



# SALE OF GOVERNMENT PUBLICATIONS

The undermentioned Firms have been appointed sole Agents for the sale of Government Publications, including Parliamentary Reports and Papers, Acts of Parliament, Record Office Publications, &c. &c. and all such works can be purchased from them either directly or through retail booksellers, who are entitled to a discount of 25 per cent. from the selling prices:—

## IN ENGLAND.—

For all publications *excepting* Ordnance and Geological Maps, the Hydrographical Works of the Admiralty and Patent Office Publications.—Messrs. EYRE & SPOTTISWOODE, East Harding Street, E.C.

For Hydrographical Works of the Admiralty.—Mr. J. D. PORRER, 145, Minories, E.C.  
Patent Office Publications are sold at the Patent Office.

For all publications *excepting* the Hydrographical Works of the Admiralty, Patent Office Publications, and Ordnance and Geological Maps.

IN SCOTLAND.—Messrs. OLIVER AND BOYD, Edinburgh.

IN IRELAND.—Mr. E. PONSONBY, 116, Grafton Street, Dublin.

The Publications of the ORDNANCE SURVEY and of the GEOLOGICAL SURVEY can be purchased from Agents in most of the chief towns in the United Kingdom, through any Bookseller, or from the Director-General of the Ordnance Survey, Southampton, or in the case of Ireland, from the Officer in Charge, Ordnance Survey, Dublin. In addition, Ordnance Survey Publications can be obtained through Head Post Offices in towns where there are no accredited Agents.

The following is a list of some of the more important Parliamentary and Official Publications recently issued:—

## Parliamentary:

### Statutes

<i>Public General Session 1902.</i> With Index, Tables, &c. Roy. 8vo. Cloth.	Price 2s.
<i>Public General and Local and Personal Acts, Session 1903.</i> In course of issue.	
<i>Second Revised Edition.</i> A.D. 1535-1713 to A.D. 1872-1882. XVI. Vols.	Price 7s. 6d. each.
<i>Revised Editions.</i> Tables showing subsequent Repeals, effected by Acts of 63 & 64 Vict. 1900.	Price 6d.
<i>Statutes in Force. Chronological Table of and Index to.</i> 18th Edition. To Aug. 8, 1902, being the period of the Session of Edward VII. (1902), when Parliament adjourned. 3 vols.	Price 10s. 6d.
<i>The Statutory Rules and Orders revised.</i> Statutory Rules and Orders, other than those of a local, personal, or temporary character, issued prior to 1890, and now in force. Vols. I. to VIII.	Price 10s. each.
<i>Statutory Rules and Orders,</i> other than those of a Local, Personal, or Temporary Character. With a List of the more important Statutory Orders of a Local Character arranged in classes, and an Index. Roy. 8vo. Boards. Issued in the years 1890, 1891, 1892, 1893, 1894, 1895, 1896, 1897, 1898, 1899, 1900, 1901, and 1902.	Price 10s. each.
<i>Statutory Rules and Orders in force on 31st December 1899.</i> Index to.	Price 10s.
<i>Statutory Rules and Orders, 1902.</i> Registered under the Rules Publication Act, 1893.	Price 10s.
<i>Index to Local and Personal Acts, 1801-1899.</i>	Price 10s.

EDUCATIONAL SUBJECTS. Special Reports. Vols. II. to XI. United Kingdom and Colonial and other Possessions; and the Principal Countries of the World. Price (complete) £1 12s. 7d. (Vol. I. is out of print.)

[Cd. 1151. Cd. 1152. Cd. 1153.] PORT OF LONDON. Royal Commission Report, with Evidence and Appendices (complete).	Price 7s. 2d.
[Cd. 1302.] VENTILATION OF FACTORIES AND WORKSHOPS. First Report of Departmental Committee on; with Appendices.	Price 1s. 8d.
[Cd. 1486.] SEWAGE DISPOSAL. Third Report of Royal Commission.	Price 4s. 7d.
[Cd. 1507, 1508.] PHYSICAL TRAINING, SCOTLAND. Report from Royal Commission, with Evidence and Appendices.	Price 6s. 2d.
[Cd. 1601.] MINES AND QUARRIES. General Report and Statistics, 1902. Part I. District Statistics.	Price 6s. 7d.
[Cd. 1614.] AGRICULTURAL STATISTICS—IRELAND. Detailed Report, 1902.	Price 1s. 3d.
[Cd. 1616.] AGRICULTURAL RETURNS—GREAT BRITAIN, 1902.	Price 1s. 5d.
[Cd. 1666.] BOARD OF EDUCATION—Training of Pupil Teachers. Regulations.	Price 2s. 7d.
[Cd. 1667.] Do. do. Syllabuses and Lists of Apparatus for Schools and Classes other than Elementary, 1903-4.	Price 5d.
[Cd. 1668.] Do. do. Secondary Schools. Regulations, 1903-4.	Price 2d.
[Cd. 1669.] Do. do. Evening Schools. Regulations, 1903-4.	Price 2d.
CENSUS, England and Wales, 1901. Population Tables, &c. in separate Counties.	Price £3 5s. 8d.
CENSUS, Scotland, 1901. Population Tables, &c.	Price 7s. 10d.
CENSUS, Ireland, 1901. Population Tables, &c. in separate Counties.	Price £2 13s. 4d.
CENSUS, Islands in the British Seas, 1901.	Price 6d.
[Cd. 1590 and I. to XI.] MINES. Reports of H.M. Inspectors for 1902, with Summaries of the Statistical portion under the provisions of the Coal Mines Regulation Act, 1897; Metalliferous Mines Regulation Acts, 1872-1875; Slate Mines (Gunpowder) Act, 1882. Districts Nos. 1 to 12. Complete.	Price 8s. 5d.
MINES in the United Kingdom and the Isle of Man. List of, for 1902.	Price 3s. 2d.
QUARRIES. Do. do. do. 1902.	Price 4s. 5d.
MINES ABANDONED. List of the Plans of. Corrected to 31st December 1902.	Price 1s.

The following appear periodically, and can be subscribed for:—

TRADE OF THE UNITED KINGDOM WITH BRITISH POSSESSIONS AND FOREIGN COUNTRIES, showing the Quantities and the Declared Value of the Articles.

TRADE REPORTS of the British Colonies, with information relative to population and general condition.

TRADE REPORTS by His Majesty's Representatives in Foreign Countries, and Reports on Commercial and General Interests.

The Proceedings of Parliament in public and private business, published daily. House of Lords, Price 1d. per 4 pp. House of Commons, 1d. per 8 pp.

CREMATION COMMITTEE.

# REPORT

OF THE

## DEPARTMENTAL COMMITTEE

APPOINTED BY THE

SECRETARY OF STATE FOR THE HOME DEPARTMENT

TO PREPARE A

# DRAFT OF THE REGULATIONS TO BE MADE UNDER THE CREMATION ACT, 1902.

Presented to both Houses of Parliament by Command of His Majesty.



LONDON:

PRINTED FOR HIS MAJESTY'S STATIONERY OFFICE,  
By WYMAN & SONS, LIMITED, FETTER LANE, E.C.

And to be purchased, either directly or through any Bookseller, from  
EYRE & SPOTTISWOODE, EAST HARDING STREET, FLEET STREET, E.C.; and  
32, ABINGDON STREET, WESTMINSTER, S.W.; or  
OLIVER AND BOYD, EDINBURGH; or  
E. PONSONBY, 116, GRAFTON STREET, DUBLIN.

1903.

[Cd. 1452.]

MINUTE APPOINTING THE COMMITTEE.

I hereby appoint:—

C. E. TROUP, Esq., C.B., of the Home Office,

W. P. BYRNE, Esq., C.B., „ „ „

and

H. FRANKLIN PARSONS, Esq., M.D., Senior Assistant Medical Officer  
of the Local Government Board,

to be a Committee to prepare a draft of the Regulations to be made by  
the Secretary of State in pursuance of the powers given him by Section 7  
of the Cremation Act, 1902.

I appoint Mr. Troup to be Chairman, and Mr. W. Wheeler, of the Home  
Office, to be Secretary to the Committee.

(Signed) A. AKERS-DOUGLAS.

Home Office, Whitehall,  
12 October, 1902.

国立公衆衛生院附属図書館	
受入先	
受入日	
登録番号	
所在	
Library, National Institute of Public Health	

4

## CONTENTS.

	PAGE
REPORT - - - - -	5
DRAFT REGULATIONS:—	
I. Maintenance and Inspection of Crematoria - - - - -	16
II. Conditions under which Cremations may take place - - - - -	16
III. Disposal of Ashes - - - - -	18
IV. Registration of Cremations, &c. - - - - -	18
DRAFT FORMS - - - - -	19
EVIDENCE:—	
Sir Henry Thompson, Bart., F.R.C.S. - - - - -	27
Mr. J. C. Swinburne-Hanham, Hon. Sec. of the Cremation Society of England - - - - -	28
Mr. Herbert Thomas Herring, M.B. - - - - -	30
Dr. Thomas Stevenson, Scientific Analyst to the Home Office - - - - -	32
Mr. Noel Humphreys, I.S.O., Chief Clerk to the Registrar-General - - - - -	35
Mr. J. Harvey Simpson, Secretary of the Manchester Crematorium - - - - -	38
Dr. Danford Thomas, Coroner for Central London - - - - -	39
Dr. William Holder, Chairman of Cremation Sub-Committee of the Hull Town Council - - - - -	41
Sir Francis Seymour Haden, F.R.C.S. - - - - -	43
Mr. Walter Schröder, Hon. Sec. to the Coroners' Society - - - - -	45
APPENDIX I.—Forms in use in connection with the Certification and Registration of Deaths - - - - -	50
APPENDIX II.—Forms in use by Coroners - - - - -	54
APPENDIX III.—Regulations in force for existing Crematoria, and Forms of Application and of Medical Certificates in use - - - - -	57
APPENDIX IV.—Regulations as to Cremation in force in Foreign Countries - - - - -	63

5

## CREMATION COMMITTEE.

## REPORT.

To the Right Honourable ARETAS AKERS-DOUGLAS, M.P., One of His Majesty's Principal Secretaries of State.

Sir,

In accordance with your instructions we have inquired into the question of the Regulations which ought to be made under Section 7 of the Cremation Act 1902, and we have prepared and submit for your consideration the accompanying Draft Regulations and Forms.

The Draft Regulations deal in order with the four points mentioned in Section 7\* :—

- I. The maintenance and inspection of crematoria.
- II. The cases in which, and conditions under which, cremations may take place.
- III. The disposition of the ashes after cremation.
- IV. The registration of cremations.

and in a schedule to them are shewn the draft forms of application, certificates, and register.

### *The Course of the Inquiry.*

In preparing these Regulations we are dealing with a matter which in this country has not hitherto been regulated or controlled by any public authority. We obtained through the Foreign Office copies of the regulations in force in foreign countries where the practice of cremation has been authorised†, but we have found these somewhat meagre and not of much assistance; and we have had to direct our inquiry mainly to the working of the voluntary regulations under which cremation has been carried on in this country, particularly those of the Cremation Society, which were originally drawn up by Sir Henry Thompson, and which have been the basis of the rules made by the authorities of all other crematoria. In this inquiry we have received every possible assistance from Sir Henry Thompson himself, from Mr. Swinburne Hanham, the Honorary Secretary of the Cremation Society, and from Dr. Herring, who now acts as medical referee to that Society in succession to Sir Henry Thompson. We have received very useful assistance from Mr. Harvey Simpson, the Secretary to the Manchester Crematorium Company; from Mrs. Simon, the widow of Mr. Henry Simon, M. Inst. C.E., by whom the Manchester Crematorium was designed and

\* "The Secretary of State shall make regulations as to the maintenance and inspection of crematoria and prescribing in what cases and under what conditions the burning of any human remains may take place, and directing the disposition or interment of the ashes, and prescribing the forms of the notices, certificates, and declarations to be given or made before any such burning is permitted to take place, such declarations to be made under and by virtue of the Statutory Declarations Act, 1835, and also regulations as to the registration of such burnings as have taken place."—Cremation Act, 1902 (2 Edw. VII, c. 8) sec. 7.

† Extracts from some of the regulations are printed in Appendix IV.

erected, and whose furnaces are in use in all the more recent crematoria in England, including the new crematorium at Golder's Green, which we visited; and from Dr. Holder, the Chairman of the Cremation Sub-Committee of the Hull Town Council. We also had before us the regulations in force in the crematoria at Glasgow, Liverpool, Leicester and Darlington.\*

We had most valuable evidence from Dr. Thomas Stevenson, Home Office Analyst; from Dr. Danford Thomas, Coroner for the Central Division of London, and Mr. Walter Schröder, the Secretary of the Coroners' Society; and from Mr. Noel Humphreys, Chief Clerk to the Registrar-General. We have also had the advantage of consulting in a less formal manner Mr. W. C. Dunbar, C.B., the Registrar-General, and Dr. Tatham, the Superintendent of Statistics in the Registrar-General's Office. Mr. W. J. Farrant, Clerk for Statistical Returns in the Home Office, has obtained for us important figures and facts as to recent cases of exhumation.

Sir Francis Seymour Haden, F.R.C.S., at great personal inconvenience, attended and gave evidence, the effect of which appears to be that, as no regulations can be devised which will altogether exclude the possibility of cremation being used for the purpose of destroying the evidence of crime, no regulations at all should be made. The statute, however, imposes imperatively on the Secretary of State the duty of making regulations; and, if he failed to do so, the result would be, not to stop cremation, but to allow it to be carried on as at present without any legal restriction whatever.

*The Danger of Cremation being used to destroy evidence of crime.*

In this Report, which must be regarded merely as a preface to the Draft Regulations,—the Draft Regulations and Forms being our substantive proposals—the only portion of the subject which it is necessary to discuss fully is that relating to the "Conditions under which Cremation may take place"; and under that head the point which we have considered of prime importance has been to frame regulations which, while avoiding unnecessary restrictions such as might discourage cremation or involve undesirable delay in the disposal of the body, would reduce to a minimum the risk of cremation being used to destroy the evidence of murder by violence or poison.

In this connection we have studied the records of cases of murder in which evidence has been obtained by the exhumation of the remains of the murdered person, and have directed special attention to the question of what certificates or other evidence of the cause of death had been produced in those cases before the burial took place.

In some cases we found that the bodies of murdered persons were buried without any certificate of the cause of death. The law unfortunately permits burial without certification of the cause of death.†

In other and more numerous cases the certificate had been given without sufficient inquiry, sometimes by a medical man who had not seen the deceased in his last illness, nor the body after death. When Mary Ann Cotton, who for the sake of insurance money murdered no less than 20 persons in all, had disposed of a husband and four children in quick succession by arsenic poisoning, a medical man certified the deaths to be due to "gastric fever," although the symptoms were inconsistent with death from that cause.‡ In the case of Matilda Clover, for whose murder by strychnine poisoning Neil Cream was convicted in 1892, a certificate of death from "delirium tremens" was given by a medical man who had not attended her during her last illness, who had not seen the dead body, and who relied solely on statements as to the symptoms made to him by a brothel-keeper and her servant.§ In a case which occurred at Besançon in 1854, all the members of a family of

\* For the regulations and forms of certificate, see Appendix III.

† The law even permits burial previous to registration of death. In such an event, however, notice in writing has to be given to the Registrar within seven days after burial. See Death Certification Committee's Report p. 5.

‡ Taylor's Medical Jurisprudence, Stevenson's Edition (1894), II, 641. Cotton was convicted at Durham Assizes in March, 1873.

§ Death Certification Committee: evidence of Mr. Braxton Hicks, 1318-22.

six died during an epidemic of cholera and were buried as cholera cases; but an exhumation and toxicological examination showed that at least four had been poisoned with arsenic.\*

We have also had to consider the possibility of cases in which the person who would naturally give the death certificate is himself the murderer. Cases of murder by medical men have been rare, but such instances as those of Dr. Palmer, Dr. Pritchard and Dr. De la Pommerais† cannot be disregarded. In Palmer's case no suspicion arose until after the death of his seventh victim. In most cases murderers who were medical men have preferred to obtain certificates from other members of the medical profession, but Dr. Pritchard himself certified that his mother-in-law, whom he poisoned with aconite, had died of "paralysis," and that his wife, whom he killed with small doses of antimony, had died of "gastric fever."‡

It is clear, in view of such dangers, that the process of cremation must be carefully guarded; but before mentioning the restrictions which we think necessary, we wish to disclaim the idea that any possible restrictions can guard completely against the risk of cremation being used for the concealment of crime. We agree with Sir Francis Seymour Haden that no regulations can be framed which would entirely eliminate that risk.

We think, however, that regulations can be framed which will so far reduce the risk as to make cremation at least as safe as the existing method of burial. While we believe that there is no ground whatever for the idea that under the present system secret murders by poison are common, it is impossible to attribute the infrequency of this class of crime to any complete or effective safeguard afforded by the possibility of exhumation. There are some poisons of which no evidence can be detected after the death of the victim, and others whose traces last only for a few days or hours.§ The evidence of the presence even of those poisons which are most persistent, such as arsenic and antimony, disappears when the decomposition of the body is complete in a period which varies according to the mode of burial and the nature of the soil, and which would be very materially shortened if the system of earth to earth burial (advocated by Sir F. Seymour Haden) were adopted.

Further, it has to be remembered that burial may take place (as indicated above and shown very fully in the Report of the Select Committee of the House of Commons on Death Certification)|| either without any certificate of the cause of death, or on the certificate of one medical man, which may be in the vaguest and most uncertain terms. Unless, therefore, some definite ground of suspicion arises, there is no investigation of those cases where the cause of death is obscure, and where the ambiguity of the symptoms can be slurred over in a certificate which it is no one's business to question or criticise.\*\*

\* Brouardel's Death and Sudden Death: translation by Benham (1902), p. 99.

† Taylor's Medical Jurisprudence, Stevenson's Edition (1894), I, 478, II, 640. In the case in which De la Pommerais was convicted (Paris, 1864) the poison used was digitalin; the certificate was "gastritis and perforation of the stomach."

‡ Annual Register, 1865, p. 224. Surgeon-Major Cross, who was convicted (Cork, 1887) of poisoning his wife with arsenic and strychnine, registered her death as due to "Typhoid." Times, 15th Dec., 1887.

§ In the case of Catherine Wilson, although four of her victims were exhumed, no trace of poison could be found in any of the exhumed bodies, and the nature of the poison used remains a mystery. She was nevertheless convicted (1862) of one of the murders and hanged. Taylor's "Medical Jurisprudence," Stevenson's Edition, I, 351.

|| Report from the Select Committee on Death Certification (H. C. paper (1893), 373, 402).

\*\* It would clearly be impossible to require the registrars, who have no medical qualifications, to examine critically before registration the certificates of the cause of death furnished by medical practitioners. On this point Dr. Tatham makes the following remarks:—

"Much has been done by the Registrar-General to secure improved medical certificates of the cause of death, by special inquiries addressed to certifying medical practitioners and otherwise, with a view to the improvement of the general system of registration, as well as to secure accuracy for statistical purposes; but no means exist for the critical examination of medical certificates before they are accepted and duly recorded in the Death Register, a duty for which local registrars are not, as a rule, well qualified.

"Registrars are bound, however, by the Registrar-General's special instructions to report to the coroner before registration all cases in which the certificate refers the death, directly or indirectly, to any form of violence, or in which the death was attended by any suspicious circumstances, or in which the cause of death is stated to be 'unknown.' And whenever the death is stated to have been 'sudden' and no certificate issued by a registered practitioner is produced, the registrar must, before registering such death, report the case to the coroner."

In view of the dangers which attend the present system we do not think that there need be any difficulty in requiring the conditions under which cremation may be carried out to be such as shall certainly give as much safety as the present system, and possibly or even probably a higher degree of safety. The evidence of crime which may now be obtained from examination of the body after burial necessarily disappears when cremation takes place, but with exact certificates, and with the requirement of post-mortem examinations in proper cases, it will, we believe, be possible to secure that the necessary examination is made before the body is disposed of, not only in most of those cases in which exhumation would now be resorted to, but also in some cases where crime at present might remain wholly unsuspected and undetected. In the regulations which we have suggested we have aimed, therefore, not at an absolute security which is unattainable under any system, but at a degree of safety which is reasonable and practicable, and which is at any rate not inferior to that provided under the existing conditions.

*The Regulations proposed to meet that danger.*

To guard against the possibility of cremation being used in cases of crime, Sir Henry Thompson, on behalf of the Cremation Society, required that two medical certificates should be given, viz., a very full and detailed one by the medical attendant of the deceased, and another, which was intended to be by an independent person, briefly confirming the first. These certificates were in all cases examined by Sir Henry Thompson himself and subsequently by his successor, Dr. Herring, and if they disclosed any uncertainty or inconsistency, or any *prima facie* grounds of suspicion, further inquiries were made. In the case of the Cremation Society, this practice appears to have worked very satisfactorily; but the number of cremations has been too small to test its application to cases of poisoning, which are happily so rare that many thousands of cremations would have taken place before one would have been likely to occur, and we cannot shut our eyes to certain defects which were indeed admitted by Dr. Herring and Mr. Swinburne Hanham. In the first place we think the second medical certificate required by the Cremation Society does not afford the security which its terms seem to promise. In terms it is very stringent, requiring the second medical man to state that he has made "careful and separate investigation"; but in practice it is admitted that in some cases no such investigation is made, and that the certificate usually amounts to little more than a guarantee by another medical man of the good faith of the practitioner who signs the first certificate. Further, we think the system by which the medical referee acts entirely on his own discretion in making or not making inquiry, in allowing or refusing cremation, though perfectly satisfactory while Sir Henry Thompson or Dr. Herring is the referee, is not one for general application. Now that there are crematoria in several large towns, and that there is a probability of their being established widely, the referee carrying out such important duties ought not to be left without general directions as to how he is to exercise his power. While much must be left to the judgment of the individual medical referees, it is desirable that there should be some degree of uniformity in their practice; it is also important, and will become more so as crematoria multiply, that medical referees, who may not necessarily have the same experience or standing in the profession as Sir Henry Thompson or Dr. Herring, should follow the best rules which experience has been able to suggest.

While, therefore, we have made the practice of the Cremation Society the basis of our recommendations, and have found the experience of its officers of great value, we have endeavoured to form an independent judgment on the chief questions involved.

The first question we had to consider was, *who is to decide in each case whether a cremation is to be allowed?*

The cremation authority, whether a Burial Board or a Company,

cannot itself decide this question, on account of the necessity of immediate action, and it must be decided by some one officer, either some existing public officer or an officer appointed for the purpose by the cremation authority. At present the Cremation Society of England leaves the final decision to its medical referee; the Manchester Cremation Society to its secretary, who is a lawyer; while in Hull it is left to the superintendent of the cemetery to say whether the certificates are in order.

We have considered the question whether some public officer should undertake the work. It has been suggested to us by some witnesses that the authority to cremate should be given by the Medical Officer of Health, and by others that it should be given by the Coroner.

The Medical Officers of Health are not necessarily at present specially qualified as such to decide the points on which the permissibility of a cremation depends. If cremation became common and the duty were imposed upon them it is probable that they would qualify themselves by the study of toxicology, but at present and for some time to come the number of cases would be too few and too scattered to offer any inducement to most Medical Officers of Health specially to qualify themselves in this respect.

The advantages of utilizing the services of the Coroners were strongly urged by Dr. Danford Thomas. The Coroner is clearly the right person to make an inquiry in all cases where there are circumstances which involve suspicion of crime; but it seems to us that the coroner's machinery is too cumbrous to be called in to decide what in nineteen out of twenty cases will be the only question—viz., the sufficiency of the medical certificates. If in the majority of cases, where there is nothing to point to poison or violence, an inquest were to be held or even inquiries made by the coroner's officer, who is a constable, the procedure would be hurtful to the feelings of the friends of the deceased and would probably prove a serious obstacle to the spread of cremation.

We have come therefore to the conclusion that the person to decide on the cremation should be a medical referee, specially qualified for the work and appointed by the cremation authority. We do not attach any serious importance to the objection that, being appointed by the cremation authority, he would be too ready to allow cremations. Nothing would be more detrimental to the interests of cremation than the occurrence of a case in which cremation had been used for the concealment of crime. Nor do we anticipate any difficulty in regard to the remuneration of the medical referee; his work would be responsible, but in the majority of cases it would require only the exercise of sound judgment with regard to materials already collected and placed before him, and a moderate fee in every case, which would not add substantially to the charge for a cremation, would probably suffice to remunerate him even for the few cases where a prolonged inquiry would be necessary.

The second question which we have had to consider is *whether the medical referee ought in every case personally to investigate the cause of death in such a way as to enable him to arrive at an independent conclusion on facts ascertained by himself, or ought merely to examine the medical certificates to see that they are satisfactory, and in case of their not being satisfactory, decline to allow cremation without a post-mortem or a reference to the coroner.* If we could adopt the former plan we might dispense altogether with the second certificate now required by the Cremation Society. But at present cases come from too great distances and are too scattered to make it possible for the medical referee to see in each case the body of the deceased and to make independent inquiries as to the cause and circumstances of his death. On the other hand, if the medical referee is to judge by mere inspection of the certificates we feel that we cannot dispense with the second certificate. We are bound to provide for the possibility of such crimes as those of Dr. Pritchard and Dr. Palmer committed by a medical man who might himself give the certificate. In such a case it is certain that the first certificate would be good on the face of it. We do not, as already stated, profess that any guarantee

in the way of certification, which it would be reasonable or practicable to require in every case of cremation, would infallibly bring to light any crime committed by a skilled and cautious malefactor; but as the evidences of crime to be derived from the inspection of the body will necessarily be destroyed by cremation, we think it right, where the body is to be disposed of by cremation instead of by burial, that some additional security in the way of certificates should be required, in order to compensate for the loss of that evidence which exhumation might otherwise afford.

We have therefore come to the conclusion that before cremation is permitted, there must in every case be a personal inquiry by someone besides the medical attendant of the deceased. If a cremation authority can arrange for its being carried out in some or all cases by their own medical referee we see no objection to this; but, if the medical referee cannot make the actual inquiry, we think there ought to be a second certificate by an independent person who should be a medical man either nominated for the purpose by the cremation authority or holding one or other of the following appointments—Medical Officer of Health, Police Surgeon, Certifying Factory Surgeon or Medical Referee under the Workmen's Compensation Act. The officers holding the two last-mentioned posts are carefully selected by Government Departments, and, like Police Surgeons, they have special experience of cases of death by violence. Though they are not, generally speaking, specially qualified with regard to cases of the criminal use of poison, their appointment may be taken as a guarantee of their independence and good standing in the profession. If to this list of public appointments we add any appointment as physician or surgeon on the consulting staff of the larger public general hospitals, we think the range of medical men able to give the second certificate will be sufficiently wide to prevent any risk of serious delay or inconvenience.

Our conclusion therefore is that in every case there should be required either (a) two certificates, one given by the medical attendant, the other by an independent person—the medical referee, or a doctor nominated by the cremation authority, or a person holding one of the public appointments mentioned above; or (b) a certificate given after a post-mortem by a pathologist named by the cremation authority, who may or may not be the medical referee; or (c) a certificate by a coroner given after an inquest.

If the certificates under heading (a) do not show the cause of death definitely and in such terms as to exclude the possibility of poison or violence as the cause of death, the cremation should not be allowed unless a post-mortem has been held and a certificate given as under (b). If this does not sufficiently reveal the cause of death, and if the relatives still desire cremation, there must be an inquest.

The post-mortem should be made by a pathologist, nominated by the cremation authority, who should be a person accustomed to make post-mortem examinations. The medical attendant of the deceased, or some other medical representative of the applicant for cremation, should be allowed to be present.

If, though the cause of death be definitely ascertained, there still remain any suspicious circumstances in the case, the Coroner should be referred to; and where a case has been referred to the Coroner, cremation should not take place unless after holding an inquest he can give a certificate stating definitely that no circumstance exists which could render necessary any further examination of the remains. On the one hand in view of the vagueness of the verdicts frequently given by coroners' juries and of the fact that in some cases exhumation has been required after an inquest\*, we do not think that the mere verdict of the coroner's jury is sufficient without such a certificate from the Coroner. On the other hand, the

\* The following extracts from Dr. Taylor's "Medical Jurisprudence" (Ed. 1865, p. xxix.) illustrate this point. Dr. Taylor says: "I was once an attendant at a funeral; it was delayed, and the cause of the delay was this:—An inquest had been held on the body (a case of very sudden death in a state of health), and a verdict of 'Death from disease of the heart' had been returned. There had been no inspection of the body. When the grave-clothes were removed, and the body was examined, it was found to be covered with bruises, and some of the muscles of the thigh were reduced to a jelly. Death had been clearly caused by violence. But an inquiry

inquiries which some Coroners make before deciding whether or not an inquest is to be held, are not such as would justify our proposing any general rule which would admit the Coroner's certificate as authority for cremation in cases where the facts have not been investigated in open court.\*

We do not anticipate that these requirements will in ordinary straightforward cases prove troublesome. They require not more and in some cases less than what is now insisted on by the Cremation Society. In cases where the cause of death is not clear, they may lead to inquiries which may be unpleasant to the friends of the deceased, and in some cases to inquests in open court, but it is impossible to avoid this if cremation is to be allowed, and if the relatives prefer it they have the alternative of withdrawing their application and burying the deceased. We are anxious that the precautions taken should not be excessive, but we repeat that it must be borne in mind that if they are insufficient and that if one or two cases should occur where cremation has been used to conceal murder or maltreatment, the progress of cremation will be seriously checked.

On these lines we have drafted Regulations 7, 8, 9, 10, 11 and 12, and certificates B, C, D and E.

We have added two regulations, the necessity for which seems hardly to require discussion, providing that cremation is not to be allowed in the case of an unidentified body (Regulation 5), or in the case of a person whose last expressed wish on the subject was that his body should not be cremated (Regulation 4).

On the other hand, in the case of bodies which have been buried for some time and which it is proposed to exhume and cremate, it will not be possible to require the ordinary medical certificates. Such cases will be rare, and we think that conditions of cremation may be left to be prescribed in each case by the authority which permits the exhumation (Regulation 13).

An exception from the ordinary regulations is also proposed in the case of persons dying on board ship of plague, Asiatic cholera, or yellow fever. The experience of Hull shows that cremation is useful in such cases, and the stringency of the proposed regulations may, we think, safely be relaxed (Regulation 14).

We have added a regulation simplifying the requirements in the case, which will probably be of rare occurrence, of an application for the cremation of the remains of a stillborn child (Regulation 15).

*Would the proposed Regulations be effective in cases where exhumation now takes place?*

After drafting the regulations and forms, we have attempted to test them to some extent, by considering what would have been their effect had they applied to those cases in which in recent years bodies have been exhumed for the purpose of examination.

During the nine years, 1893-1901,† there have been in England and Wales 95 such cases of exhumation. In 67 of these cases the exhumation

before a Coroner for two days had, with all the usual formalities of medical evidence, &c. resulted in a verdict of 'Death from disease of the heart!'. Two hours only before the body would have been put into the ground it was clearly proved to be an act of murder or manslaughter. The guilty party was tried, convicted, and punished (Reg. v. Hopley p. 471).

In the course of the last thirty years, at least fifteen cases of the exhumation of dead bodies have been referred to me. On some of these, inquests had been held, but no inspections were made. Verdicts of death from cholera or natural causes had been returned, and, at intervals of from one month to twenty-two months, the bodies have been disinterred, and it has been then proved that the deceased had died from poison." These remarks were made, however, nearly forty years ago—and in recent years there has certainly been much improvement.

\* Many Coroners make these inquiries with great care and thoroughness; and in cases where a qualified Coroner is appointed to act as medical referee (as permitted by the Draft Regulations), the machinery he has at his disposal for making such inquiries, may often enable him to dispense with an inquest in a case where any other referee would have to insist on an inquest being held.

† The year 1893 was the year in which Coroners first made an annual return to the Home Office of the number of cases in which they issued orders for the exhumation of bodies. It was originally intended to include in the figures the year 1902, but at the time of making our report several cases belonging to that year are still *sub judice*.

was ordered by the Coroner and in 28 by the Secretary of State. In all the cases where the exhumation was ordered by the Secretary of State full particulars are available, but, owing to the death of Coroners and other causes, it has been impossible to trace nine of the cases in which the exhumation was ordered by the coroner. It may be presumed that these nine cases were not very important and possibly some of them were returned in error.

On examination of the details it is found that 20 of the cases in which coroners ordered exhumation were cases where the question involved was merely one of some irregularity in the burial of new-born infants, and the object of the exhumation in most of them was to ascertain whether the child was still-born or had been born alive. In none of these 20 cases did the verdict of the coroner's jury involve any charge or suggestion of crime, though in one or two of them there was a police court prosecution for failure to register or some minor offence of the same sort, resulting in the infliction of a fine. Further, there were eight cases of exhumation (seven by order of the Secretary of State and one by order of a Coroner) in which the object was to enable the body to be identified and had no reference to any question of crime. Cremation in such cases would be excluded by the rule which would forbid cremation of an unidentified body. As a matter of fact the identifications made appear not to have been of great value, for in two of them the body was identified as that of a person who afterwards turned up alive. In one other case the body was exhumed not for purposes of examination but to recover a piece of paper which was supposed to have been buried with it and which was required as evidence, and in two cases exhumation was required to give a new Coroner jurisdiction to proceed with an inquest which had been begun by his predecessor but remained unfinished when he died.

Excluding these cases there remain 55 cases (18 exhumations ordered by the Secretary of State, and 37 exhumations ordered by Coroners), in which the object was to throw light on some charge or suspicion of crime. In nine of these cases, all Secretary of State's cases, an inquest had been opened before burial took place, and the object of the exhumation was to obtain *additional* evidence with regard to a criminal charge. In three of them the portions of the viscera previously taken for toxicological analysis were insufficient and a further portion was required: in six a further examination of the body for marks of violence was wanted. Among them were several cases of great importance; but they were all cases where the question of crime had already arisen and the inquest was proceeding at the time of burial; and in such cases cremation would not be allowed under the Draft Regulations. Excluding these cases, there remain 8 cases of suspected poisoning, 25 cases of suspected violence, 6 cases where illegal operations were suspected, 4 cases where a question of criminal negligence by a medical man was involved, and 3 cases of suspected ill-treatment.

Of the 8 cases of suspected poisoning, one resulted in a verdict of suicide. Two were cases in which death was caused by a mistake in supplying medicines on the part of a chemist, and in these cases proceedings were taken on charges of manslaughter: in the first the person who made the mistake was convicted and discharged on his own recognisances; in the second he was discharged by the justices with a reprimand. In four cases the results of the inquiry were inconclusive, and no proceedings were taken. In one case only, to which further reference will be made, was there a verdict of murder, followed by a prosecution and conviction.

In the cases where a question of possible death by violence led to the exhumation, the verdicts were: suicide, 1; exposure and neglect, 1; natural causes, 10; accident, 5; open verdicts, 8\*. In no one of these cases did the Coroner's jury return a verdict of murder or manslaughter, and in none of them did the exhumation lead to any prosecution for crime.

Of the 6 cases in which exhumation took place on account of the suspicion of illegal operation, 3 resulted in open verdicts. In one of these cases decomposition had gone too far to enable any opinion to be formed

\* The "open verdicts" include several cases in which a new-born child was shown to have died by suffocation, but where there was no evidence to support a charge of murder or manslaughter. In one of these cases the mother had died before the inquest, and in another had become insane and had been removed to an asylum.

as to the cause of death. The other 3 cases resulted in charges of murder; in two of them the offender was convicted of murder, and in the third the charge of murder was dropped after the accused had pleaded guilty to two charges of procuring abortion in other cases.

Of the 4 cases where a question of negligence by a medical man was involved, three resulted in verdicts of death from natural causes, while one ended in a verdict of gross negligence, leading to a prosecution of the medical man for manslaughter and to his undergoing a sentence of three months' imprisonment.

Of the 3 cases where a question of ill-treatment was involved, two resulted in inconclusive verdicts, the third involved a charge of neglect and ill-treatment, but, as the accused was convicted of manslaughter in another case, the charge in the case where the body had been exhumed was not proceeded with.

So far therefore as the detection and punishment of serious crime is concerned, the result of all the exhumations during the period of nine years is—three convictions of murder (one by poisoning and two by the performance of illegal operations) and one conviction with a sentence of imprisonment for manslaughter; and it is important to see what were the circumstances of these cases, and what were the certificates on which the deceased were buried.

In the case of murder by poisoning the poisons employed were corrosive sublimate and afterwards strychnine, and the certificate was "acute enteritis and collapse." The medical man who gave this certificate was not present during the final attack, and accepted from the husband, who was the murderer, a false account of the symptoms. He did not see or examine the dead body. It is clear that under the proposed regulations cremation could not have been allowed on such a certificate; and it may be added that in this case, even if the body had not been available for examination, the other evidence was so complete and clear that it seems impossible to doubt that a conviction could have been obtained.

In one of the cases of murder where death resulted from an illegal operation, the certificate was "pelvic peritonitis and cellulitis" and "cardiac failure," and in the other "pelvic cellulitis." It is clear that, under the Draft Regulations, cremation could not have been allowed in either case without a post-mortem examination by a pathologist.

In the case of manslaughter by negligent treatment the certificate was "shock due to prolonged and difficult labour, labour with forceps." In this case, the husband of the deceased woman, from the moment of her death, suspected that she had been wrongly treated, and if he had applied for cremation he would have stated his suspicions in the application, and the medical man, who gave the certificate of the cause of death, would certainly not have given a certificate on which cremation could have been permitted.

It seems clear, therefore, that in the four cases where exhumation led to conviction and sentence for serious crime, the cremation of the body would have been impossible under the Draft Regulations, and that an application for cremation might possibly have resulted in the earlier detection of the crime. Further, as regards the more numerous cases mentioned above, where the exhumation led to no definite result, it is probable that, if in any of them application for cremation had been made under such regulations as we propose, the inquiries which would have been made before the body had begun to decompose, and while the facts were still fresh in the memories of those concerned, might have resulted in the discovery of the cause of death, and, if there had been foul play, in the detection of the criminal.

In most of the well-known cases where exhumation has revealed a series of murders by poison, suspicion as to the cause of the death of the last victim has arisen *before* the burial of the body; and the facts ascertained by the exhumation of the earlier victims have not been essential to the murderer's conviction. In some such cases (as in Palmer's\*) the facts of the earlier murders did not come before the jury at all; in other cases where they were put in evidence they helped to show that the administration of

\* "In Palmer's case, the fact that bills had been returned against him for two other murders was not even alluded to." Stephen's General View of the Criminal Law (1863), p. 310



the poison in the case actually tried was not accidental.\* In any case the knowledge that the accused was a systematic poisoner (even if the facts showing it are not in evidence) must strengthen the hands of the prosecution, and may prevent the success of appeals for clemency. But against this advantage must be set the far more important consideration that an effective method of death certification, by bringing to light some of the earlier crimes at the time when they are committed, would prevent altogether the commission of the later crimes. Mr. F. W. Lowndes, the Liverpool Police Surgeon, who was intimately acquainted with the circumstances of the case of Higgins and Flannagan, two women who poisoned eleven persons for the sake of insurance money, in his evidence before the Death Certification Committee, expressed strongly the opinion that the inquiry required by the Cremation Society "would have undoubtedly revealed the fact that the "deaths (of the earlier victims) were not natural," and would have saved the lives of their later victims†; and a similar remark would apply to the case of Mary Ann Cotton, already alluded to, whose victims numbered no less than twenty.

In considering the cases of exhumation mentioned above, we have not overlooked the fact that in some of them its value might be that, by showing death to be due to natural causes, it relieved an innocent person from suspicion. In many of the cases, however, the results were merely negative—death by foul play could not be proved, but positive evidence of death by natural causes was not forthcoming; and we have found very few in which the innocence of a suspected person was definitely established. At any rate, it is not less important for the protection of the innocent than for the detection of the guilty that any cases where there is doubt as to the cause of death should be investigated before the body is disposed of, while the facts of the case are fresh in men's memories and the examination of the remains unaffected by the process of decay. If the system we have suggested would, as we believe, prove more effective than the present system as a check upon crime, it would also be more effective in guarding the innocent from unfounded suspicions.

#### *Other Regulations.*

The other regulations included in the draft—those relating to the maintenance and inspection of crematoria, to the disposition of ashes, and to the registration of cremations—require very little explanation or comment. We have made them as brief and simple as possible, but we think they contain all that is required at present. If cremation should become more general, a more complete and a more detailed code of regulations will no doubt be required; but that can be provided when the necessity arises, the regulations made under the Statute being subject to revision and amendment at any time.‡ In the matter of inspection, for instance, we think it is quite sufficient, while there are less than a dozen crematoria, to give to the Government Departments a power to inspect, when any necessity arises, by a person appointed *ad hoc*: but, if a time should come when there is a crematorium in every large town, it may be necessary to establish a more regular system of inspection.

Generally we would ask that all the regulations we have suggested may be treated as provisional. We have been dealing with a matter in which there exists very little actual experience to guide us; and we fully recognise that as experience accumulates the regulations we have suggested may require to be modified. In some points they may have to be simplified, in others weak places may have to be made secure by somewhat more rigid rules. We look forward to the possibility that ultimately the whole question of death certification and of the disposal of the dead may be brought in every district under the control of some public officer, either the Coroner or

\* *R. v. Geering*, 18 L.J. 215 M.C.; *R. v. Flannagan and Higgins*, 15 Cox C.C. 403.

† Death Certification Committee: Evidence of Mr. Lowndes, 1646-55. See also Mr. Lowndes' letter on the same case in the *Times* of 18th April, 1898.

‡ A statutory power to make regulations includes power from time to time to rescind, revoke, amend or vary the regulations.—Interpretation Act, 1889, Section 32(3).

the Medical Officer of Health; but at present the number of cremations is too small to justify us in recommending the reconstitution of these offices, which would be necessary if their holders are to be universally qualified to undertake the control in so important a matter. We have, however, endeavoured to give to our proposal sufficient elasticity to make it possible for either the Coroner or the Medical Officer of Health, when he possesses the necessary qualifications, to undertake the duty of medical referee to the cremation authority; and, if the practice of cremation becomes general, experience will show which of the two classes of officers can best adapt themselves to the new duties, or whether those duties can be properly performed only by the creation of a new office with special qualifications.

We have, in conclusion, to thank Mr. W. Wheeler for his useful services as Secretary to the Committee.

We have the honour to be,

Sir,

Your obedient Servants,

C. E. TROUP.

W. P. BYRNE.

H. FRANKLIN PARSONS.

W. WHEELER,  
*Secretary.*

28th January, 1903.