Secularity and burial space in 19thc England

Secularidad y espacios de enterramiento en la Inglaterra del siglo XIX

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Abstract

This paper challenges the contention that secularity is always central to the idea of the cemetery. In largely England a 'culture war' was enjoined between supporters of the Church of England and various denominations of Protestant Dissent. The cemetery was a focus of conflict, centred on the degree of control exercised by the Established Church. This conflict did not reflect demand for 'civic' funerals. Protestant Nonconformists sought to secure burial space where they might express their own beliefs. Through the 19th century and up until the First World War, the framing of burial law was accompanied by divisive debate. Cemeteries came to signify both religious freedom and the oppressive influence of the Established Church. Cemetery establishment was also accompanied by regulation on sanitary burial management, but this did not define burial space as being innately secular. Rather, in England the cemetery was, and remains, a spatial co-production of sanitary technology, municipal bureaucracy and spiritual expression.

Key words

Burial, cemeteries, secularity, burial acts, Nonconformist.

Resumen

Este artículo cuestiona la afirmación de que la secularidad ha sido siempre un debate central en la idea de cementerio. En gran parte de Inglaterra se impuso una 'guerra cultural' entre partidarios de la Iglesia Anglicana y varias confesiones de Disidencia protestante. El cementerio fue un foco de conflicto, centrado en el grado de control ejercido por la Iglesia Establecida. Este conflicto no reflejó la demanda de funerales 'civiles'. Los protestantes No Conformistas buscaron asegurar un espacio de enterramiento y donde pudieran expresar sus propias creencias. A lo largo del siglo XIX y hasta la I Guerra Mundial, la formulación del derecho de enterramiento estuvo acompañada de conflictivos debates. Los cementerios llegaron a significar tanto la libertad religiosa como la influencia opresiva de la Iglesia Establecida. También estuvieron acompañados de una regulación sobre el gestión de entierros sanitarios, pero esto no definió el espacio de enterramiento como específicamente secular. Más bien, en Inglaterra el cementerio fue, y sigue siendo, una coproducción espacial de tecnología sanitaria, burocracia municipal y expresión espiritual.

Palabras clave

Entierro, cementerios, secularidad, Leyes de enterramiento, No Conformista.

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1. INTRODUCTION

Cemetery historiography has been dominated by two principal theoretical frames: Marxist characterisations of class struggle and status display in cemetery landscapes (Brooks *et al.*, 1989; Laqueur, 1993; Parker Pearson, 1982), and more latterly articulation of the nature of Foucauldian 'biopower' and the governmentality expressed through the bureaucratization of modes of interment and the technologies of sanitary disposal (Johnson, 2008; Joyce, 2003, 89ff). Cemetery establishment is commonly regarded as simply another element in a programme of progressive urban improvement, but the long history of burial as a Church function means that this progress has also become enmeshed in presumptions that modern advancement is intrinsically linked with a tendency to secularity. Thus the history of burial becomes one in which the secularising Enlightenment project removes the dead body from the spiritual realm of the churchyard and places it in the scientific realm of cemetery (Laqueur, 2002). However, this paper adopts José Casanova's imperative to deconstruct and question the presumptions underlying the idea of secularisation (Casanova, 1994) and in doing so challenges the contention that secularity is always central to the idea of the cemetery.

Within historical debate, arguments relating to secularity and cemeteries have also been articulated within the literature on the European 'culture wars' of the 19th century, which found various States in conflict with the pervasive influence of the Roman Catholic Church (Clark & Kaiser, 2003). This literature does not acknowledge that a similarly bitter and divisive culture war was also being enjoined in largely Protestant England, between adherents and supporters of the Church of England and various denominations of Protestant Dissent. As in much of Europe, the cemetery was a focus of tension and conflict, which in England centred on the degree of control exercised by the Established Church. This conflict did not reflect demand for 'civic' funerals. Protestant Nonconformists sought to secure burial space that was more rather than less spiritually meaningful, and where they might eschew the Church of England funeral service in preference to one which reflected their own denominational beliefs. Through the nineteenth century and up until the First World War, the framing of burial law and its application in communities throughout the country was accompanied by often acrimonious and divisive debate, provoking antagonism and resentment.

This paper considers the passage of English burial legislation and its implementation through the course of the nineteenth century, and the tendency of that legislation to exacerbate rather than resolve religious political tension in the realms of interment. Particular attention is given to the implications of two acts that were passed in 1879 and 1880. The Public Health (Interments) Act 1879 framed circumstances in which it might be possible for ratepayers to establish wholly unconsecrated cemeteries over which the Church of England had no control; the Burial Laws Amendment Act 1880 allowed that non-Anglican clergy could in defined circumstances take funeral services in consecrated burial space. Further controversy

relating to the operation of these acts led to the penultimate Burial Act, which was passed in 1900. It was this act that, for the first time, decisively re-framed the civic burial system so that it did not materially benefit the Church of England.

Through the course of the nineteenth century in England, cemeteries came to signify simultaneously both religious freedom and the oppressive influence of the Established Church. Cemetery establishment was also accompanied by panoply of regulation on sanitary burial management, but this did not define burial space as being innately secular. Rather, in England –and throughout much of Europe– the cemetery was, and remains, a spatial co-production of sanitary technology, municipal bureaucracy and spiritual expression.

2. SECULARISATION AND CEMETERIES

The notion of secularisation sits quite firmly within the historiography of cemeteries, and is expressed through discussion of two particular periods in time: the second half of the eighteenth century, and the second half of the nineteenth century. In the second half of the eighteenth century, the Enlightenment placed value on rational approaches and eschewed superstitious practices. Reframing practices around burial of the dead was, arguably, an Enlightenment project *par excellence*, in exercising emerging scientific theories around the deleterious nature of miasmas emanating from decomposing bodies (Riley, 1987; Rugg, 2013b); in creating a new civic framework for funerals that underlined the anti-clericalism at the heart of Enlightenment thinking (Kselman, 1993); and in presenting the opportunity for architects to redefine the spaces of interment according to Enlightenment precepts and removing Christian symbolism (Etlin, 1984). Indeed, these trends are expressive of Foucault's conception of biopower, in the use of multiple modes of governance to manage populations. Johnson provides the most direct reading of the cemetery as a site of institutional emplacement and control, reflective of the 'dispositional techniques' that Foucault regarded as underpinned the re-ordering of the city (Johnson, 2008, 781).

Debate connecting secularity and cemeteries recurs via historic debate on the 'culture wars' taking place across Europe in the second half of the nineteenth century, as emergent and established nation-states sought authority over the Roman Catholic Church. 'Culture wars' drew into question the pervasive influence of Catholic clergy over values and practices in all aspects of social activity (Clark & Kaiser, 2003, 1). A striving for secularity was intrinsically bound with the notion that modern states were in essence secular states. Conflict could be particularly strongly focused in the arenas of education and rites of passage, and the dominance of the Church over burial rites was often a point of particularly virulent disagreement. A funeral is, simultaneously, an intensely private and an entirely public affair: funerary ritual must convey emotional and spiritual comfort to the bereaved but those rituals are generally conducted in public space where allowable activities are decided by a higher authority. In the nineteenth century, across much of Continental Europe, the

Roman Catholic Church dominated the rituals and spaces of funerary activity. Exclusionary practices could place non-believers or those who faith was in doubt in spaces that were literally marginal and socially undesirable. In Belgium, for example, interment of non-Catholics without ritual in 'trou de chiens' provoked the establishment of La Libre-Pensée in 1863, which agitated for respectful civic funerals with lay ritual (Witte, 2003; De Spiegeleer, 2017a); in Spain, civic funerals were regarded as 'a militant' anti-clerical action (de la Cueva, 2017). Certainly there were attempts to promote purely secular, atheist funeral ceremonies in England but this movement tended to be marginal (Nash, 2017).

Within both these debates, cemetery space is posited as being essentially secular, not least since the cemetery is by definition a modern construct, indeed 'oddly modern' in the words of Laqueur (Laqueur, 2002, 19). Processes of secularisation have always been central to the notion of modernisation within sociology (Casanova, 2004), but historians are not necessarily agreed on how secularisation itself might be defined (McLeod, 2003, 9). If secularity can be defined in terms of the removal of legislation based on Christian principles and a loosening of ties between Church and society then cemetery establishment does appear to demonstrate a secularising tendency. However, it is appropriate to adopt McLeod's caution against generalisation: 'In questions to do with church and state and the role of religion in public institutions, there is no single European pattern, but there have been wide differences from country to country'; and chronology remains 'of fundamental importance' (McLeod, 2003, 9, 16). The notion that cemeteries were in any sense secular institutions in nineteenth-century England presupposes a number of processes: and that burial space moved from the 'spiritual realm' into a secular sphere where scientific precepts somehow had primacy; that the Church of England lost control of burial space at some juncture; and that new cemeteries constituted space that was expressive of non-belief. As will be seen, none of these secularising developments pertained during the course of the nineteenth century. Indeed, this period was one in which the cemetery became central to the expression of religious belief and denominational identity.

3. RELIGION IN ENGLAND

The Church of England has been the Established Church in England since the Reformation, formally linked to and supported by the state through statute and by financial subsidy. In this paper, 'the Church' refers to the Church of England, and unless stated otherwise the discussion relates to England and Wales only: religion and burial issues in Scotland had a different tenor not discussed here. In 1689, the Act of Toleration permitted freedom of worship to any who still pledged that the monarch was the Supreme Governor of the Church of England; Roman Catholics were excluded, and remained subject to restrictive scrutiny until the nineteenth century. Through the seventeenth and eighteenth century, worship was essentially pluralistic but adherence to non-Establishment denominations was small: in 1740, 'Dissenter'

groups comprised something less than three per cent of the population (Gilbert, 1976, 20), and included Baptists, Unitarians and Quakers. The principle of voluntarism in worship was broadly accepted but nonetheless Dissenting populations were subject to a wide range of civil disabilities: for example, the Test and Corporation Acts imposed restrictions on Dissenters' access to public office and, irrespective of denomination, payment of an annual tax to support the local Anglican parish church –the church rate– was compulsory. Furthermore, the state supported the Church of England through substantial grant payments: in 1818 and in 1824, and in response rapid urban expansion, the Church Building Acts granted a total of £1.5m to the creation of new Anglican churches (Port, 1961).

Methodism emerged from within the Church of England under the leadership of preacher John Wesley and initially challenged the highly ritualistic Church of England forms of worship. Wesley stressed the need for believers to seek personal redemption through belief in Christ and be spiritually transformed through consciousness of God's love. Outdoor preaching was a particular feature of Wesley's approach, and he sought to reach people who did not attend Church of England services. Methodist worship was characterised by expressive, emotional sermonising and lively hymns and services that did not follow the set Anglican liturgy. Methodism grew rapidly, and by the end of the 18th century the movement had become a recognised denomination with chapels supported by a circulating ministers and a highly organised lay network (Watts, 1995).

Methodism and other Nonconformist denominations grew rapidly from the second half of the eighteenth century and gradually increased in importance through the course of the nineteenth. In 1851, a unique religious census determined the relative strength of denominational adherence. The census counted attendances at religious services in the morning, afternoon and evening on census day, Sunday 30th March; the data that were collected included the number of places of worship, 'sittings' or capacity, and attendances (Snell & Ell, 2000). The census recorded 14,077 Church of England churches, but other Protestant denominations between them had 22,736 places of worship. Overall, there were 5,292,511 attendances at Church of England services, and 5,121,482 at other Protestant denomination services. The Church of England was the 'majority' church, but barely. Across the 624 registration districts in England and Wales, the mean share of attendances was 53 per cent (Snell & Ell, 2000, Appendix A). Extrapolating the data across the population generally, 20.2 per cent of the population attended Church of England services, and 18.9 per cent, non-Anglican (Watts, 1995).

Religious political tensions between 'Church' and 'Chapel' dominated the nineteenth century: the notion that the 'temperate, consensual and pragmatic quality of its political culture' protected Britain from confessional conflict (Clark & Kaiser, 2003: 3) fails to take into account the innumerable flashpoints where denominational rivalry spilled into civil disobedience, street protest and –on occasion– riot. The passage of the Reform Act in 1832 extended the franchise to occupiers of all property rated at £10 or more a year and redistributed parliamentary seats more equitably across the

newly emerging industrial cities. Nonconformity had an increasingly strong political voice which was, initially, expressed most vociferously in protest against the continuation of civil disabilities. In the decades following success in securing the repeal of the Test and Corporation Acts in 1828 it was clear that this action was seen as 'the beginning of a campaign to remove their grievances, rather than as the conclusion of their struggle' (Larsen, 1999, 43).

The history of cemeteries through the course of the nineteenth century has to be understood in terms of the growing influence and authority of Nonconformity in England, which expressed itself in different ways as the century progressed. In the first half of the nineteenth century, cemetery establishment reflected the desire of Dissenting communities to seek burial space outwith the control of the Church of England, and took place largely through voluntary action in the foundation of private cemetery companies. In the second half of the nineteenth century, the passage of the Burial Acts underlined the continued dominance of the Church of England over ostensibly municipal burial provision. As Nonconformity gained in political influence, the issue of burial became embroiled in a more substantive campaign to disestablish the Church of England.

4. THE EARLY HISTORY OF CEMETERIES IN ENGLAND

In Britain there was no formal 'first generation' eighteenth-century burial movement. Across many parts of Continental Europe, public health tracts underlined what were thought to be the deleterious public health consequences of interment close in populous neighbourhoods. The accumulation of literature on the subject became particularly marked from the 1740s, and included wide circulation of and reference to a work published in 1743 by the Abbé Charles-Gabriel Porée: *Lettres sur la Sépulture dans les Églises*. He proposed that cemeteries should be established outside of towns as 'the surest way to procure and preserve the freshness of the air, the cleanliness of the temples, and the health of the inhabitants', considerations of the utmost importance (Ariès, 1981, 479). Similar concerns were expressed in publications for example in Spain in 1776 by Francisco Bruno Fernández, in Italy by Scipion Piattoli in 1774 and in 1778 the Netherlands by Iman Jacob van den Bosch (Malone 2017; Saguar Quer, 1989; Riley, 1987). Edicts forbidding intramural interment were passed across Europe (Andersson, 1997; Davis, 1974; Dushkina, 1995; McManners, 1981; Navarro, 1993; Saguar Quer 1989). In France, a series of 'arrêts' or judgements culminated in more comprehensive legislation which altered the tenor of earlier and more wholly secularizing enactments. The 1804 Edict of St Cloud laid out extended regulation on cemetery management, based in part on new principles of sanitary interment and confirming that the management of funerary practice was a largely civic concern but also allowing for re-admittance of Roman Catholic clergy to hold funeral services (Kselman, 1993). Countries subsumed by the Napoleonic Empire were subject to the Napoleonic Code, which included the triple principles of sanitary

burial management, civic oversight of cemetery establishment and clerical authority (Malone, 2017; Whaley, 1981). England did not share in this Napoleonic legacy, which in the second half of the nineteenth century became central to battles over the contested secularity of cemeteries in the European culture wars (De Spiegeleer, 2017a, 2017b, De Spiegeleer & Tyssens, 2017; Malone, 2014; Martorell Linares, 2017; Witte, 2003).

In England, the eighteenth century was marked less by revolutionary and rather more by incremental approaches to dealing with what was rapidly becoming an acute burial problem. By the end of the century, growth in urban populations had begun to accelerate and intensified the use of existing burial spaces in towns and cities. In almost every settlement, the Church of England remained the principal provider of burial space although the monopoly of provision was not complete. The Act of Toleration had permitted non-Anglican worship and in doing so had also created a pluralistic system of burial provision: new chapels brought new 'chapel yards' and, by the beginning of the nineteenth century, many towns and cities contained a handful of Nonconformist burial grounds. The Church of England remained the principal provider and as population expansion exploded in the first decades of the nineteenth century there was an attempt to keep pace with new demand for burial space. The Church Building Acts brought funding for new churches, and these churches generally included churchyards: in Sheffield, for example, three new churches –St George's, St Phillip's and St Mary's– accommodated close to half of the city's burials in their first years of operation (Rugg, *et al.*, 2014). Indeed, it should be noted that through the course of the nineteenth century, the Church of England continued to establish new churchyards –often detached from the church itself– and to expand existing churchyards (Rugg, 2013a).

In England, probably uniquely in Europe and beyond, new cemeteries were reflective of 'bottom up' demand rather than being imposed by the state on an unwilling public (Cozzo, 1998; Joffré, 2004; Kselman, 1988; Reis, 1992; Rodrigues, 2015). A combination of forces propelled what became a substantive shift in Nonconformist burial practice, to set the foundations of cemetery establishment in England. These forces were: the pragmatic need for additional burial space; an increasingly politicized and confident Nonconformist community willing to challenge, at local level, civil disabilities; and a new and malleable financial format entirely suited funding to large-scale infrastructure projects. The pragmatic need for additional burial space followed rapid urban expansion. Overcrowding in urban churchyards was endemic: physical disturbance of remains was commonplace some-times days after interment. Conditions were at best grim and at worst harrowing, affording limited protection and little consolation (Rugg, 2013a; 2018). It is perhaps unsurprising that the most significant first step was taken in Manchester in 1819. This city, second only in size to London, and the 'shock city' of the nineteenth century had increased in size from around 75,000 inhabitants in 1801 to over 303,000 in 1851 (Wohl, 1983, 290). However, of perhaps more immediate importance was the activity of Nonconformists in Manchester who were strongly politicised and, in the 18-teens,

alert to ways in which they might both challenge or obviate a civil disability and at the same time materially disbenefit the Established Church.

All Nonconformists were subject to an extended list of personal and political grievances that were reflective of a lack of parity between Anglicans and Nonconformists, and of the established status of the Church of England. Campaigns against grievances could take place at national level, as with repeal of the Test and Corporations Act, or at localised level. Localised agitation against the church rate set an important precedent. The church rate was a tax payable to all parishioners and was intended to support the fabric of the parish church. The fee was generally small but many Nonconformists contested the principle of the payment, which was compulsory whether or not an individual attended parish church services. Agitation against the church rate generally took place within the vestry, where annual ratepayer meetings voted on the level of the payment and where concerted efforts by Nonconformists could set the rate so low that it was uneconomic to collect. Church rate battles were endemic across the country until legislation repealed the rate in 1868 (Floyd, 2008; Manning, 1952; Larsen, 1999). Until that time, success in evading the rate was regarded as –a very minor, admittedly– method of undermining the financial Established Church.

Burial grievances were an analogous issue, felt more acutely at a local but also at a personal level. This grievance had a number of elements, affecting different Nonconformists denominations in different ways. All parishioners had a right to burial in the churchyard, which was consecrated. Only Anglican clergy had the right to officiate at funerals in consecrated space, and they were compelled to use the Church of England Book of Common Prayer. Quakers, Baptists and Unitarians could, by the nature of their beliefs, be excluded from churchyard: baptism was not part of Quaker practice and the children of Baptists remained unbaptized until adulthood and on that grounds could be denied burial. Unitarians did not profess belief in the Trinity. Clergy could legitimately exclude from the churchyard all were unbaptized or not baptised using the accepted rubric. Sometimes exclusions could be illegitimate: for example, it was known for clergy to refuse the burial of Primitive Methodists, on the grounds that their baptismal rites were invalid (Larsen, 1999, 54-5). Wesleyan Methodists also might tend to concur with John Welsey who regarded consecration as 'a mere relic of Romish superstition; and I wonder that a sensible Protestant should think it right to countenance it; much more that any reasonable man should plead for the necessity of it!' (quoted in Collison, 1840, 192). Indeed, enforced burial in consecrated ground was regarded by some Dissenters as 'a form of persecution' (Fenwick, 1826, 15).

Decisive action was taken in Manchester, recorded in the MS 'Personal Narrative' of George Hadfield, a prominent member of the Congregational Church, solicitor and later MP for Sheffield. Hadfield had, in early 1820, organised successful agitation against an increase in the church rate to support newly three newly constructed churches. No doubt this energy was integral to the success of a further measure which came to fruition later in the same year: the establishment of a com-

pletely independent new burial ground close to the chapel on Rusholme Road. For Hadfield, 'to us, it was a peculiar advantage, to get our own Ministers enabled to preside at our funerals' (Hadfield, 1882, 81), and the site remained entirely unconsecrated. The cost of the new burial ground was met through the sale of £10 shares, and shareholders later received dividends. The joint-stock format was a staple financial framework for funding infrastructure works such as canals, railways and public buildings; indeed, periodic manias boosted speculative investment (Arnold and Bidmead, 2008; Mitchie, 1981; Rugg, 2000).

The joint-stock format for establishing new, independent burial space was copied quickly: the Proprietors of the Low Hill General Cemetery was established in 1823, opening Liverpool Necropolis; the Westgate Hill Cemetery Company was set up in Newcastle in 1825 and Yarmouth General Cemetery in 1828. This latter company was typical in including in its trust deed the requirement:

> That the burial of the dead in the said Cemetery, shall be performed with such funeral rites and ceremonies, or without any rites or ceremonies, and with the attendance of such minister or ministers, or other teacher or teachers of religion, or without such attendance; and in such manner in every respect as the friends or relatives of the deceased shall direct, provided always that every such burial be performed in a decent and solemn manner (Yarmouth General Cemetery, 1828, 19).

The financial success of the early Nonconformist cemetery companies was not unnoticed by speculators and also by town councils seeking to expand the provision of burial space for sanitary reasons. However, the issue of consecration remained a point of tension. For example, in 1845, the local newspaper reported on a meeting to discuss the need for new burial space in the market town of Gainsborough, Lincolnshire. The meeting could not agree on the issue of consecration, and Dissenters in the town opted to establish their own independent cemetery. The newspaper was clearly favourable, and published regular reports on progress with the new site:

> The place, we hear, is to lack nothing to make it an ornament to the town and neighbourhood. This, however, is but a secondary consideration with the spirited committee, all of whom are men of sterling stuff and fixed principles their object is the health of the town, and their being released from a priesthood boasting their descent from the apostles (*Hull Advertiser*, 28 Nov 1845).

It was later reported that the site was 'consecrated' through the act of burial with the service performed by a Wesleyan minister (*Hull Advertiser,* 27 August 1846).

This level of denominational preference could not always be tolerated where the intention was improve general sanitary conditions (Rugg, 2016). In order to effect discontinued use of noxious churchyards, new cemeteries required consecration. Again, a crucial first step in this direction happened as a consequence of localised denominational rivalry. In Liverpool, supporters of the Church of England had been dismayed by the impact on clerical incomes of the opening of the

Liverpool Necropolis. In an open letter to the Mayor, the instigators of the new endeavour declared that 'their sole object is to provide for the Members of the Established Church and for others who prefer burial in *consecrated* ground' (MS Minute Book, 2 Sep 1825). It was intended that the profits from the new cemetery would be donated to support clerical incomes. However, the act of consecration remained under the authority of the Bishop of Chester, Charles James Blomfield. The Bishop –who translated to London in 1828– was remarkably influential in ensuring that the interests of the Church of England were protected in all burial matters, and agreed to consecration on the condition that the site was established by Act of Parliament. This meant that it would become possible for Bishops in the House of Lords to ensure the inclusion in the act of clerical compensation clauses: the cemetery company would be required to pay a defined sum to each clergyman denied a burial fee by the interment of their parishioner in the cemetery. As the Bishop of London, Blomfield imposed a similar requirement on the directors of the General Cemetery Company, who were obliged to consecrate the entirety of the General Cemetery of All Souls, Kensal Green and pay compensation of five shillings for burial in a vault, and one shilling and sixpence for common burials (Collison, 1840, 158). A further innovation occurred in York. Here, in 1836 the General Cemetery Company approached Edward Venables-Vernon, the Archbishop of York, to consecrate just part of a new cemetery that was intended to meet the needs of all denominations in the city. The Archbishop agreed to what he termed 'a rare an interesting ceremony' and consecrated half the cemetery with the demarcation line running directly through the chapel (*Yorkshire Gazette*, 9 Sep 1837). The site, established by Deed of Settlement, was not subject to any clerical compensation clauses although the services of an Anglican cemetery chaplain were secured to conduct funerals in the consecrated section (Murray, 1991, 12).

The majority of joint-stock cemeteries established from the mid-1830s tended to be established using specific Acts of Parliament, contain land that was half-consecrated, and include some level of clerical compensation. A number of these sites –including Highgate Cemetery, London– were speculative –but the majority were established as a public health measure by town councils (Rugg, 1992). In 1847, the Cemetery Clauses Act created a set of standardised clauses for cemetery establishment which could be adopted in their entirety and so reduce the legal costs for town councils securing an act of Parliament. The need for such an act was quickly superseded by the passage of the Burial Acts, but it regained significance as will be seen, by its controversial incorporation into the Public Health (Interment) Act 1879.

5. THE BURIAL ACTS

By 1850 almost all major towns and cities in England and Wales had a joint stock cemetery company but none had the legal capacity to close insanitary churchyards, and the joint-stock format was financially viable only in larger settlements. National

legislation was required, and the task of framing that legislation was placed in the hands of civil servant and sanitary reformer Edwin Chadwick, whose 1842 *Sanitary Condition of the Labouring Population* was supplemented by a special report on interment published the following year. Chadwick's initial approach to the problem of burial had been to implement a comprehensive Continental European system which integrated public ownership of mortuaries and cemeteries and civic provision of funerary services. He had been successful in the passage of legislation to this end in 1850, a move largely driven by panic following a particularly severe cholera epidemic of 1848-9. However, the Metropolitan Interments Act 1850 was an aberration. The measure was poorly received by the Treasury, which baulked at the compulsory purchase of the newly-established cemeteries (Finer, 1952, 401). A wholly revised metropolitan Burial Act was passed in 1852, with its clauses applied nationally by the Burial Act 1853. These new Acts removed all requirements for centralised control and instead created a permissive system allowing groups of ratepayers to establish –through strictly defined voting procedures– local burial boards which were authorised to seek loans to pay for the new burial provision; loans would be repayable through an addition to the rates (Rugg, 2013a).

Following the example set by many of the later cemetery companies, the Burial Acts aimed to establish cemeteries that were available to use by all denominations. It had taken some time to arrive at legislation that would prove politically acceptable to Nonconformists since earlier bills had generally included compensation clauses. Indeed, William McKinnon MP, who had headed a Select Committee on the subject of interments and proposed a bill had been dismissed by the Nonconformist press as 'a cat's paw to the clergy'; they regarded the Church as aiming 'once more to establish her ghostly empire over the entire territory of the tomb' (Committee for Opposing the Bill, 1843, 9, 21). These fears were not allayed by the Burial Acts of 1852 and 1853 although the enactments ostensibly enforced strict equity between denominations. In burial board cemeteries, half the land would remain unconsecrated, and where the scale of operation dictated the need for a chapel, then chapels had to be erected on both the consecrated and unconsecrated sections at no small cost to the ratepayer. The Acts materially improved the supply of unconsecrated burial space in major towns and cities, but at the same time clearly benefitted the Established Church. The act of consecration placed that part of the cemetery under the control of the Church of England, and the section was regarded in law as 'the burial ground of the parish', in other words, an extension to existing parish churchyard. This meant that 'Every incumbent or minister of the parish […] shall be entitled to receive the same fees in respect of burials which he has previously enjoyed or received' (Cunningham Glen, 1858, 55-6). These fees were payable irrespective of the individual taking the service, as were any monument erection fees which were set depending on the scale and complexity of the memorial. In actuality, the Burial Acts added substantially to Church of England holdings of consecrated burial space through the course of the nineteenth century.

6. THE ACTS OF 1879 AND 1880

A further eight burial acts were passed after the initial legislation in 1852 and 1853 (Brooke Little, 1902), which is a strong indication of the complexity of the legislation but also the fact that the earliest acts by no means settled the religious political tensions which had arisen over burials. Indeed, the acts had further inflamed tensions. The laws were based on the parish governance system: ratepayers of all denominations could be voted onto the vestry, which decided many of its activities also by submitting the issue to ratepayer vote. The Burial Acts were permissive, which meant that communities did not have to take measures to improve burial conditions and it was not necessary to adopt the Burial Acts if improvement was thought desirable. The complexity of the legislation left a surprising amount of discretion, which meant that denominational rivalries could be played out at the local level, often in extremely petty ways. For example, in the market town of Malton, the small Roman Catholic community asked to have a section of the site set aside for their sole use, but the local Board refused on the grounds that the small and generally poor Roman Catholic community made insufficient contribution to the local rate. A mean-spirited calculation led to the offer of just six perches of land, or around 0.015hectares (NYRO: BB/MLN 1/5).

More generally, the Nonconformist community was of the view that, beyond the major towns and cities, its burial grievance had not been resolved. In rural areas there were insufficient ratepayers to repay a loan, and churchyard extension remained the favoured approach to the need for new burial provision. Religious politics aside, this was an altogether cheaper and simpler option than the highly bureaucratic task of establishing a burial board (Rugg, 2013a). However, the issue was gradually moving beyond grievances and into more even more contentious territory, questioning the status of the Church of England as the Established Church. It was argued by Nonconformists that the churchyard was public property, having been provided by rates paid by all local inhabitants irrespective of denomination. In this case, it was only reasonable that Nonconformist ministers should be allowed access to the churchyard to conduct services. If the churchyard was not open to all, then the Church of England could not claim to be the Established Church of the nation. Agitation in favour of disestablishment had gathered pace and lobbying sophistication: Nonconformist political candidates were making reference to burials as part of their manifestos (Marsh, 1969, 243), and the Anti-State Church Society, which became the Liberation Society in 1853, gained representation in the House of Commons; the Church Defence Institution, bolstered by diocesan networks, organised public lectures and petitions (Rugg, 2014; Wiggins, 1996).

This heightened agitation constituted the context for two major and very different pieces of legislation. The Public Health (Amendment) Act 1879 was passed via a Parliamentary 'sleight of hand' by Alfred Marten MP. He favoured cemeteries purely as a sanitary measure. He declared, in a speech to the House of Commons: 'There could […] be nothing more repulsive to every right feeling than

that people should go to the House of God surrounded by all the foul and decaying elements of humanity'. Between 1853 and 1875, over three thousand such burial places had been closed and 600-700 new cemeteries opened, but in his view reform was not yet complete (House of Commons Debates, 19 Feb 1879, 1469-70). He thought that religious issues were clouding the matter: the Nonconformist MP George Osborne Morgan had brought a burial bill to the chamber every year for nine years, and the issue had ossified into a stalemate with no further progress likely. For some reason that is not clear, Marten's proposed bill evaded detailed committee scrutiny and received its third reading, very late at night, to a much depleted chamber although Osborne Morgan was in attendance, and vehemently opposed to the measure. Marten summarised the bill –to the few MPs present, who perhaps did not understand the ramifications of the enactment– as 'simply a Bill enabling the sanitary authorities to make provisions for the public health' (House of Commons Debates, 19 Jun 1879, 287). In actuality, the bill was to constitute a substantial challenge to Church of England authority in the issue of interments.

Marten's bill was passed as the Public Health (Interment) Act 1879, although for much of the remainder of the century it was generally referred to as 'Marten's Act'. The Act was very short and simply extended the permission that had been granted to sanitary authorities to build public mortuaries, to also lay out cemeteries. The Act incorporated the Cemetery Clauses Act 1847 as a method for creating the new cemeteries, entirely sidestepping the requirements of the Burial Acts. Osborne Morgan had objected to Marten's bill at its third reading since it contained no guarantee that any cemetery created under the enactment would provide unconsecrated land. In operation the legislation carried quite the opposite consequence: under s23 of the Cemetery Clauses Act any cemetery established under the Act 'may' be consecrated. In commentary on this clause, Brooke Little confirmed that 'there is no obligation imposed by this Act upon the company to apply to the bishop to consecrate any portion of the cemetery' (Brooke Little, 1902, 320). Cemeteries laid out under Marten's Act were in no way classed as parochial burial grounds, and fell entirely outside ecclesiastical control (1897, *Report from the Select Committee*, 18-19). Marten had hoped that his Act would be taken up by smaller rural sanitary authorities, unable to work with the complex and expensive requirements of the Burial Acts. In actuality, the legislation was adopted by far more larger urban districts: by 1897, 71 of the 97 applications to the Local Government Board for funding under the Act had been made by larger towns and cities including Oldham, Oxford, Southend-on-Sea and Northampton (1897, *Report from the Select Committee*, 69). Some sanitary authorities sought to lay out entirely unconsecrated cemeteries, making no new provision available to anyone seeking a Church of England funeral service. This development reversed the Nonconformist grievance, by creating burial space that Anglicans supported through rates, but where their use of the site was curtailed by its non-consecration. The issue was brought to a particularly complicated pass in Hyde, Cheshire, where the Local Government Board refused a loan to the town council as a consequence of their decision to proceed with cemetery establishment under Marten's Act

and not consecrate. In the view of the Local Government Board, the town council was at risk of defaulting on the loan since full use would not be made of cemetery and its income would be depleted. Matters were delayed for years, since the council refused to allow consecration and so cede authority to the Church (1898, *Report from the Select Committee,* 1ff). By the end of the nineteenth century, it was evident that –contrary to Marten's intent, certainly– cemeteries too often became a means of expressing religious political enmity at the local level. Decision-making around whether to use the Burial Acts or Marten's Act in securing new cemetery provision rested largely on the religious political complexion of the local council.

A second enactment also carried substantial consequences. George Osborne Morgan finally secured legislation that allowed Nonconformist ministers to take services in consecrated burial space. The Burial Laws Amendment Act was passed in 1880, following a snap election which brought Liberals into power: the House now had 84 Nonconformist MPs, the vast majority Quakers, Presbyterians, Unitarians and Baptists, and had a sufficient majority to effect change (Marsh, 1969, 257). The Burial Laws Amendment Act permitted services to be taken by Nonconformist ministers in churchyards and any other consecrated burial space, provided 48-hours' notice be given to the Anglican incumbent in writing, in a format prescribed by the legislation. The funeral could be undertaken 'without the performance, in the manner prescribed by law, of the service for the burial of the dead according to the rites of the Church of England' (s1) and 'without any religious service, or with such Christian and orderly religious service at the grave' as thought fitting by the person arranging the funeral (s6). The Anglican minister who might have expected payment for the interment was still entitled to receive a fee (s5) (Cunningham Glen, 1902, 266ff).

Ostensibly straightforward in principle, the legislation had contentious consequences in practice. Clergy could, if they were so minded, simply make it difficult for arrangements to be made. Evidence from churchyards across North Yorkshire on responses to the Act indicates that recourse to its provisions was remarkably variable, despite substantial Nonconformist adherence in many small towns and villages (Rugg, 2013a, 200). For example, in the small town of Helmsley the Act further inflamed existing tension with regard to Nonconformist access to the churchyard. Here, the Reverend Charles Norris Grey was very High Anglican, and supported in his views by the Earl of Feversham who owned much of Helmsley and the surrounding area. Grey had offered commentary in the parish magazine on Osborne Morgan's attempts to pass enactment, and stated quite baldly:

> It was shown again and again in the debate that if the Church yielded to every cry of grievance from the Dissenters they must be prepared to yield everything. The cry was now give us the churchyards, the next would be to give us the churches. There was no real grievance, they could provide Burial grounds for themselves as they had provided chapels if they disliked the church services in her own churchyards (*Helmsley Parish Magazine*, Nov 1876).

Soon after the passage of the Act, the Earl had donated additional land for burial, which was to remain unconsecrated and granted on the presumption that it would obviate the need for Nonconformists to seek services in the churchyard. However, by this time the local Dissenters were in no mood to be conciliatory, and in the twenty years following the passage of the 1880 Act, the churchyard of All Saints, Helmsley had 33 services taken by Nonconformist ministers (Rugg, 2013, 200).

The Earl of Feversham was not atypical in seeking to evade the Act. Agitation against the legislation was enjoined by a broader movement which harnessed the dismay of the larger Anglican landowners who had donated additional space to existing churchyards. There were many other attempts to evade the Act by creating new unconsecrated cemeteries for exclusive use by Dissenters, so they would feel no need to use the churchyard. However, as in Helmsley, new burial space was generally needed by all denominations, and any cemetery that was in any way privately established and where part of the site was consecrated automatically brought the new law into force, negating the strategy (Rugg, 2014). Indeed, the combined workings of Marten's Act and the Burial Laws Amendment Act raised the prospect for Anglicans of their having no exclusive use of any burial space, if local Nonconformists were minded to be awkward on the matter.

7. THE BURIAL ACT 1900 AND AFTER

Controversy related to the operation of the burial legislation led to the creation of a Parliamentary Select Committee on burial grounds, which sat in 1897-8 and took evidence from civil servants in the Home Office and the Local Government Board, and from various local representatives of towns and cities where the legislation had provoked particular tension and difficulty. Consecration was the principal problem. It appeared that there was no difficulty necessarily with the idea that the Church of England should in some way bless or dedicate land used for interment. Rather, problems lay with the legal consequences of consecration, in that the action appropriated land which then remained under the authority of the Church. The Burial Act 1900 introduced a major alteration. The new regulations started from the presumption that all cemetery space would remain unconsecrated unless a local case was made for consecration. The measure was overseen by the Home Department, and strict regulations defined the methods communities could use to make a case. The Department required detailed statements to be submitted on the local population; estimated number of burials annually; estimated proportion of burials in consecrated space; applications for separate allotments of space; the population of the denominations seeking separate allotment; a written statement of approval of those allotments by denominational representatives; and the nature of any objections (Rugg, 2013a, 255). This level of detailed was strongly indicative of the apprehensions of false and partial reporting on the part of rival denominational factions. Consecration was agreed if apportionment

was judged to be fair, and where the parties seeking consecration agreed to meet the cost. Further, where part of the site was consecrated, the burial fee was directly payable to the officiant; any monument erection fees were also payable to the site owner. The Home Department also required maps and planting plans, to ensure that the projected cemeteries did not in any way favour even aesthetically one denomination over another (Rugg, 2013a).

The Burial Act 1900 did not necessarily bring localised denominational wrangling to a close, but it did reframe the existing legal framework so that the Church of England no longer materially benefitted from the Burial Acts. The Act decisively decoupled Church and State on issues relating to burial at the legislative level but did not necessarily lead to the creation of a wholly secular cemetery system. The Local Government Act 1972 repealed the Burial Acts almost in their entirety, but the Local Authorities Cemeteries Order 1977 permits burial authorities, 'if they think fit' to apply for consecration or to set aside any unconsecrated section for the use of a particular denomination. Burial authorities are still obliged to 'satisfy themselves that a sufficient part of the cemetery remains unconsecrated' (Smale, 1993, 100-101). It also remains the case that ecclesiastical law pertains in the consecrated sections of cemeteries.

8. CONCLUSION

This paper has indicated the degree to which religious political concerns underpinned the introduction and development of cemeteries in nineteenth-century England, and in doing so has brought into question the notion that cemeteries should be regarded as innately secular. The issue is altogether more complex, and hinges on definitions of secularity. Certainly cemeteries were one context in which a service closely associated with Christian theology was reframed to meet non-religious objectives. In England the churchyard constituted the symbolic unity of the church congregation, awaiting the Last Judgement. The Burial Acts, by contrast, relocated burial space away from the church and required compliance with regulations on plot sizes and grave construction, optimum soil types and requirements with regard to drainage; the cemetery as construed as a machine to effect sanitary decomposition (Rugg, 2013b). However, the Burial Acts also ensured that cemeteries remained under Church of England control, in the same way that the 1804 Edict of St Cloud found a new place for the clergy in the burial spaces originally defined according to rational Enlightenment precepts. The Church retained a role, and the majority of burial services were taken by ordained clergy until well into the twentieth century.

Arguably, the secularity of cemeteries can more readily be construed as a decoupling of Church and State authority. The European 'culture wars' comprised attempts by various nation states to wrestle control from the Roman Catholic Church, and by doing so to secularise and modernise society. It is notable that in France in 1881, amendments to the Edict of St Cloud finally ended the right of the Roman Catholic

Church to exercise authority in the cemetery (Kselman, 2003), as the Burial Laws Amendment Act in England the year before undermined the authority of Anglican clergy to officiate in their own churchyards. In both cases, the laws subjugated the Church to State authority: the Church lost its legitimising function and become one 'supplier' in a pluralistic market place of all denominations and none.

Perhaps the cemetery still constitutes one further challenge to the notion of innate secularity, which can also be defined in terms of an erosion of individual religious behaviour. In England, during the course of the nineteenth century, the meaning of the cemetery was strongly intertwined with freedom of religious expression. This is a reminder that the spatiality and materiality of the cemetery could evidence theological tenets outside the Anglican ecclesiastical framework: burial in unconsecrated space was arguably more expressive of spiritual belief than interment in consecrated ground. For Kselman, cemeteries have remained places of popular Christian devotion and a locale for material Christianity (Kselman, 2003). Cemeteries
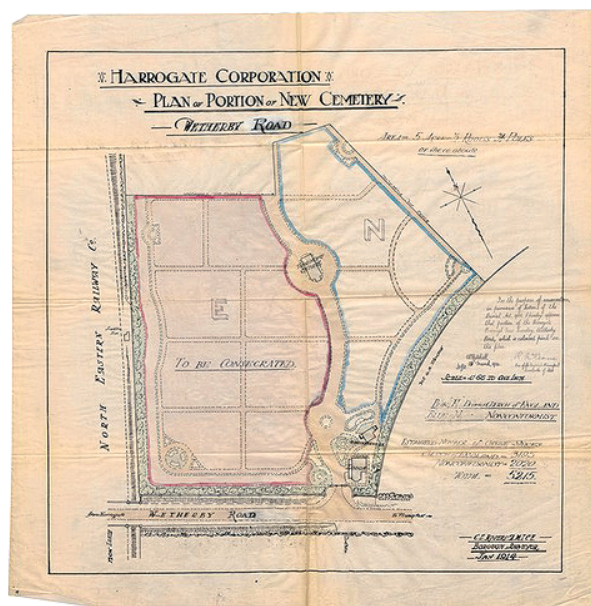
This map was produced by Harrogate Corporation to meet the requirements of the Burial Act 1900, and related to a new cemetery that was to be jointly owned by the Corporation and a local burial board. Under the Act, plans to establish new cemeteries and extensions to existing cemeteries were required to demonstrate in advance how much of the land they planned to consecrate, and justify that amount. In its supporting documentation, Harrogate Corporation indicated that the existing St Mary's Cemetery had close to twice as many interments in consecrated sections in 1909 and 1910, and demand therefore dictated an uneven apportionment of land. A handwritten note on the map indicates that the plan was approved.
Source: The National Archives, HO45/10990/11495 (St Mary's Cemetery, Harrogate, 1904-21).

in the nineteenth century abounded with crosses, and with epitaphs including biblical texts and expressing faith and belief. It may be that cemeteries now lack formal theological symbolism but it is rare for a cemetery not to facilitate expression of some level of personal spirituality: the family grave, symbolism on monuments, the language of epitaphs, planting and landscape, all generally attest to the hope for consolation whether or not that hope is attached to a formal theology. In conclusion, the presumed secularity of cemeteries is –alongside presumptions associating secularity and modernity– a tired orthodoxy which it would be helpful to set aside. The history of cemeteries is rather more complex and nuanced than is allowable in simplistic dichotomisation.

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