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# THE CORONER AND THE MEDICAL PROFESSION IN VICTORIAN NEWCASTLE UPON TYNE ‘... ANTAGONISM AND OFFENCE TOWARDS THE MEDICAL PROFESSION SUCH AS HAS RARELY BEEN EXHIBITED.’

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Studies of the coroner in nineteenth century England suggest that inquests became increasingly medicalised. Much of this research was conducted in London. My research reveals that in Newcastle upon Tyne medicine did not dominate: the solicitor coroner used his skills and knowledge to maintain the legal focus of the inquest. This study reveals a fascinating dynamic between the legally qualified coroner and the local medical profession. In presenting an analysis of examples of the interactions between the Newcastle coroner and the medical profession, this article makes a significant contribution to scholarship on the relationship between medicine and law in the Victorian coroner’s court. I offer insight into inquests in an important provincial town and discover that the coroner relocated the Newcastle court from official buildings to the public house, its traditional home. Rather than a story of increased medicalisation, the inquest in Newcastle was firmly the preserve of the law. The character and choices of an individual coroner are revealed to have a significant impact on the relationship between law and medicine in the coroner’s court. I seek to encourage further research into the work of coroners, to develop a fuller picture of the inquest in the nineteenth century.

**Keywords:** coroner; Newcastle upon Tyne; medicine; law; public house

## Introduction

In April 1857, John Theodore Hoyle, a solicitor, was elected as Borough Coroner for Newcastle upon Tyne.<sup>1</sup> He held the post for almost quarter of a century. This article explores his relationship with the local medical profession in the context of the nineteenth century debate as to whether law or medicine should take precedence in the

<sup>1</sup> Newcastle upon Tyne Corporation, *The Poll at the Election of Coroner for Newcastle upon Tyne on the 16th April 1857* (Newcastle: D Dunlinson, 1857).

coroners' court. I examine contemporary newspaper reports and correspondence and conclude that the evidence from Newcastle demonstrates that rather than a story of increased medicalisation, as revealed elsewhere, the inquest in Newcastle was firmly the preserve of the law.

The office of coroner, the oldest judicial office in England, was first recorded in the Articles of Eyre in September 1194.<sup>2</sup> Surprisingly, despite this long history, the coroner has attracted relatively little academic attention until comparatively recently.<sup>3</sup> There is, for example, no comprehensive overview of the operation of the nineteenth century coroners' court in England. In fact, as this article demonstrates, it may prove difficult to achieve such an overview, because, as my research shows, the choices of individual coroners had such a significant impact that a 'one-size fits all' approach is impossible. This article contributes to the development of a fuller picture of the coroners' court in the mid to late nineteenth century.

In this introduction, I summarise the relevant literature on the nineteenth century coroner. I then outline the sources used, in the absence of coroner's notebooks and inquest records, before presenting a brief biography of the Newcastle coroner, to introduce the political and personal context for the analysis that follows. I provide a short summary of the office of coroner and the competing priorities of medicine and the law in the coroners' court before setting out the position in Newcastle. The relationship between the coroner and medicine is examined in three areas: first, careless doctors and quacks; second, case studies of conflict with the anatomists and third, the disregard of procedure when providing death certificates. Within the overarching aim of the article, to explore the relationship between law and medicine in the Newcastle coroner's court, I touch upon a range of complex issues: the position and importance of legal knowledge; the character and qualification of the coroner; the attitude of the coroner to formal medical expertise and non-qualified doctors; and the role of the press in forming opinion and reporting debates. Finally, I discuss a specific discovery from my research: that medical related disputes likely contributed to the coroner's decision to relocate his court to the traditional arena for inquests, the public house. In this move, the secondary role of medicine to the focus of the inquest is laid bare. My research illustrates how a legally qualified coroner negotiated the boundaries of his role and accommodated medicine whilst ensuring that the law took precedence.

The history and development of the coroner was much neglected by historians until the leading text by Ian Burney in 2000, *Bodies of Evidence: Medicine and the Politics of the English Inquest, 1830–1826*.<sup>4</sup> Burney concluded that inquests, a vital part of the criminal justice system and the civil registration system following the

<sup>2</sup> On the early history of the office of coroner see Roy Frank Hunnisett, 'The Origins of the Office of Coroner', *Transactions of the Royal Historical Society*, 5th ser. 8 (1958), pp. 85–114 and Sarah M. Butler, *Forensic Medicine and Death Investigation in Medieval England* (New York: Routledge, 2015), pp. 33–83.

<sup>3</sup> Much research is by doctoral researchers e.g. Mary P. McHugh, *The Influence of the Coroner's Inquest on the Development of the Common Law and the Medico-Legal-System* (unpublished doctoral thesis, University of London, 1976); John Fenwick, *Accounting for Sudden Death: A Sociological Study of The Coroner System* (unpublished doctoral thesis, University of Hull, 1984); Pamela J. Fisher, *The Politics of Sudden Death: The Office and Role of the Coroner in England and Wales, 1726–1888* (unpublished doctoral thesis, University of Leicester, 2007).

<sup>4</sup> Ian A Burney, *Bodies of Evidence: Medicine and the Politics of the English Inquest, 1830–1826* (Baltimore: Johns Hopkins University Press, 2000).

Births and Deaths Registration Act 1836, became increasingly medicalised as the century advanced. As a historian of medicine, Burney used a medical lens to frame his discussion and centred his analysis of the early nineteenth century on Thomas Wakley MP, founder of the *Lancet* and coroner for Middlesex.<sup>5</sup> His study used the inquest as a tool to examine the development of a political role for death investigation, and as a conduit for Wakley's liberal politics. Burney does not consider, because it was not one of his research questions, the role and importance of a legally qualified coroner. Nor does he examine the role of the inquest in investigating a death where the precise medical cause was not the central issue. His concern was not with inquests where the law merely required a simple determination as to whether a death was natural or involved homicide, but with the development of forensic medicine in the inquest arena. He does not take a chronological approach but there is an overlap in the general timeline between my research and his of approximately five years, from 1857 to 1862. He does not cover the later nineteenth century in detail (nor does he analyse developments outside London). He considers four inquests in depth but, primarily, his work is on a macro level.

I am a legal historian, and my research is viewed through a legal lens and the aim of my research in this article is specifically to focus on the relationship between the coroner and the medical profession in a particular time and space. In the discussion and short case studies presented in this article, developed from newspaper reports and supported by material in the archives, I reveal scenarios in Newcastle which contribute to greater understanding of the overall picture of the nineteenth century coroners' court. I challenge prevailing views of the finding of increased medicalisation, considering the relationship between medicine and law from the view of a town in the North East of England in the mid- to late-nineteenth century. This is a valuable viewpoint, given a London-centric focus of many previous studies. It is hoped that further research in other provincial towns could help to construct a broader picture, both to add to the debate and to encourage others to investigate provincial coroners whereby the jigsaw may be completed.

The most extensive work on the coroner was carried out by retired coroner Gordon Glasgow in several articles and books.<sup>6</sup> Glasgow's work was wide-ranging but his regional focus, when not discussing Wakley, was the North West of England. Most relevant to the present work is his two-part examination of the quest for a medical coronership in Lancashire in the early nineteenth century.<sup>7</sup> Glasgow's study examines elections for the appointment of a coroner, and the role of medical men,

<sup>5</sup> S.S. Sprigge, *The Life and Times of Thomas Wakley* (London: Longmans Green and Co, 1897).

<sup>6</sup> G.H.H. Glasgow, 'Regionalism and Two Mid Nineteenth-Century Lonsdale Coronal Elections', *Contrebis: Lancaster Archaeological and Historical Society*, 28 (2003–4), pp. 33–41; G.H.H. Glasgow, 'Clarke Aspinall: Liverpool Borough Coroner 1867–91', *Lancashire History Quarterly*, 3.1 (1999), pp. 14–20 and pp. 53–56; G.H.H. Glasgow, 'Three Liverpool Doctors and their Coronal Ambitions: A Historical Perspective to the Medico-Legal Conflicts Surrounding the Elections of 1836, 1867 and 1891', *Transactions of the Historic Society of Lancashire and Cheshire* 63 (2005), pp. 63–91; G.H.H. Glasgow, *Coroners and Steam Boiler Explosions: The Case of Richard Palmer in Early Victorian Preston* (Salford: University of Salford Occasional Papers, 2009); G.H.H. Glasgow, *Pray Sir, How Many Paupers Have You Boiled? Thomas Wakley, Workhouses and the Poor Law circa 1834–1847* (Cambridge: EAH Press, 2012); G.H.H. Glasgow, 'The Election of County Coroners in England and Wales circa 1800–1888', *The Journal of Legal History* 20.3 (1999), pp. 75–108.

<sup>7</sup> G.H.H. Glasgow, 'The Campaign for Medical Coroners in Nineteenth-Century England and its Aftermath: A Lancashire Focus on Failure Part I (published in two parts)', *Mortality*, 9.2 (2004), pp.150–167; G.H.H. Glasgow, 'The Campaign for Medical Coroners in Nineteenth-Century England and its Aftermath: A Lancashire Focus on Failure Part II', *Mortality*, 9.3 (2004), pp. 223–234.

but by the time Hoyle was appointed in Newcastle, there did not seem to be an appetite in the local medical profession for a fight to gain the position. Why this was the case would be an interesting study although beyond the scope of this article, it highlights one of the many avenues of coronial research unexplored.

The themes to be drawn from dedicated work on the coroner are, in addition to increased medicalisation, the political nature of the role, hidden homicide and infanticide.<sup>8</sup> There is room for much more research to develop a coherent picture of the development of the coroner and his court across England and Wales.<sup>9</sup> Elizabeth Hurren's study of the life and work of the coroner for Oxford, Edward Hussey,<sup>10</sup> benefited from a substantial archive of sources, including Hussey's published notebooks.<sup>11</sup> She emphasised the importance of understanding and analysing the personal perspective of a coroner to inform discussion of his work. Much discussion of nineteenth century coroners centres upon Thomas Wakley and his campaign for a medical coronership in Middlesex.<sup>12</sup> A debate as to whether a doctor or a lawyer was the best man to be coroner was fuelled by the *Lancet*, under Wakley's guidance.

Burney's conclusion, supported by later work by Yvonne Fisher, that the coroners' court was increasingly medicalised, was the starting point for this article. In examining the relationship between Hoyle and the doctors, so far as possible from the surviving sources, I wished to explore whether the Newcastle picture reflected Burney's findings. Interestingly, my research concludes that an increasingly medicalised inquest is not evidenced in Newcastle. It is, perhaps, unsurprising that Newcastle does not replicate the London experience. As Pamela Fisher has noted, it is '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>13</sup> Hurren has also cautioned against generalising.<sup>14</sup> Until work is carried out to analyse and examine coroners across England and Wales, it is not possible to reach overarching conclusions, nor to state whether experience in a particular region diverged or conformed with a national picture (or indeed whether there was in fact a national picture); and, as in many areas of study, the London experience, which has been studied in greatest depth, may be the exception rather than the rule.

The coroner's court was, even until 2013, a peculiarly local affair with little control and oversight from the 'centre'.<sup>15</sup> One of the most satisfying approaches to the

<sup>8</sup> See for example Joe Sim and Tony Ward, 'The Magistrate of the Poor? Coroners and Deaths in Custody in Nineteenth Century England' in M. Clark and C. Crawford (eds), *Legal Medicine in History* (Cambridge: Cambridge University Press, 1994), pp. 245–267 and Fisher, *The Politics of Sudden Death*.

<sup>9</sup> Scotland has a distinct legal system.

<sup>10</sup> 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), p. 226.

<sup>11</sup> For example E. L. Hussey, *Miscellanea Medico-Chirurgica: Cases in Practice, Reports, Letters, and Occasional Papers* (Oxford: Hall and Stacy, 1882).

<sup>12</sup> Yvonne King Fisher, *Coroners in London and Middlesex, c1820–1888: A Study of Medicalization and Professionalization* (unpublished doctoral thesis, Open University, 2020).

<sup>13</sup> Fisher, *The Politics of Sudden Death*, pp. 22–23.

<sup>14</sup> Hurren, 'Remaking the Medico-Legal Scene'.

<sup>15</sup> See House of Commons, *Death Certification and Investigation in England, Wales and Northern Ireland: The Report of a Fundamental Review* (Cm 5831, 2003).

work of the coroner is to examine their coronial work within the context of their life. Each coroner had their quirks and methods. Medical or legal; conservative or liberal; in the pocket of local employers or fiercely independent, it is impossible to extrapolate and present a tidy picture of the inquest in the nineteenth century. For example, Hurren's research on Edward Hussey provides an examination of a coroner from a medical background and the problems he faced as judge and potentially culpable doctor. Hurren emphasises:

[coroners'] daily interactions remain relatively neglected in historical accounts (...) this is a curious omission given that the careers of many coroners must have been shaped by how they internalised changes in the law, their personal attributes, career paths, professional contacts, and communication skills.<sup>16</sup>

Taking inspiration from Hurren, this article analyses the relationship between law and medicine in the coroners' court in Newcastle during the coronership of JT Hoyle from 1857 to 1885. My research reveals that the coronial process was led by a coroner willing to assert the supremacy of the law over the desire of doctors to impose their authority. The character and choices of an individual coroner are revealed to have a significant impact on the place of law and medicine in the coroners' court. It challenges the London-centric focus of previous findings which claimed increased medicalisation as a linear progression.

### Newspapers as a Source for Research

This research would undoubtedly have been an easier task had the coroner's papers from Newcastle upon Tyne survived.<sup>17</sup> In their absence, I draw upon local and national newspaper reports and correspondence in archives.<sup>18</sup> The invention of the steam press and removal of stamp duty on newspapers in 1855, and paper duty in 1861, led to what Martin Wiener described as 'an explosion' of provincial newspapers.<sup>19</sup> Each title had to fill pages with stories that would sell copy and persuade advertisers to place their business. As Judith Rowbotham et al noted, 'The popularity of legal news (particularly crime news) helped shape the expansion of the press'.<sup>20</sup> The inquest, and the coroner, was part of the criminal justice system and judging by the regular columns of detailed reports from inquests such reports sold newspapers.

<sup>16</sup> Hurren, 'Remaking the Medico-Legal Scene', p. 208.

<sup>17</sup> Coroners' records and notebooks were personal property, and few survive. See J.S.W. Gibson and C. Rogers, *Coroners' Records in England and Wales* (Manchester: The Family History Partnership, 2009).

<sup>18</sup> I read and recorded the reported information for each inquest held by Hoyle, that has been digitised by the British Newspaper Archive, in the *Newcastle Courant*, the *Newcastle Chronicle* (Daily and Weekly), the *Newcastle Journal*, and the *Newcastle Guardian and Tyne Mercury* from 1857 to 1882 (when ill health forced him to retire from public life). I transcribed details of the inquests and recorded Hoyle's reported words. I triangulated information in biographies, local gazettes, family records, and other sources.

<sup>19</sup> Martin J. Wiener, 'Judges v. Jurors: Courtroom Tensions in Murder Trials and the Law of Criminal Responsibility in Nineteenth Century England', *Law and History Review*, 17(3) (1999), p. 471.

<sup>20</sup> J. Rowbotham, K. Stevenson and S. Pegg, *Crime News in Modern Britain: Press Reporting and Responsibility, 1820–2010* (London: Palgrave, 2014), p. 49.

Although there are challenges in relying upon newspapers as the primary source for research, newspaper accounts of nineteenth century legal matters offer a wealth of material that is unavailable from other sources and can offer clues to the location of supporting material. Newcastle and Gateshead had several local newspapers: the *Newcastle Journal*; the *Newcastle Chronicle* (which had evening, weekly and daily editions at various times); the *Newcastle Courant*; the *Newcastle Guardian and Tyne Mercury*; and the *Gateshead Observer*.<sup>21</sup> Newcastle returned predominantly liberal MPs to Parliament in the nineteenth century and the newspapers reflected local politics.<sup>22</sup> The newspapers supported the Liberal cause except for the Conservative *Newcastle Journal*.<sup>23</sup> Each newspaper employed dedicated court reporters and a comparison between newspaper reports and depositions, in the assize files in the National Archives, confirms that the newspaper reporters reported evidence accurately. The newspaper reports are the only contemporaneous record of the coroner's words and the only insight into the everyday working of the court.<sup>24</sup> Official legal papers record the verdicts and the evidence but not the interactions between the attendees. Speech in the court, reported in the press, is often rendered verbatim; sometimes in the vernacular.

Newspaper reports must be treated with caution. Newcastle was a liberal voting town with a predominantly liberal press, but it is open to debate whether editorial comments reflect the local community or whether they influenced that community. In the disagreements documented in this article, the newspapers offered a right of reply to those criticised. It is difficult to deduce any bias towards the reporting of inquests and the coroner's conduct - save to say that all newspapers were generally supportive, including the *Newcastle Journal*. When Hoyle died, the *Journal* noted, emphasising the legal approach he adopted, that he was a 'careful and judicial coroner ... [with] few equals in the country'.<sup>25</sup> An obituary in the *Newcastle Chronicle* explained 'faithfully and zealously he performed the duties of the position (...) on public questions (...) whatever his opinions and feelings were, (and) generally maintained a judicious silence'.<sup>26</sup> As suggested by Hurren, it is important to appreciate something of the life of a coroner to be able to consider his work, thus the next section offers a brief outline of Hoyle's private and public life, his interests and politics.<sup>27</sup>

<sup>21</sup> For more on the *Newcastle Chronicle* see Joan Hugman, 'Print and Preach: The Entrepreneurial Spirit of Nineteenth-Century Newcastle', in R. Colls and B. Lancaster (eds), *Newcastle upon Tyne: A Modern History* (Chichester: Phillimore and Co Ltd, 2001), pp.113–132 and Joan Allen, *Joseph Cowen and Popular Radicalism on Tyneside, 1829–1900* (London: Merlin Press, 2007); see also Winifred Stokes, 'The Rise and Fall of an Enterprising Provincial Paper: The Gateshead Observer, 1837–1886', *Journalism Studies*, 7.3 (2006), pp. 427–436.

<sup>22</sup> Newcastle returned two members of Parliament. John Hodson (Conservative) held one of the seats from 1836 until 1847. A Conservative was not elected again until 1892.

<sup>23</sup> M.A. Richardson, *A Guide to Newcastle upon Tyne* (Newcastle upon Tyne: M.A. Richardson, 1846) p.191.

<sup>24</sup> P. Brett, 'Early Nineteenth-Century Reform Newspapers in the Provinces: The Newcastle Chronicle and Bristol Mercury', *Studies in Newspaper and Periodical History*, 3.1–2 (1995), pp. 49–67.

<sup>25</sup> 'Death of Mr John Theodore Hoyle', *Newcastle Journal*, 26 December 1885, p. 6.

<sup>26</sup> 'Death of Mr JT Hoyle', *Newcastle Daily Chronicle*, 26 December 1885, p.8.

<sup>27</sup> For a detailed biography see Helen Rutherford, *The Coroner in an Emerging Industrial Society: John Theodore Hoyle and Newcastle upon Tyne 1857–1885* (unpublished doctoral thesis, Newcastle University, 2021).

### A Short Biography of John Theodore Hoyle

John Theodore Hoyle was born in 1808 and grew up in a merchant family in Denton Hall on the outskirts of Newcastle upon Tyne. He was the eldest of four boys and educated at home. He did not attend university and was destined to join his father in business but instead, aged 17, he was articled to the leading Newcastle solicitor Armourer Donkin. He qualified in 1831 and founded his own solicitors' practice. Hoyle's father, and brother Richard, who succeeded to the family businesses, were Tory voters, but Hoyle's politics followed those of his mentor: Donkin was 'a Liberal of the Whig School'.<sup>28</sup> As the *Newcastle Critic* noted, 'Mr Hoyle is a Liberal and took an active part for many years in election matters for the Liberal party in Newcastle, Northumberland, and Durham'.<sup>29</sup> Before assuming the office of coroner Hoyle may have had political ambition. He was the chief law agent for candidate George Ridley in the South Northumberland election in 1852.<sup>30</sup> In 1880 a correspondent to a local newspaper suggested Hoyle should have been Town Clerk of Newcastle.<sup>31</sup>

If Hoyle had aspired to become a coroner in 1831, on qualification as a solicitor, he would not have been eligible. Prior to the Municipal Corporations Act 1835 each town and borough had its own rules for appointing coroners: in Newcastle, two coroners were appointed each year by the Town Council and an appointee had to be a burgess.<sup>32</sup> The first election for the coronership was in 1835 and although Hoyle put himself forward in the early stages, he was not on the final list of candidates. The victor, solicitor William Stoker, died suddenly in 1848 and was succeeded by his son, also a solicitor, John Stoker. As Stoker was 28, and the coronership was held for life, Hoyle must have considered that his opportunity had passed.

Hoyle's solicitor's practice was highly successful, and he dealt with a full range of legal matters for his clients: crime, conveyancing, matrimonial issues, insurance, civil litigation, licensing and bankruptcy. He eventually specialised in the bankruptcy courts, and his partners and clerks handled other work. He held many legal positions, including office as a Chancery Master Extraordinaire and committee member of the local Law Society. Alongside his legal practice he owned a large portfolio of property and, as father to 16 children, had a busy family life. Hoyle was a freemason, and a Knights Templar; he was solicitor to several trade associations and insurance companies and, more controversially when considering the venue for many inquests, solicitor to the Newcastle and Gateshead Licenced Victuallers Association (although this post was unpaid). By 1857, when he was appointed coroner, he was a wealthy and well-regarded solicitor.

<sup>28</sup> Richard Welford, *Biographies of Remarkable Persons Vol 2* (London: Walter Scott, 1895), p. 101.

<sup>29</sup> 'Men You Know XIX', *The Newcastle Critic*, 1 August 1874, p. 60.

<sup>30</sup> *The Poll Book of the Contested Election for the Southern Division of Northumberland* (Newcastle upon Tyne: John Hernaman, 1852).

<sup>31</sup> Tyne and Wear Archives (TWAM), *Richmonds Solicitors Box of Miscellaneous Papers*, D3620 (uncatalogued) William Wealans Robson, *Letter to the Editor* 14 July 1880: the newspaper is not identified but it is likely the *Newcastle Journal*.

<sup>32</sup> For full details of the set-up of the Corporation in Newcastle upon Tyne before the Municipal Corporations Act 1835 see House of Commons *First Report of The Commissioners Appointed to Inquire into The Municipal Corporations in England and Wales* (C (1st series) 116, 1835) p. 1633. For more detail about the Commission see G.B.A.M. Finlayson 'The Municipal Corporation Commission and Report, 1833-35' *Historical Research* 36.93 (1963), pp. 36-52.



In 1857 the office of the Newcastle borough coroner became unexpectedly vacant when the incumbent, John Stoker, fled to Australia in the wake of financial irregularities. Under the Municipal Corporations Act, the position of coroner had to be filled within ten days.<sup>33</sup> Such was the unexpected nature of the election that the candidates did not have time to present their manifestos in the newspapers. The press considered that the contest would be between Hoyle and William Henry Brockett, a man with no medical or legal qualifications but who was a liberal reformer; a newspaper proprietor; former mayor of Gateshead; and a former magistrate. The medical profession did not offer a candidate. Both sides of the political divide supported Hoyle. The liberal *Newcastle Guardian* backed him as 'in every respect well qualified for the position'.<sup>34</sup> The conservative *Newcastle Journal* described him as 'able, painstaking and highly respected'.<sup>35</sup>

The election took place on 16 April 1857.<sup>36</sup> Hoyle was nominated by Francis Staniford, a shipbroker, and seconded by George Bradley, proprietor of the *Newcastle Guardian*.<sup>37</sup> Bradley emphasised the need for a legally qualified coroner by praising Hoyle's expertise in the examination of witnesses and his knowledge of the rules of evidence; underlining the contemporary acknowledgment of the importance of legal skills. In the first round of voting Brockett polled one more vote than Hoyle, 18 to 17, and George Hodge, the third candidate, gained 12 votes. Hodge withdrew and, in the second division, Hoyle won by the narrowest margin: 24 votes to 23.<sup>38</sup> Hoyle had been qualified as a solicitor for quarter of a century. As coroner he ran his court with an experienced solicitor's understanding of the law and strong legal hand. His healthy respect for medicine lay within the ambit of what he undoubtedly viewed as a legal function. Although he called medical experts to give evidence to help the jury with medical aspects of cases, he tempered any medical zeal to overstep legal parameters. This respectful relationship ensured he rarely crossed swords with the medical professionals, although when he did, it attracted national attention, as is discussed later.

Having established the type of man Hoyle was – a liberal lawyer with a large family, who played a full role in formal and informal community affairs – in the next section I outline development of the office of the coroner, before addressing the relationship between medicine and the law in the coroners' court.

### **The Office of Coroner and the Competing Priorities of Medicine and the Law in the Coroners' Court**

The first coroners were charged with Keeping the Pleas of the Crown and the coroner played a vital role in the feudal system.<sup>39</sup> His was a wider administrative function than simply investigating death, for example he received abjurations of the

<sup>33</sup> Municipal Corporations Act s. lxii.

<sup>34</sup> 'Coroner of Newcastle', *Newcastle Guardian and Tyne Mercury*, 4 April 1857, p. 5.

<sup>35</sup> 'Local and General Intelligence', *Newcastle Journal*, 11 April 1857, p. 5.

<sup>36</sup> *Proceedings of the Town Council of the Borough of Newcastle upon Tyne 1856/57* (Newcastle upon Tyne 1857), p. 194.

<sup>37</sup> 'Death of Mr George Bradley', *Newcastle Daily Chronicle and Northern Counties Advertiser*, October 1863, p. 5.

<sup>38</sup> *The Poll at the Election of Coroner for Newcastle upon Tyne*, p. 7.

<sup>39</sup> See Roy Frank Hunnisett, *The Medieval Coroner* (Cambridge: Cambridge University Press, 1961).

realm and heard confessions of felony, and he was responsible for claiming buried treasure for the Crown.<sup>40</sup> In the nineteenth century the coroner's function, important to provide answers for the bereaved, and the community, became central to government requirements for statistical information following the Births and Deaths Registration Act 1836. After 1836, the remit of the coroner was at an intersection between the criminal justice system, where a verdict in suspected homicide cases had similar effect to an indictment from a grand jury, and the civil duty to register deaths for central government returns. In 1858, the year after Hoyle was elected, JJ Dempsey, a journalist, published a pamphlet in which he argued: 'It is fearful to contemplate the social and moral results or the abuses of the sanatory and physical condition of the people which, did this Court not exist, might be perpetrated'.<sup>41</sup> The coroner was perceived to be a vital cog in a modern civil society.<sup>42</sup>

The coroner was an important judicial and administrative figure. John Jervis noted in *A Practical Treatise on the Office and Duties of Coroners*, that the office of coroner '[was] of considerable practical utility'.<sup>43</sup> The Parliamentary Commission that informed the Municipal Corporations Act, included the appointment of coroners and their role and responsibilities as part of their inquiry to harmonise local governance in England and Wales. Although coroners swore oaths of allegiance to the Crown, they were appointed locally and locally accountable and conducted their business without national oversight.<sup>44</sup> Coronial law was piecemeal, and coroners depended upon their common sense and understanding, guided by their professional knowledge and authoritative practical legal manuals.<sup>45</sup> The jurisdiction of the coroners' court was rooted in common law as declared in the *De Officio Coronatoris* 1275.<sup>46</sup> The ragbag of laws, rules, and local practice, was the main reason a man of legal learning was best suited to hold the office of coroner. *Jervis on Coroners*, the definitive text on coronial law and practice, was first published in 1829.<sup>47</sup> Despite Thomas Wakley's contention that sufficient law could be picked up by a medically qualified man in a couple of hours to enable him to discharge his duty as coroner, it is evident that a detailed grasp of the law was essential in a court of law.<sup>48</sup> When medical practitioner Edward Hussey became coroner of Oxford in 1876, '[his] first duty had been to acquire a firm grasp of the law'.<sup>49</sup> Deep practical experience meant that legal coroners had an advantage over medical coroners in matters of the law.

<sup>40</sup> The coroner still has jurisdiction over treasure see *Treasure Act* 1996.

<sup>41</sup> J.J. Dempsey, *The Coroner's Court, its Uses and Abuses; with Suggestions for Reform* (London: Hatton and Co, 1858).

<sup>42</sup> See for example H. Hopkins, *The Strange Death of Private White: A Victorian Scandal that Made History* (London: Weidenfeld and Nicolson, 1977) and Glasgow, *Pray Sir, How Many Paupers Have You Boiled?*

<sup>43</sup> John Jervis, *On the Office and Duties of Coroners* (London: H. Sweet, W. Maxwell and Stevens & Sons, 1829), p. iii.

<sup>44</sup> This was the position until the appointment of a Chief Coroner in 2013, see the *Coroners and Justice Act* 2009.

<sup>45</sup> See Fisher, *Coroners in London and Middlesex, c1820-1888*.

<sup>46</sup> This legislation served the coroner as the primary written authority for his powers until the consolidating *Coroners Act* 1887.

<sup>47</sup> John Jervis, *A Practical Treatise on the Office and Duties of Coroners, with Forms and Precedents* (London: S. Sweet, 1829).

<sup>48</sup> Charles W. Brook, *Battling Surgeon: A Life of Thomas Wakley* (Glasgow: Strickland Press, 1945).

<sup>49</sup> Hurren, 'Remaking the Medico-Legal Scene'.

Yet, the duties of a coroner straddled medicine and the law.<sup>50</sup> The coroner's quest was to establish a cause for a death certificate or, in cases of suspected homicide, to find whether a crime had been committed. In investigating death, the legal decision-making and evidential investigation was intertwined with the influence of increased scientific understanding of disease and the development of medical learning. This dichotomy resulted in an, at times, uneasy relationship between the medical profession and legally qualified coroners. It was a both a national and a local debate. An editorial in the *Newcastle Journal* nailed its colours to the mast in 1861: 'the office of Coroner is an office of (...) great practical importance. In the hands of an intelligent and honourable man, with competent knowledge of the law (...) it is almost the last office with which we can afford to dispense'.<sup>51</sup> Prior to the Municipal Corporations Act, one of the two yearly elected Newcastle coroners was often medically qualified. Following the Act, when the council had to appoint one man for life, solicitors were chosen. Hoyle was the third solicitor to hold the post.

Having outlined the medico-legal debate, and the role of the coroner, in the next section I discuss the medical profession in Newcastle, and Hoyle's relationship with it. This leads into discussion of the coroner's view of quack doctors and the less diligent members of the medical profession, followed by a detailed analysis of events around a clash of opinion with the anatomists. My research discovers that entrenched positions and the failure of doctors to consider lawyers as capable of understanding medical evidence coloured their relationships with the coroner.

### Medicine and the Law in Newcastle upon Tyne

The Newcastle School of Medicine was founded in 1834 and its doctors were at the forefront of medical science.<sup>52</sup> The Dispensary and the Infirmary were the main treating institutions and there was a fever hospital; a medical ward in the workhouse; a hospital ward in the gaol; a sanatorium; an asylum; and a lying-in hospital. The relationship between the coroner and the medical profession, whilst generally cordial, sometimes reflected the contentious national debates about the role of medicine and the law in the court.

In 1865, a speaker at the first meeting of the Northern Branch of the British Medical Association obliquely criticised legally qualified coroners: 'if the coroner were always a medical man and more of an inquirer and less of a judge [this would] attract the best-educated and most scientific members of the profession'.<sup>53</sup> In May 1865, the medico/legal debate was highlighted in the North East when the long serving legally-qualified coroner for South Northumberland, Stephen Reed, died.<sup>54</sup> The

<sup>50</sup> See Katherine Watson, *Medicine and Justice: Medico-legal Practice in England and Wales, 1700–1914*, (London: Routledge, 2020).

<sup>51</sup> 'Coroners and Magistrates', *Newcastle Daily Journal*, 21 January 1861, p. 2.

<sup>52</sup> For more on medicine in Newcastle see William Errington Hume, *The Infirmary Newcastle upon Tyne 1751–1951: A Brief Sketch* (Newcastle upon Tyne: Andrew Reid and Company Limited, 1951); George Haliburton Hume, *The History of the Newcastle Infirmary* (Newcastle upon Tyne: Andrew Reid, 1906).

<sup>53</sup> 'Northern Branch of the British Medical Association', *Newcastle Journal*, 22 December 1865, p. 3.

<sup>54</sup> Reed was appointed in 1815.

local doctors met to propose a medical man for the office.<sup>55</sup> They agreed, unsurprisingly, that only a medically educated man could fulfil the role with ‘credit to himself and benefit to the public’. Dr John Fife, a leading light in the medical school, referring to his experience in Newcastle, declared that there was no doubt the new coroner should be medically qualified. Fife underlined the ‘public advantage’ of a medical man and implicitly criticised the local legally qualified coroners.<sup>56</sup> A second speaker, Dr Thomas Humble, cognisant of contemporary debate around the cost of inquests to the local public purse, opined that medically qualified men were the most appropriate for the post of coroner because they could decide whether an inquest was necessary and furthermore, an inquest without medical guidance was dependent upon the ‘evidence of three or four old women’. He failed to acknowledge that a legally qualified coroner would ensure that evidence and witnesses were examined with precise legal skill. Moreover, the conflict that a medical practitioner experienced where medical negligence was suspected, as illuminated in Hurren’s discussion of Hussey in Oxford, was not a concern for a legal coroner.<sup>57</sup>

Hoyle was fiercely defensive of the importance of the coroner’s court as a court of law. He had no medical qualifications although there is evidence that he was interested in science. He was member of a committee who organised the thirty-third Annual Meeting of the British Association for the Advancement of Science, which met in Newcastle, and was the son of a chemist.<sup>58</sup> However, his work was guided by a strong belief in justice and the rule of law, underpinned by his legal knowledge and experience. As he explained in 1874: ‘[his] object [as coroner] was to promote the administration of justice’.<sup>59</sup> However, increasing medical expertise meant that the law had to co-exist with medicine where both disciplines influenced the outcome of what was recorded on a death certificate. Hoyle, as a diligent lawyer, was a scholar of coronial law and procedure. In a letter to the Home Secretary, Henry Bruce, seeking guidance on a legal point, which is discussed later, Hoyle explained: ‘I do not find anything bearing upon the points about to be submitted to you, in any of the Works on the Law of Coroners’.<sup>60</sup>

The significance to Hoyle of the relationship between medicine and law is exemplified by his portrait in the Laing Art Gallery, Newcastle, which depicts him reading a book on medical jurisprudence.<sup>61</sup> Without doubt, Hoyle gained vast expertise in the nuances of coronial law and practice. It is less easy to establish the extent of his medical knowledge, although his day-to-day work, his reading, and his access to medical expertise, both formally and informally, must have resulted in a working knowledge.

<sup>55</sup> ‘The Coronership of South Northumberland’, *Newcastle Courant*, 12 May 1865, p. 2.

<sup>56</sup> The coroner for the Durham Chester Ward (1843–1882), John Milnes Favell, was neither a doctor nor a lawyer.

<sup>57</sup> Hurren, ‘Remaking the Medico-Legal Scene’.

<sup>58</sup> *Report of the British Association for the Advancement of Science; Held at Newcastle upon Tyne in August and September 1863* (London: John Murray, 1864).

<sup>59</sup> ‘A Violent and Suspicious Death in Newcastle’, *Newcastle Courant*, 17 April 1874, p. 6.

<sup>60</sup> The National Archives HO 45/8366 C69734219, *JT Hoyle to Secretary of State for the Home Department*, November 1870.

<sup>61</sup> Laing Art Gallery, Newcastle upon Tyne, Frederick William Bannister, *John Theodore Hoyle (1808–1885), Coroner of Newcastle*, Oil over Calotype c.1858.

There was no assumption that medical evidence would be required in all inquests.<sup>62</sup> Hoyle, as was the practice of most coroners, would hear evidence from doctors who had treated the deceased, and he consulted the jury, family, and friends to decide whether independent evidence was needed. For example, in December 1866, an inquest was held into the death of a provision dealer named Joseph Renwick.<sup>63</sup> Dr Septimus Rayne examined the body and found no marks of violence.<sup>64</sup> Hoyle asked Renwick's son if he wanted any further medical investigation. The son confirmed that he did not, but it is telling that the coroner decided to allow the family to contribute to the decision. This is not representative of the practice of all coroners, including those in neighbouring areas who, alone, decided how to proceed.<sup>65</sup>

Although the coroner discharged a judicial function, medical evidence naturally played an important role in some inquests. Hoyle was insistent that this was a supporting role and not the focus. In appropriate cases, the cause of death could be recorded without the exact medical reason being pinpointed. This distinction, analogous to the modern coronial definition of 'how' the deceased met their death, was illustrated in an inquest in December 1867.<sup>66</sup> A solicitor, George Brewis, collapsed and died at work.<sup>67</sup> At the inquest, Hoyle directed the jury, '[he had] no doubt the verdict (...) would be natural causes. It was not necessary (...) to inquire whether it had been heart disease or apoplexy—it was enough that they had excluded all unnatural causes'.<sup>68</sup> This pragmatic, legal, approach was further demonstrated the following year at the inquest into the death of Sarah Woolley.<sup>69</sup> Motivated by his desire to avoid a post-mortem examination, the coroner told the jury that if they were satisfied that Sarah died from natural causes, it would be unnecessary to inquire what those natural causes were.

Hoyle was conversant with sufficient medical knowledge to inform questions to be put to medically qualified witnesses and enable interpretation of the evidence for the jury. However, of greater import was the authority that came from the professional status of a high-profile solicitor. Hoyle's standing in the community meant he did not have to develop and demonstrate his professional status to be accepted, as Hurren suggests Hussey had to do.<sup>70</sup> The role of coroner inhabited by a lawyer brought with it the gravitas of legal qualification, and his oaths of loyalty to the monarch and the people served in both his coroner's role and his legal practice.

Hoyle was well known in the North East of England, but he rarely came to national attention.<sup>71</sup> His strong opinions were regularly reported in the local press,

<sup>62</sup> The Medical Witnesses Act 1836 (6 & 7 Will IV c 89) allowed coroners to pay for medical reports and post-mortem examination but did not direct when such were required.

<sup>63</sup> 'Five Pounds Reward', *Shields Daily News*, 23 November 1866, p. 2.

<sup>64</sup> 'Inquests in Newcastle', *Newcastle Daily Chronicle*, 28 December 1866, p. 2.

<sup>65</sup> For example, the Northumberland coroner Stephen Reed sometimes refused to pay the jury, or allow them to leave, until they had reached the 'correct' verdict: see 'Local Coroners and Juries', *Newcastle Guardian and Tyne Mercury*, 12 January 1856, p. 5.

<sup>66</sup> 'How' can have a narrow meaning—accident/homicide/suicide or a wider meaning to include the full circumstances of the death including the precise medical cause.

<sup>67</sup> 'Local and District News', *Shields Daily Gazette*, 4 December 1867, p. 2.

<sup>68</sup> 'Sudden Death of Mr Geo. Brewis, Solicitor', *Newcastle Journal*, 4 December 1867, p. 2.

<sup>69</sup> 'Inquests', *Newcastle Journal*, 28 April 1868, p. 2.

<sup>70</sup> Hurren, 'Remaking the Medico-Legal Scene', p. 226.

<sup>71</sup> He was not a member of the Coroners' Society.

but on two occasions his actions led to disapproving articles in leading medical journals, *The Lancet* and the *British Medical Journal*.<sup>72</sup> In these instances he found himself at loggerheads with the local medical profession when he disapproved of their conduct and believed they had acted unlawfully. These examples are analysed below. However, first I discuss examples of his general attitude to the medical profession when it failed to live up to the standards he expected to keep the community safe.

### Less than Diligent Doctors and Quacks

Early in his coronership Hoyle laid down his marker for his expectation of professional medical behaviour. In December 1859 a six-year-old girl, Margaret Anderson, accidentally set her clothing alight. Margaret's mother sought help from several doctors, but all refused to assist.<sup>73</sup> Eventually, Dr Thomas Nesham advised that Margaret be taken to the Infirmary, where she died.<sup>74</sup> Hoyle severely censured the doctors, who were named in the newspaper, 'who did not visit "such cases"'. The coroner had no legal power to sanction the doctors and therefore he used the press to publicise his disapproval, so that the community 'might be made aware of the sort of people with whom they had to deal'.<sup>75</sup> One of the accused, Dr Preston, responded in the *Newcastle Chronicle*, 'I deny that the coroner has any right to circulate rumours based on ex parte statements without previously testing their truth'.<sup>76</sup> However, Hoyle was not interested in courting favour. He had set out his expectation of medical care and demonstrated that he was a coroner who would seek to protect the interests of those in medical need.

Hoyle's respect for medicine was reserved for qualified, diligent, doctors. He had no time for those who put the community at risk. An example of his approach can be seen in January 1865 at an inquest into the death of a pregnant woman, Jane Chambers. After hearing the evidence, the jury concluded that her death resulted from 'want of medical assistance in her confinement'. Dr Charles Gibson, the surgeon at the Lying-in Hospital, had declined to help, despite Jane having a 'ticket' from a sponsor allowing her to be treated. In fact, it was not only Dr Gibson who had failed to help. Jane's sister-in-law called on several doctors to obtain medical assistance, but they each told her they were otherwise engaged. Hoyle was appalled at Gibson's response and said he would inform the subscribers of the Hospital.<sup>77</sup> The local newspapers reported his words: 'benevolent people paid their money to support

<sup>72</sup> Unsurprisingly, *The Lancet* was an advocate of medical coroners. One of the founders of the *British Medical Journal*, Peter Hennis Green, was an alumnus.

<sup>73</sup> Dr Gilchrist, Dr Featherstonehaugh, Dr Manford and Dr Preston: 'Fatal Burning of Children in Newcastle', *Newcastle Daily Chronicle*, 19 December 1859, p. 2.

<sup>74</sup> 'Children Burnt in Newcastle', *Durham County Advertiser*, 23 December 1859, p. 5.

<sup>75</sup> 'The Fatal Case of Burning: Humanity of Newcastle Medical Men', *North and South Shields Gazette and Northumberland and Durham Advertiser*, 22 December 1859, p. 5.

<sup>76</sup> W.C. Preston, 'To the Editor of the Daily Chronicle', *Newcastle Daily Chronicle*, 20 December 1859, p. 3.

<sup>77</sup> For more on the socio-economic history of medical practice see Ann Digby, *Making a Medical Living: Doctors and Patients in the English Market for Medicine, 1720–1911: 24* (Cambridge: Cambridge Studies in Population, Economy and Society in Past Time, 2002).

the Lying-in Hospital (...) and yet the poor people who required assistance were treated in the most inhuman manner'.<sup>78</sup> Hoyle asked '[why Gibson] did not have time to go and see a poor woman? (...) he [the coroner] was sure that if there had been the prospect of a good fee there would have been half a dozen doctors ready to go'.<sup>79</sup> Hoyle was clear that doctors should help labouring women whatever their position in society. Dr Gibson defended himself in the newspaper: 'it is not for me, in this place, to comment upon a judicial tribunal which could fulminate so extraordinary a verdict as that awarded upon the present occasion, nor to estimate the dignity of its president who could permit so egregious an abuse of its power'.<sup>80</sup>

The Chambers inquest was an uncommon example of neglect by qualified medical men in Newcastle. The medical profession was stratified. The orthodox profession was divided into two ranks: the physicians, who had university degrees and specialised in named branches of medicine, and the surgeons and apothecaries in the second tier.<sup>81</sup> Then there were the 'quacks', who claimed medical proficiency but had no formal qualifications. Although many potions they pedalled were harmless sugar pills, sometimes the remedies were harmful. When Hoyle encountered a quack at an inquest in 1867, he directed the jury to indict a 'medical botanist' for manslaughter.<sup>82</sup> A young woman, Ann Walker, had taken ill following the delivery of a still-born child. 'Dr' Josiah Thomas was consulted and gave Ann a 'liquid'. Ann deteriorated, and eventually died, despite the efforts of surgeons. Hoyle told the jury that the inquest was one of the most important inquiries they had had to conduct and ordered a full post-mortem. He explained he could not find Thomas' name on the Government list of qualified doctors 'a copy of which was sent to every coroner'.<sup>83</sup> A midwife gave evidence that she was 'aware that [Thomas] is not a qualified practitioner of the 'old school'.<sup>84</sup> Hoyle summed up by pointing out, even if 'a properly qualified medical man attended [such a case] and from not bringing a proper amount of skill to bear upon and (...) death resulted he would be liable to a charge of manslaughter'.<sup>85</sup> The jury returned a verdict accordingly and Thomas was sent for trial.<sup>86</sup>

Thus far, I have considered Hoyle's response to the less diligent and the non-orthodox. I have highlighted Hoyle's expectations of the medical profession and the fact that he used expert evidence to support the legal remit of the inquest. I now turn to Hoyle's more fraught disagreements with the Newcastle medical profession.

<sup>78</sup> 'Death from Medical Neglect', *Morpeth Herald*, 4 February 1865, p. 6.

<sup>79</sup> 'Heartrending Revelations', *Newcastle Weekly Chronicle*, 28 January 1865, p. 8.

<sup>80</sup> 'The Case of Medical Neglect at St Peter's -To the Editor of the Newcastle Daily Journal', *Newcastle Journal*, 30 January 1865, p. 3.

<sup>81</sup> See G. Grey Turner and W.D. Arnison, *Newcastle upon Tyne School of Medicine 1834-1934* (Newcastle upon Tyne: Andrew Reid, 1934) p. 7.

<sup>82</sup> 'The Death of a Woman in Childbirth. Verdict of Manslaughter against a Medical Botanist', *Newcastle Daily Chronicle*, 23 January 1867, p. 3.

<sup>83</sup> 'Death of a Woman through Defective Medical Aid', *Newcastle Courant*, 25 January 1867, p. 2.

<sup>84</sup> 'The Death of a Woman in Childbirth. Verdict of Manslaughter against a Medical Botanist', *Newcastle Daily Chronicle*, 23 January 1867, p. 3.

<sup>85</sup> 'The Adjourned Inquest', *Newcastle Guardian and Tyne Mercury*, 26 January 1867, p. 3.

<sup>86</sup> Thomas was found not guilty following a direction by the judge.

### Case Studies of Conflict with the Anatomists

Professional antipathy between the coroner and the medical men first manifested in the period 1862 to 1870. The disagreements concerned post-mortem examinations and death certificates, revealing the competing priorities of the medical profession and the coroner. In this section I discuss two case studies showing disagreements with the medical profession. Although newspapers of all political hues extolled the coroner's virtues, and witnesses and the bereaved appreciated his kind and thoughtful manner, many doctors were convinced that the coroner's quest should be led by medicine: the legally qualified coroner should not be allowed to constrain medical progress. Inconveniently for the medical profession, it had no means to replace the coroner, who held his position for life. These tensions, or competing priorities, came to the surface in relation to anatomical dissection.

There was an understandable desire by doctors to push the boundaries of medical knowledge. One way to do this was through thorough anatomical investigation. The Anatomy Act 1832 provided that a person having lawful possession of a body could permit it to undergo 'anatomical examination' provided that no relative of the deceased objected.<sup>87</sup> The Act allowed doctors to dissect the corpse of anyone who died in a hospital, prison, or workhouse, and whose remains were unclaimed, which, effectively, left the bodies of the most disadvantaged members of society at the mercy of the anatomists. When bodies were unclaimed, The Anatomy Act 'privileges' could impinge on the remit of the coroner's court. The legal investigation into death could be hindered or rendered impossible where the medical profession interfered with the corpse before an examination for the coroner. Hoyle did not readily accept the desecration of the dead unless it was essential for the fulfilment of his legal duties.<sup>88</sup>

In 1862, dissection and the mistreatment of the remains of the poor exercised the Newcastle coroner's mind. The fate of Elizabeth 'Bouncing Bess' Brown illustrates Hoyle's views on dissection. Bess was a regular attender at the Police Court for drunkenness.<sup>89</sup> Despite a promise in 1861 to 'go straight' she ended up, in January 1862, in the vagrant ward of the workhouse where she died.<sup>90</sup> Bess's body was examined by Dr Gregson on behalf of the coroner. Gregson discovered that she had already been dissected. Hoyle told the jury:

(...) on the Sunday after her [Elizabeth Brown's] death a person named Daghish, an assistant to Dr Rayne, and Mr Hardcastle, the surgeon to the workhouse, and vagrant ward, were guilty of most improper, nay, indeed, unlawful conduct, inasmuch (...) before any inquest had been held, or any direction given by me, they cut open the body and head of the deceased, and made an internal examination of it. This was a most improper proceeding for several reasons—first, it is unlawful; second, the body should be viewed by the jury in the same state as when death took place; and, thirdly it can never be tolerated

<sup>87</sup> (2 & 3 Will IV 4 c 75) s vii.

<sup>88</sup> Hoyle was an Anglican but his wife, Ellen Joel, was Jewish. She was baptised in 1848.

<sup>89</sup> 'Fleecing a Frenchman', *Newcastle Daily Chronicle*, 5 November 1859, p. 2.

<sup>90</sup> 'The Social Evil', *Newcastle Chronicle and Tyne Mercury*, 19 May 1860, p. 4.



in this country, that the bodies of paupers should be cut into by the workhouse surgeon, without the consent of relatives, or any lawful authority whatever.<sup>91</sup>

By publicising the case he drew public attention to the issue but there is no record of further action. In 1870, several Newcastle doctors incurred the ire of the coroner in a similar case. Following the death of a white-lead worker named Margaret Reed, it transpired that doctors had again acted without concern for the coroner's inquiry.<sup>92</sup> The *British Medical Journal* reported the case and the circumstances induced Hoyle to write to the Home Secretary for clarification of the law. A report in the *Newcastle Guardian*, 'The Newcastle Infirmary Exposure', suggested that the case of Margaret Reed, whilst upsetting the medical establishment, '[had done] Newcastle and the State some service'.<sup>93</sup> Margaret died in the Infirmary from the effects of lead poison. She had no family and there was no one to arrange burial. The doctors carried out a post-mortem examination. The *Newcastle Guardian's* report acerbically echoed a popular song 'she is only a pauper who nobody owns' and suggested the dissection would not have taken place if she had 'moved in an educated circle'.<sup>94</sup> This reflects the politics of the newspaper, but there was undoubted disquiet in Newcastle, noted by Hoyle, particularly in the Catholic Community about the tendency of the doctors to act impulsively.<sup>95</sup> Hoyle indicated that he had received several recent complaints about the conduct of the surgeons and their habit of carrying out post-mortem dissections without the permission of the relatives and friends of the deceased. The inquest into Margaret Reed's death was opened, and adjourned, to enable the House Surgeon to account for his actions.

This incident may have been confined locally, but it raised national concerns. This was the first example of Hoyle being brought to national attention. The *British Medical Journal* reported that Hoyle had made an error in interpreting the law and accused him of being ignorant of medical knowledge. Dismissing him as an 'anomalous functionary', it suggested that inquests without post-mortems were 'failures of justice'.<sup>96</sup> In fairness, Hoyle was not suggesting that post-mortems were not required; merely that permission should be sought from the coroner, or from friends and family where no inquest was necessary. However, the *British Medical Journal* suggested he had neither, 'the right or power to forbid *post-mortem* examination'.

Hoyle could not find an answer to the conundrum in the law and so wrote to the Secretary of State for the Home Office to seek clarification of the extent of his powers. He set out the circumstances of the disagreement: an inquest had been pending but two apprentice surgeons had carried out an unauthorised internal examination. Hoyle suggested this was an offence at common law. His concern was the law and the pursuit of justice:

<sup>91</sup> 'Vagrant Ward', *Newcastle Journal*, 7 January 1862, p. 3.

<sup>92</sup> 'Woman Poisoned by Lead', *Newcastle Courant*, 30 September 1870, p. 8.

<sup>93</sup> 'Newcastle Infirmary Exposure', *Newcastle Guardian and Tyne Mercury*, 8 October 1870, p. 4.

<sup>94</sup> The reference is to a poem by Thomas Noel, 'The Pauper's Drive' (1841).

<sup>95</sup> TNA, HO 45/8366 C69734219, *Letter JT Hoyle to Secretary of State for the Home Department*, November 1870.

<sup>96</sup> 'Inquests and Necropsies', *British Medical Journal*, 2.513 (1870), p. 476.

The jury should as far as possible, see the Body in the same state it was immediately after death and although in this case there was no reason to doubt that death had been caused by Lead Poisoning the circumstances showed how improper it is that there should be any interference with the duties of the coroner (...) the examination was made by two apprentices without the presence during the whole time of any qualified medical man, and that the symptoms of death from Lead Poisoning were sufficiently evident, but supposing that had not turned out so and that though suffering from Lead Poisoning death had been caused or accelerated by a Blow or by some poison other than Lead, the ends of Justice might be defeated by what was done as no analysis would be of any value, after the way the internal organs had been treated by the apprentices and in the event of their finding any injuries to cause death they only could properly give evidence, in case anybody was put upon his trial.

The question was, which should have precedence? Was it the coroner and the inquiry into death or the medical profession and their pursuit of scientific advancement? Hoyle hoped that the Home Secretary would be able to assist on the issue of dissection:

I seek to be informed whether in the event of [a dissection], they will be guilty of any offence at Common Law or by Statute, and if so, to point out in what way I should act with regard to them, to assist the authority of my office and prevent the ends of justice being defeated.

Unfortunately, the Home Secretary, Henry Bruce, could not, or would not, provide an answer:

(...) as the coroner is unable to point to any authority shewing that a post-mortem examination of a person deceased in an Infirmary made after the advice of an inquest and without the sanction of the coroner is illegal (...) Mr Bruce is unable to see how he can interfere.<sup>97</sup>

*The Lancet* took the opportunity to report the disagreement as another example of the failings of a legal coroner.<sup>98</sup> The two dissection cases illustrate Hoyle's insistence that the law took precedence over the desires of the medical profession. The next area in which the tensions, or competing priorities, between Hoyle and the medical profession were evident was the question of death certification.

### **Disregard of Procedure in Death Certification**

In 1864, Hoyle was criticised by *The Lancet* for his comments on the inadequate death certificates completed by some doctors.<sup>99</sup> The event that led to *The Lancet's* interest had been preceded by earlier skirmishes, in 1862 and 1863. The problems that came to light in these inquests show Hoyle's concern for following the letter of the law and ensuring that procedures, for the protection of the public, were followed and not circumvented for the convenience of the medical profession.

<sup>97</sup> JT Hoyle to Secretary of State for the Home Department, noted in manuscript on the back page.

<sup>98</sup> 'A Coroner on Post-Mortem Examinations', *The Lancet* 96.2459 (1870), p. 546.

<sup>99</sup> 'The Medical Practitioners and the Coroner of Newcastle-on-Tyne', *The Lancet* 83.2127 (1864), p. 658.

In 1862 a procedural problem was exposed following the death of Gregory Murray, the son of a hawker, who burned to death whilst his father lay drunk in bed.<sup>100</sup> The jury ruled that his was an accidental death and Hoyle severely censured Mr Murray.<sup>101</sup> Hoyle was exasperated by the ‘looseness and inaccuracy of the certificate of death’ provided by a doctor at the Dispensary:

I hereby certify that I attended Gregory Murray, aged two, last birthday; that I last saw h... on ..., 186..., and that she died on Dec 4, 1862, and that the cause of her death was burning. Signed C Chynne pro WJ Carr MRCS LSA.<sup>102</sup>

The certificate contained no address nor dates and referred to Gregory as ‘she’. Hoyle emphasised that the certificate was merely one example of lack of care. The coroner extended his criticism of Dr Carr to criticism of the medical profession more widely. He pointed to the sloppy handwriting and suggested ‘when people came to be doctors, they should learn to write’. He explained the problem was more than a local issue, and he believed the Home Secretary, Sir George Grey, had been ‘directed to the frequent irregularities of these certificates’ and that Parliament would be investigating further.

Carelessness with medical certificates surfaced again the following year during an inquest into the death of another child. Although a death certificate had been provided by ‘Mr AS Donkin MD’, the coroner had been notified of the death. Hoyle was not happy with the certificate and used the opportunity to underline the importance of an independent judicial inquiry. He suggested that: the ‘certificate was one (...) which, if generally adopted, would supersede the office of coroner and jury altogether’ and ‘if the Registrar General acted upon such certificates, he would have erroneous records’. Hoyle was scathing of ‘the extraordinary sort of certificates of the cause of death that medical men sometimes gave’. He read the certificate to the court:

15th January, 1863—I beg to certify that I attended for the space of 28 days the child James Lynn, Thornton Street, which got severely scalded by accident, and that it was recovering when attacked by bronchitis, from which it died, its age being 12 months.<sup>103</sup>

His legal training required, and expected, the legal formalities to be observed. He noted the certificate contained hearsay statements which, as they were not upon oath, could not be evidence of the facts of which they spoke. He ‘had no reason to suppose that death in this case was other than accidental, but (...) it was one of those cases in which the law distinctly said that inquiries were to be made’.<sup>104</sup> Hoyle thus asserted his authority and made clear to the medical establishment that the decision to hold an inquest was his alone. It was a legal decision. Accurate death certificates were crucial. Dr Donkin was a lecturer in medical jurisprudence and should have demonstrated exemplary practice. Donkin wrote to the *Newcastle Daily Chronicle*, dismissing Hoyle as ‘that functionary’ and emphasised that his intention

<sup>100</sup> ‘Culpable Negligence of a Father’, *Newcastle Chronicle*, 6 December 1862, p. 2.

<sup>101</sup> ‘Child Burnt to Death’, *Newcastle Journal*, 5 December 1862, p. 2.

<sup>102</sup> ‘Culpable Negligence of a Father’.

<sup>103</sup> ‘Death from Scalding’, *Newcastle Daily Chronicle*, 16 January 1863, p. 2.

<sup>104</sup> The Secretary of State had sent a circular to coroners in England, asking them to complete a return of inquests held for children under two years of age.

TABLE 1.  
Verdicts of Visitation of God Recorded in Newcastle Newspapers from Newcastle Inquests.

<i>Date</i>	<i>Name</i>	<i>Age</i>	<i>Occupation</i>
June 1857	James Wright	45	Sailor
September 1857	John Urwin	70	Landlord
November 1859	John Wilson	40	Labourer
March 1860	Francis Young	62	Seller of Hosiery
September 1860	James Morton Winn	40	Broker
December 1860	Charles Fairlamb	n/k	Chapel Keeper
January 1861	Edward Grey/Gray	65	n/k
January 1861	John Snowdon	34	Tailor
November 1861	James/Charles Lovick/Charlie Lorick	50/52	Cork Cutter
May 1882	Mary Ann Penman	50	Publican's wife

Information extracted from Newcastle newspapers digitised in the British Newspaper Archive <https://www.britishnewspaperarchive.co.uk/>.

was not to override the coroner's jury but to provide a certificate for the child's father to give to the coroner, who could then decide if an inquest was necessary. Once the death had been brought to his attention, Hoyle had a legal duty to investigate but Donkin painted Hoyle as 'uncourteous'.<sup>105</sup> The incident, and the public airing of the grievance illustrated once again the medical profession's uneasiness and perhaps uncertainty around the purpose of the coroner's court and the respective roles of the law and medicine.

The incidents concerning death certification, combined with disputes about autopsies and the perceived failure to seek medical expertise to decide whether an inquest was necessary, resulted in a petition to the Newcastle Town Council in 1864, signed by 41 medical professionals.<sup>106</sup> The petition expressed concern for, what the signatories believed to be, the excessive number of inquests. Being accused of holding too many inquiries was not a problem Hoyle had previously encountered. *The Lancet*, persistent critic of legally qualified coroners even after the death of Wakley, published details and correspondence to draw national attention to the Newcastle dispute.<sup>107</sup> The doctors attempted to persuade the councillors to admonish the coroner. To underline their grievance, the doctors suggested that Hoyle returned a disproportionate number of 'died by the visitation of God' verdicts.<sup>108</sup> This latter accusation is not supported by the evidence I have extracted from newspaper reports and from the yearly coroners' statistics (Table 1). From 1857 to 1864, I found ten examples of the Visitation of God verdict reported. Further, my analysis of the figures returned to the Secretary of State reveals that the percentage of inquests per head of the population of Newcastle is constant during Hoyle's coronership (Table 2).<sup>109</sup> It is likely that the accusation was an addition to press the doctors' case.

<sup>105</sup> 'Certificates of Medical Evidence. To the Editor of the Daily Chronicle', *Newcastle Daily Chronicle*, 17 January 1863, p. 2.

<sup>106</sup> 'The Medical Professionals and the Borough Coroner', *Newcastle Daily Chronicle*, 5 May 1864, p. 5.

<sup>107</sup> 'The Medical Practitioners and the Coroner of Newcastle-on-Tyne', *The Lancet* 83.2127 (1864) p. 658.

<sup>108</sup> 'The Medical Profession and the Coroner', *Newcastle Courant*, 6 May 1864, p. 2.

<sup>109</sup> Deaths circa. 0.013 of the population, were consistently subject of an inquest in each year of Hoyle's coronership.

TABLE 2.  
Newcastle Inquests Per Head of the Population in Census Years.

Date	Population	Number of Inquests	Percentage
1861	117615	148	0.13
1871	135000	183	0.14
1881	163668	224	0.14

Population figures from Vision of Britain: [www.visionofbritain.org.uk/unit/10142714/cube/TOT\\_POP](http://www.visionofbritain.org.uk/unit/10142714/cube/TOT_POP).

The doctors complained that the coroner's remarks about death certificates were 'insulting to the profession at large'.<sup>110</sup> However, the Town Council pointed out that it had no power to censure the coroner who was independent and not their servant. They referred the matter to the Finance Committee and send a copy of the petition to Hoyle for his comment. The Finance Committee dismissed the complaint, but Hoyle responded in an open letter.<sup>111</sup> He emphasised that he had no 'motive other than the public good' and he was 'bound by the law of England, and by his oath of office'. He explained that, in establishing causes of death, a certificate from a doctor could not be allowed to override oral evidence to twelve jurymen.<sup>112</sup>

The dispute once again highlighted the competing interests of the coroner and the medical profession. Hoyle's response contained much that the medical professionals must have found unpalatable. He made clear that the inquest protected the public from the closing of ranks by doctors. *The Lancet*, whilst disingenuously stating that it did not wish to take sides, suggested that the coroner was 'characterised by a spirit of antagonism and offence towards the medical profession such as has been rarely exhibited by an official person'.<sup>113</sup> As a legally qualified coroner, Hoyle saw the inquest as a judicial inquiry into sudden deaths, for the benefit of the public, in which medical opinion played a part. The doctors saw medicine, and their professional opinion, as negating the need for any interference from a solicitor.

The 1864 disagreement concluded swiftly. The *Newcastle Daily Chronicle* suggested the doctors were 'hot-tempered' and praised Hoyle as:

certainly one of the best coroners in the North of England (...) He discharges the duties of his office to the satisfaction of the public, for he is no respecter of persons, and is as careful in his inquiry where a poor man is concerned as he is in the case of a wealthy person.<sup>114</sup>

The coroner had asserted the importance of the law and the fact that the doctors were in its service. In Newcastle the legally qualified coroner ensured that the doctors followed the law and did not ride roughshod across it. The importance that the coroner placed on law above medicine had a perhaps curious consequence. It arguably

<sup>110</sup> 'Newcastle Town Council -To the Mayor and Corporation of Newcastle', *Newcastle Journal*, 5 May 1864, p. 2.

<sup>111</sup> 'The Coroner of Newcastle and the Medical Profession', *Newcastle Courant*, 3 June 1864, p. 2.

<sup>112</sup> In 1880 a 'letter to the editor' noted that Hoyle did not hold unnecessary inquests and 'does not order the dissection of a dead body by two doctors to discover the effect, if any, produced in the human stomach, by eating suet, dripping and tea leaves'. TWAM, *Richmonds Solicitors Box of Miscellaneous Papers*.

<sup>113</sup> 'The Medical Practitioners and the Coroner of Newcastle-on-Tyne', *The Lancet* 83.2127 (1864), p. 658.

<sup>114</sup> 'Local Gossip', *Newcastle Daily Chronicle*, 9 May 1864, p. 2.

played a part in the coroner's decision to stop holding inquests in the Infirmary and to return them to the public house, their traditional home.

### Returning the Inquest to the Public House

Until the early twentieth century it was usual for inquests to be heard in public houses. The inn was the only non-denominational public space with enough room to hold a court with a jury and witnesses. On appointment, Hoyle held his first inquests in the dead house, police station, or in the Infirmary.<sup>115</sup> However, as the century progressed, Hoyle embraced the public arena by holding most of his inquests in public houses. It was reported that, 'the singing of comic songs in an adjoining room, the wrangling of inebriates in the bar, or the noise of children playing in the streets' sometimes intruded on the solemnity of the court.<sup>116</sup> And yet this is where Hoyle preferred to convene his court.

This change in practice can be dated to the mid-1860s. Prior to this time, Hoyle regularly held inquests in several public houses in a single evening and travelled from one part of town to another for the convenience of the jury. However, if the death occurred in the Infirmary, his early practice was to hold the inquest there. In February 1866, inquests at the Infirmary came to an abrupt halt. From then, whenever a death took place in the Infirmary, the inquest was held in a public house, the Durham Ox, some ten minutes' walk from the hospital. The Durham Ox was first used for an inquest in June 1864 but, from early 1866, it became the coroner's court in the west of the town. There could be several factors that led to this.

Hoyle often convened his court after a day at work and sat into the early hours of the morning. A public house inquest was open and accessible to all: the hearing could be attended and observed by anyone, whether they were responding to a summons, or an interested bystander. In addition to the comfort of the jury, and the sometimes-fractious relationship with the doctors, the safety of patients was likely to have been a factor in the move to the Durham Ox. In October 1865 an inquest was held at the Infirmary into the death of an eleven-year-old girl who had died from an infection.<sup>117</sup> Mr Bolton, the senior surgeon, gave evidence that the number of visitors to the Infirmary was a nuisance and considerable harm was caused when they sat on beds in damp clothes. Hoyle and Bolton agreed fewer visitors would be preferable to seek to contain disease. This exchange may have brought home to Hoyle that holding inquests in the Infirmary contributed to what the newspapers dubbed 'the visiting nuisance'.<sup>118</sup>

Two days later, the problem was again discussed.<sup>119</sup> The coroner mused on the absurdity of visitors disrupting the healing process: 'just fancy (...) a man that had his leg broken with 5 or 6 persons sitting upon his bed'.<sup>120</sup> This friendly exchange was not long after the attack on Hoyle by the medical profession. The move to the

<sup>115</sup> Inquest venues in the nineteenth century require more research.

<sup>116</sup> 'Local Gossip', *Newcastle Daily Chronicle*, 8 January 1886, p.5.

<sup>117</sup> 'Sudden Death of a Child', *Newcastle Courant*, 13 October 1865, p. 5.

<sup>118</sup> 'The Visiting Nuisance', *Newcastle Journal*, 11 October 1865, p. 2.

<sup>119</sup> 'The Visiting Nuisance', *Newcastle Journal*, 13 October 1865, p. 2.

<sup>120</sup> 'The Fatal Railway Accident Near the Central Station', *Newcastle Daily Chronicle*, 13 October 1865, p. 2.

Durham Ox, whilst partly separating the coroner's court from the medical arena, is supportive of the doctors. The Infirmary was a place for treating illness and Hoyle respected Bolton's medical opinion. The visiting nuisance was but one aspect of Hoyle's concern about public health in the town. In 1868 the problem of the spread of fever was highlighted when a debate took place amongst the workhouse management, the Town Council, and Hoyle, regarding ventilation at the workhouse.<sup>121</sup> The issue had come to light when he had had to move his jury from the workhouse to the Durham Ox 'in consequence of their dread of infection'.<sup>122</sup> The coroner said he knew that many people had died in the workhouse in consequence of poor ventilation. This underscores the move to the Durham Ox being motivated partly over concern for the jury members and witnesses.

The concern about infection did not abate. Following an inquest in 1870 into the death of Patrick Cullen from pyemia (blood poisoning/septicaemia), Hoyle remarked that injured persons were far more likely to recover in their own homes than in a public hospital. He explained, although in hospital there was 'the advantage of the most skilful attendance, yet there was always pyemia hanging on the walls, which very often proved fatal to patients'.<sup>123</sup> Inquests in the Durham Ox not only protected the patients in the Infirmary from infection brought from outside but protected the jury from contagious disease.

Not all inquests could be held at the Durham Ox. At the opposite side of town, Hoyle preferred to convene in the Stone Cellars Inn, at the mouth of the Ouseburn, a tributary of the Tyne. It was perfectly possible for Hoyle to hold inquests in the Dead House or the River Police Station which adjoined the pub but, from mid-1865, the Stone Cellars was his preferred venue near the river. This may have been encouraged by the uncomfortable inquest into the death of John Franks in July 1865.<sup>124</sup> The Franks inquest took three and a half hours and was held in the Ouseburn Dead House, where the body was stored:

The humidity of the atmosphere in the small room where the jury and others sat during that long time, and the general inconvenience, led the coroner to suggest that a new dead house with suitable accommodation ought to be provided.<sup>125</sup>

There were no facilities to preserve corpses. The need for a proper facility was underlined at an inquest into the death of a waterman, due to be held in the Dead House in October 1865. The law required the jury to view the body, however unpleasant the experience, but the stench was so terrible that the jury was given special dispensation to view the remains through a window.<sup>126</sup> The smell of beer and smoke in the Stone Cellars was a more conducive atmosphere for a judge and his court than the stinking dead house.

<sup>121</sup> 'An Afflicted Family', *Newcastle Courant*, 24 April 1868, p. 2.

<sup>122</sup> 'Sad Destruction of a Family', *Newcastle Chronicle*, 18 April 1868 p. 8.

<sup>123</sup> 'Fatal Termination to an Accident. The Coroner of Newcastle on the State of the *Infirmary*', *Newcastle Journal*, 8 January 1870, p. 3.

<sup>124</sup> 'The Bursting of a Tank at Gateshead', *Newcastle Daily Chronicle*, 28 July 1865, p. 2.

<sup>125</sup> 'The Curious Case of Drowning', *Newcastle Daily Chronicle*, 28 July 1865, p. 2.

<sup>126</sup> 'The Body Found on the Meadow Island', *Newcastle Journal*, 21 October 1865; 'The Body Found near the Meadows', *Newcastle Daily Chronicle*, 21 October 1865, p. 2.

Even in the Stone Cellars the reality of the purpose of an inquest was evident. Paul Brown, a journalist, described the scene: there was 'a trestle-table covered by a tarpaulin sheet, from which, not infrequently, river-water dripped (...) beneath the tarpaulin a 'shape' could be discerned, and as one looked around at grappling irons, boathooks, and coils of rope, the story partly told'.<sup>127</sup> The lack of proper facilities underlined the strange position of the coroner's court: vital and central to answering important legal questions; overseen by a judge answerable to the Crown; but lacking an appropriate courtroom. In seeking better facilities for the dead, he was at one with the medical profession. In 1866 Dr Newton explained that a mortuary had been established in Liverpool and the coroner agreed that such a facility should be erected in the town.<sup>128</sup> Newcastle did not get a purpose-built coroner's court with mortuary facilities until the second decade of the twentieth century.<sup>129</sup>

## Conclusion

Hoyle's serious disagreement with the doctors at the Infirmary in 1870 when, in the interests of science, apprentice surgeons interfered with unclaimed bodies, was followed by a period of harmony: there are no further reported instances of medical misconduct during Hoyle's coronership. Despite some differences of opinion, Hoyle was able to work with the medical establishment within the remit of the coroner's jurisdiction for the remainder of his time in office. His conduct and approach underscored his view that whilst medicine was an important facet of the inquiry in the Newcastle coroner's court, it was not the focus. His concern to pursue and facilitate justice for individuals, together with his belief in the importance of acting both lawfully and fairly, was the product of a legally trained mind. There is no evidence in Hoyle's court of increased medicalisation; the medical men assisted the coroner and not vice versa. His decision to convene inquiries in public houses rather than hospitals and workhouses was a pragmatic decision which demonstrates that his decisions were influenced not by antagonism towards the medical profession but concern for the community. Hoyle called for medical evidence if he required it, but medicine did not dominate the Newcastle inquest. Hoyle had respect for advances in medicine, within the legal framework of his role, but made certain that the less than diligent medical practitioner, the surgeon who overreached his authority, and medical charlatans were kept in check. His insistence on completing the legal formalities of death certificates underlined his lawyer's attention to detail.

This article has revealed that the coronial process in Newcastle was disturbed, on occasion, by a coroner willing to assert the supremacy of the law over the desire of doctors to impose their authority. The character and choices of a specific coroner are

<sup>127</sup> Paul Brown, 'The Stone Cellars Inn' in *The Friday Book of North Country Sketches* (J.& P. Bealls Limited, 1934), p. 47.

<sup>128</sup> 'Supposed Death through Insufficient Lighting', *Newcastle Chronicle*, 27 October 1866, p. 5. Ian Burney's observation that the nineteenth century saw the building of professional mortuaries was not reflected in Newcastle.

<sup>129</sup> 'Coroner's Court. Formal Opening of New Premises in Newcastle', *Newcastle Journal*, 27 January 1916, p. 9.



revealed to have a significant impact on the question of whether law or medicine took precedence in the coroners' court in the nineteenth century. This article makes a significant contribution to knowledge and understanding of a developing coronial system in a specific and lesser-studied town in England.

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