalization of the role of deputies created an apparently new career path by which an individual might serve first as a deputy before proceeding to a full coronial role, it was not commonly the case that coroners started their careers as deputy coroners. One important distinction between the roles of coroner and deputy coroner was that the former was an elected position whereas the latter was filled by appointment; this difference probably

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<sup>43</sup> *Ibid.*, p. 227.

<sup>44</sup> *Ibid.*, p. 271.

prevented the role of deputy being routinely regarded as a stepping stone to the position of coroner. Some deputies did go on to take up the post of coroner; some had even worked as deputy coroners in one district while holding the position of coroner in another. John Henry Gell, coroner for the City and Liberty of Westminster, after resigning from his position as coroner in 1845, took up the position of deputy in the very same district. There were also accusations of nepotism surrounding the appointment of some deputies. Wakley, for example, who had campaigned vigorously against both legal coroners and nepotism in the pages of *The Lancet*,<sup>45</sup> appointed his legally qualified son as his deputy for the coronership of West Middlesex, opening himself up to the charge of hypocrisy. The accusation of nepotism was brought to the fore in 1849 in the previously discussed case of Dr Pearce.<sup>46</sup>

Nevertheless, despite occasional problems of nepotism, the legislation of 1843, ensuring that deputy coroners became a fixed part of the coronial process, proved to be an invaluable, necessary and legal asset to the system. By formalizing the appointed, and hence unelected, position of deputy coroner, the 1843 Act can be seen as diluting the ‘popular’ character of the coronial office. Although deputy coroners were not required to have either legal or medical qualification, the legislation marked an important step on the path away from popularly elected officials charged with responsibility for the coronial process and towards an office staffed by individuals appointed for their professional abilities alone.

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<sup>45</sup> For example, *The Lancet*, 1838–9, 1, pp. 2–3, where Wakley wrote on nepotism: ‘We deplore the state of society which allows various sets of mercenary, goose-brained monopolists and charlatans to usurp the highest privileges... This is the canker-worm which eats into the heart of the medical body.’

<sup>46</sup> See above, p. 146, fn. 122 of this thesis.

## 5. The Coroners Act, 1844

Laws governing the role of the coroner and the inquest were considerably altered by legislation passed in 1844 and 1860. The Coroners Act of 1844<sup>47</sup> declared that the ‘Regulations for the elections of Coroners for Counties are insufficient:... such elections are made with much inconvenience, and are attended with great and unnecessary expense’.<sup>48</sup> Elections could last for up to ten days and could prove to be enormously expensive: Thomas Wakley estimated that the 1830 election, at which he was defeated by William Baker, cost him £7,000.<sup>49</sup> The method of using elections to appoint coroners lasted until 1889,<sup>50</sup> and the right to vote to elect a coroner continued to depend upon ownership of a freehold within the county. However, although the Act did not alter the method of electing coroners, it was responsible for significant changes. A major change was the division of counties into districts, each district electing a coroner. As a result of the 1844 Act, every coroner was notified by the justices as to how the county would be divided. The magistrates would consider the size and nature of each proposed district, the number of inhabitants and their form of employment, then decide how many coroners were needed. A balance needed to be struck between finances and efficiency: too many coroners would put a heavy strain on the county finances, but too few coroners would lead to individual coroners continually travelling across the county to ‘where a body lay’, a state of affairs that would not be conducive to an efficient system.

The Act also addressed various problems surrounding the inquest. Coroners often had to deal with the non-attendance of jurors or witnesses, an inconvenience and common cause of delay to the proceedings of an inquest. The Act stated that if a juror or witness was called three times in the court and failed to appear each time, the coroner was empowered to impose a fine

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<sup>47</sup> 7 & 8 Vict. c. 92. [9 August 1844]: An Act to Amend the Law Respecting the Office of County Coroner.

<sup>48</sup> Henslowe Wellington, *King’s Coroner*, p. 154.

<sup>49</sup> See above, pp. 115-6 of this thesis to see the Wakley / Baker election contest.

<sup>50</sup> 51 & 52 Vict. c. 41. [15 August 1888]: The Local Government Act.

upon that person of a sum he felt fit, but not to exceed 40 shillings.<sup>51</sup> As well as addressing the practical concern of non-attendance, this provision also aimed to raise the status of the coroner and his inquest: by criminalizing non-attendance the Act ensured that the coronial process was taken seriously and viewed as important and necessary, rather than being treated with contempt.

The 1844 Act also attempted to curtail the practice whereby legally qualified coroners gained further income by representing at criminal trial any person held to be responsible for murder or manslaughter at the coronial inquest. The Act did not formally outlaw this practice, but it strongly discouraged it by giving criminal court judges the power to impose a fine of up to £50 on coroners who represented defendants who had been implicated by their own inquest.

Although the 1844 Act made only modest reforms to the coronial office, it was nevertheless evidence that legislators were addressing issues and problems surrounding the coronership. It began the process of reorganizing the topography of the coronial system, as well as dealing with troubling parts of the court process. Perhaps in a deliberate display of even-handedness, it addressed one key area of malpractice on the part of coroners alongside one problem that had been impeding coroners from carrying out their role effectively. Furthermore, although the legislation retained the elected basis of the coronial office, in combination with the legislation of the previous year on coroners' deputies, the 1844 Act can be regarded as another move to curb the more 'popular' features of the coronial system by implementing a more professional, uniform and coherent basis for the appointment of coroners.

## **6. The Abolition of Deodands Act, 1846**

Two years after the Coroners Act parliament again took steps to modernize the coronial inquest, in the process further diluting the potential of the inquest to become a forum for 'popular' and

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<sup>51</sup> Repealed by the Coroners Act, 1887.

political verdicts. The Abolition of Deodands Act<sup>52</sup> of 1846 removed a law that had been in effect in England for over six centuries, in the process rationalizing how death was investigated, regulating compensation in the event of death, and severing the role of the inquest (and, by extension, a jury) in deciding upon compensation.<sup>53</sup> Deodands were forfeitures occasioned by moveable items (for example, a cart, or a horse, or a wheel that had come loose from a train, as had happened in 1841 at Sonning Cutting, or even the entire train or steamship that may have ‘caused’ loss of life) that had been the cause of someone’s death.<sup>54</sup> According to the law of deodands, the coroner could order any such items to be confiscated. The price fetched by the deodands would be used, in part, for compensation. Coroners’ juries started to award deodands as a way of penalizing companies for occupational accidents. As Elisabeth Cawthon has demonstrated, in the 1830s ‘some coroners’ courts began to levy deodands in a more sophisticated manner—to indicate quite specifically the “sense of the misconduct” of a negligent party to an accident’.<sup>55</sup> The practice became unworkable, and it met with stiff resistance from company owners which often took the form of lengthy legal appeals, bringing the issue to the attention of parliament. Deodands, for all their deeply rooted place in English law, were no longer fit for purpose in an industrial age in which the capacity of a train, a steamship or factory machinery to cause extensive loss of life would come at potentially enormous expense to the owners of capital. The Fatal Accidents Act introduced a new system which allowed people to claim compensation from a guilty party on behalf of a deceased person.<sup>56</sup>

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<sup>52</sup> 9 & 10 Vict. c. 62: The Deodands Abolition Act, 1846.

<sup>53</sup> Edward Kirton-Darling, ‘Searching for Pigeons in the Belfry: The Inquest, the Abolition of the Deodand and the Rise of the Family’, *Law, Culture and the Humanities*, 14 (2014), pp. 439–61.

<sup>54</sup> For an overview of the history of deodands, including their ‘last stand’ in the nineteenth century, see Anna Pervukhin, ‘Deodands: A Study in the Creation of Common Law Rules’, *American Journal of Legal History*, 47 (2005), pp. 237–56.

<sup>55</sup> Elisabeth Cawthon, ‘New Life for the Deodand: Coroners’ Inquests and Occupational Deaths in England, 1830–46’, *American Journal of Legal History*, 33 (1989), pp. 137–47, at p. 138.

<sup>56</sup> 9 & 10 Vict. c. 93: The Fatal Accidents Act, 1846. See William Pietz, ‘Death of the Deodand: Accursed Objects and the Money Value of Human Life’, *RES: Anthropology and Aesthetics*, 31 (1997), pp. 97–108.

According to Cawthon, Thomas Wakley played an important, if unwitting, role in the way industrial accidents were dealt with due to his battle to ensure ‘that inquests would be conducted on a more scientific basis’ since ‘his crusade on behalf of the medical coronership [led to] unfortunate results for the victims of workplace accidents’. This was especially relevant to industrial accidents that resulted in death. Cawthon has suggested that,

During a brief period beginning in 1838, coroners’ inquests were an unusually controversial component of the English legal system... Wakley was both the source of much of the inquests’ potency and the reason for their undoing.<sup>57</sup>

The law of liability for accidents suffered repercussions due to the attempt on the part of some coroners at their inquests to provide financial remedies for the miseries that accidents had caused.<sup>58</sup> Wakley, as a coroner working in an area in which occupational fatalities were frequent occurrences, regularly and aggressively promoted his views on the need for a medical rather than a legal coronership. Both of these facts prompted inquiries into workplace deaths which were, in turn, brought to the attention of the medical and legal communities who became intensely interested in the direction of inquiries into workplace deaths. Cawthon has argued that ‘it may have been the actions of Wakley, along with the somewhat upstart ideas of inquest jurors on accident compensation, which eventually managed to bring down the wrath of high court judges and Parliament on to the inquest process’.<sup>59</sup>

William Pietz has suggested that reformers like Wakley ‘were re-evaluating the reasons for death within a scientific framework of purely physical causality from which moral considerations were, quite properly, removed’;<sup>60</sup> Hostettler, however, has emphasized that the ‘toll of human life taken by railways, factories and mills at this time was appalling’ and that

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<sup>57</sup> Elisabeth Cawthon, ‘Thomas Wakley and the Medical Coronership – Occupational Deaths and the Judicial Process’, *Medical History*, 30 (1986), pp. 191–202, at p. 191.

<sup>58</sup> ‘Special Reports of the Inspectors of Factories’, Parliamentary Papers (PP), 1841, X, p. 201.

<sup>59</sup> Cawthon, ‘Thomas Wakley and the Medical Coronership’, p. 193.

<sup>60</sup> Pietz, ‘Death of the Deodand’, p. 107.



Wakley was essentially impelled by moral considerations.<sup>61</sup> As a consequence of the ruling in the case of *Baker vs Bolton*<sup>62</sup> in 1808, there was no right to compensation for an accidental death, the logic being that ‘in a civil court the death of a human being cannot be complained of as an injury’. This was the precedent that stopped the progress of legislation in future cases. The activities of coroners such as Wakley in endeavouring to find a means to compensate victims of industrial accidents saw a fairer system once deodands were abolished and replaced by the Fatal Accident Act 1846. The latter allowed relatives or representatives of people killed by the transgressions of others to bring legal action to receive damages. But it also reduced the scope of the inquest—and its potential to be a vehicle for ‘political’ verdicts that sought to penalize negligence by, for example, factory owners and train operators—by recasting the inquest system as one solely focused on the medical, rather than the social, causes of death. Although not its primary intention, the Act can be seen, therefore, as a medicalizing initiative: it narrowed the role of the coroner to one dealing with largely medical matters. It also restructured the law pertaining to death, instituting a more rational and uniform approach to the question of compensation that emphasized the central role of professional lawyers, rather than unprofessional inquest juries, in determining the rights of and material compensation due to the family of the deceased.

## **7. The Coroners Act, 1860**

The main effects of the 1860 Coroners Act<sup>63</sup> were the provision of a salary for coroners, which meant they would no longer be paid per inquest, the limitation of the duration of elections, and the implementation of a means of making coroners accountable to the Court of Queen’s Bench.

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<sup>61</sup> John Hostettler, *Thomas Wakley: An Improbable Radical* (Chichester: Barry Rose Law Publishers, 1993), p. 135.

<sup>62</sup> *Baker v Bolton* [1808] EWHC KB J92; 170 ER 1033.

<sup>63</sup> 23 & 24 Vict, c. 85. The Coroners Act [1860]: An Act to amend the Law relating to the Election, Duties and Payment of County Coroners.

As a consequence of the 1860 Act, polling at coronial elections was reduced to a single day. That brought to an end the long-running battles that had characterized many contests, and may have contributed to a lowering of the political intensity that often surrounded coronial elections, such as that between Wakley and Baker in 1830, which had lasted ten days and became an often virulently antagonistic campaign. A further provision of the Act was that coroners were made accountable to the Court of Queen's Bench, if necessary having to explain their reasons for not holding an inquest when it was alleged one should have been held. This was a controversial issue, since the Act removed from coroners the exclusive power to determine whether or not an inquest should be held. A judge could rule that the coroner must hold an inquest, with or without payment, and that the coroner 'shall obey the same' since this Act empowered the judge to 'remove for inability or Misbehaviour... any Coroner already elected or appointed'.<sup>64</sup>

The most important part of this Act was that coroners were now provided with a salary instead of the previous system of remuneration in which they were paid a fee per 'duly held' inquest. This was a response to the growing number of controversies over coroners' fees. The Act stipulated that county coroners should receive an agreed annual salary plus expenses; although salaries were still fixed by magistrates, leaving the potential for ongoing tensions between justices and coroners, the Act improved the situation of coroners by making them a more autonomous body.

Havard has contended that the 'effects of the County Coroners Act of 1860 were immediate and gratifying';<sup>65</sup> Prichard, on the other hand, has suggested the Act had 'done no more than provide a temporary respite from the deeper problems'.<sup>66</sup> Certainly, from the 1860s

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<sup>64</sup> 23 & 24 Vict, c. 85: The Coroners Act [1860]. An Act to amend the Law relating to the Election, Duties and Payment of County Coroners.

<sup>65</sup> Havard, *Detection of Secret Homicide*, p. 64.

<sup>66</sup> Donald Prichard, 'The Office of Coroner 1860–1926: Resistance, Reluctance and Reform', unpublished PhD thesis, Greenwich University (2001), p. 154.

onwards, inquests revealed problems within the system, and also the importance and necessity of medical knowledge at inquests to identify correct causes of death. Inquests also disclosed the growing internal tensions between specialists in the medical profession and general practitioners. Specialisms were progressing rapidly with new techniques and expanding knowledge and understanding of medicine. Pathologists were taking over the role of expert at the inquest by performing post-mortem examinations and giving evidence, which meant general practitioners were losing money and status as their position as expert witnesses was taken over by far more knowledgeable specialist experts.<sup>67</sup> General practitioners were receiving adverse publicity arising from their performances at inquests due to their lack of expertise in the field of autopsies, and vital evidence could be destroyed by the inexperienced attempts at conducting a post-mortem examination by an inexperienced general practitioner. This scrutiny of the inquest was in part driven by the national newspapers and their focus on sensationalizing law cases.<sup>68</sup> It was unusual for a reporter not to be in the coroner's court, looking for cases that might lead to a scandalous and exciting trial or mystery. Those sensationalized trials brought faults within the inquest system to the attention of politicians and the public.

## **8. The Coroners Act, 1887**

Several bills failed to reach the statute book in the 1870s and 1880s, but it was parliamentary bills introduced in 1878 and 1879 that provided the basis for the 1887 Coroners Act.<sup>69</sup> This Act consolidated and reinforced previous coronial-related Acts passed over the century, repealing where necessary.<sup>70</sup> A Bill introduced in 1878 included the provision to abolish the 'antiquated

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<sup>67</sup> M. Jeanne Peterson, *The Medical Profession in Mid-Victorian London* (Berkeley: University of California Press, 1976), Chapter 5.

<sup>68</sup> Matthew Engel, *Tickle the Public: One Hundred Years of the Popular Press* (London: Victor Gollancz, 1996), p. 44.

<sup>69</sup> Prichard, 'The Office of the Coroner', p. 123.

<sup>70</sup> 50 & 51 Vict. c. 71. [16 September 1887]: The Coroners Act: An Act to Consolidate the Law relating to coroners.

mode of electing coroners by the freeholders' and make new Boards responsible for the selection and appointment of county coroners, a move that would have brought the appointment of county coroners in line with the appointment of borough coroners. The *British Medical Journal* expressed 'great satisfaction' that the government had taken 'this important subject in hand' with the first instalment of reform.<sup>71</sup>

The Coroners' Society had been disappointed with the lack of interest the government had shown towards coronial law. The election process needed reforming, but the 1878 bill was passed over until, at a parliamentary meeting at the end of the year, the Coroners Bill was introduced. *The Lancet* commented, less than enthusiastically, that 'the changes indicated in the new Bill are neither very numerous nor very considerable, its tendency being rather to consolidate than amend'.<sup>72</sup> Prichard has summarized the nineteenth clause of the bill: 'It left the selection of a county coroner in the hands of freeholders, but for the first time, defined that no one was eligible unless a barrister, solicitor or a duly qualified medical practitioner of five years standing'.<sup>73</sup> The bill was withdrawn on the last day of the 1878 parliamentary session; it was re-introduced in February 1879, still with no effect. In the end the only legislation passed by parliament was an Irish Coroners Act in 1881; English and Welsh coronial legislation was put aside, neither government nor private members introducing bills until 1887.<sup>74</sup> When parliament did return to coronial legislation with the Coroners Act of 1887, it repealed 33 Acts or Sections of Acts dating back to the reign of Edward I (1272–1307). The Act consolidated much previous legislation, and, for the most part, removed the archaic language of the original statutes.<sup>75</sup> Burney has described the 1887 Act as codifying 'much of the standing common law

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<sup>71</sup> *British Medical Journal*, 2, 2 February 1878, p. 163; Prichard, 'The Office of the Coroner', p. 141.

<sup>72</sup> *The Lancet*, 2, 23 November 1878, p. 738.

<sup>73</sup> PP 1878 (303) 1,435, A Bill to consolidate and amend Law relating to Coroners, Parl. Deb. 3 Series 242: col. 1867, 13 August 1878, Clause 19; Prichard, 'The Office of the Coroner', pp. 142–3.

<sup>74</sup> Prichard, 'The Office of the Coroner', p. 149.

<sup>75</sup> *Ibid.*, p. 153.

precedents governing inquest procedure’,<sup>76</sup> whereas Anderson has argued that the Act was ‘no more than a great consolidating measure’ rather than a codification.<sup>77</sup> In Prichard’s view, however, ‘the Act made it clear that, despite resistance to any significant change and attachment to ancient traditions and proceedings, the coroners were not able to avoid the changes associated with the developments in government’.<sup>78</sup>

Nevertheless, the 1887 Act was described by the Brodrick Report as a ‘watershed in the development of the office of coroner’.<sup>79</sup> The report claimed that parliament would not have wasted time on the Act if the security of the tenure of the coroners was in doubt. The Act recognized that coroners provided ‘a service for the investigation of both the cause and the circumstances surrounding deaths, for the eventual benefit of the community as a whole’.<sup>80</sup> By consolidating the existing laws, it was possible to determine what amendments were needed;

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<sup>76</sup> Ian A. Burney, ‘Decoding Death: Medicine, Public Inquiry and the Reform of the English Inquest, 1836–1926’, unpublished PhD thesis, University of California (1993), p. 27.

<sup>77</sup> Olive Anderson, *Suicide in Victorian and Edwardian England* (Oxford: Clarendon Press, 1987), p. 36. H. Thring, *Practical Legislation; or The Composition and Language of Acts of Parliament and Business Documents* (London: Leopold Classic Library, 2015; originally published 1878), p. 14, has defined the difference between consolidation and codification: ‘Codification is the reduction into a systematic form of the whole of the law relating to a given subject, that is to say, of Common Law, the Case Law, and the Statute Law; while consolidation differs from codification in this alone, that it omits the Common Law and comprises only the Statute Law relating to a subject as illustrated or explained by judicial decisions.’

<sup>78</sup> Prichard, ‘The Office of the Coroner’, pp. 155–6.

<sup>79</sup> PP 1971–2. Report of the Committee on Death Certification and Coroners [The Brodrick Report]. The Brodrick Report was published in 1971 by a committee appointed by the Home Secretary in 1965 to review the law and practice relating to the issue of death certificates, the role of the coroner and coroners’ courts and the disposal of dead bodies. See <https://discovery.nationalarchives.gov.uk/details/r/C9239>

The Committee discussed ‘the issue of criminal liability and commented that the inquisitional nature of the coroner’s proceedings placed a suspected person at a considerable disadvantage’. Christopher Dorries, *Coroner’s Courts: a guide to law and practice*, 1st edn, (Chichester: John Wiley & Sons Ltd, 1998), p.6. The Brodrick Committee assessed ‘the essential grounds of public interest served by a coroner’s enquiry’ by looking into death certification and the role of coroners. The intention was to ‘determine the medical cause of death, to allay rumours or suspicions, to draw attention to the existence of circumstances which, if unremedied, might lead to further deaths, to advance medical knowledge, and to preserve the legal interest of the deceased’s family, heirs or other interested parties’. *Ibid.*, pp. 142–3. In addition the Committee recommended the ‘virtual abolition of the coroner’s jury, retaining only a power for the coroner to summon a jury...’. *Ibid.*, p. 178, n. 8.

<sup>80</sup> Brodrick Report, p. 114.

in the view of the Brodrick Committee, the 1887 consolidating Act provided a platform for genuine reform.

Prior to the 1887 Act, coroners were not bound to hold an inquest in every case of sudden death of unknown cause; indeed, due to the financial costs of inquests, they were actively discouraged from doing so by the magistrates.<sup>81</sup> Investigation was carried out by the coroner's officer to ascertain whether an inquest was necessary, notwithstanding the fact that the death had been reported to the coroner by the police.<sup>82</sup> The 1887 Act stated:

Where a coroner is informed that the dead body of a person is lying within his jurisdiction, and there is reasonable cause to suspect that such a person has died either a violent or an unnatural death, or has died a sudden death of which the cause is unknown, or that such person has died in prison... the coroner shall issue a warrant to summon not less than twelve but not more than twenty-three men to form a jury at a particular time and place.<sup>83</sup>

The body fell under the jurisdiction of the coroner where the body was found, not necessarily where death had occurred, and the coroner was bound to hold an inquest.

## **9. The Coroners Act, 1892**

A further Coroners Act in 1892 dealt with matters concerning the appointment of coroners and deputy coroners.<sup>84</sup> It stated that 'every coroner, whether for a county or a borough, shall appoint by writing under his hand, a fit person approved by the chairman... of the council who appointed the coroner'. There are two changes here from the 1887 Act. Both county and borough coroners had to appoint a deputy, but under the 1887 Act the borough coroner was

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<sup>81</sup> Even after coroners had become salaried officials they had to remunerate medical witnesses from their own pockets, in turn relying on magistrates to reimburse them these payments.

<sup>82</sup> Havard, *Detection of Secret Homicide*, p. 141.

<sup>83</sup> Rudolph E. Melsheimer, *The Coroners Acts, 1887 and 1892*, 6<sup>th</sup> edn of *The Treatise by John Jervis on the Office and Duties of Coroners* (London: Sweet & Maxwell, 1898), pp. 5–6. See also Henslowe Wellington, *King's Coroner*, pp. 220–1.

<sup>84</sup> 55 & 56 Vict. c. 56 [28 June 1892]: The Coroners Act, 1892. An Act to Amend the Law in relation to the Appointment of Coroners and Deputy Coroners in Counties and Boroughs.

only allowed to use a deputy in the case of sickness or unavoidable absence; this was repealed, and under the 1892 Act he could use his deputy for any cases he thought fit and at any time. Under the 1887 Act the deputy of a county coroner had to be approved by the Lord Chancellor; this was repealed in 1892, and the deputy was approved by the chairman of the council who had appointed the coroner. Under the Municipal Corporations Act<sup>85</sup> of 1882 a borough coroner had been required to ‘appoint a deputy being a barrister or solicitor’; this was repealed by the 1892 Act, and, in line with the law as it applied to county coroners, deputies had to be freeholders with no connection to council jobs or business.

## **10. Conclusion**

The coronial legislation discussed in this chapter, as well as the Medical Witnesses Act discussed in Chapter Four above, represented an important attempt to reform the coronial office. It is worth noting that the process was often slow, and there were numerous attempts at legislation that did not result in the passage of an Act. However, there was a burst of parliamentary activity in the 1830s and 1840s that made important advances: the inquest procedure was improved with a tightening up of the law on absent jurors, the advent of paid medical witnesses, and the potential legal penalties for coroners who abused the process by representing criminal defendants whom their own inquests had declared guilty of homicide; some of the problems with coronial elections were addressed, and the district system was rationalized; the law recognized the importance of a system of coroners’ deputies, codifying this new arrangement; and coroners were, in theory at least, brought more closely into the new system of death registration. As a raft of legislation, the Acts from the 1830s and 1840s were vital steps in modernizing the coronial office and inquest. These were largely top-down

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<sup>85</sup> 45 & 46 Vict. c. 50 [18 August 1882]: An Act for Consolidating, with Amendments, Enactments relating to Municipal Corporations in England and Wales.

initiatives; coroners themselves, with the exception of occasional voices such as that of Wakley (who was himself a legislator), were not the architects of the legislation of the 1830s and 1840s, and it was not until the formation of the Coroners' Society that they had a forum with the potential to represent them as a body in the debates about the inquest system. It is, perhaps, no coincidence that the Society was formed in the wake of legislative activity that affected the scope and conduct of inquests; given the greater ability of coroners themselves to represent their interests as a body, the Coroners' Society was slow in making an impact on reforms as only a few members were active, therefore, reforms over the second half of the century were much slower to take place.<sup>86</sup> The 1860 introduction of salaries for coroners, legislation that addressed one of the prominent early concerns of the Coroners' Society, did not fully resolve the problem of relations between coroners and magistrates (problems which, as mentioned in the previous chapter, may not have been as extensive as some contemporaries and later historians have claimed), but it removed one of the most contentious aspects of the coronial process, namely the old means of remunerating coroners by the vague notion of fees per 'duly held' inquest.

Perhaps the biggest effect of this legislation was to reduce the scope for controversy over the coronial office. The office was, to a certain extent, de-politicized through a process of professionalization, and a focus was returned to the central coronial role of ascertaining legally and medically accurate verdicts on sudden and unnatural deaths. Wakley's twofold, but contradictory, wish to professionalize the coronial system while emphasizing its 'popular' nature was decided largely in favour of the former. The legislation may be seen, at least in part, as an attempt to rein in the potential of the inquest to be an unruly source of radical and reforming politics, instead refashioning the coronial system as a regulated process tied in to

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<sup>86</sup> For an example see Sim and Ward, Chapter 10, in Clark and Crawford *Legal Medicine in History*, p. 237.



wider bureaucratic and social reforms enacted in the wake of industrialization and its social and political effects. The confirmation of this professionalization was the reform of the means of appointing coroners, as enacted by the legislation of 1887 and 1892, and which was prefigured by the legislation on the appointment of coroners' deputies. By ending the procedure of coronial elections and creating a uniform method of appointing coroners by Boards who were tied into the new arrangements for local government, the coroner was recognized as a medico-legal professional. On the one hand this was a far cry from the intense appeals to tradition, English liberties and popular politics that marked the campaigns of Wakley and others in the 1830s and 1840s; on the other hand, the legislation at the end of the century, in its recognition of the professional status of the coroner, had its roots firmly in the debates, campaigns and politics from half a century earlier.<sup>87</sup>

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<sup>87</sup> See Appendix 4 of this thesis, 'Selected parliamentary legislation relating to the office and duties of coroners', pp. 294-8.

## CHAPTER EIGHT: THE 'VIEW' AND THE BODY

### 1. Introduction

Although reforming coroners such as Thomas Wakley envisaged the coronial office as potentially a platform for effecting social change, the day-to-day business of the coroner was the individual inquest and its attempt to answer three questions: Had a death occurred? Who had died? What was the cause of that person's death? The coroner was not alone in addressing those questions—constables, the police, magistrates, judges, and medical experts also considered them; nor was he necessarily the most important individual in answering them—in criminal matters, for example, judge and jury at a criminal trial were of greater significance. But the coroner and his inquest were unique in bringing together the various questions, and the issues they raised, within a single forum that was accessible to the public. The inquest served as a focal point that connected various interests—including legal, medical, public, social and media interests—on the individual death. Perhaps unsurprisingly in an age of rapid and often radical social, medical, legal and bureaucratic change, this coronial role was neither secure nor uncontested. Indeed, both medicalizing and professionalizing tendencies, which were advanced by many coroners themselves, threatened to disrupt and curtail the central place of the inquest in relation to the individual death.

The corpse was the symbolic embodiment of this central coronial role. At the heart of the inquest was the dead body. Without a body there could be no inquest. When a coroner ordered an inquest, he assumed jurisdiction over the corpse. The dead body was the visible and physical manifestation of an inquest's *raison d'être*. Coronial inquests were, as previously discussed, less formal than other types of legal proceeding; consequently, they were less obviously 'theatrical' than criminal trials, for example, but, in so far as the inquest had a

‘theatrical’ element to its proceedings, the dead body dramatically symbolized the authority of the coroner and the inquest. The corpse was not, however, merely a symbol of coronial authority. For it was the body that increasingly yielded the evidence on which an inquest reached a verdict. The advances in forensics and the increasing prominence given to medical witnesses marked a shift towards regarding the body, and the medical evidence it provided, as lying at the centre of the inquest.

The purpose of this chapter is to consider the body as the focal point of the inquest. In the first part of this chapter I focus specifically on the ‘view’, one of the traditional and staple features of nineteenth-century inquests, and some of the legal and medical controversies surrounding it. In the second part of the chapter I discuss one of the key questions an inquest was expected to answer, namely the identity of a deceased body that lay before the coroner and his jury. Both topics have previously been considered at length in two important studies: Ian Burney devoted a chapter of *Bodies of Evidence* to discussion of the view, and Fraser Joyce has explored the issue of identification in his 2012 doctoral thesis, ‘Naming the Dead: The Identification of the Unknown Body in England and Wales, 1800–1934’. The aim of this chapter is to build on the findings of Burney and Joyce by considering both the view and identification—and more generally the dead body itself—in relation to questions of authority, evidence, medicalization and professionalization, all of which were controversial in nineteenth-century debates about the coronial office.

## **2. The ‘view’**

The ‘view’ became an increasingly controversial part of the inquest over the nineteenth century. An inquest began with the jurors viewing the dead body that was to be the subject of their forthcoming deliberations and verdict; custom and the law also decreed that the body should remain in view of the jury throughout an inquest: ‘the body [of the deceased] should lie

before the jury during the whole of the inquiry' was the wording of Tudor coronial legislation that had been confirmed in 1751.<sup>1</sup> The presence of the body meant, in theory at least, that the corpse remained a constant reference point throughout the inquest. By the early nineteenth century, however, there was some question as to whether this practice of keeping the body present for the duration of proceedings was necessary. Jervis commented that 'it would seem that anciently the body was lying before the jury and the Coroner during the whole evidence'.<sup>2</sup>

But he also noted:

It is not necessary, as it appears formerly to have been, that the body should lie before the jury and Coroner during the whole of the evidence; but, after the jury are satisfied with the view, adjourn with the Coroner to another room in the same house, or to another place.<sup>3</sup>

Convenience, decorum and hygiene are likely to have been behind such scepticism about the value of the constant presence of the body: the place where a body lay would invariably have been far from ideal for the purposes of an inquest, and transporting the body to the inquest would often have been impractical; and, despite most inquests being brief, doubtless the proximity to a corpse would have been distasteful, uncomfortable and distressing to some. But Jervis's comments also suggest a rationalization of proceedings that involved removing traditional features of the inquest that no longer seemed necessary or of practical value. As mortuaries became established to house dead bodies—serving as places for the hygienic storage of corpses as well as convenient focal points for forensic examination<sup>4</sup>—and as sensibilities shifted away from the public display of death,<sup>5</sup> so the notion that a professional,

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<sup>1</sup> 8 Hen. VII, c. 1 [1751–2].

<sup>2</sup> Sir John Jervis, *On the Office and Duties of Coroners*, 3<sup>rd</sup> edn ed. by C.W. Lovesy (London, 1866; first edn, 1829), p. 41.

<sup>3</sup> *Ibid.*, p. 329.

<sup>4</sup> Ian A. Burney, *Bodies of Evidence: Medicine and the Politics of the English Inquest, 1830–1926* (Baltimore and London: Johns Hopkins University Press, 2000), pp. 86–92.

<sup>5</sup> On changing attitudes to death, see Philippe Ariès, *The Hour of Our Death: The Classic History of Western Attitudes Towards Death Over the Last One Thousand Years*, trans. Helen Weaver (London: Vintage, 1982), and Allan Kellehear, *A Social History of Dying* (Cambridge: Cambridge University Press, 2007), esp. Part III.

respectable medico-legal inquest would be conducted in proximity to a corpse came to seem unacceptable.

There was no question in Jervis's mind, however, that the initial viewing was essential and legally required:

So essential is the view to the validity of the inquisition, that if the body be not found, or have lain so long before the view that no information can be obtained from the inspection of it, or if there be danger of infection by digging it up, the inquest ought not to be taken by the Coroner.<sup>6</sup>

Without a view there should be no inquest; and any inquest not held *super visum corporis* ('after the view of the body') was, according to Lord Hale, 'absolutely void'.<sup>7</sup> It was argued that the view was introduced 'in order to establish the fact that there actually was a body whose death was to be investigated, otherwise an inquest would have been held upon a person who had merely disappeared, and his property seized by the Crown'.<sup>8</sup> That jurors, as representatives of the public, were expected to have visible and physical confirmation that a death had occurred provided transparency that the inquest was genuine. Historically, this was an especially important consideration given the inquest's traditional duty to value the goods of a deceased individual, and of the individual or individuals who had caused the death; but the importance of ascertaining that a death had taken place remained (and still remains) important in relation to various questions, among them the ability of a husband or wife of the deceased to remarry, the execution of a will, and the matter of achieving 'closure' for relatives.<sup>9</sup>

The view was not, however, merely a formal confirmation that a death had taken place. The body formed part of the evidence put before the court and hence the jury took their oaths

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<sup>6</sup> Jervis, *Office and Duties*, pp. 41–2.

<sup>7</sup> Matthew Hale, *The History of the Pleas of the Crown*, 2 vols, new edn by George Wilson (London, 1800), 1, p. 58.

<sup>8</sup> W. A. Brend, 'The Necessity for Amendment of the Law Relating to Coroners and Inquests', *Transactions of the Medico-Legal Society*, 10 (1912–13), pp. 143–97, at p. 178.

<sup>9</sup> Fraser Joyce, 'Naming the Dead: The Identification of the Unknown Body in England and Wales', PhD thesis, Oxford Brookes University (2012), p. 7 (esp. fn. 16–19).

before the view and were under oath when they viewed the body. This initial view established not only that there was a case to be considered—without a body there could be no absolute certainty that there was a death to be investigated—but also the authority and jurisdiction of the inquest. It underlined the legal fact that the body had temporarily come into the possession of the inquest. In common law there was no property value in a corpse, but the coroner had a legal right to possess the body if he required it for an inquiry. The *British Medical Journal* emphasized this coronial privilege: ‘It is of the utmost importance that the body should be absolutely under the coroner’s control and legally in his possession, so that he may be able to deal with it as circumstances require, removing it, having it examined by experts, taking photographs, etc.’<sup>10</sup> Being under the coroner’s control also ensured that the body, as evidence, could not be interfered with or disposed of before the coroner granted permission.<sup>11</sup>

The view served, therefore, several functions. As Burney has argued, the corporeal presence of the body at the view, situating the body at the heart of the inquest, gave to the inquiry an impression of unrestricted openness, transparency and ownership and enhanced its image as a hearing belonging to the people. This impression ‘had to be placed within a framework of historical interpretation connecting contemporary concerns with selected signs of ancient practice’.<sup>12</sup> As a practice embedded in centuries of legal requirement, the view had a ritualistic element that reinforced the notion of the inquest as an institution deeply rooted in English legal tradition, and especially as a people’s court defending popular liberties. The openness and transparency which nineteenth-century commentators routinely cited as central to this traditional and ‘popular’ character of the inquest took on a powerful visible and physical form through the stark immediacy of the jury’s contact with the body. As Jervis noted, through

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<sup>10</sup> *British Medical Journal*, 1 October 1898, p. 996: ‘The Abolition of “The View” at Inquests’.

<sup>11</sup> See above, pp. 132-3 of this thesis for a discussion of Thomas Wakley’s dispute with the magistrates over the body of Thomas Austin for an example of the competing claims that may be made over the corpse.

<sup>12</sup> Burney, *Bodies of Evidence*, p. 7.

reference to the sixteenth-century scholar and statesman Thomas Smith, ‘the impanelling of the Coroner’s inquiries, and the view of the body, is commonly in the street’.<sup>13</sup> Although the popular informality of such practices may have struck many as lacking in dignity, others saw them as marking the openness of the inquest.<sup>14</sup> The rhetoric of Thomas Wakley and others that the coroner was a ‘magistrate of the poor’ and that the inquest belonged to the people was perfectly symbolized in a ritual that apparently conferred to the inquest temporary ownership of and direct access to the body in an open setting.

However, although the ‘ancient practice’ of the view seemed to be one of the defining features of the inquest, the procedure was coming under threat. Even its legal necessity was questioned. At the court of Queen’s Bench on 12 June 1860 a case was heard to examine the conduct of the coroner for Birmingham and whether his inquest on the body of Emma Stafford should be quashed.<sup>15</sup> Two inquests had been held on the same victim, the first finding that the victim had died of natural causes, the second, with the same coroner but a new jury, bringing in a verdict of wilful murder after new evidence had been presented. In the first inquest, the coroner and his jury had not performed the view of the body. Attention was drawn to this irregularity by the further irregularity of holding the second inquest at which a different verdict was returned. Lord Chief Justice Cockburn became involved, declaring that the inconsistent findings were an ‘inconvenience’ and quashing the second verdict on the grounds that it had been held without jurisdiction. Therefore, the original verdict of death by natural causes stood.<sup>16</sup> In this case, the irregularity of taking an inquest without a view was ruled to be less legally problematic than the irregularity of holding a second inquest without the authority to

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<sup>13</sup> Jervis, *Office and Duties*, pp. 241–2, citing Thomas Smith’s *De Republica Anglorum* (1583).

<sup>14</sup> See, for example, Joshua Toulmin Smith’s defence of the informality of the inquest, discussed in this thesis above, p. 98.

<sup>15</sup> *The Times*, 14 June 1860, p. 10: ‘The Queen v White and Another’. [QB] 12 June 1860. Court of the Queen’s Bench.

<sup>16</sup> ‘The Queen v White and Another’: Court of the Queen’s Bench, 1860.

do so. By conferring legitimacy on the original inquest, the ruling raised the issue of the necessity of the view.

Unlike the coroner for Birmingham, most coroners insisted upon the view at their inquests, even when the practice bordered on the absurd. In a sensational case in 1876, two inquests were held on the death of the wealthy lawyer Charles Bravo: the first inquest returned an open verdict, whereas the second inquest found that Bravo had been wilfully murdered. At the second inquest, in order to fulfil the requirement of a view, the coroner had a small hole cut into the deceased's coffin and replaced with glass to facilitate a legally correct, if somewhat pointless, procedure.<sup>17</sup> A similar practice had been performed a year earlier in Middlesex in relation to the death of Charles Lyell, the famous geologist. Lyell had been treated for a brain disorder and died after falling down the stairs at his home. The death certificate was issued with the funeral to follow the next day, with arrangements for his body to be buried in Westminster Abbey by the Dean in the presence of the Queen and the Prince of Wales.<sup>18</sup> However, someone informed the coroner that the death may have been suspicious, leading the coroner to investigate the circumstances. Both the family and Lyell's doctor objected, but William Hardwicke, the coroner for Central Middlesex, responded that it was his duty to hold an inquest. The inquest was held in Lyell's home where the body lay encased in a lead-lined coffin. In order to hold the view for the jury, the undertaker had to cut open the lead lining over Lyell's face; Hardwicke and the jury were satisfied with this as a view of the body. Questions were raised, however, about Hardwicke's procedure at Lyell's inquest, and the matter was brought to the attention of parliament and the Home Secretary;<sup>19</sup> the latter wrote to Hardwicke

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<sup>17</sup> On the Bravo inquests, see Donald Prichard, 'The Office of Coroner 1860–1926: Resistance, Reluctance and Reform', unpublished PhD thesis, Greenwich University (2001), pp. 105–14; and James Ruddick, *Death at the Priory: Love, Sex and Murder in Victorian England* (London: Atlantic Books, 2002). The murder of Bravo remained unsolved.

<sup>18</sup> *The Times*, 1 March 1875, p. 6.

<sup>19</sup> *The Lancet*, 2, 18 December 1875, p. 883.



asking for an explanation.<sup>20</sup> Hardwicke's reply was straightforward: Lyell's death was reported as possibly suspicious and as coroner he was legally bound to investigate; moreover, for an inquest to be valid it required a view. *The Lancet* opined that 'the Lord Chancellor was not fully informed on coronial law and procedures'.<sup>21</sup> Nevertheless, the case highlighted some of the potential absurdities: Hardwicke was properly observing the law, but there were understandable questions about whether this legal necessity was always of any practical or forensic value. In the case of Lyell, it was obvious that the view served no practical purpose; it merely involved compliance with the law.

In the inquests on Bravo and Lyell, the view amounted to a formal and legally sanctioned ritual rather than a forensically useful act. For many observers, most notably the Home Secretary in the case of Lyell, the view appeared to be a non-essential act that threatened to create an undignified spectacle. A more pressing concern than dignity, however, were the perceived hazards to the health of jurors occasioned by the view. An inquest held at the House of Correction, Coldbath Fields, in 1878 on a 26-year-old prisoner named Charles Blizzard illustrates this concern. The coroner was once again William Hardwicke, who told his jury that the death had been caused by smallpox, and that, in spite of the disease being highly contagious, 'it was absolutely necessary that the jury should view the body'.<sup>22</sup> The coroner, realizing the jury's anxieties, had the body stripped and arranged to be viewed 'through the window of the mortuary'; even then, certain jury members were reluctant to view the body under any circumstances. Blizzard's mother identified her son and the prison surgeon said the prisoner had died from congestion of the lungs due to smallpox; he suggested the epidemic was 'in the air'. The epidemic was contained within the prison's infirmary. The jury, who had viewed the body from a distance and behind glass, 'unhesitatingly returned a verdict in accordance with

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<sup>20</sup> Parliamentary Debate, 3<sup>rd</sup> Series 222 col. 1050, 2 March 1875.

<sup>21</sup> *The Lancet*, 2, 10 July 1875, p. 64.

<sup>22</sup> *The Times*, 30 December 1876, p. 6: 'Inquest Yesterday'.

the medical testimony'. For the jury at this inquest, therefore, medical expertise on its own was regarded as sufficient evidence on which they could reach a verdict; implicit trust was placed in the expertise of the surgeon, even though the surgeon was himself employed by the prison at which the death had occurred.

For Mr Donaldson, a Middlesex deputy coroner, the jury's fears of the hazards of the view led him not to hold one. At an inquest at Poplar in April 1877 into the death of Florence Pasco, aged 14, whom it was supposed had died of smallpox, the jury refused to view the body. This does not appear to have caused any problems for Donaldson or the authorities, another example of non-application of the law by a coroner without consequences. Dr Talbot performed a post-mortem examination and found the cause of death to be 'malignant smallpox', but he also informed the court that Florence had severe bruising about the lower part of her body, 'showing that violence had been used and the capital offence committed', and suggesting Florence had probably been raped and possibly murdered.<sup>23</sup> There was a great hurry to get the infected body interred and the jury returned a verdict of 'Death by Smallpox'. The jury disregarded the evidence of the medical witness with regard to violence but accepted the evidence with regard to smallpox; they only paid credence to one part of the medical witness's evidence. Whether the jury would have returned a different verdict had they observed the reported injuries for themselves is impossible to say. Had Donaldson held a view, it would almost certainly have been behind glass, which may have been sufficient to show evidence of smallpox; the reported injuries, however, may not have been seen, particularly since juries rarely saw the whole body at the view, and the corpse usually remained clothed. It is possible, however, that in the inquest on Pasco the jury's fears of disease superseded the desire for justice.

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<sup>23</sup> *The Times*, 20 April 1877, p. 12: 'Inquests – Yesterday afternoon, Mr Donaldson'.

The inquests on Blizzard and Pasco illustrate one of the main objections to the view, particularly on the part of jurors who were understandably concerned about the risk of catching infectious diseases from corpses.<sup>24</sup> As *The Lancet* commented in 1889: ‘The question as to how far a corpse can be considered infectious is one where very considerable difference of opinion exists’.<sup>25</sup> In order to circumvent what Burney terms a ‘sanitarian’s nightmare’, Hardwicke kept the jury at some distance from the corpse, and Donaldson kept jurors away from it completely. Such practices, much like those in the cases of Bravo and Lyell, rendered the view an essentially pointless exercise. This dilemma of involving the public in the course of coronial justice, while also protecting it from the attendant dangers of proximity to a corpse was not easy to resolve; as Burney has written, the ‘dangers attributed to a promiscuous trafficking between the dead and the untrained public shifted easily from those affecting public sensibility to those affecting public health’.<sup>26</sup> The conflicting demands were apparent in the comments of William Wynn Westcott, coroner for North East London from 1894 to 1906, on the view at his inquests. He observed that it was ‘a very rare event in North East London for a juror to object to the view of the body’, and his experience was that jurors often found the view of greater interest than verbal evidence.<sup>27</sup> Nevertheless, Westcott forbade any view in cases of death by infectious diseases such as smallpox, conceding that in doing so he was breaching the statute law. However, he claimed that there had been no case or instance where this action caused any problems for himself or his inquest.

Westcott’s comment that jurors found viewing the visible, physical corpse to be of particular interest highlights the role of the view in providing direct evidence to the jury. Over the course of the nineteenth century, the body was becoming an object of science, particularly

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<sup>24</sup> See, Ian A. Burney, ‘Viewing Bodies: Medicine, Public Order and English Inquest Practice’, *Configurations*, 1 (1994), pp. 33–46; *Bodies of Evidence*, p. 94.

<sup>25</sup> *The Lancet*, 1, 15 June 1889, p. 1206: ‘The Infectivity of a Corpse’.

<sup>26</sup> Burney, *Bodies of Evidence*, p. 94.

<sup>27</sup> William Wynn Westcott, ‘Twelve Years’ Experience of a London Coroner’, *Transactions of the Medico-Legal Society*, 15 (1906–7), p. 22.

as forensics evolved into a knowledge and practice that was able to ascertain with increasing confidence and accuracy (at least, in the minds of some medical men and medico-legal experts) the causes of death. However, as discussed earlier in this thesis, forensics, for all its claims to potentially precise knowledge and its various advances over the nineteenth century, was in reality rarely able to provide indubitable, scientific certainty; the view afforded to jurors and coroners, even if they invariably lacked medical training, the opportunity to apply such informal medical knowledge as they possessed and to weigh the evidence of expert witnesses against the evidence before their eyes. That the view represented potentially crucial evidence for the jury was reflected in the Coroners Act of 1844 which stated that ‘the body need not actually be stripped for the view, although in some cases it may be necessary to look for signs of violence’.<sup>28</sup> As Carol Loar has argued in relation to sixteenth- and seventeenth-century inquests, jurors took the view seriously as an opportunity to investigate the causes of death—and not only jurors, since the body was often left open to view by the general public in the hope that additional evidence may be gleaned.<sup>29</sup> The view came to signify, therefore, the widening gap between amateur and professional understanding of the evidence. Jurors had for centuries brought to the inquest not only common sense but also their own stores of common medical knowledge, which, during centuries when few had access to qualified doctors, and when medicine was the not undeserving recipient of scorn and ridicule, was often impressive by contemporary standards.<sup>30</sup> However, the professionalization of medicine in the nineteenth century set in motion the widening gap between the knowledge and practices of the medical

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<sup>28</sup> 7 & 8 Vict. c. 92 [9 August 1844]: The Coroners Act.

<sup>29</sup> Carol Loar, ‘Medical Knowledge and the Early Modern English Coroner’s Inquest’, *Social History of Medicine*, 23 (2010), pp. 475–91.

<sup>30</sup> *Ibid.*, p. 482. See also N. D. Jewson, ‘The Disappearance of the Sick-Man from Medical Cosmology, 1770–1870’, *International Journal of Epidemiology*, 38 (2009), pp. 622–33; originally published in *Sociology*, 10 (1976), pp. 225–44. Jewson argues that prior to the late eighteenth century, the medical cosmology (i.e. the views on the body, health and illness) of laypeople and medical practitioners, and the knowledge of doctors and patients, was largely the same; however, with the rise of modern medicine, with its increasing use of technology and specialized language, a gap was created between medical professionals and their patients.

professional on the one hand, and the amateur layperson on the other. Whereas the view had once seemed like an essential procedure that aided the thorough investigation of a death, over the nineteenth century it increasingly came to seem no more than an empty, pointless ritual of little value to the important purpose of ascertaining a cause of death, especially as forensic specialists became ever more confident at discovering the hidden causes of death that resided far beyond both the eyes and knowledge of the layperson.

The question arises, therefore, as to what extent the purpose and necessity of the view in the late nineteenth century was discussed by coroners and their professional body, the Coroners' Society. In 1878 the Society discussed a proposal within a parliamentary bill to abolish the need to have a view; the bill was not passed into law.<sup>31</sup> Nevertheless, Charles St Clare Bedford, the coroner for Westminster, moved that the view should not be compulsory; the committee of the Society rejected his suggestion.<sup>32</sup> In the following year coroners from Northumberland and Durham also recommended abolition of the view, but again, following discussion, their proposal was thrown out.<sup>33</sup> The question of the view was returned to with particular intensity in the 1890s. At the Society's 1893 Annual General Meeting the subject came under discussion again 'and it was resolved that in the opinion of the meeting the view should not be done away with'; rather, it was recommended that legislation should make the view permissive only, suggesting a tolerant and unprescribed attitude to the process.<sup>34</sup> A 305-page report on the subject of the 'view of the body' was produced by a special committee at the Annual General Meeting of 1894,<sup>35</sup> and the matter was considered once more at the Annual General Meeting of 1895; 'a notion to do away with the view was proposed' but, after a long discussion, the suggestion was withdrawn.<sup>36</sup>

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<sup>31</sup> Coroners' Society Minute Books, 2, 15 November 1878, p. 23 (clause 6).

<sup>32</sup> *Ibid.*, 2, 1878, p. 28.

<sup>33</sup> *Ibid.*, 2, 22 March 1879.

<sup>34</sup> *Ibid.*, 2, 1893, pp. 437–8

<sup>35</sup> *Ibid.*, 2, 1894.

<sup>36</sup> *Ibid.*, 2, 1895.

For the most part coroners were resistant to the repeated proposals to abolish the view. In 1894 the secretary of the Coroners' Society, Mr Braxton Hicks, coroner for the South West District of London and Kingston Division of Surrey, sent a message of 'urgent interest' to the Society's members referring to observations of a resolution discussed at the previous Annual General Meeting. As a result of that resolution a sub-committee of ten Society members had been formed to consider the abolition of the compulsory 'view of the body'. The sub-committee unanimously decided that:

No alteration in the existing law on the subject is required or is desirable, and, further, this Council is of opinion that an attempt to do away by law with the 'view of the body' by the Coroner and Jury, would be prejudicial to public interest and policy, and detrimental to public confidence in the Court.<sup>37</sup>

As Hicks made clear three years later, although there was a theoretical case for abolishing the view, he warned his fellow coroners that 'it would be unwise for Coroners, as a body, to do away with the distinctive mark of their jurisdiction... it was the coroner's control over the physical body, that lay at the core of coroners' authority'.<sup>38</sup> For many coroners, the presence of the body at the inquest was central to the inquiry into death. Although coroners' officers invariably made the initial decision about whether an inquest should be held, it was the coroner who held complete authority over the body: ultimately, he was responsible for whether an inquest would be held, he was the person with the power to authorize a post-mortem examination and give permission for burial, and without the body under his jurisdiction this authority and these powers were threatened. The view was part of a longstanding tradition that helped keep a balance between lay public, medical science and the coroner, within the archaic custom and legal formality of the inquest.

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<sup>37</sup> Coroners' Society Minute Books, 2, November 1894: 'Proposed Alteration in the Law as to the View of the Body', pp. 305–6.

<sup>38</sup> Annual Report of the Coroners' Society, 1897–8, p. 45.

However, although coroners resisted arguments to abolish the view, it was clear that many had doubts whether it was always an essential part of the inquest. The president of the Coroners' Society, Dr George Danford Thomas, the legally and medically trained coroner for North Middlesex, declared that he

had not half a dozen cases where it was absolutely necessary to view. The idea of an Inquest generally, and the fear of the Coroner, should be safeguarded as far as we can, but people are becoming alive to the idea of abolishing the view.<sup>39</sup>

Some coroners believed that the view, given the condition of the corpse and the lack of medical or forensic understanding on the part of jurors, might mislead a jury. As Danford Thomas complained, by way of explaining why a view was rarely necessary, 'you view a body usually in a coffin and covered up with wadding—and if it is a body out of a river, it is probably very decomposed and stinking; and the view is of no use'.<sup>40</sup> A similar point was made in the Annual Report of the Society of 1897–8: 'Post-mortem staining has been mistaken for bruises; the opening of the head had been mistaken for fractures of the skull', both examples of the type of abnormalities that had to be explained with difficulty to, and understood by, the lay jury.<sup>41</sup>

Perhaps more significant than the doubts of coroners themselves was the increasing scrutiny of the legal and medical necessity of the view on the part of parliament and medical bodies. Concerns were raised in the pages of the *British Medical Journal* over the view: it was noted that jurors often complained about having to perform this 'vile duty', and, while it was acknowledged that the 'crowners quest' comprised traditions supposedly stretching back a thousand years, some commentators thought it was time for this unique institution to adapt itself to more modern ways, arguing that the viewing of the corpse, in particular, 'is a tradition long out of date and unnecessary'.<sup>42</sup> For many medical experts, forensics rendered unnecessary

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<sup>39</sup> Coroners' Society Minute Books, 2, July 1894, pp. 442–3.

<sup>40</sup> *Ibid.*, 2, July 1894, pp. 442–3.

<sup>41</sup> Annual Report of the Coroners' Society, 1897–8, p. 48.

<sup>42</sup> *British Medical Journal*, 2, 1 October 1898, pp. 995–6: 'The abolition of the view at inquests.'

the requirement for jurors, who lacked any medical expertise, to see the body as evidence. Danford Thomas acknowledged that the view had once been essential when ‘medical witnesses and post-mortem examinations were unheard of [since] the scrutiny and examination of the dead body by the jurors was the only way by which they could ascertain the after death appearance’.<sup>43</sup> But in an age of advanced forensic medicine, it was implied, it was at best useless to ask jurors to consider the body as evidence, and at worst detrimental to the inquest. In an 1897 letter to the Home Secretary, the Member of Parliament for Nottingham wondered whether ‘some alternative method’ to replace the ‘viewing of dead bodies’ might be found. Charles Murdoch, on behalf of the Home Secretary, commented:

jurymen at Coroners’ inquests often take grave objection to the statutory task, always unpleasant and frequently repulsive or dangerous, of viewing the body... and will he consider the subject in order to devise some alternative method... and abolishing such viewing in ordinary and well attested cases where medical evidence was conclusive.<sup>44</sup>

In so far as the coronial inquest was being medicalized, coroners themselves questioned the necessity of the view. But it is also clear that a majority of coroners were wary of advocating its abolition, not least because they feared such a step would harm their authority, and in doing so the profession of the coroner. Professionalization here came into conflict with medicalization. Although the view was a mandatory ritual and ‘an inviolate feature in inquest procedure’,<sup>45</sup> over the course of the nineteenth century it was increasingly regarded as ‘an intrusive outrage, a sign of residual barbarity out of place in the modern world... [and] a source of profane interference with the efficient and purposeful production of scientific knowledge’.<sup>46</sup> The procedure had certainly become unpopular and problematic with many jurors who were

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<sup>43</sup> *Ibid.*, p. 996.

<sup>44</sup> Coroners’ Society Minute Books, 2, 3 July 1897, Letter from Whitehall, pp. 434–6.

<sup>45</sup> Burney, *Bodies of Evidence*, p. 92.

<sup>46</sup> Burney, ‘Viewing Bodies’, pp. 33–46, at p. 34. Burney states that he uses the term ‘profane’ in the sense both of ‘not participating in or admitted to some esoteric knowledge’ and of things regarded as desecrating and ‘ritually unclean or polluted’ (*Oxford English Dictionary*), since much of the hostility directed at the inquest involved charges of both desecration and ignorance.



obliged to view the remains. Some coroners, however, were reluctant to see an end to the practice for they considered it an essential part of their maintenance of jurisdiction over the body. Coronial efforts to retain the view were successful, albeit only in the short term. It was not until the Coroners (Amendment) Act of 1926 that the necessity for the jury to view the body was removed, although this legislation allowed for a jury view should a majority of its members request it. The requirement for the coroner to view the body was removed with the Coroners Act of 1980.

### **3. Identification**

As discussed in the preceding section, debates around the view were also debates about the appropriate authority and jurisdiction of the coroner and his inquest: the physical presence of the body before the coroner and the jury—and what amounted to the inquest’s possession of the body—signified the authority of the coroner to investigate a death; for many, it also symbolized the open, popular nature of the inquest. However, the debate was not primarily about the legal symbolism of the corpse; more important were considerations about the practical and forensic value of the view. The debates around the view called into question, therefore, whether a jury was best placed to understand the evidential value of the body. For centuries, the view had the practical roles of establishing that a death had occurred and providing crucial evidence for the jury of who had died and how. Identification of the body illustrates some of the medicalizing and professionalizing tendencies that impacted upon the coronial inquest over the nineteenth century.

Identification was the process of establishing the identity of the body or remains; the ideal outcome of identification was to put a precise name to the deceased. Over the course of the nineteenth century, identification almost certainly became a more complex and challenging medical and legal task than it had been in preceding centuries. In 1906, John Troutbeck, the

coroner for South West London, commented: ‘I imagine that having a jury who were neighbours was a satisfactory means of checking identification in the old days, but it is not so now.’<sup>47</sup> Troutbeck’s reflection points to an awareness of social changes that had occurred over the previous decades: industrialization and urbanization, with their accompanying demographic shifts, mobility of people, and transformation of communities, had created a society—especially in large urban areas such as London—in which familiarity with fellow members of the local community had lessened. Fraser Joyce, in his study of nineteenth-century identification of the body, challenges the simplistic notion of a ‘society of strangers’ emerging in the era of industrialization, but plausibly argues that the transient population (which had long existed as a social fact) increased not only in scale but also in the ease by which it could be joined, either willingly or unwillingly, by individual members of society.<sup>48</sup> Where once identification is likely to have involved members of a community identifying by sight the body of a fellow community member known to them, the social changes of the nineteenth century made such a relatively straightforward task less frequent. The view—taken as the visible, physical presence of the corpse before the open, accessible coronial inquest—diminished in practical value as living jury members and the dead bodies before them became less familiar to one another.

Even when bodily remains were intact and in good condition, identification frequently came to require, therefore, more than the simple viewing of a body. It involved a step-by-step process of acquiring information which did not always lead to the complete identification of the subject of the inquest. Sometimes, in cases where remains were few, all that could be ascertained was whether the deceased was a human or not; in other cases, only limited

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<sup>47</sup> John Troutbeck, ‘Modes of Ascertaining the Fact and Cause of Death’, *Transactions of the Medico-Legal Society*, 3 (1905–6), pp. 86–117, at p. 101, cited in Joyce, ‘Naming the Dead’, p. 59.

<sup>48</sup> Joyce, ‘Naming the Dead’, pp. 62–4. The notion of the ‘society of strangers’ was proposed by Michael Ignatieff, ‘State, Civil Society and Total Institutions: A Critique of Recent Social Histories of Punishment’, *Crime and Justice*, 3 (1981), pp. 153–92. For a discussion of this, as well as critiques of Ignatieff’s argument, see Joyce, ‘Naming the Dead’, pp. 59–64.

information, such as the sex or approximate age of the deceased, could be established. Various factors complicated the task of identification, above all the nature and state of the remains. The coroner's inquest had, however, a range of approaches that could assist in identification. Some were non-medical: for example, displaying a body, either privately or publicly; displaying clothing or other items linked to the body; the summoning and questioning of non-medical witnesses. Other approaches involved the use of medical and forensic techniques, and the evidence supplied by medical experts.

By far the most common method of identifying a dead body was to acquire the information from someone who knew the deceased. Until the advent of what Joyce terms the 'paper body' (to be discussed further below), a visible body was required for such information to be gained. The deceased had, therefore, to be available to be viewed—a compelling reason for the view as representing the openness and accessibility of the coronial process. It was not unusual for the body, or the head of the victim, to be preserved and put on public display for the purposes of identification.<sup>49</sup> The bodies were usually laid out in parish workhouses and then the public would be invited to view; this could attract a vast crowd, many of whom attended through a predilection for the macabre. Some displays attracted hundreds of spectators and even became a source of entertainment.<sup>50</sup> The lurid nature of the public viewing of corpses led to the practice being gradually discontinued, although it was still useful in tragedies where multiple lives were lost, such as *The Princess Alice* Thames pleasure boat disaster in 1878. But the free-for-all approach was replaced by the vetting of the crowd by troops and police in order to admit so far as possible only those who wanted to view for legitimate reasons. A few people were admitted at a time and the constables monitored the crowd and kept control. Anyone

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<sup>49</sup> Preservation of the body so that it could be viewed usually required medical techniques—some more sophisticated than others, and including refrigeration and storing bodies in wine or spirits; see Joyce, 'Naming the Dead', pp. 119-20.

<sup>50</sup> Judith Flanders, *The Invention of Murder: How the Victorians Revelled in Death and Detection and Created Modern Crime* (London: Harper, 2011), p. 143.

claiming to know the identity of the victim was asked to compare ante-mortem and post-mortem data.<sup>51</sup>

Another example of the coroner's use of public display of the corpse was the 1842 case of Jane Jones (Good).<sup>52</sup> Legally qualified coroner William Carter presided over the inquest. The mutilated remains of a female were found in stables in Roehampton. For the purposes of identification, it was decided that the remains should be kept *in situ* at the stables and that the public be invited to view them. Initially only 'the principal inhabitants of the neighbourhood' were invited to view the body, but soon it was made open to all in the effort to secure identification of the deceased. The unscrupulous owner of the barn in which the corpse was displayed actually began charging an entrance fee, cashing in on the macabre interests of the public; in the view of *The Times*, it was a 'disgusting exhibition'. Nevertheless, the display of the corpse was successful: the body was identified, on the basis of both the clothing in which it was attired and a distinguishing mole on the neck.<sup>53</sup> Less successful was the case known as 'The Waterloo Bridge Mystery'. In October 1857 a mutilated body was discovered in the Thames by a couple of lightermen.<sup>54</sup> A carpetbag on one of the abutments of Waterloo Bridge contained, in addition to various personal items such as clothing, human bones and flesh; 'the body had been dissected into twenty-three portions, [and] the portions weighed 18 lbs in total'.<sup>55</sup> To assist with identification, it was decided to put the remains and items on view prior

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<sup>51</sup> *The Times*, 4 Sept. 1878, p. 7. 'Fearful Collision On The River'. *The Times*, 5 Sept. 1878, p. 9. 'The wreck of the Princess Alice'. *The Times*, 6 Sept. 1878, p. 7. 'The Collision In The Thames'. *The Times*, 5 Sept, 1878, p. 9. 'The Collision On The Thames'.

<sup>52</sup> Supplement to *The Times*, 8 April 1842, p. 13. See also the Old Bailey trial of Daniel Good, who was found guilty of Jane Jones' murder: *Old Bailey Proceedings Online*, May 1842, trial of Daniel Good (t18420509-1705) [accessed: 17 July 2018].

<sup>53</sup> Fraser Joyce, 'Very Public Inquiries: Medico-Legal Investigations into the Identities of the Unknown Dead, 1800–1930', podcast, Oxford Brookes University, 18 February 2014; available at: <http://www.pulse-project.org/node/615>.

<sup>54</sup> *The Times*, 10 October 1857, p. 9: 'The Waterloo Bridge Mystery'.

<sup>55</sup> *Medical Gazette*, 31 October 1857, p. 445, cited in Charles Meymott Tidy, *Legal Medicine* (New York: William Wood, 1882), 1, p. 231.

to the opening of the inquest, which was to be presided over by Charles St Clare Bedford, the Westminster coroner. *The Times*, on 12 October, reported that hundreds of people flocked to ‘gaze upon the spot where the remains were found and crowds remained in the vicinity of Bow Street’.<sup>56</sup> No information was forthcoming that could help with the identification of the deceased, and it is likely that many of those viewing the body were drawn more by the spectacle than by any realistic prospect of being able to assist with the investigation.

The gradual shift away from direct viewing by the public of the actual body did not stem only from its decreasing value in an age when familiarity with fellow members of one’s community was less likely, nor from changing sensibilities about the display of—and public proximity to—death. It also resulted from the growing reliance on the ‘paper body’ to aid investigations. According to Joyce:

Presenting the body to the public in order to locate those able to identify it involved the construction and circulation of a literary and pictorial representation of the original corpse, [or] the ‘paper body’. More than just a collection of identifying characteristics and signs, this synopsis of the salient points created a recognisable reconstruction of the deceased individual. In the absence of the body itself, these representations stood as its substitute.<sup>57</sup>

The substitution of the physical body by the ‘paper body’ depended on bureaucratic developments that enabled the efficient recording and storage of information, technological developments such as photography (from the 1870s<sup>58</sup>), and cultural developments such as the growth of a mass, popular newspaper culture whereby details of cases could be circulated to the wider public.

The coronial inquest was particularly important in relation to the circulation of information. As a legal forum in which the presence of the press was regarded as essential to

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<sup>56</sup> *The Times*, 12 October 1857, p. 7.

<sup>57</sup> Joyce, ‘Naming the Dead’, p. 120.

<sup>58</sup> The most significant legal development in relation to photography was the 1871 Prevention of Crimes Act which set down the routine photographing of anyone arrested.

its openness and transparency, the inquest was ideally positioned as a means of publicizing information that would assist with identification of a corpse.<sup>59</sup> Investigators, including coroners, often put advertisements in newspapers appealing for information about an unidentified body. In 1842, the *Provincial Medical and Surgical Journal* recommended that ‘Advertisements, drawn up under the direction of the coroners, should be sent to the newspapers’ to facilitate identification of the dead.<sup>60</sup> In an 1869 inquest presided over by Charles St Clare Bedford, the deceased was an unknown woman found in the Thames and wearing expensive clothes and jewellery; Bedford placed advertisements in the newspapers with descriptions of the items in the hope that someone would recognize the deceased.<sup>61</sup> As well as advertisements, coroners relied on press reports to assist them. The press had a role in helping to identify victims by publishing descriptions and keeping the case current in the public’s mind. Many coroners nurtured good relationships with the press, an association that often proved to be mutually beneficial.<sup>62</sup>

Given the rudimentary nature of much bureaucracy during the nineteenth century, the ‘paper body’ never fully replaced the physical body. Advances such as fingerprinting—which was eventually to become a key element of the documentation of an increasing number of individuals—and the systematic and routine data from medical, dental and social security fall outside the period covered by this thesis. Most examples of the ‘paper body’ being used as part of an investigation were on an ad hoc basis, and often depended on the carefully established

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<sup>59</sup> As Burney has argued, the presence of the press was seen as a vital feature of the inquest by those who emphasized its ‘popular’ character, and who highlighted the role of the inquest as a potential guardian of the people against abuses of the authorities or other powerful groups; see Burney, *Bodies of Evidence*, pp. 29–31.

<sup>60</sup> *Provincial Medical and Surgical Journal*, 5 March 1842, p. 61, cited in Joyce, ‘Naming the Dead’, pp. 120–1.

<sup>61</sup> *The Times*, 23 June 1869, p. 9.

<sup>62</sup> See Joyce, ‘Naming the Dead’, pp. 129–38 for a discussion, with examples, of coroners’ relationship with the press and use of newspaper reports. As Joyce discusses, the efficacy of this method was variable: as well as examples of successful outcomes arising from publicity, on occasion the attention generated by a newspaper report could create additional problems for investigators as thrill-seekers and armchair detectives became interested in a case.

relations between coroners, the press and other investigators (such as the police). Nevertheless, developments in the written and pictorial recording of bodies provided further indication that the traditional coronial practice of holding an inquest in view of the body was no longer an essential feature of the investigation.

#### **4. Forensics and the identification of the body**

Despite the growing use of the ‘paper body’ to aid identification, the value of the physical did not diminish over the course of the nineteenth century; indeed, the physical remains became more important to investigation as a result of advances in forensics. Several techniques were advanced over the century, with varying degrees of success. Here, I shall focus by way of illustration on two areas of forensic medicine: bones and skeletal remains; and identifying marks on the body. These will be followed by a detailed account of a case in which both types of evidence were presented at the inquest presided over by William Payne. In addition, I shall consider one case of facial reconstruction where the coroner worked with experts in an unusual technique to aid in identification.

##### *Evidence from bones and the skeletal structure*

From the moment skeletal remains were found it had to be established whether the bones were human or not. Depending on the parts of the skeleton discovered it may have been possible to identify the bones presented for analysis. The human skull was straightforward to identify but other human bones may have been difficult to distinguish from animal bones; it was even harder if pieces or fragments of bone were found. As late as 1910, the American clinical pathologist Rutherford Gradwohl stated that ‘bone structure is basically the same throughout

all mammalian species; size and form alone lend distinction'.<sup>63</sup> It could not be assumed, for example, that bone was human simply because it was discovered in a churchyard; the place of the find could not, therefore, be relied on as evidence for identification. In the case of Jane Jones (see above, p. 259), in which charred bones and a mutilated corpse were discovered, two surgeons testified that the bones were those of a human, but there was no test at the time that could definitively determine whether burnt bones were human.<sup>64</sup> Findings based on the procedure of 'look, deduce and report', involving visible confirmation and agreement on the shape and structure of the material, was the practice.

Over the course of the nineteenth century advances were made in the forensic understanding of bones. Dr John Thomas Quekett,<sup>65</sup> microscopist and pathologist, suggested that when bone was examined under a microscope, the size of the bone cell revealed important information. Quekett ascertained,

that the cells of bone bore a certain relation, in point of size, to that of blood-discs of an animal; thus, for instance, the blood-discs were found to be largest in reptiles, smallest in birds and mammalia, while in fishes they were of an intermediate size... the bone cells followed the same law... admittedly, we say, all these facts, nevertheless, in the present state of our knowledge, they are to be regarded as generalizations, so broad and yet so narrow, as to render them unsafe to be applied to medico-legal investigations.<sup>66</sup>

Quekett was examining bone cells and blood cells, which are closely related, since blood cells are made in bone: erythrocytes are formed and matured in the red marrow of the epiphyses of long bones and most white blood cells are made in the yellow marrow of the diaphysis of long bones or in flat bones. Quekett was aware that the erythrocytes of mammals are anucleate and

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<sup>63</sup> R. B. H. Gradwohl, *Gradwohl's Legal Medicine*, 3<sup>rd</sup> edn by F. E. Camps (Bristol: John Wright and Sons, 1976), p. 109.

<sup>64</sup> Rudolf Kraus, an Austrian pathologist, devised the precipitin test in 1897, a serological test that involves the use of specific antibodies to detect the presence of specific antigens, thereby identifying an animal species.

<sup>65</sup> In commemoration of Quekett (1815–61), coroner Dr Edwin Lankester established the Quekett Microscopical Club in 1865.

<sup>66</sup> *Medical Gazette*, 18 March, 1846, p. 692. 'On the intimate structure of bone'.



that the size of blood cells would match the size of the bone cells of different animals. However, his research discovered some anomalies, and hence it was only possible to make generalizations which in his view were insufficient to be considered safe when applied to medico-legal investigations.

Methods to extract information from the skeletal system became defined and established during the period. One theory on estimating the stature of bodies using the skeleton was an idea by the eighteenth-century French scientist, Jean-Joseph Sue (1710–92). Sue suggested that from the age of 20 to 25 years the upper border of the symphysis pubis was the exact centre point of the body and continued to be until curvature of the spine develops, giving the victim's stature. This proved an unreliable theory and was of no assistance in identifying victims, but it provides evidence that the concept of using bones as a form of identification was not new to the nineteenth century. By the mid nineteenth century, William Guy, the author of *Principles of Forensic Medicine* (1844), and Mathieu Orfila had designed more reliable calculations to measure body stature; other doctors and medico-legal experts, such as Alfred Swaine Taylor, were also striving to devise a more accurate formula for identifying human bodies. The formulas of Guy and Taylor developed into procedures to identify stature. Guy suggested that if a whole skeleton is present it should be laid out in a correct order, adding an inch to an inch and a half for soft tissue, and then measured thus, 'when the arms are stretched out horizontally, the line from the tip of the middle finger to the other is equal to the height'. Taylor suggested doubling the length of the arm, adding 12 inches for the clavicles and an inch and a half for the sternum to calculate the stature of the deceased. As these theories and procedures were refined, they gradually became adopted as the basis for medical evidence at inquests.<sup>67</sup>

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<sup>67</sup> William A. Guy, David Ferrier and William R. Smith. *Victorian C.S.I.* (Gloucestershire: The History Press, First published 1844: This edition 2009), p. 38.

Taylor himself presented a report on the skeletal evidence to the inquest relating to the Waterloo Bridge mystery (see above, pp. 259-60).<sup>68</sup> He confirmed the body parts numbered 23 and weighed 18lbs in total, about one-eighth of the average weight of an adult body; that the parts fitted together accurately; that the bones had flesh adhering to them and the limbs had been sawn off; and that the head, seven cervical and seven upper dorsal vertebrae, the hands, the feet and some portions of the left side of the chest were missing. Taylor deduced the remains were of a male adult around five feet nine inches in height. The parts presented no physiological or pathological peculiarities which could be used to identify any particular individual. Taylor did observe that the portions of scalp were thickly covered with black hair and he reasoned the deceased was probably a dark hairy man. The report stated that Taylor could find no evidence of disease from the remains but did go on to describe ‘a stab in the space between the 3<sup>rd</sup> and 4<sup>th</sup> ribs on the left side of the chest’. The stab wound, in his opinion, was in a position to perforate the heart and cause death but he could not rule out that death had been caused by a skull fracture or brain damage or trauma to the major abdominal vessels or viscera which were missing and so could not be examined. Taylor confirmed that the remains were definitely human and were not from an anatomy school; he came to this conclusion because ‘any parts of the body useful to an anatomist had been roughly severed and destroyed by a person or persons quite ignorant of their anatomical relations’. He also observed that the dissection had been performed before *rigor mortis* had ceased, that is, within 18 to 24 hours after death, and that following dissection the parts had been partially boiled and placed in brine. The dissection had probably taken place three to four weeks prior to the discovery of the remains.

Determining the age of a child or younger person was easier than that of an adult. The epiphyseal cartilage which forms between the epiphysis and diaphysis of the long bones, and

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<sup>68</sup> *The Times*, 26 October 1857, p. 11. The coroner, Mr Bedford, paid ‘a high compliment to Dr Taylor’s report’.

which enables bone growth, ossifies and so decreases as the infant grows into adulthood; it is usually a solid form by the age of 18 years and would definitely be absent by the age of 25 years. The acromion process and body of the scapula and the sternal epiphysis and shaft of the clavicle have united by the age of 25 years.<sup>69</sup> These facts were well known and documented in this period. In an inquest before Edwin Lankester in 1863 on some remains found in the grounds of a nursery in Islington, the police surgeon who gave evidence said that he had made a ‘minute examination’ of the remains and found they were those of a child aged from around eight to ten years; he reached his conclusions from the development of the skull and the stage of ossification of the long bones. The second teeth were developed but some of them had not ‘come down’; the lower jaw was still being searched for. There were no fractures of any bones except one rib that, in the surgeon’s opinion, had been broken by a spade while digging up the remains. He could not determine how the child had met her death; he found no blood on the items of clothing, but everything had been subjected to the action of lime.<sup>70</sup>

There was more evidence to be extracted and investigated from the bones of a skeleton if enough bone tissue was present. For example, the teeth form part of the skeletal system and, although forensic odontology was not systematically applied before 1898, evidence from teeth was being used within the process of identification from the 1840s.<sup>71</sup> In an 1864 inquest, for example, a dentist was able to identify skeletal remains on the basis of a missing molar tooth which the missing person whose remains they were supposed to be had had removed shortly

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<sup>69</sup> Guy et al., *Victorian C.S.I.*, p. 46.

<sup>70</sup> *The Times*, 11 July 1863, p. 14. The case, involving the murder of a child named Elizabeth Hunter, was also reported in *The Times* on 8 July, p. 5; 9 July, p. 10; 16 July, p. 12; 25 July, p. 10; and 8 August, p. 9.

<sup>71</sup> *Gradwohl’s Legal Medicine*, p. 136, notes that ‘there are historical examples of the value of dental evidence as an aid to identification’. Forensic odontology was not established as a truly reliable source in Britain until almost the mid-twentieth century when the use of dental records became possible. The teeth and supporting structures are almost indestructible and are peculiar to each individual. Dr Oscar Amoëdo, who has been described as the father of forensic odontology, published the first treatise on the subject in Paris in 1898: *L’Art Dentaire en Médecine Légale*.

before her disappearance.<sup>72</sup> Again, it was easier to calculate the age of a younger person on the basis of teeth as deciduous teeth are replaced by permanent teeth at an approximate age. The permanent teeth are not complete until the appearance of the wisdom teeth; this is usually between the ages of 18 and 25 years, although some never appear. It nevertheless became understood that the age of children and young adults could be estimated through developments of the teeth.<sup>73</sup>

Gauging the stature of a body for identification purposes depended on how much bone was recovered and if it was recognizable as part of a human skeleton. Thought had been given to this in the eighteenth and early nineteenth centuries, but it was Drs Guy and Taylor who made the biggest steps towards accurate medical evidence. Evidence comprised the facts and details that medical witnesses accumulated from visual inspection, and in this case, measurements. The technique was to look, deduce and report their findings from visual evidence but the bones of the skeletal system held other clues.

As well as the stature of the victim, height, build and congenital deformities, the skeleton could, if the right parts were discovered, reveal the sex of the deceased. Defining the sex of a skeleton was determined by characteristics of the osseous system, mainly the pelvis. The shape of the pelvis and overall size of the skeleton would indicate whether the body was male or female; women have a broader pelvis than men, whereas men tend to have heavier bones. In 1844 Guy stated, on the basis of observations on the rest of the skeleton, that:

In addition to the pelvic differences, the skull of the female is smaller, more ovoid, more bulging at the sides, and longer behind the foramen magnum; the face more oval, the frontal sinuses less strongly marked, the nostrils more delicate, the jaws and teeth smaller, the chin less prominent. The chest of the female is deeper in its

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<sup>72</sup> *Lincoln, Rutland, and Stamford Mercury*, 26 February 1864, p. 4. In this case, however, subsequent evidence came to light (the existence of another skeleton in the same burial place, indicating that it may have been a gypsy burial site) that cast doubt on the original evidence and led to the criminal trial that had stemmed from it being abandoned. See *The Times*, 7 March 1864, p. 11: 'The Murder Fourteen Years Ago'.

<sup>73</sup> Guy et al, *Victorian C.S.I.*, pp. 42-44.

anterio-posterior as compared with its transverse diameter than in the male; the sternum shorter and more convex; the ensiform cartilage thinner, and ossified later in life; the ribs smaller and the cartilages longer. The vertebral column is longer and the bodies of the vertebrae are deeper in the female. The neck of the femur in the male forms an angle with the shaft of from 125deg to 130deg, where in the female the angle more nearly approaches a right angle.<sup>74</sup>

A trained eye may note the differences; some of them are subtle. The most distinctive and reliable differences occur in the pelvises of the sexes if past puberty; the pelvis is more useful if entire with its sexual characteristics well defined.

### *Identifying marks*

Bodies would be examined for signs of identification marks, for example, cicatrices or tattoos. In 1844 Guy set out rules for examining scars:<sup>75</sup> he suggested that the scar, or cicatrix, is placed 'in the bright light of the sun'. If the scar is small a microscope may be needed. The scar must be carefully measured 'with compasses' and all exact measurements taken. Precise records must be documented including 'the form and colour' of the scar. Note must be taken as to whether the scar is level with the surrounding tissue and whether 'it moves with the skin or remains fixed' to help determine its origins.

Taylor suggested that a question often put to medical jurists was whether 'a cicatrix, when once formed, was ever removed, or so altered by time as to be no longer recognisable'.<sup>76</sup> He stated that scarring is permanent but recognized that scars undergo change as they age. In the early stages a scar would probably be redder than the skin surrounding it but as it ages it becomes white and shiny. Due to contraction of the skin a scar will always be smaller than the original injury as it shrinks during the healing process. Despite these changes, Taylor stated

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<sup>74</sup> William A. Guy, *Principles of Forensic Medicine* (London, 1844), p. 47.

<sup>75</sup> *Ibid.*, p. 24.

<sup>76</sup> Alfred Swaine Taylor, *A Manual of Medical Jurisprudence*, revised edn by John J. Reese (Philadelphia: Henry C. Lea, 1873), p. 337.

that a cicatrix cannot be dated, but it can still be an aid to helping a medical witness ‘to establish or disprove the identity of a person’, or probable identity.<sup>77</sup>

Honest mistakes could be made by relatives when identifying members of their family using marks or deformities both congenital and acquired. In February 1854 a case of mistaken identity had occurred when the body of an elderly man was found on the bank of the Dee.<sup>78</sup> The deceased had his left ear and the first finger of his left hand missing and Dr Kinloch, a medical witness, thought the mutilation was ‘of long standing’. From this description, two sisters came forward claiming the body was that of their father. On returning from his funeral with other members of the family and friends, the boat man of the ferry asked them who they were in mourning for; when they told him, he informed them that ‘he had only half an hour before ferried their father over the river alive and well’. On reaching home they found this to be true; they reported their genuine mistake immediately. The identity of the body that had been interred was never established because the body was not exhumed.

In 1873, the mutilated portions of a woman’s body were found in various places along the Thames. After extensive medical investigation, the remains were identified as those of a woman aged about 40, with scarring that indicated she had once suffered from smallpox. The inquest, held by Mr Carter, was adjourned so that police could attempt to identify the deceased. One man was adamant that the remains were those of his daughter; however, the scarring on the corpse ruled this out (and the man’s daughter was also later found alive). Although scarring in this case was not able to make a positive identification, it did rule out some claims as to the identity of the corpse.<sup>79</sup>

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<sup>77</sup> Taylor, *Manual of Medical Jurisprudence*, p. 337.

<sup>78</sup> Charles Meymott Tidy, *Legal Medicine* (New York: William Wood & Co. 1882), pp. 225-6, Illustrative Case 15.

<sup>79</sup> Tidy, *Legal Medicine*, 1, p. 232; *The Times*, 9 September 1873, p. 12.

Taylor referred to tattoos as coloured cicatrices; he stated that the colours are derived from ‘indigo, charcoal (gunpowder), China ink and vermilion’.<sup>80</sup> Taylor suggested that on some occasions ‘tattoos were confirmed to the identity of persons charged with a crime’. Tattoos are mainly indelible and few disappear completely. If there is a suggestion that the victim did have a tattoo that is now not visible, Guy suggested that ‘the colouring matter may be found in the nearest lymphatic glands’, which would be detected on post-mortem examination.<sup>81</sup> The process of tattooing and the substances used to stain the skin were studied in great depth in the nineteenth century.<sup>82</sup>

### *The Wainwright case, 1875*<sup>83</sup>

The body parts of an adult female which were found decomposed and dismembered in a cab which had driven to the Southwark side of London Bridge from the east end of London, on 11 September 1875, were identified by scar tissue received as a child. Once discovered the remains were retained in St Saviour’s dead-house under the jurisdiction of the coroner for the City and Southwark, William Payne.<sup>84</sup> Frederick George Larkin, a surgeon, was called to Stone’s End police station, Southwark, to which place the parcels had been taken. Larkin noted that the body was badly decomposed and a preparation of lime had been used to prevent identification. It was his opinion that the body had been chopped up by a person with no knowledge of

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<sup>80</sup> Taylor, *Manual of Medical Jurisprudence*, p. 337. For a fuller discussion of the role of tattoos within investigations into identity, see Jane Caplan, “‘Speaking Scars’: The Tattoo in Popular Practice and Medico-Legal Debate in Nineteenth-Century Europe”, *History Workshop Journal*, 44 (1997), pp. 106–42; and Joyce, ‘Naming the Dead’, pp. 190–8.

<sup>81</sup> Guy, *Principles of Forensic Medicine*, p. 29.

<sup>82</sup> Taylor, *Manual of Medical Jurisprudence*, p. 336. Part of the fascination with tattoos stemmed from the Tichborne case of 1866-74.

<sup>83</sup> *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2), November 1875, trial of Henry Wainwright (37) Thomas George Wainwright (30) (t18751122-1) [accessed: 3 January 2017]. See also H. B. Irving (ed.), *Trial of the Wainwrights* (London: William Hodge, 1920), which contains a transcript of the Old Bailey trial of the brothers, as well as contextual information.

<sup>84</sup> *The Times*, 13 September 1875, p. 7: ‘Suspected Murder’.

anatomy. The surgeon would not commit himself to the fact that the death had been caused by violence, regardless of the fact a cut across the throat was noted separately from the wound that signified decapitation.

The coroner's inquest took place in the vestry adjoining St Saviour's church, attracting a crowd of 'a very large number of idlers'.<sup>85</sup> The coroner opened the inquiry by explaining he expected it to run for a few weeks as there was a lot of evidence to be analysed from the remains and also expert witness evidence to be heard. Mr Payne gave permission for anyone with pressing business to be excused as more jury members than required had been summoned, but nobody took up his offer. Mr Payne knew his first job as coroner was to ascertain the identification of the deceased; he knew the remains of the body of the unknown person, once declared human remains, must be examined to determine the sex and age of the deceased and then to identify the individual by character marks.<sup>86</sup> The coroner's jury, once sworn in, proceeded to view the remains. Many witnesses were cross-examined during the course of the inquest which was concluded on 14 October 1875. Mr Payne stated that he would offer no opinion on the evidence he had heard and if the jury were satisfied regarding the proceedings, the verdict would be returned by them.<sup>87</sup>

The coroner's jury returned a verdict of 'Wilful Murder' against Henry Wainwright for the murder of Harriet Louisa Lane; this was after hearing the evidence of medical expert witnesses and the body being eventually identified by Harriet's father from a scar on her leg that she received in childhood. But the coroner and his jury heard the evidence before the case went to the Old Bailey and it remained for the evidence to be repeated for the benefit of the judge and jury at the Central Criminal Court.

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<sup>85</sup> *The Times*, 16 September 1875, p. 8: 'The Inquest'.

<sup>86</sup> Guy, *Principles of Forensic Medicine*, p. 18.

<sup>87</sup> *The Times*, 15 October 1875, p. 9. 'The Whitechapel Road Murder'.



Wainwright's trial began at the Old Bailey following the inquest; the two could not run concurrently. The criminal court did not have to concur with the finding of the coroner's inquest. Mr Larkin repeated his deposition to the criminal court stating that following his initial examination he found some portions of the body were mummified, dry and shrunken and some were decomposed, moist and in a state of adipocere, a fatty, waxy condition brought about by the breakdown of adipose tissue (fat). The parts had been separated very unscientifically and divided into ten pieces. There was blood on the hair that could not have been caused by the dismembering. At a later examination Larkin removed the viscera, except the brain because it was too liquid in consistency, and put them into clean jars to examine them on 16 September along with Mr Thomas Bond FRCS from the Westminster Hospital. Bond and Larkin formed the opinion that the remains were of a female aged around 25 years, a judgment based on the epiphyses of the long bones and the growth and condition of the wisdom teeth. They later verified that most of the teeth that remained in the skull were in excellent condition; 'the permanent teeth are not complete till the *dentes sapientiae* (wisdom teeth) make their appearance... from the 18<sup>th</sup> to the 25<sup>th</sup> year'.<sup>88</sup> Larkin noted that three of Harriet's four wisdom teeth were cut. They went on to state that the deceased was of slender build and around five feet in height.

Two weeks after the discovery of the body parts, Mr Lane, father of the deceased, described a scar that his daughter had on her leg. Bond cleaned and examined both legs until he found the scar described with its own peculiarities. Cicatrices may undergo changes post-mortem but Harriet's scar had changed only in proportion to the condition of her body. Larkin and Bond published their findings.<sup>89</sup>

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<sup>88</sup> Guy, *Principles of Forensic Medicine*, p. 45.

<sup>89</sup> *British Medical Journal*, 11 December 1875, pp. 730–2: 'The Whitechapel Tragedy: Reports of the post-mortem examination of the remains. Bond, T. (F.R.C.S). The Whitechapel Tragedy: Notes of a report to the solicitor to the Treasury on the post-mortem examination of the remains'.

The investigation process had determined the identity of the victim and the cause of death. Part of the evidence for the identification of Harriet was by a photograph that showed her having the same hairstyle as the found skull.<sup>90</sup> Guy suggested that photographs were very misleading and, after the description of the decomposition, a hairstyle from an ante-mortem photograph seems very inadequate,<sup>91</sup> even for that period, as a means of identification.

### ***Facial reconstruction***

An attempt at reconstruction of a face was made in 1863 and reported in an article from the *London Review* entitled ‘Restoring the Face of a Corpse’.<sup>92</sup> The article congratulated the discipline of forensics when the London physician, anaesthetist and anatomist Dr Benjamin Ward Richardson joined forces with City of London coroner, Sir John Humphreys, to ‘try to establish the identity of a decomposed corpse pulled from the river Thames’.<sup>93</sup> The drowned man was suspected of murdering prostitute Emma Jackson and the published results of the identification activities were reported in full detail. The following is a précis of the *London Review* article.

It suggests that the distorted, black, swollen features of a familiar friend, who had drowned and decomposed, would be difficult to recognize; if the face belonged to someone unknown, it would be an almost impossible task. The Dead-House on Tower Hill held the body of a male with a sunken nose, ‘swollen black lips curled back over its chin’, protruding tongue and flattened eyes ‘half hidden by their huge distorted lids’. It had rotting flesh ‘quite black with gases and fluids generated by weeks of submergence’. The *London Review* went on to

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<sup>90</sup> *The Times*, 16 September 1875, p. 9. ‘The Whitechapel Road Murder’.

<sup>91</sup> Guy, *Principles of Forensic Medicine*, p. 25.

<sup>92</sup> ‘Restoring the Face of a Corpse’, *London Review*, vol. 6, issue 150 (1863), pp. 530–1.

<sup>93</sup> Elizabeth T. Hurren, *Dying for Victorian Medicine: English Anatomy and Its Trade in the Dead Poor, c. 1834–1929* (London: Palgrave Macmillan, 2012), pp. 44–5.

describe the ‘chemical process of reconstructing the identity of the corpse’. The body was covered in water that was heavily salted to give it a specific gravity above human body fluids. Salt plays an important part in homeostasis; fluid with a high salt content around the body would encourage the body to release its fluids, thus causing the face to become less oedematous and resume a more normal size; the face did, however, remain very dark. This was remedied by adding hydrochloric acid to the water surrounding the body; this would release ammonia, gases and compounds which caused the discolouration. The body was taken out of the solution and the face was wrapped in cloths soaked in a chlorine solution which bleached the face. The process restored the decomposed features to ones that could be recognized; the face had ‘the hue of ordinary blue-woven paper’. The head was too soft to handle so Richardson injected it with a solution of ‘chloride of zinc’ and ‘small portions of iron’. To enable correct identification of the suspected murderer, Richardson ‘opened the carotid artery’ and injected enough fluid to firm up the features. The body was arranged for the jury to view, leaving the face covered with ‘a solution of chlorine of spirit’.<sup>94</sup>

Emma’s murderer had been seen running away from the crime scene by at least three people; none of these witnesses recognized the reconstructed face as that belonging to the killer. A witness known as ‘Stokes the boot-black’,<sup>95</sup> who was reputed to be trustworthy and intelligent, had seen Emma with a man just before she died; Stokes was certain that it was not the man dead before him. A verdict of ‘accidental drowning’ was recorded and the coroner’s case was closed. The body ended up on the anatomist’s dissection table as the corpse remained unidentified and there was no investigation into his death. Like that of the ‘Thames Mystery’ (see below) this experiment did not have a successful outcome on this occasion, but advances

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<sup>94</sup> ‘Restoring the Face of a Corpse’, *London Review*, vol. 6, issue 150 (1863), pp. 530–1.

<sup>95</sup> Hurren, *Dying for Victorian Medicine*, p. 46.

were certainly being made with anatomists realizing that eventually reconstruction could be a possibility.

Another early record of facial reconstruction was in 1875. Facial appearance is determined by the bones of the skull and it was realized early on that if the face could be somehow reconstructed identification may be possible. A severed head was discovered at Horseferry Wharf in 1875, lying in the mud of the Thames riverside. The head was displayed for viewing, in a jar of spirit after it had been washed and the hair brushed, in the hope that it might be identified.<sup>96</sup> Verze suggested that reconstruction was introduced to ‘authenticate the remains of famous people, [and that] comparisons of portraits and sculptures became common practice’. In 1883 Hermann Welcker (1822-97) was the first person to document the depth of facial tissue ‘as an accompaniment to the facial reconstruction technique’.<sup>97</sup>

## 5. Conclusion

The body remained a primary source for investigation into identification. However, as Joyce notes in commenting on recent literature on the medico-legal history of the nineteenth century, two significant developments occurred over the period. The first was that ‘identification technologies which utilised the smallest available signs of identity carried the most power’. As forensic advances probed ever deeper, and with more confidence and success, at ‘the body’s individual minutiae, which got smaller but more powerful with each generation’, so the essence

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<sup>96</sup> A. J. Tyrell et al., ‘Forensic Three-Dimensional Facial Reconstruction: Historical Review and Contemporary Developments’, *Journal of Forensic Science*, 42 (1997), pp. 653–61; Hermann Welcker, ‘On the Skull of Dante’, *The Anthropological Review*, Vol. 5, No. 16 (January 1867), pp. 56-71; Restoring the Face of a Corpse’, pp. 530–1.

<sup>97</sup> Laura Verze, ‘History of Facial Reconstruction’, *Acta Biomed*, 80 (2009), pp. 5–12.

of identification shifted from the body as a whole to ever tinier parts of it.<sup>98</sup> The second development relates to how

the site of medical knowledge shifted from the figure of the sick patient ('bedside medicine') to his organs, which were used to classify and diagnose disease ('hospital medicine'). From the mid nineteenth century this altered again, as the specimens from the patient's body became the focus at a cellular level ('laboratory medicine'). As a result, the patient himself became almost superfluous to the investigation.<sup>99</sup>

The effect of these developments on the inquest was potentially far reaching. As the medical and forensic value of the whole body diminished in importance, so the value of the view also came into question. Furthermore, those physical features of the body that were increasingly regarded as yielding the most important evidence were beyond both the view and the understanding of the layperson. Although lay participation in inquiries did not disappear,<sup>100</sup> forensics and medical expertise assumed an ever greater prominence in the investigation into death.

The nineteenth-century debates over the view offer a valuable perspective on the question of medicalization and the coronial office. At the beginning of the century the view was regarded as an essential element within an inquest, a status reflected in legal fact. By the end of the century doubts were being voiced, even among some coroners themselves, about the necessity and usefulness of the view; although the practice survived, the debate arguably paved the way towards the 1926 legislative reforms of the inquest, one of the results of which was that the view was no longer essential at inquests before a jury (although it remained a requirement for the coroner to view the body).

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<sup>98</sup> Joyce, 'Naming the Dead', p. 237, relying on A. Joseph and A. Winter, 'Making the Match: Human Traces, Forensic Experts and the Public Imagination', in F. Spufford and J. Uglow (eds), *Cultural Babbage: Technology, Time and Invention* (London, 1996), pp. 194–203.

<sup>99</sup> Joyce, 'Naming the Dead', pp. 237–8, discussing Jewson, 'The Disappearance of the Sick-Man' (see p. 251, fn. 30 in this thesis).

<sup>100</sup> See Joyce, 'Naming the Dead', p. 180.

One explanation for the growing scepticism about the value of the view is that an increasingly medicalized inquest was responsible. At the beginning of the century, before the emergence of the expert witness and the routine use of forensic evidence, the view was understood to be vital evidence: it afforded jurors an opportunity to inspect the corpse, assessing its state and whether it provided any signs of what the cause of death may have been. Though most jurors would have lacked any formal medical knowledge, it was only later in the century that arguments became prominent about jurors being wholly unqualified to infer the likely causes of death from an observation of the dead body. With the rise of expertise in the wake of the professionalization of medicine, medical knowledge was increasingly seen to reside almost exclusively within the medical expert. Medical professionals called the purpose of the view into question, and it is possible that a growing proportion of the general public came to share the notion of a sharp distinction between the expert and the non-expert with the result that doubt was cast on the competency of a lay jury to interpret the physical evidence presented by a dead body. The rationale for retaining the view was invariably presented not in terms of any medical or evidential value, but in terms of its representation of the authority and jurisdiction of the inquest: the view starkly signified the temporary possession the coroner had taken of the body. This possession of the body was linked to the common defence of the inquest as open, accessible and transparent. While the view was rarely defended on medical grounds, it was commonly defended as a defining feature of the inquest as a ‘court of the people’.

Alongside the threats to the view from medical expertise were arguments that the view was not only unnecessary but also potentially dangerous on account of the health risks to jurors viewing a deceased person who may have died of a contagious disease. Moreover, sensibilities increasingly militated against a proximity to death.<sup>101</sup> One consequence of medicalization was

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<sup>101</sup> On death see Julie-Marie Strange, *Death, Grief and Poverty in Britain, 1870-1914* (Cambridge: Cambridge University Press, 2005); Pat Jalland, *Death in the Victorian Family*, (New York: Oxford University Press, 1996).

the desocialization of death: as death fell ever more into the hands of medical professionals, the familiarity with dead bodies that was likely common in earlier centuries began to fade. Arguments about public health risks posed by dead bodies, the construction of mortuaries, and the handling of death only by those medically-trained to do so, represented a cultural change in attitudes towards the dead body that became reflected in debates about the view.<sup>102</sup>

Although the history of the view over the nineteenth century suggests a trend towards the medicalization of the inquest, it was clear that there were limits to this development. As noted above, coroners themselves advanced forthright defences of the practice. In addition, there was arguably a practical value to the view. For all the advances in forensic medicine, in reality forensics could present few tangible results in relation to the identification of a dead body in the nineteenth century. Moreover, as discussed in Chapter Two, training in forensic medicine remained patchy throughout much of the nineteenth century, and it was not until the late nineteenth century that a sufficiently large and reliable pool of forensic experts could be called upon.<sup>103</sup> Identification still relied primarily on viewing the body and recognition on the part of the viewer. This was to change in the twentieth century as a result of both further advances in forensics and the establishment of more extensive records about individuals that could be used for identification (for example, dental records, as well as centralized databases containing personal information). But in the nineteenth century, the most reliable way of ascertaining the identity of a deceased person required the body to be visible. What was apparent, however, were the growing possibilities of methods that no longer needed a body to be present, such as the early attempts at facial reconstruction and the use of photography. Coroners were increasingly keen to use these new methods: as noted in some of the examples

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<sup>102</sup> See Burney, *Bodies of Evidence*, pp. 86–92, for a discussion of the late nineteenth-century plans ‘for a spatially reconstituted inquest’ in which newly-constructed coroner’s courts attached to mortuaries were to provide greater ‘convenience’ and ‘decency’ to the inquest. Such plans can be seen as an example of the medicalization of death.

<sup>103</sup> Joyce, ‘Naming the Dead’, p. 235.

presented in this chapter, many coroners went to some length to ensure that advanced medical expertise formed part of the inquest evidence. The coronial inquest was, therefore, an important means by which forensic medicine could become more prominent within the legal system. At the same time, by aligning themselves increasingly with the professional practices of forensic medicine, coroners were also enhancing their own professional status. Forensic medicine drove forward the professionalization and medicalization of the coronial system. Even if the rhetoric of forensic medicine may have promised more than it could deliver at the time, that forensics signalled new possibilities inevitably called into question the purpose of seemingly archaic practices such as the view—and even of the need for juries at all.



## CHAPTER NINE: CONCLUSION

The nineteenth-century coroner's inquest underwent significant changes from circa 1820 to circa 1888. Several of these have been discussed in the foregoing chapters: the introduction of paid medical witnesses is discussed in Chapter Two, Section 5; the implementation of deputy coroners in Chapter Seven, Section 4; the formation of the Coroners' Society of England and Wales in Chapter Six, Section 3 and the introduction of salaries for coroners in Chapter Six, Section 4. Moreover, there was debate about many other aspects of the coronership, for instance, controversies arose with magistrates over fees (and, by extension, when an inquest was justified) and this is discussed in Chapter Six, Section 4. Discussion over whether the view was always an obligatory part of the inquest was another area of contention which is covered in Chapter Eight, Section 2. Moreover, wider debates arose over the relationship between coroners and the legal and medical systems, even to the point where some suggested that the coronership should be abolished. Discussion of this appears in Chapter Six, Section 6. While there was undoubtedly change over the course of the century, it is important not to exaggerate the scale of this change: the functions and duties of a coroner at the end of the century, and the procedure of a coronial inquest, would have been recognizable to those coroners operating at the beginning of the century, for instance, Thomas Wakley who is the subject of Chapter Four. The coronership did not undergo upheaval or revolutionary change. But it did experience a reforming process which ensured that it remained a relevant and important part of the legal system into the twentieth century.

Several scholars have, in recent years, directed their attention at the nineteenth-century coronership; in addition to scholarly articles, one book (Ian Burney's *Bodies of Evidence*) and two theses (Pamela Fisher's 'The Politics of Sudden Death' and Donald Prichard's 'The Office of the Coroner, 1860–1926') have established solid foundations for understanding the coronial

system and how it changed over the nineteenth century.<sup>1</sup> Prichard has focused on the political and legal reforms over the second half of the nineteenth and early twentieth centuries; Fisher has provided the most thorough study of the coronial system as it operated throughout England and Wales from the late eighteenth century to the late nineteenth century; and Burney has located the coronership within debates about political and medical reform. The present thesis does not take issue with the findings of Burney, Fisher and Prichard; rather, it has sought to build on their work in three ways: first, it has endeavoured to explore further the concept of medicalization that underpinned Burney's research,<sup>2</sup> and to investigate the connection between medicalization and professionalization; second, it has provided more information about the coronership in London and Middlesex, which has hitherto been an underexplored area of the scholarship; and third, it has refocused attention on Thomas Wakley, one of the key figures in the history of the nineteenth-century coronial system, by considering in detail Wakley's ideas about the coronership and his practice as a coroner.

In doing so, this research makes several original contributions to the scholarship on the subject. First, in Chapter Three, Section 2 it presents the first full survey of the five coronial guides that were published between 1822 and 1851. Given the paucity of published guides either side of those dates, the comparative rush of published guides over three decades is a phenomenon worth exploring (but which previous scholarship has not). It suggests that in the 1820s, 1830s and 1840s there were conscious attempts to systematize and standardize coronial practice. The guides can, therefore, be regarded as the first steps towards professionalizing the coronership. A second original contribution of this thesis also relates to professionalization: in Chapter Six, Section 3 there is the first study to make extensive use of the Coroners' Society

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<sup>1</sup> Ian A. Burney, *Bodies of Evidence: Medicine and the Politics of the English Inquest, 1830–1926* (Baltimore and London: Johns Hopkins University Press, 2000); Pamela J. Fisher, 'The Politics of Sudden Death: The Office and Role of the Coroner in England and Wales, 1726–1888', unpublished PhD thesis, University of Leicester (2007); Donald Prichard, 'The Office of Coroner 1860–1926: Resistance, Reluctance and Reform', unpublished PhD thesis, Greenwich University (2001).

<sup>2</sup> For Burney's definition of medicalization, see above, p. 43.

Minute Books, a valuable source of information for tracing the development of a corporate identity for coroners. The Minute Books await full exploration and analysis; but this thesis has endeavoured to provide preliminary research that, it is hoped, will be the basis for further study. Third, Chapter Five of this thesis has assembled information about London and Middlesex coroners that is either new or was previously dispersed among many sources. Fourth, by paying attention to Wakley's coronial practice, it has presented new evidence about his concerns and approach as a coroner.

Although each chapter in this thesis exists as a standalone study of a particular topic, together they form part of a wider argument made up of a set of theses about the history of the nineteenth-century coronership, and above all of the process of coronial reform.

First, it is argued here that Thomas Wakley occupies a position of importance in the history of the nineteenth-century coronership. The literature on Wakley has long been beset by a tendency towards eulogization of its subject, a tone that was set by Wakley's first biographer, Samuel Squire Sprigge,<sup>3</sup> and arguably by Wakley himself. Wakley's tendency to present himself in belligerently heroic terms created an exaggerated image of him as the enemy of an archaic coronership who was singlehandedly driving it into the modern world.<sup>4</sup> However, it would equally be a mistake to underestimate his importance to the nineteenth-century coronership. The most balanced modern study—Edwina Sherrington's unpublished thesis on Wakley—comments that its subject 'deserves a far more prominent place in the history of medicine and public health than he at present holds'.<sup>5</sup> Notwithstanding Burney's discussion of Wakley, the same could be said about Wakley in relation to the coronial system. He may not have been the most endearing of men, his approach was frequently divisive, and his vision of

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<sup>3</sup> Samuel S. Sprigge, *The Life and Times of Thomas Wakley* (Huntington, NY: Robert E. Krieger Publishing, 1897).

<sup>4</sup> See Burney, *Bodies of Evidence*, pp. 80–1, for a brief discussion of the way Sprigge exaggerated and distorted Wakley's reforming approach.

<sup>5</sup> Edwina Sherrington, 'Thomas Wakley and Reform, 1823–62', unpublished DPhil thesis, University of Oxford (1973), p. 342.

the coronership as an almost exclusively medical office may have been ill-considered (and was, perhaps as a result, to remain unrealized), but his energy, his high profile and his relentless persistence ensured that coroners had a vocal and determined spokesman with a desire to advance their office. Wakley must, of course, be seen in the context of the radical politics of the 1820s and 1830s, in which individuals such as William Cobbett and Henry Hunt seized upon the coronership as part of their wider radical aims. But that does not negate the fact that Wakley proved to be an able ally in their cause, nor that he had sufficient independence to promote the coronership even after some of the political radicalism surrounding the office had died down. Wakley was not a ‘hero’, but he was a key driving figure within the reforming campaigns from the 1820s until the 1850s. Moreover, Wakley was an energetic and committed coroner, and, while his practice did not match his ideals, the evidence of his inquests indicates that he was largely true to his intentions to use the coronership—and, above all, a coronership established on a firmer medical basis—as a platform for social reform and ‘moral’ good.<sup>6</sup>

Second, this thesis has suggested that London and Middlesex coroners, including Wakley, were at the heart of coronial reform. It suggests, therefore, a slightly different narrative from that found in Fisher’s history. In the latter, London and Middlesex receive little attention—or, perhaps more accurately, they are treated as no different to other coronial districts in England and Wales. In light of Fisher’s thesis, the question that the present thesis poses can be framed as follows: was coronial reform driven by the provinces or by London? In addition, this question may relate to a wider story of urbanization in the nineteenth century: at the beginning of the nineteenth century, most people lived in rural areas, but by the end of the century urbanization had reversed this picture. It is plausible, therefore, that administration and governance based on provincial models gave way to those based on urban models. If that is

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<sup>6</sup> See pp. 126-7 of this thesis, for Wakley’s view that the coronership was ultimately a ‘moral’ institution.

true (and the question remains to be fully explored), then London and Middlesex assumed an increasingly more prominent role in shaping the coronial system over the course of the century. It is worth noting that there is possibly a parallel story in the history of medical professionalization. A key body in this early history was the Provincial Medical and Surgical Association, formed in 1832 and the forerunner to the British Medical Association. Initially no London doctors and surgeons were included in its membership; only in 1853 did London medical professionals become members and from that point the body became increasingly associated with London<sup>7</sup>. There is certainly much more research needed on the London and Middlesex coroners, in particular on their coronial practice. Nevertheless, in Wakley, Baker, Payne, Lankester, Langham and Bedford (to name only a few of the able coroners who served the metropolis in this period), London and Middlesex was home to some of the leading figures in coronial reform in the nineteenth century. Of even greater significance is the fact that these individuals frequently worked closely together, to the extent that the formation of the Coroners' Society was almost entirely the work of London coroners. Before a wider national corporate identity was established, there would seem to have been the beginnings of a more localized corporate identity among the London and Middlesex coroners.

Third, the history of the nineteenth-century coronership presented in this thesis suggests that there were three broad phases to that story. The first phase, covering the 1820s and 1830s, saw the coronial office thrust into public prominence, partly as a result of high profile inquests such as those on the police officer Robert Culley and on John Lees (a victim of the Peterloo Massacre), and partly as a result of the efforts of radicals such as Cobbett, Hunt and Wakley to link the coronership to radical politics (see Chapter Seven). A second phase covers the period from the mid-1830s to 1860, i.e. between the passing of the Medical Witnesses (Remuneration)

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<sup>7</sup> See M. Jeanne Peterson, *The Medical Profession in Mid-Victorian London*, (London: University of California Press, 1978), p. 24.

Act and the Coroner's Act which introduced salaries for coroners for the first time. This phase witnessed the publication of three of the coronial guides discussed in Chapter Three, the passing of various pieces of legislation either directly or indirectly concerning the coronial office, and the formation of the Coroners' Society. This second phase was marked by much greater attention to the necessity of reforming the coronership, to campaigning on focused and specific reforms, and to fighting attacks on the coronership by some magistrates, than it did to the linking of the coronial office with radical politics characteristic of the first phase. Nevertheless, it might be argued that it was in part due to the radicalism of the first phase that coroners in the 1840s and 1850s began advocating for their office to be more directly engaged with social issues and public health. The third phase, from about 1860 until the final decade of the century, might be characterized as one of consolidation. There is no doubt that the type of popular politics associated with the coronial office (and, in particular, with coronial elections) in the first half of the nineteenth century diminished considerably in the second half of the century. Equally, there was little parliamentary or legislative activity over this period. Instead, the third phase might be described as a period involving a quiet and steady consolidation of the advances of the previous period. This tripartite structure would fit with the findings of Burney, Fisher and Prichard: Burney has emphasized the close connection between coronial reform and popular politics in the first half of the century; Fisher's study of coronial elections reveals the intensity of contests in the 1820s, and how this intensity gradually faded over the following three decades; and Prichard has identified the decades following 1860 as characterized by extremely slow, and often reluctant, steps on the part of parliament towards reform of the coronial system.<sup>8</sup>

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<sup>8</sup> Burney, *Bodies of Evidence*, pp. 16–51; Fisher, 'Politics of Sudden Death', pp. 38–40; Prichard, 'The Office of Coroner', esp. pp. 339–51, where he discusses the conservatism of coroners and the reluctance of government to advance reform with any urgency.

Fourth, the coronership underwent a process of professionalization over the nineteenth century. Whereas Burney focused largely on medicalization, this thesis has sought to give greater prominence to the nineteenth-century professionalizing process. It is significant that the 1887 Coroner's Act tried to do away with coronial elections but that came the following year.<sup>9</sup> The office was no longer one that was thought of in terms of popular politics; rather the coroner was a professional figure appointed by the county or borough. Professionalization took other forms too that have been explored in earlier chapters: as mentioned before the publication of several guides to the coronial office was a move towards professionalization as each summarized the law and provided numerous forms in an attempt to standardize the inquest. Other moves included the implementation of salaries for coroners; the formation of the Coroners' Society; and the Society's own endeavours to expand its membership, to become a professional body, and to advance uniform standards and procedures across the coronial system. More work is required to bring detail to this professionalizing process; but here I have argued that a number of London and Middlesex coroners, through their reforming approach to the office, were instrumental in the process.

Fifth, the coronership became a medico-legal office over the course of the nineteenth century. In part this development was driven by figures such as Wakley, as well as later London and Middlesex coroners such as Lankester, in their push for medicine and forensic medicine to be at the heart of the inquest. The introduction of paid medical witnesses was an important result of these campaigns. In part, too, it was the result simply of medical advances and, more importantly, a growing confidence in the potential of medicine to progress, even when its actual results were limited. This ensured that a prominent role for medicine at inquests became unavoidable. The move towards a medico-legal office could be regarded as an example of

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<sup>9</sup> The 1887 Act states 'A coroner for a county shall continue to be elected, until Parliament otherwise directs, by the freeholders of that county'. It then states, 'This was repealed by section 5 of the Local Government Act, 1888 (51 & 52 Vict c. 41) which gives the appointment to the County Council'.

medicalization: it involved applying medical knowledge to areas that had previously not been within the domain of medicine. Consideration of the view indicates how this process took shape in practice. Since the body was at the centre of the inquest (often literally), coronial practice was almost inevitably going to be affected by shifts in the relationship between medicine and society. Fraser Joyce's unpublished thesis on bodily identification, and the wider argument of Nicholas Jewson about a changing medical cosmology in the nineteenth century that created a gap between medical professionals and laypeople in terms of their medical knowledge and understanding, form an important scholarly and explanatory context for assessment of medicalization of the coronial system.<sup>10</sup> However, some qualifications should be made in relation to medicalization. A medico-legal coronial system is not the same as a medicalized system; the 'legal' aspect ensured that it was never fully medical. It could, in fact, be argued that the coronership resisted medicalization. Wakley's desire to fashion the coronership as an almost exclusively medical position never materialized, and, while there was certainly an increase in the number of medically qualified coroners over the course of the century, they remained heavily outnumbered by legally qualified coroners.<sup>11</sup> Furthermore, in debates such as that over the view, it was clear that coroners were generally more sympathetic to the non-medical arguments in favour of retaining the view than they were to the medical arguments used by doctors and politicians as a basis to ending the view as an obligatory practice. That coroners, far from enthusiastically embracing a medicalization of their office, may have been resisting medicalization is not that surprising. Coroners understood the constitutional and legal significance of their role, and they were receptive to arguments that framed the coronial office around notions of protecting liberties and the oppressed. Even Wakley's vocal advocacy for

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<sup>10</sup> Fraser Joyce, 'Naming the Dead: The Identification of the Unknown Body in England and Wales, 1800–1934', unpublished PhD thesis, Oxford Brookes University (2012); N. D. Jewson, 'The Disappearance of the Sick-Man from Medical Cosmology, 1770–1870', *International Journal of Epidemiology*, 38 (2009), pp. 622–33.

<sup>11</sup> And, as discussed in this thesis, pp. 140, 142 and 144, Wakley's own 'medicalizing' approach tended to focus on the corporeal (that is, physical health) rather than the non-corporeal (that is, mental health).



the application of medicine to the inquest was indissolubly linked to his conception of the coronership as a constitutionally necessary institution for protecting the vulnerable, the poor and the oppressed.

Finally, this thesis has also questioned some of the scholarly claims about hostility between magistrates and coroners, and the striking argument that this hostility resulted in people getting away with murder. Certainly, this is an area that needs further research perhaps building on the work of J.D.J. Havard, Pamela Fisher and Mary Beth Emmerichs.<sup>12</sup> Here it is only suggested that it was often in the interests of coroners as a group to exaggerate some of these issues, both as a means of creating a more corporate identity among themselves—and, hence, may be regarded as an aspect of the professionalization of the coronership—and as a means to defend and extend their own jurisdiction. The relationship between coroners and magistrates has yet to form the subject of focused research, but it is undoubtedly one that is worth more attention. Coroners and magistrates were, after all, members of a wider legal and governance system that is likely to have ensured much common ground, outlooks and interests between them.

There are two caveats worth considering in relation to the above arguments. The first is that this thesis has focused primarily on a prominent group of London and Middlesex coroners. London and Middlesex were certainly not typical of much of the rest of England and Wales, and it is likely that London and Middlesex coroners were, to a greater or lesser extent, different to their colleagues in other counties and cities, both in terms of their background and their experience of the coronial role. This thesis contends that a history of the nineteenth-century coronership can be told through the lens of London and Middlesex coroners, but

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<sup>12</sup> See J. D. J. Havard, *The Detection of Secret Homicide: A Study of the Medico-Legal System of Investigation of Sudden and Unexplained Deaths* (London: Macmillan, 1960); Pamela Fisher, 'Getting Away with Murder? The Suppression of Coroner's Inquisitions in Early Victorian England and Wales', *Local Population Studies*, 78 (2007), pp. 47–62; Mary Beth Emmerichs, 'Getting Away with Murder? Homicide and the Coroners in Nineteenth-Century London', *Social Science History*, 25 (2001), pp. 93–100.

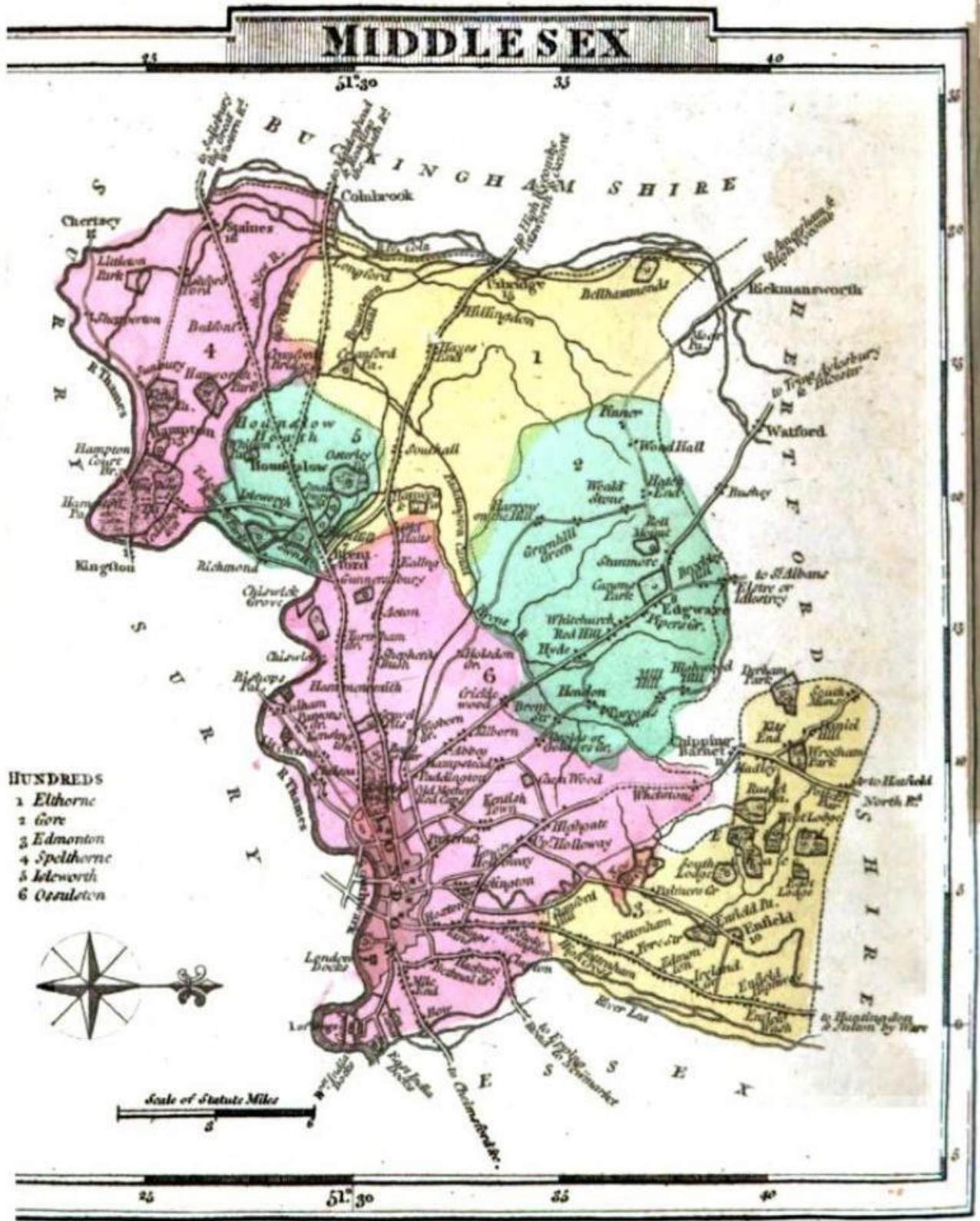
inevitably the history would look different if a more comparative approach had been applied. As noted above, the story that emerges from this thesis has a slightly different emphasis from that of Fisher's 'Politics of Sudden Death'; it may be that a story lying somewhere between these different emphases comes even closer to capturing what was happening to the nineteenth-century coronership.

A second caveat arises from the difficulty in accessing the inquest records of London and Middlesex coroners for this period. It is unfortunate that few inquisitions are currently accessible, for a close study of these records would yield much information about the actual coronial practices of the coroners considered in this thesis. In particular, they are likely to tell us a lot more about the use of medical and forensic expertise in inquests. They would also, of course, be a potentially invaluable source for the broader history of London and Middlesex in this period. Nevertheless, it is hoped that this thesis has demonstrated that the story of the nineteenth-century coronership lies as much in the printed sources (such as newspapers, pamphlets, coronial guides, works on medical jurisprudence and acts of legislation) as it does in written inquest records. Indeed, newspapers as the prime source of information for contemporaries are likely to present better evidence than inquest records for understanding the debates, arguments and perceptions of the period.

These caveats notwithstanding, this thesis has argued that London and Middlesex coroners were at the forefront of two processes affecting the coronership in the nineteenth century: they were central to the professionalization of the coronial office; and they were a driving force behind the transformation of the inquest from a largely legal institution to one that had taken a medico-legal form by the end of the century. Taken together, these two processes amounted to what was arguably the modernization of the coronial office and inquest during the nineteenth century.

## APPENDICES

1. Map of Middlesex, 1824
2. Middlesex hundreds
3. London and Middlesex coroners, 1820–88
4. Selected parliamentary legislation relating to the office and duties of coroners
5. Prominent nineteenth-century forensic scientists and expert witnesses
6. The Coroners' Society list of members, 1848–87



1. Map of Middlesex, 1824

N.B. The map has been rotated clockwise by ninety degrees; hence, North is on the right of the map.

Source: wikimedia.org

## 2. Middlesex hundreds

<b>Hundreds of Middlesex</b>	<b>Parishes in each Hundred</b>
Elthorne hundred: covered the western part of the county	Cowley, Cranford, Greenford, Hanwell, Harefield, Harlington, Harmondsworth, Hayes, Hillingdon, Ickenham, New Brentford, Northolt, Norwood, Perivale, Ruislip, Uxbridge, West Drayton.
Gore hundred: lay in the north of the county	Edgware, Great Stanmore, Little Stanmore, Harrow-on-the-Hill, Hendon, Kingsbury and Pinner.
Edmonton hundred: was north of the county	Enfield, Edmonton, Monken Hadley, South Mimms, and Tottenham.
Spelthorn hundred: lay in western Middlesex	Feltham, Hampton, Hanworth, Staines, Stanwell, Sunbury and Teddington.
Isleworth or Hounslow hundred:	Isleworth, Heston and Twickenham.
Ossulstone hundred: was in the south-east of the county	Kensington, Holborn, Finsbury and Tower.

### 3. London and Middlesex Coroners, 1820–88

#### City of London and Borough of Southwark

Thomas Shelton (1788–1829)—legal

William Payne Sr (1829–72)—legal

William Payne Jr (1872–84)—legal

Samuel F. Langham (1884–1901)—legal

#### Liberty of Westminster

John Henry Gell (1816–45)—neither

Charles St Clare Bedford (1845–88)—legal

#### Duchy of Lancaster

Thomas Higgs (1831–57)—legal

William Payne Jr (1857–84)—legal

George Percival Wyatt (1884–1924)—legal

#### Eastern District of Middlesex

John Wright Unwin (1804–30)—legal

William Baker (1830–59)—legal

John Humphreys (1859–86)—legal

Wynne Edwin Baxter (1886–91)\*—legal

#### Western District of Middlesex (to 1862)

Thomas Sterling (1816–39)—legal

Thomas Wakley (1839–62)—medical

*In 1862 the Western district was divided into two separate districts: a reduced Western district and a new Central district.*

#### Western District of Middlesex (from 1862)

James Bird (1863–68)—legal

Thomas Bramah Diplock (1868–92)—medical

#### Central District of Middlesex

Edwin Lankester (1862–74)—medical

William Hardwicke (1874–81)—medical

George Danford Thomas (1881–1910)—legal

and medical

\*Baxter remained coroner in both the new districts resulting from the 1888 division of the Eastern district into North Eastern and South Eastern districts.

#### 4. Selected parliamentary legislation relating to the office and duties of coroners

28 Edw. III c. 6	Coroners shall be chosen by the commoners of counties. [1534] Repealed by the Coroners Act 50 & 51 Vict. c71 s45 Sch 3, [6 September 1887].
8 Hen. VI c. 7	An Act of 1429. The Forty Shilling Act, meant that the freehold must be of that value at least. This did not apply in the nineteenth century and grave plots or church pews could suffice.
3 Hen. VII c. 1	Authorised payment of 13s. 4d. to a coroner for each inquest held on a slain body [1487].
21 Jac. I c. 27	A harsh law enacted by James I to combat the sin of infanticide [1642], abolished by the Ellenborough Act.
25 Geo. II c.29	An Act for giving a proper Reward to Coroners, for the due Execution of their Office; and for the Removal of Coroners upon a lawful conviction, for certain Misdemeanours – to specify that coroners could receive these fees – they were to be paid 20/- for each inquest conducted and 9d for each mile travelled. [14 November 1751].
40 Geo. III c. 94	Criminal Lunatics Act [1800] – made possible a verdict of not guilty by reason of insanity and provided for the safe custody at His Majesty's pleasure.
45 Geo. III c. 58	The Ellenborough Act first made abortion a statutory offence [1803].
4 Geo. IV c. 52	An Act to alter and amend the Law relating to the Interment of the Remains of any Person found Felo de se [8 July 1823].
9 Geo. IV c. 31	The Offences Against the Person Act [1828] made it illegal to procure abortion with a drug or medicine or by any means – the

law was extended to make concealment of a birth by *any* mother an offence.

- 10 Geo. IV c. 44            The Metropolitan Police Act [1829].
- 2 & 3 Will. IV c. 75        The Anatomy Act [1832].
- 4 & 5 Will. IV c. 36        The Session House became known as the Central Criminal Court – Old Bailey – for the more effective and uniform administration of justice in criminal cases in the metropolis and adjacent areas [1834].
- 4 & 5 Will. IV c. 76        An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales [14 August 1834].
- 5 & 6 Will. IV c. 76        An Act to provide for Regulation of Municipal Corporations in England and Wales [9 September 1835].
- 6 & 7 Will. IV c. 86        An Act for registering Births, Deaths and Marriages in England - National system of registrars intended to record every death in the country; applied only to people baptised Church of England [17 August 1836].
- 6 & 7 Will. IV c. 86 s. 25    Under the new Registration Act [1836] above, the Coroner was required to inform the registrar of the findings of his jury at the conclusion of each inquest.
- 6 & 7 Will. IV c. 89        An Act to provide for the Attendance and Remuneration of Medical Witnesses at Coroner's Inquests [17 August 1836].
- 6 & 7 Will. IV c. 105        An Act for the better Administration of Justice in Certain Boroughs [20 August 1836].
- 1 Vict. c. 64                An Act for regulating the Coroners of the County of Durham [15 July 1837].
- 1 Vict. c. 68                An Act to provide for reasonable payment of the expenses of holding Coroners Inquests [15 July 1837].



1 Vict. c. 85	The law on abortion was changed and capital punishment was abolished as a penalty for this offence [1837].
6 & 7 Vict. c. 83	An Act to amend the Law respecting the Duties of Coroners [22 August 1843].
6 Vict. c. 12	An Act for the more convenient holding of Coroners Inquests [11 April 1843].
7 & 8 Vict. c. 92	An Act to amend the Law respecting the Office of County Coroner [9 August 1844].
9 & 10 Vict. c. 62	An Act to abolish Deodands [18 August 1846].
9 & 10 Vict. c. 93	The Fatal Accidents Act [1846].
11 & 12 Vict. c. 63	An Act for promoting Public Health [31 August 1848].
14 & 15 Vict. c. 13	An Act to Regulate the Sale of Arsenic [1851]. The Act did not restrict who was allowed to sell arsenic, as until the Pharmacy Act, 1868 there was no legal definition of a pharmacist. The Arsenic Act was repealed by the Pharmacy and Poisons Act [1933].
13 & 14 Vict. c. 105.	The Liberties Act [14 August 1850].
20 & 21 Vict. c. 81	An Act to amend the Burial Acts [25 August 1857].
21 & 22 Vict. c. 90	An Act to regulate the Qualifications of Practitioners in Medicine and Surgery [The Medical Act] [2 August 1858].
22 Vict. c. 33	An Act to enable Coroners in England to admit to Bail Persons charged with Manslaughter [19 April 1859].
23 & 24 Vict. c. 85	County Coroners Act placed coroners on salary and made them largely independent of the justices. [1860].
23 & 24 Vict, c. 116	An Act to amend the Law relating to the Election, Duties and Payment of County Coroners [28 August 1860].
24 & 25 Vict. c. 100	The Offence Against the Person Act [1861] decreed that concealment of the dead baby by <i>any</i> person was a felony.

27 & 28 Vict. c. 97	An Act to make further Provision for the Registration of Burials in England [Registration of Burials Act] [29 July 1864].
28 & 29 Vict. c. 126	An Act to consolidate and amend the Law relating to Prisons [16 July 1865].
29 & 30 Vict. c. 90	An Act to amend the Law relating to the Public Health [7 August 1866].
29 & 30 Vict. c. 100	An Act for the Amendment of the Laws relating to Prisons [10 August 1866].
37 & 38 Vict. c. 88	An Act to amend the Law relating to the Registration of Births and Deaths in England and consolidate the Law respecting the Registration of Births and Deaths at Sea. [Births and Deaths Registration Act] [7 August 1874].
38 & 39 Vict. c. 55	An Act for consolidating and amending the Acts relating to Public Health [Public Health Act] [11 August 1875].
36 & 37 Vict. c. 66	The Judicature Acts of Parliament [1873] and [1875] brought together several tribunals and created the Court of Appeal.
38 & 39 Vict. c. 77	
30 & 31 Vict. c. 84.	The Vaccination Act [1867]. This Act made it a criminal offence to deny a child vaccination up to the age of fourteen years.
43 & 44 Vict. c. 41	An Act to amend the Burial [Burial Laws Amendment Act] [7 September 1880].
44 & 45 Vict. c. 58	The Army Act [1881]. Abolished flogging as a punishment in the army.
45 & 46 Vict. c. 50	The Municipal Corporations Act [1882].
50 & 51 Vict. c. 71	An Act to consolidate the Law relating to Coroners. The Coroners Act [1887].
51 & 52 Vict. c. 38	City of London Fire Inquests Act [1888].

51 & 52 Vict. c. 41	Local Government Act [15 August 1888]. Abolished elections for county coroners.
53 & 54 Vict. c. 5	An Act to consolidate certain of the Enactments respecting Lunatics [Lunacy Act] [29 March 1890].
53 & 54 Vict. c. 243	London Council (General Powers) Act [18 August 1890].
55 & 56 Vict. c. 56	An Act to amend the Law in relation to the Appointment of Coroners and Deputy Coroners in Counties and Boroughs [Coroners' Act] [28 June 1892].
61 & 62 Vict. c. 36	An Act to amend the Law of Evidence [Criminal Evidence Act] [12 August 1898].
61 & 62 Vict. c. 60	An Act to provide for the treatment of Habitual Inebriates [Inebriates Act] [12 August 1898].
62 & 63 Vict. c. 14	An Act to make better provision for local government in London [London Local Government Act] [13 July 1899].
7 & 8 Geo. V c. 19	An Act to reduce, in connection with the present War, the Number of Jurors at Coroners' Inquests [Coroners (Emergency Provisions) Act] [24 May 1917].
16 & 17 Geo.V c. 48	An Act to amend the law relating to certification of deaths and disposal of the dead [Births & Deaths Registration Act] [15 December 1926].
16 & 17 Geo.V c. 59	An Act to amend the law relating to coroners [Coroners (Amendment) Act] [15 December 1926].

## 5. Prominent nineteenth-century forensic scientists and expert witnesses

ORFILA Mathieu 1787–1853	Spanish professor of medical / forensic toxicology. Contributed to the development of tests for the presence of blood and semen stains in a forensic context. He made studies of decomposition and exhumation.
PURKINJE John 1787–1869	A Czech anatomist and physiologist who graduated from the Charles University in Prague with a degree in medicine. He was the first to use a microtome to make thin slices of tissue for microscopic examination.
MARSH James 1794–1846	A Scottish chemist. First to use toxicology (arsenic detection) in a jury trial (1836). The Marsh Test. REINSCH Hugo (1809–84) a German physician devised a test for detecting arsenic in 1841 which improved on Marsh.
QUETELET Adolphe 1796–1874	A Belgian astronomer, mathematician, statistician and sociologist. He created the concept of the ‘average man’ who would exhibit the average features of all individuals. The Body Mass Index is based on his work.
CHRISTISON Robert, Sir 1797–1882	A Scottish toxicologist and physician. He was a toxicologist and medical jurist. He studied under Orfila in Paris and became a professor of medical jurisprudence. He wrote <i>A Treatise on Poisons</i> in 1829.
SCHÖNBEIN Christian Frederick 1799–1868	A German-Swiss chemist who discovered the ability of haemoglobin to oxidise hydrogen peroxide making it foam. He first tested for blood in 1863 which helped the developments in forensic science.
TAYLOR Alfred Swaine 1806–80	An English toxicologist and medical writer. He studied medicine at Guy’s and St. Thomas’s Hospitals, London. Was appointed Lecturer in Medical Jurisprudence at Guy’s in 1831.
GUY William A. 1810–85	English doctor. Professor of Medical Jurisprudence at Kings’ College, London. Published <i>Principles of Forensic Medicine</i> in 1844. Educated in Heidelberg and Paris and gained a degree from Cambridge.

STAS Jean Servais 1813–91	A Belgian chemistry professor. He was the first to identify vegetable poisons in body tissue in 1851.
LETHEBY Henry 1816–76	An English analytical chemist. Lecturer in chemistry at the London Hospital. Medical Officer of Health and analyst of food in the City of London.
VIRCHOW Rudolph 1821–1902	German doctor and anthropologist. Studied medicine and chemistry in Berlin. First to study hair. Designed a model for post-mortem examination.
TEICHMANN Ludwig 1823–95	German histologist. Developed the first microscopic crystal test for haemoglobin using haeming crystals in 1853.
WOODMAN William Bathurst 1836–77	An English MRCS FRCS. Lecturer on physiology. Contributed with Dr Charles Meymott Tidy to a <i>Manual of Forensic Medicine</i> in 1877.
STEVENSON Sir Thomas 1838–1908	English toxicologist and forensic chemist. Lecturer in forensic medicine at Guy's Hospital (1878-1908). Home Office analyst, London. He served as an expert witness in many famous nineteenth century poisoning cases.
TIDY Charles Meymott 1843–92	London born MRCS. Trained at Aberdeen University and was a joint lecturer with Letheby, whom he succeeded, at the London hospital.
LACASSAGNE Alexandre 1843–1924	French physician and criminologist, medical jurist and criminal anthropologist. Professor of legal medicine, Lyon.
LITTLEJOHN Henry 1862–1927	Scottish born Professor of forensic medicine and chief police surgeon, Edinburgh. Authority on medical jurisprudence, Edinburgh University.

## 6. The Coroners' Society list of members, 1848–87

**Year: 1848** – 80 members registered with the Coroners' Society

Book 1 (1846–1876), p. 85

Name	District	Lnd & Mx	Other	Name	District	Lnd & Mx	Other
Aberdein	Devon		√	Hargreaves	Blackburn		√
Abbey	Northampton		√	Hinds	Kent		√
Alexander	Berks		√	Hannen	Dorset		√
Bedford	Westminster	√		Hunt	Strat-on-Avon		√
Baker, W	Regent's Park	√		Hitchens, J	Lincoln		√
Brunner	Oxford		√	Hinchcliffe	Staffordshire		√
Blandy	Berks		√	Hamley	Cornwall		√
Brown	Nottingham		√	Hitchens, W	Cornwall		√
Baker, Jr	Limehouse	√		Hughes	Worcester		√
Bemridge	Devon		√	Jervison	Yorkshire		√
Bunny	Berks		√	Jackaman	Suffolk		√
Bernard	Southampton		√	Lumb	Cumberland		√
Batt	Monmouthshire		Wales	Lewis	Essex		√
Badger	Rotherham		√	Lee	Yorkshire		√
Blendall	Lancashire		√	Margetts	Huntington		√
Carttar	Kent		√	Marshall	Ely		√
Clarke	Berks		√	Monckton	Somerset		√
Codd	Essex		√	Mills	Covent Garden	√	
Carlyon	Truro		√	Ness	Yorkshire		√
Chapman	Manchester		√	Phillips	Wolverhampton		√
Conyers	Yorkshire		√	Payne, W	Temple	√	

Castleman	Dorset		√	Pratt	Cambridgeshire		√
Caines	Somerset		√	Pridham	Devon		√
Cooper	Cambridge		√	Rutter	Manchester		√
Carter	Kingston		√	Roscoe	Cheshire		√
Carrick	Cumberland		√	Sworder	Hertford		√
Cattlow	Staffordshire		√	Seymour	Warwickshire		√
Coulcher	Norfolk		√	Shorter	Sussex		√
Dearden	Lancashire		√	Sparrow	Suffolk		√
Edmonds	Devon		√	Slyman	Montgom'shire		Wales
Ellis, W. J	Gloucestershire		√	Todd	Hants		√
Ellis, J	Sussex		√	Torkington	Lincolnshire		√
Evans	Hereford		√	Vallack	Devon		√
Easton	Yorkshire		√	Wakley	Covent Garden	√	
Frampton	Dorset		√	Wood	Suffolk		√
Favell	Durham		√	Wilson	Westmoreland		√
Faver	Durham		√	Walton	London Dock	√	
Gell, F	Sussex		√	Warren	Devon		√
Gell, J. H	Westminster	√		Williams	Denbigh		√
Higgs	Lambeth	√					
Heyes	Lancashire		√				
<b>TOTALS</b>		<b>5</b>	<b>35+1</b>			<b>4</b>	<b>34+1</b>

Year: 1850 – 82 members registered with the Coroners' Society

Book 1 (1846–1876), p. 175

Name	District	Lnd & Mx	Other	Name	District	Lnd & Mx	Other
Aberdein	Devon		√	Hamley	Cornwall		√
Alexander	Berks		√	Hichens,W	Cornwall		√
Ashford	Somersetshire		√	Hughes	Worcester		√
Bedford	Westminster	√		Hicks	Northampton		√
Baker, W	Regent's Park	√		Hyde	Worcester		√
Brunner	Oxford		√	Herford	Manchester		√
Blandy	Berks		√	Harrison	Montgom'shire		Wales
Brown	Nottingham		√	Jervison	Yorkshire		√
Baker, Jr	Regent's Park	√		Jackaman	Suffolk		√
Bemridge	Devon		√	King	Cambridge		√
Bunny	Berks		√	Lumb	Cumberland		√
Batt	Monmouthshire		Wales	Lewis	Essex		√
Blendall	Lancashire		√	Lee	Yorkshire		√
Badger	Yorkshire		√	Margetts	Huntington		√
Cartter	Kent		√	Marshall	Ely		√
Clarke	Berks		√	Monckton	Somerset		√
Codd	Essex		√	Ness	Yorkshire		√
Carlyon	Truro		√	Newill	Shrewsbury		√
Conyers	Yorkshire		√	Phillips	Wolverhampton		√
Castleman	Dorset		√	Payne, W	Temple	√	
Carter	Kingston		√	Pratt	Cambridgeshire		√
Carrick	Cumberland		√	Pridham	Devon		√
Cattlow	Staffordshire		√	Pierce	Denbigh		√



Cory	Dorsetshire		√	Rutter	Manchester		√
Churchill	Oxfordshire		√	Roscoe	Cheshire		√
Cooke	Oxfordshire		√	Sworder	Hertford		√
Dearden	Lancashire		√	Seymour	Warwickshire		√
Ellis, W. J	Gloucestershire		√	Shorter	Sussex		√
Evans	Hereford		√	Sparrow	Suffolk		√
Edmonds	Devon		√	Slyman	Montgom'shire		Wales
Ellis, J	Sussex		√	Todd	Hants		√
Easton	Yorkshire		√	Torkington	Lincolnshire		√
Favell	Near Gateshead		√	Vallek	Devon		√
Faber	Durham		√	Wakley	Covent Garden	√	
Gell, F	Sussex		√	Wood	Suffolk		√
Higgs	Lambeth	√		Wilson	Westmoreland		√
Heyes	Lancashire		√	Walton	London Dock	√	
Hargreaves	Lancashire		√	Warren	Devon		√
Hinde	Kent		√	Williams	Denbigh		√
Hitchens, J	Lincoln		√	White	Lincolnshire		√
Hinchcliffe	Staffordshire		√	Wales	Norfolk		√
<b>TOTALS</b>		<b>4</b>	<b>36+1</b>			<b>3</b>	<b>36+2</b>

Year: 1857 – 104 members registered with the Coroners' Society

Book 1 (1846–1876), p. 447

Name	District	Ldn & Mx	Other	Name	District	Ldn & Mx	Other
Aberdein	Devon		√	Hinchcliffe	Staffordshire		√
Alexander	Berks		√	Hooper	Exeter		√
Ashford	Somersetshire		√	Hughes	Worcester		√
Baker, W	Regent's Park	√		Jackaman	Suffolk		√
Baker, Jr	Regent's Park	√		Jewison	Yorkshire		√
Badger	Yorkshire		√	King	Cambridge		√
Bedford	Westminster	√		Lewis	Essex		√
Bemridge	Devon		√	Lovegrove	Gloucester		√
Brown	Nottingham		√	Lumb	Cumberland		√
Brunner	Oxford		√	Marratt	Doncaster		√
Blagden	Sussex		√	Marshall	Ely		√
Blandy	Berks		√	Munckton	Somersetshire		√
Bunny	Berks		√	Manning	Whitehall	√	
Brent	Bedford Square	√		Mercer	Kent		√
Carttar	Kent		√	Ness	Yorkshire		√
Carter	Surrey		√	Overton	Glamorg'shire		Wales
Carlyon	Cornwall		√	Payne, W	Temple	√	
Cattlow	Staffordshire		√	Phillips, T	Staffordshire		√
Chamberlin	Yarmouth		√	Phillips, C	Newmarket		√
Charsley	Bucks		√	Pierce	Denbigh		√
Churchill	Oxfordshire		√	Pratt	Cambridgeshire		√
Churton	Chester		√	Reed	Newcastle		√
Clarke, E	Leicester		√	Robinson	Worcestershire		√

Clarke, R	Berks		√	Roscoe	Cheshire		√
Codd	Essex		√	Rutter	Manchester		√
Crosse	Devon		√	Settle	Durham		√
Conyers	Yorkshire		√	Seymour	Warwickshire		√
Cooke	Oxfordshire		√	Shorter	Sussex		√
Cory	Dorsetshire		√	Slyman	Montgom'shire		Wales
Cowper	Berks		√	Sparrow	Suffolk		√
Curry	Liverpool		√	Sworder	Hertford		√
Dearden	Lancashire		√	Sylvester	Wilts		√
Driffield	Lancashire		√	Swann	Nottingham		√
Dyson	Yorkshire		√	Teague	Gloucestershire		√
Dela Saux	Canterbury		√	Todd	Hants		√
Easton	Yorkshire		√	Thelwall	Denbighshire		√
Edmonds	Devon		√	Times	Herts		√
Edwardes	Lincolnshire		√	Torkington	Lincolnshire		√
Emmerson	Kent		√	Trotter	Durham		√
Favell	Near Gateshead		√	Vallack	Devon		√
Fry	Somersetshire		√	Wakley	Strand	√	
Gell, F	Sussex		√	Wales	Norfolk		√
Good	Launceston		√	Westell	Oxon		√
Green	Bedfordshire		√	White	Lincolnshire		√
Gaisford	Gloucestershire		√	Whitmarsh	Wilts		√
Hamley	Cornwall		√	Williams	Denbigh		√
Hargreaves	Lancashire		√	Wilson, R	Westmoreland		√
Harding	Staffordshire		√	WilsonR.M	Wilts		√
Hardy	Alnwick		√	Wood	Suffolk		√

Harrison	Montgom'shire		Wales	Pridham	Devon		√
Hicks	Northampton		√	Parry	Flintshire		Wales
Hills	Kent						
Hitchens	Lincoln		√				
<b>TOTALS</b>		<b>4</b>	<b>48+1</b>			<b>3</b>	<b>45+3</b>

Year: 1866 – 88 members registered with the Coroners Society

Book 1 (1846–1876), p. 669

Name	District	Ldn &Mx	Other	Name	District	Ldn &Mx	Other
Alexander	Berks		√	Hughes	Worcester		√
Barlow	Cambridge		√	Humphreys	Spital-Square	√	
Batt	Abergavenny		Wales	Jackaman	Suffolk		√
Bedford	Westminster	√		Lankester	Saville Row	√	
Becke	Northampton		√	Lewis	Essex		√
Bennett	Derbyshire		√	Lovegrove	Gloucester		√
Black	Brighton		√	Lumb	Cumberland		√
Bird	Strand	√		Marshall	Ely		√
Bremridge	Devon		√	Mourilyan	Sandwich		√
Brewer	Monmouthshire		Wales	Munton	Somerset		√
Brown	Nottingham		√	Manning	Westminster	√	
Brunner	Oxford		√	Mercer	Kent		√
Blagden	Sussex		√	Marriott	Suffolk		√
Blandy	Berks		√	Overton	Glamor'shire		Wales
Butler	Dalton		√	Payne	Temple	√	
Carttar	Kent		√	Phillips	Staffordshire		√
Carlyon	Cornwall		√	Pierce	Denbigh		√
Chamberlin	Yarmouth		√	Pratt	Cambridgeshire		√
Churchill	Oxfordshire		√	Pridham	Devon		√
Clarke, E	Leicestershire		√	Parry	Flintshire		Wales
Clarke, R	Berks		√	Ratcliff	Stepney	√	
Clarke, S	Hants		√	Robinson	Worcestershire		√
Codd	Essex		√	Rutter	Manchester		√

Crosse	Devon		√	Richards	Spital Square	√	
Cooke	Oxfordshire		√	Settle	Durham		√
Cory	Dorsetshire		√	Slyman	Montgom'shire		Wales
Davis	Brecon		Wales	Sowerby	Yorkshire		√
Dearden	Lancashire		√	Strick	Glamorg'shire		Wales
Driffield	Lancashire		√	Sworder	Hertford		√
Dyson	Yorkshire		√	Sylvester	Wilts		√
Dela Saux	Canterbury		√	Swann	Nottingham		√
Easton	Yorkshire		√	Taylor	Wakefield		√
Edmonds	Devon		√	Teague	Gloucester		√
Edwardes	Lincolnshire		√	Thelwall	Denbighshire		Wales
Gavel	Nr Gateshead		√	Times	Herts		√
Green	Beds		√	Trotter	Durham		√
Gross	Ipswich		√	Wales	Norfolk		√
Hand	Hammersmith	√		Westell	Oxon		√
Hargreaves	Lancashire		√	Whitmarsh	Wilts		√
Harding	Staffordshire		√	Williams	Denbigh		Wales
Hardy	Alnwick		√	Woods	Surry		√
Hills	Kent		√	Wybrants	Somersetshire		√
Hitchens	Lincoln		√	York	Newmarket		√
Hooper, E	West Bromwich		√				
Hooper, H	Exeter		√				
<b>TOTALS</b>		<b>3</b>	<b>39+3</b>			<b>6</b>	<b>31+6</b>

Year: 1878 – 70 members registered with the Coroners Society

Book 2 (1877–1902), p. 23

Name	District	Ldn & Mx	Other	Name	District	Ldn & Mx	Other
Arnold	Chichester		√	Humphreys	Spital Square	√	
Ball	Glouc'shire		√	Hooper, E	Tamworth		√
Barlow	Cambridge		√	Jackaman	Suffolk		√
Batt	Abergavenny		Wales	Jones	Sussex		√
Becke	Northampton		√	King	Monm'shire		Wales
Bedford	Westminster Abbey	√		Lewis	Essex		√
Bennett	Derbyshire		√	Marshall	Ely		√
Bignold	Norwich		√	Manning	Westminster	√	
Brabent	Herts		√	Maynard	Durham		√
Brian	Plymouth		√	Michelmores	Devon		√
Carttar	Kent		√	Moore	Herefordshire		√
Carylon	Cornwall		√	Morgan	Stafford		√
Calthorpe	Lincolnshire		√	Oldham	Mel' Mowbray		√
Chaston	Mendham		√	Overton	Glamorg'shire		Wales
Clarke	Hants		√	Payne	Golden Lane	√	
Cockroft	Newcastle		√	Pierce	Denbigh		√
Coxwell	Southampton		√	Ratcliffe	Stepney	√	
Crosse	Devon		√	Robinson	Worcestershire		√
Driffield	Lancashire		√	Rodd	Devon		√
Diplock	Kensington	√		Rutter	Manchester		√
Dela Saux	Canterbury		√	Ross	Suffolk		√
Foster	Aldershot		√	Settle	Durham		√

Goble	Hants		√	Sowerby	Yorkshire		√
Garrington	Hants		√	Strick	Glamorg'shire		Wales
Graham, J	Yorkshire		√	Taylor	Wakefield		√
Green	Beds		√	Thomas	Paddington	√	
Graham, C	Yorkshire		√	Terry	Northampton		√
Hargreaves	Blackburn		√	Watson	Alnwick		√
Harrison	Leicester		√	Whitmarsh	Wilts		√
Herford	Manchester		√	Wasborough	Bristol		√
Hooper, H	Exeter		√	Weedon	Berks		√
Hughes	Worcester		√	Wybrants	Somerset		√
Hardwicke	Maida Hill West	√		Williams	Denbigh		√
Haynes	Essex		√	White	Winchester		√
Hussey	Oxford		√	York	Newmarket		√
<b>TOTALS</b>		<b>3</b>	<b>31+1</b>			<b>5</b>	<b>27+3</b>



Year: 1885 – 67 members of the Coroners' Society

Book 2 (1877–1902), p. 147

Name	District	Ldn & Mx	Other	Name	District	Ldn & Mx	Other
Ball	Gloucestershire		√	Langham	Holborn	√	
Barstow	Halifax		√	Lewis	Essex		√
Batt	Abergavenny		Wales	Mackenzie	Tiverton		√
Baxter	Sussex		√	Malcolm	Leeds		√
Beeke	Northampton		√	Manning	Westminster	√	
Bedford	Westminster Abbey	√		Marshall	Ely		√
Bignold	Norwich		√	Maynard	Durham		√
Brabant	Herts		√	Moore	Herefordshire		√
Bramsdén	Portsmouth		√	Morrison	Surrey		√
Brian	Plymouth		√	Muller	Somerset		√
Calthorpe	Lincolnshire		√	Penman	Gravesend		√
Carttar	Kent		√	Ratcliffe	Stepney	√	
Chaston	Mendham		√	Robinson	Blackburn		√
Cheese	Radnor		√	Rodd	Devon		√
Clarke, S	Hants		√	Roumieu	Surrey		√
Collier	Spital Square	√		Settle	Durham		√
Coren	Gloucester		√	Sharpley	Louth, Lincs		√
Coxwell	Southampton		√	Sowerby	Yorkshire		√
Deane, H	Loughborough		√	Strick	Glamorg'shire		Wales
Deane, T	Durham		√	Sworder	Hertford		√
Foster	Aldershot		√	Taylor	Wakefield		√
Goble	Hants		√	Thomas	Paddington	√	

Graham	Sunderland		√	Wasborough	Bristol		√
Harrison	Leicester		√	Watson	Alnwick		√
Hawks	Birmingham		√	Weedon	Berks		√
Haynes	Essex		√	Wescott	Camden	√	
Herford	Manchester		√	Whiston	Derby		√
Hicks	Temple	√		White	Winchester		√
Hooper	Tamworth		√	Wilson	Suffolk		√
Humphreys	Spital Square	√		Wyatt	Brixton	√	
Hussey	Oxford		√	York	Newmarket		√
Hutchinson	Bradford		√	Yates	Macclesfield		√
Jackaman	Suffolk		√				
Jones	Sussex		√				
King	Monm'shire		Wales				
<b>TOTALS</b>		<b>4</b>	<b>29+2</b>			<b>6</b>	<b>25+1</b>

Year: 1887 – 70 members registered with the Coroners' Society

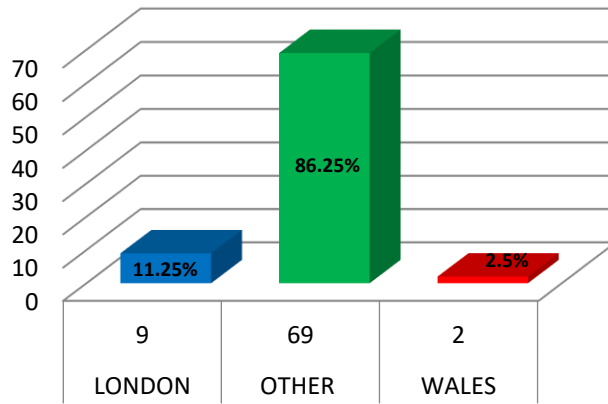
Book 2 (1877–1902), p. 183

Name	District	Ldn & Mx	Other	Name	District	Ldn & Mx	Other
Baylis	Temple	√		Mackenzie	Tiverton		√
Ball	Gloucester		√	Malcolm	Leeds		√
Barstow	Halifax		√	Manning	Westminster	√	
Batt	Abergavenny		Wales	Marshall	Ely		√
Baxter	Stoke Newington	√		Maynard	Durham		√
Becke	Northampton		√	Moore	Herefordshire		√
Bedford	Westminster Abbey	√		Morrison	Surrey		√
Bignold	Norwich		√	Muller	Somerset		√
Brabent	Hertfordshire		√	Penman	Gravesend		√
Bramsdon	Portsmouth		√	Ratcliffe	Stepney	√	
Brian	Plymouth		√	Robinson	Blackburn		√
Calthrop	Lincolnshire		√	Rodd	Devon		√
Carttar	Kent		√	Roumieu	Surrey		√
Chaston	Mendham		√	Settle	Durham		√
Clarke	Hants		√	Sharpley	Louth		√
Collier	Old Charlton		√	Sowerby	Yorkshire		√
Coren	Gloucester		√	Shilitoe	Hitchin		√
Coxwell	Southampton		√	Strick	Glamorgan		Wales
Deane, H	Loughborough		√	Sworder	Hertford		√
Deane, T	Durham		√	Taylor	Wakefield		√
Foster	Aldershot		√	Thomas	Paddington	√	
Goble	Hants		√	Wasborough	Bristol		√
Graham	Sunderland		√	Watson	Alnwick		√

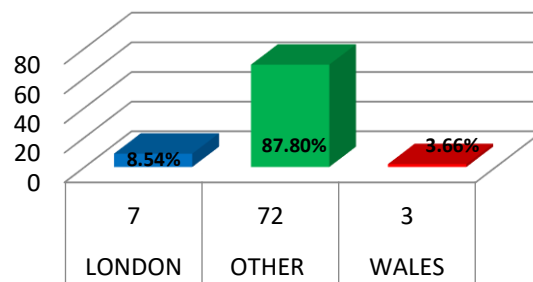
Harrison	Leicester		√	Weedon	Berks		√
Hawks	Birmingham		√	Westcott	Camden	√	
Haynes	Essex		√	Whicheloe	?	?	?
Herford	Manchester		√	Whiston	Derby		√
Hicks	Temple	√		White	Winchester		√
Hooper	Tamworth		√	Williams	Tydvil		Wales
Hughes	Worcester		√	Wilson	Suffolk		√
Hussey	Oxford		√	Wyatt	Brixton	√	
Hutchinson	Bradford		√	York	Newmarket		√
Jackaman	Suffolk		√	Yates	Macclesfield		√
Jones	Sussex		√				
King	Monmouthshire		Wales				
Langham	Holborn	√					
Lewis	Essex		√				
<b>TOTALS</b>		<b>5</b>	<b>30+2</b>			<b>5+?</b>	<b>25+2+?</b>

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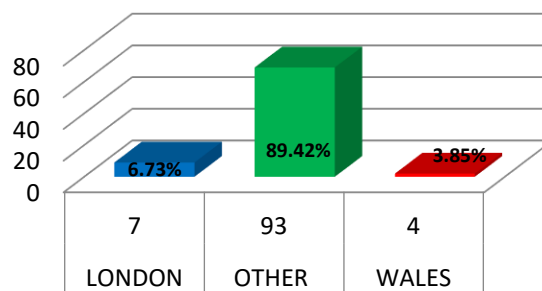
### CORONERS SOCIETY 1848



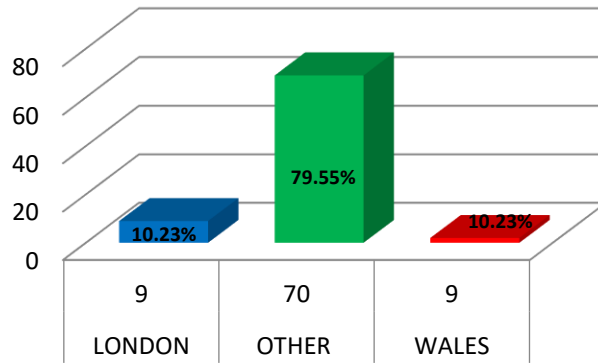
### CORONERS SOCIETY 1850



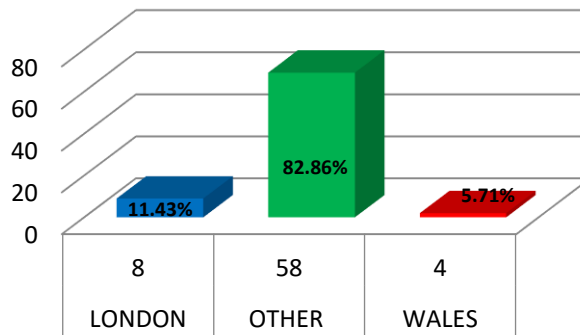
### CORONERS SOCIETY 1857



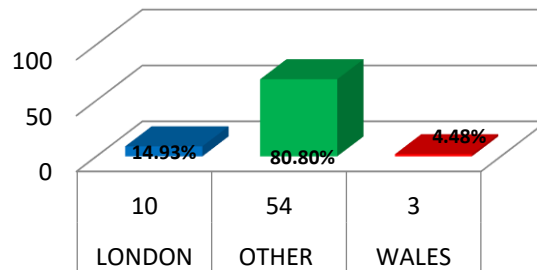
### CORONERS SOCIETY 1866

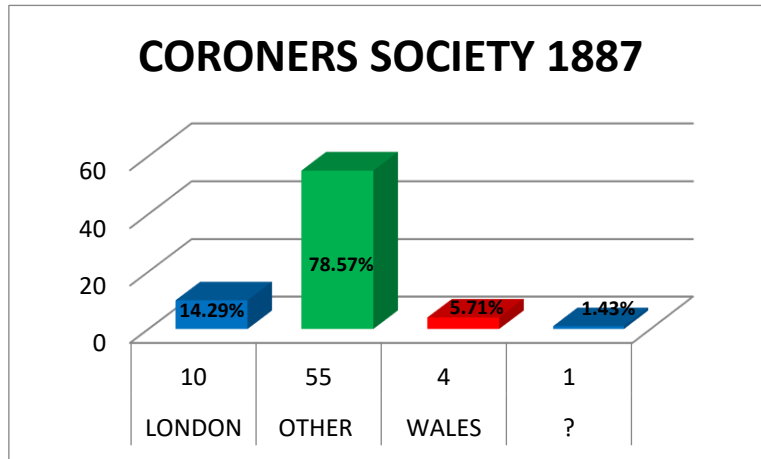


### CORONERS SOCIETY 1878



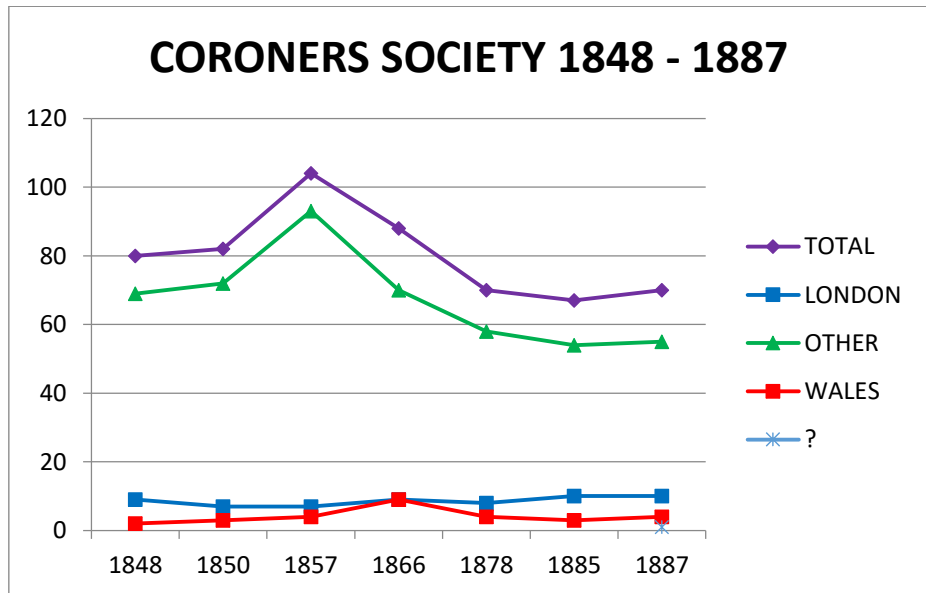
### CORONERS SOCIETY 1885





SUMMARY	TOTALS	PERCENTAGE
<b>1848</b>	80	
LONDON	9	11.25
OTHER	69	86.25
WALES	2	2.50
<b>1850</b>	82	
LONDON	7	8.54
OTHER	72	87.80
WALES	3	3.66
<b>1857</b>	104	
LONDON	7	6.73
OTHER	93	89.42
WALES	4	3.85
<b>1866</b>	88	
LONDON	9	10.23
OTHER	70	79.55
WALES	9	10.23

<b>1878</b>	70	
LONDON	8	11.43
OTHER	58	82.86
WALES	4	5.71
<b>1885</b>	67	
LONDON	10	14.93
OTHER	54	80.60
WALES	3	4.48
<b>1887</b>	70	
LONDON	10	14.29
OTHER	55	78.57
WALES	4	5.71
?	1	1.43





## BIBLIOGRAPHY

The bibliography is divided into the following sections:

- 1.1. Printed books pre-1900
- 1.2. Articles pre-1900
- 1.3. Newspapers and periodicals, pre-1900
- 1.4. Parliamentary debates and papers
- 1.5. Printed books post-1900
- 1.6. Articles post-1900
- 1.7. Unpublished papers and PhD theses
- 1.8. Websites

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The following is an alphabetical listing of the nineteenth-century newspapers and periodicals that were consulted in the writing of this thesis:

*The Anthropological Review; British Medical Journal; The Cambrian; Cobbett’s Political Register; East London Observer, The Economist; Glamorgan, London Daily News, Monmouth and Brecon Gazette and Merthyr Guardian; Grantham Journal; Islington Gazette; The Lancet; The Law Times; The Legal Observer, or, Journal of Jurisprudence; Justice of the Peace, A publication of a series of Law Reports. Lincoln, Rutland and Stamford Mercury; London Gazette; London Medical Gazette; London Review; The Manchester Guardian; Medical Gazette; Medical Times and Gazette; Morning Advertiser; Northampton Mercury; The Observer; The Scotsman; The Spectator; The Times.*

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