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## UNDERGRADUATE SECTION

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# INTRODUCTION TO FORENSIC MEDICINE AND LEGAL PROCEDURES PREVALENT IN INDIA - PART I
# ( PART I ) (PART II)

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I. **Introduction:-** The study of forensic medicine can be relief to a medical student from his otherwise "dry" routine of studying rather taxing subjects like pathology and microbiology. In a way this subject is completely different from other subjects. Here one would encounter crime and criminals, murder, rape, killings, poisonings, and so on. Unlike books on other medical subjects, in this specialty, you would encounter a lot of real cases sizzling

with crime, conspiracies and intrigue. Indeed, studying forensic medicine could be a lot like reading Agatha Christie, or James Hadley Chase, but in a more scientific manner! But why should a medical doctor worry about crime in the first place? What relation does his profession have with crime? Well! as you would soon find out, there are a host of criminal cases and situations where the problem can only be solved through an intelligent application of medical principles. In fact this is what forensic medicine is all about. But before going any further, first of all we must acquaint ourselves with the bare minimum of the vocabulary used in medico-legal practice. In this profession, we frequently encounter several terms. The definitions of these terms should be very clear in the mind at the outset.

A. **Forensic Science**:- The word "Forensic" has been derived from the Latin word *Forensis*, meaning "belonging to the market place or forum". In ancient Rome the "forum" or public meeting place was where legal cases were tried and pleaded. *The term Forensic Science means the application of the knowledge of science for the purposes of law and justice.* The term includes the application of all sciences such as physics, chemistry, biology and so on. It may appear odd at the first instance, but almost all branches of science can help in the administration of justice. For instance, in a vehicular

accident, glass fragments may be found at the scene of crime. Since the refractive indices of all glasses differ minutely, comparison of the refractive indices of glass pieces found at the accident site with the glass of the suspect car may offer a useful clue. This is an example of the application of physics in the administration of justice (*Forensic physics*). Similarly chemical analysis of an unknown poison found in the stomach of a dead person is an example of the application of chemistry in the administration of justice (*Forensic chemistry*). An analysis of blood stains found at the scene of crime require the application of biology (*Forensic Biology*). *Forensic Science is a very vast subject and comprises of the application of* ***any*** *branch of scientific knowledge for the administration of justice.*

B. **Forensic Medicine**:- *The term Forensic Medicine means the application of medical knowledge (all branches of medicine including laboratory examinations) for the administration of law and justice.* It is obviously a subset of Forensic science. Several examples can be given where a knowledge of medicine is useful for the administration of law and justice. A young lady may allege that some Mr. X has sexually assaulted her, while Mr. X vehemently denies this. For proper administration of justice, it must be found out first of all, whether Mr. X has or has not really ravished her. This can only be determined by a

medical doctor. If the lady has indeed been ravished, he must find injuries on her private parts. Her hymen may be torn and so on. The seminal fluid recovered from her vagina must have the same DNA profile as that of Mr. X. Only after this, can one say whether or not Mr. X is guilty.

C. **Legal Medicine**:- The term legal medicine is synonymous with forensic medicine.

D. **State medicine**:- This term is also synonymous with "Forensic Medicine". This term is called so, because administration of justice is a duty of the state (country). For instance no doctor can conduct post-mortems on his own. They are ordered by a proper Government official (a state official in other words), be it a police officer, magistrate or coroner. Even on the order of a proper official, the post-mortems can only be conducted by a Government appointed doctor. Private practitioners are usually excluded from this. This situation led some persons to designate "Forensic Medicine", by the alternative name of "state medicine". This term is however not used much today.

E. **Clinical forensic medicine**:- *The term Clinical Forensic Medicine involves an application of clinical methods for the administration of justice.* For instance, when a live rape victim is examined for evidence of rape and associated injuries, it involves a knowledge of clinical methods so such an examination is covered under Clinical Forensic

Medicine. Similarly examination of a battered baby (who is still alive) would be covered under clinical forensic medicine. Clinical forensic medicine is a subset of forensic medicine.

F. **Forensic pathology**:-*It is the application of the knowledge of pathology for the administration of justice*. Doing post-mortem examinations, deducing the cause of death by looking at the state of internal organs, estimating the cause of death by doing histo-pathology of internal organs, etc. involves a thorough knowledge of pathology, and is included in forensic pathology. Forensic pathology is also a subset of forensic medicine.

G. **Forensic psychiatry:-** *It is the application of the knowledge of psychiatry for the administration of justice.* An illustration might make it clear. According to our law, a person is not guilty of murder, if it is proved that at the time of committing the offense, he was suffering from such a defect of mind, as he could not understand that what he was doing was either wrong or contrary to law. Put in straight and simple words, it means that if a person is found to be insane, he wouldn't be held responsible for the murder he had committed. This is because the law presumes that such a person can not have a guilty mind (or *mens rea* as some like to call it). In our law only those persons can be punished who have a guilty mind. This fact is exploited by many murderers by asserting that

they are insane. Now for the proper administration of justice, it is extremely important for the courts to determine whether that person is really insane or he is only malingering. A doctor who is well-versed in the science of psychiatry can make it out very easily, and tell the court what the real situation is. This is a classical situation where a knowledge of psychiatry is helpful in administration of justice. There are several other instances where psychiatry can prove useful to the law and administration.

H. **Medical Jurisprudence**:- *Medical jurisprudence means legal aspects of practice of medicine*. For instance, a physician while prescribing medicines for his patients is guided by certain rules and regulations. If he is negligent towards his patients, he may have to face the law. All the rules and regulations which guide a physician during his practice come under medical jurisprudence.

I. **Medical Ethics**:- Medical ethics deal with the moral principles which should guide members of medical profession in their dealings with one another, with their patients and with their State. For instance a doctor is not expected to refuse treatment to a patient on religious grounds. Similarly he is not expected to ask for a "cut" from his colleague, to whom he refers his patient for some special investigation. If he asks for a "cut", and gets it, both doctors are guilty of breaching medical ethics. To

give another example, a doctor is not expected to employ touts for furtherance of their medical practice. If some doctor does it, he breaches the code of medical ethics.

J. **Medical etiquette**:- *Medical etiquette deals with the conventional laws and customs of courtesy observed between members of the medical profession*. For instance, a doctor is not expected to charge for giving medical advice and/or medicines to another doctor. He is also expected to see him out of turn. If he follows these guidelines, he is said to have observed proper medical etiquette.

II. History of forensic medicine:-The relationship between law and medicine is very old. Traditionally the first ever medico-legal expert is considered to be **Imhotep**, the Grand Vizier, Chief Justice and Physician to king Zozer of Egypt. He flourished around 3,000 BC. Perhaps the oldest record about medico-legal matters is the Code of Hammurabi, King of Babylon, which is dated at around 2,200 BC. This code includes details of the regulation of doctors and their practice. In ancient Egypt, the practice of medicine was subject to strict legal provisions. Criminal abortion was punishable by law. The Egyptians were well-versed in the art of preservation of dead bodies, by mummifying them artificially. Dead bodies of kings and queens recovered even today are in an excellent state of preservation.

*One of the first instances when science was used for the detection of crime was when the Greek scientist Archimedes (287-212 B.C.) found out an interesting way to detect the amount of silver used as an adulterant in a gold crown. The king of Syracuse, Hieron II was suspicious about the purity of gold in his crown, and he instructed his court scientist Archimedes to find out a way to detect the adulteration without in any way destroying the crown. Archimedes while taking his bath discovered quite serendipitously that all substances on immersion displace an amount of water equal to their volume, and the weight of the immersed object consequently decreases by that amount. This is known even today as "the principle of buoyancy" or the "Archimedes' principle". By cleverly applying that principle Archimedes could show that the gold crown indeed had been adulterated with silver, and consequently the goldsmith was executed. This is perhaps the first instance when forensic science was used resulting in the execution of a criminal.*

*In ancient India too, medical opinion was frequently applied to the requirements of the law. By law the minimum age for the marriage of girls was fixed at 12 years; the duration of pregnancy was recognized as being between 9 and 12 lunar months with an average of 10 months and there is evidence that doctors had to opine on such cases.*

*The first medico-legal autopsy in history is said to have been conducted by the ancient Roman physician Antistius, who examined the body of Julius Caesar after his assassination in 44 BC He found twenty-three stab wounds over his body. After the post-mortem examination, he concluded that only one wound-the one in the chest between 1st and 2nd ribs-had been fatal.*

*The first real evidence that a special branch of medicine devoted to the support of judicial work was indeed taking shape dates from the thirteenth century AD It comes from China. A bulky book entitled Hsi Yüan Lu was published in that country in 1248. It was actually meant as a handbook for applying medical knowledge to the solving of crimes and to the work of the courts. In keeping with the highly speculative character of early Chinese medicine, many of the procedures were utterly fantastic. But the book does contain valuable instructions for the examination of corpses. It deals with the various kinds of wounds delivered by different weapons of different degrees of sharpness. It tells how to ascertain whether a person had been killed by strangulation or drowning. It discusses the problem of whether dead bodies found in water have been actually drowned, or killed beforehand, as well as the question of whether a body was burned before or after death-in other words, whether a fire had been set in order to cover up a preceding murder. It stresses the need for careful examination of the scene of the crime. Its basic attitude may be summed up in the proverb: "Everything may depend on the difference between two hairs".*

*In contrast, in Europe a similar book appeared much later. In 1507 Constitutio Bambergensis Criminalis appeared which acknowledged the usefulness of physicians in legal cases involving infanticide and bodily injury. This book was published in the diocese (the circuit or extent of a bishop's jurisdiction) of the Bishop of Bamberg. It became the model for a far more extensive penal code, the Constitutio Criminalis Carolina, also known as The Criminal Jurisdiction of Emperor Charles V and the Holy Roman Empire, issued by Charles V in 1532 for all the lands included within his mighty empire. To be sure, it made no mention of careful medical examinations or of autopsies where the cause of death was doubtful. At best, wounds were "widened" to determine their approximate depth or direction of penetration.*

***One of the physician's principal functions was to decide whether a defendant was strong enough to be put to torture.***

***In the eighteenth century, the Italian anatomist Giovanni Battista Morgagni (1682-1771) had begun dissecting the bodies of the dead and comparing the alterations in their organs with the symptoms of the diseases that had caused death. In 1761 (i.e. in the eightieth year of his life!), he published a book on the 640 post-mortem dissections he had conducted. He thus was the founder of pathology.***

***The three great pioneers of forensic medicine to be born in the eighteenth century were Johann Ludwig Casper (1796-1864) born in Berlin, Mathieu Joseph Bonaventure Orfila (1787-1853) born in Minorca and Marie Guillaume Alphonse Devergie (1798-1879) born in Paris. They devoted their life in the study and development of forensic medicine as we understand it today, but they were all disgraced by their colleagues. Most medical professionals regarded them as intruders, exploiters of the true art of medicine, or representatives of a second-rate science tainted by crime and the ugliness of slums.***

In 1835, Devergie published the influential Médecine légale, théorique et pratique, (Legal medicine in theory and practice). Casper, who was looked down upon and driven from place to place by such influential persons of his time as Rudolf Virchow, ultimately proved his worth by publishing Gerichtliche Leichenöffnung (Forensic Dissection) in 1850, and Praktisches Handbuch der gerichtlichen Medizin (Practical Manual of Forensic Medicine) in 1856. These three books brought out a revolution of sorts in the world of forensic medicine. They covered a wide range of subjects, and gave details of thousands of cases, these courageous men had solved, by applying rigorous observation, accurate and detailed autopsy, and microscopic and chemical examination.

***Forensic medicine made rapid advances in the 19th and the 20th centuries. Newer discoveries were regularly being made. The latest forensic technique to be invented is the technique of DNA profiling (commonly known as DNA fingerprinting) perfected in 1985, by a Leicester University professor Alec Jeffreys. It enables the forensic scientists to identify an individual positively among millions of suspects. The technique is very useful in solving cases of rape, disputed paternity, putrefied bodies and so on. In India, the technique of DNA fingerprinting is successfully being used at the Center for Cellular and Molecular Biology, Hyderabad by Dr Lalji Singh, who left a promising career in Edinburgh to settle and work in India. The future of forensic medicine is very bright and promising. More and more youngsters are now realizing the importance and dignity attached with this profession, and are taking up this specialty as a career.***

III. Inquest:- (from Latin *in*, into, and *quaro*, to seek or look for) *An inquest is an enquiry or investigation into the cause of death where death has occurred under mysterious and suspicious circumstances.* Whenever a death occurs, it is necessary to establish the cause of death. If the death is due to natural circumstances, such as a heart attack, no

further investigation is required, and the body may be disposed of according to the customs and traditions prevalent in the religion of the deceased. But if death occurs under suspicious circumstances, (say a newly married bride found hanging from a ceiling fan), or if some suspicion and/or mystery is associated with the death of a person (say, a person who left for office in the morning is found dead in a field far away from his office), a detailed enquiry becomes necessary to find out the true nature, cause and manner of death. Hence the necessity of inquest. There are four types of inquest, of which the first three are prevalent in India. The last one, namely the Medical Examiner System, is prevalent in the USA.

A. The Police inquest (Conducted by a police officer)

B. The Coroner's inquest (conducted by a coroner, Not followed in India now)

C. The Magistrate's inquest (conducted by a magistrate)

D. The Medical Examiner system (conducted by an official who is both legally and medically qualified)

IV. Inquest (Discussion)

A. The Police Inquest:- The police inquest is held under section 174 of the Criminal Procedure Code (Commonly referred to as **Cr.P.c.**). In India, normally the inquest is conducted by a police officer, not below the rank of a head constable. A police officer conducting an inquest is known

as an **investigating officer**. Whenever a suspicious death occurs anywhere, the information reaches the local police officer first of all. He immediately informs the Executive Magistrate of the area and then proceeds to the place where the body is lying. The idea of informing the Executive Magistrate is that in certain cases, the Magistrate may himself want to conduct the inquest (his inquest being fairer and superior to that of the police inquest). There are certain specific cases in which only the Magistrate **shall** hold an inquest (as mentioned under the relevant heading), but the Magistrate reserves the right to conduct inquest in any other case which he deems fit. If there is no order from the Magistrate to the contrary, the Police officer conducts an inquiry into the cause of death in the presence of two or more respectable witnesses of the locality. These witnesses are known as **panchas, panch witnesses** or **panchayatdars**. He also looks at the body for evidence of any injury, poisoning, etc. Based on his findings after viewing the body, as well as information received from the witnesses, he prepares a report on the probable cause of death, as judged by him. This report is called the **panchnama** or the **inquest report**. The inquest report, on an average consists of about 10 papers, but it may be as long as 50 papers or as short as just 3 papers. It all varies from case to case. The usual papers that the report contains are:-(i) Brief facts of

the case (ii) statements and opinions of two or more relatives or neighbors or friends of the deceased (iii) a sketch of the scene where the body is lying (iv) a form filled up by the police officer himself, giving details of injuries as visualized by him (v) any treatment records, if the person had been receiving some treatment for some disease or injury prior to his death (vi) a copy of the MLC, if this was made at the time the patient was brought to the hospital (vii) statement of the deceased prior to his death regarding his cause of death(viii) suicide note of the deceased if this was found (ix) a copy of the First Information Report (FIR), if this had been lodged with the police (x) any other relevant paper (for instance, the railway ticket found in the deceased's wallet, if the body was found on a platform. It may indicate where he was traveling from and where to). After preparing the inquest report, the police officer may come to one of the two conclusions; either there has been a foul play or there has been none. In either case, his subsequent action would be different.

***An example would make the procedure somewhat clear. Let us imagine that a police officer receives a report that a woman has been found burnt, somewhere in Kailash Colony. He would first inform the area magistrate about the said death, and then proceed to the place where the body of the woman is lying. The body of the woman may be at her own home, if the death occurred immediately after burning, (such deaths are called "on the spot" deaths); it may be at the hospital, if she had been transferred to the hospital and the death occurred there, or it may be in the mortuary, if the death occurred in the hospital, and the body has been shifted to the hospital mortuary. If the body is lying at any other place than the place of occurrence of offense (i.e. at the hospital or mortuary), the police officer may like to visit the scene of occurrence of offense (popularly known as the scene of crime) also. In the above case, if the body of the woman is lying at the mortuary, the police officer would come to the***

***mortuary first, but after talking to the relatives, and neighbors (waiting there to receive the body), and seeing the body himself, he may like to see the place of occurrence also. He may see some marks of blunt injury on the dead body, and if some neighbor told him in addition, that on the day of occurrence of crime he had seen the woman being beaten and dragged about, it becomes very necessary for him to see the place of occurrence of crime too. He may find evidence of drag marks there, or may be some broken bangles, which would be very helpful in prosecuting the culprits later on. In India, the law does not require the doctor (forensic pathologist) to visit the scene of crime, but some sincere police officers prefer to take the doctors to the scene of crime on their own initiative. Interpretations of a trained forensic expert at the scene of crime may be very valuable.***

***If the police officer finds that there is no foul play, he may hand over the body to the relatives for cremation or disposal in any other way in accordance with the person's religion. Let us imagine that in the above case, he finds the following facts (i) the woman was married for more than seven years, and was having very good relations with her husband and in-laws; there had never been a demand for dowry (ii) The parents of the girl assert that they do not suspect her in-laws and that their behavior towards their daughter had been very good and exceptional(iii) The deceased had given statement during her illness that she was burnt accidentally during cooking (iv) All the neighbors of the woman say that the relations of the woman were very good with her husband and her in-laws, and they never saw them fighting, and (v) on viewing the body, no signs of injury other than burns are found. This much evidence is sufficient for the investigating officer to conclude that no foul play is involved, and he would give the body to the relatives for disposal.***

***On the other hand, if the findings of the investigating officer are different from those given above, he may reach the conclusion that there had been some foul play. Any one or more of the following findings in the above case may lead him to think that there was some foul play (i) the woman was newly married and there used to be a fight almost daily in the household (some neighbor may give this information), and/or (ii) the parents of the girl assert that their daughter had been burnt to death by her in-laws, and/or (iii) the deceased gave a statement during her illness that she had been burnt to death by her husband and in-laws, and/or (iv) Some neighbor gives the information that on the day of burning he saw through the window that the husband was putting fire to his wife, and/or (v) in addition to the usual burn injuries, the investigating officer notices some nail marks on the neck (indicating among other things an attempt to throttle).***

Once a police officer decides that some foul play is involved in the death of the person, it becomes imperative for him to get a post-mortem done. Only a post-mortem examination by an expert doctor can settle matters conclusively. It can either confirm everyone's doubts or put them to rest. The relatives can not get away by saying that "we don't want a post-mortem". If the investigating officer decides to have a post-mortem done, he sends the body to the nearest medical officer authorized for this purpose. He submits the whole inquest report to the medical officer for his perusal. In addition he appends on top of the inquest report, a formal written request for conducting the post mortem examination. The medical officer conducts the autopsy and then prepares the post-mortem report in duplicate. If he thinks, that some additional examinations such as chemical examination of the viscera is important to find the cause of death (as when he finds some strange smelling chemical in the stomach and suspects that the deceased might have been

poisoned), he would preserve the viscera and hand them over to the investigating officer in a sealed container, for having them analyzed from the chemical examiner. It is the duty of the investigating officer to send over the viscera to the chemical examiner.

***After preparing the post-mortem report, the original is given to the investigating officer and the duplicate is kept in the office records for subsequent reference. It is studied by the doctor at the time the he is summoned in that case by the court of law. The time gap between the conduction of post-mortem and his summoning to the court is about 2 years on an average, but there have been cases where the doctor has been called as late as 15 years after conducting the post-mortem! By that time, the doctor might have forgotten everything about the case. The duplicate copy comes handy at such times. The duplicate copy may also be used for research purposes, or for deriving statistical information such as how many dowry deaths occurred during a particular year, and so on. In developed countries, the post-mortem reports are stored electronically in a computer, which makes retrieval, and statistical processing very easy.***

B. The Coroner's inquest:- This means an inquiry conducted by a coroner into the cause and manner of death. In India, the Coroner's inquest is no more done now. It was actually a legacy of the English *Raj*, that we had for over 200 years. The following discussion is of historical importance only.

1. History of the coroner's inquest:-The office of the coroner originated in England in the time of King Richard I (1157-1199). This system was effective and was adopted by other countries in due course of time. Many countries, later replaced it with the Chief Medical Examiner system. The story of how the coroner system came into being is interesting. King Richard I, used to be away most of the time from his country, to fight wars. During his absence, there **had** to be an officer to look after the law and order situation. He was the so called "keeper of the pleas of the Crown", one who kept the country going, by looking and

investigating into various crimes, and punishing the culprits. He was called *custodes placitorum coronae* (which is Latin for "the keeper of the pleas of the Crown"). In those times, he looked into many types of cases, including unnatural deaths, fires, treasure troves (a valuable find), wrecks, and even illegal catching of the royal fish such as the sturgeon! In the course of time however his work was drastically curtailed, till today he is left with the investigation of only the obscure and unnatural deaths. In fact section 30 of the Coroner's Act, 1871, specifically stipulates that the Coroner would not inquire into treasure troves or wrecks, and would not seize any fugitive goods. He would be concerned mainly with the investigation into obscure, suspicious and unnatural deaths.

The Coroner's title also underwent a sea change with the passage of time. The title “custodes placitorum coronae” was shortened to coronator, and ultimately to coroner. In India the system was introduced by the British in pursuance of the provisions of the Coroner's Act 1871 in the "Presidency Towns" of Calcutta and Bombay. Later on the coroner system was removed from Calcutta, and still later from Bombay too. The coroner's court was established in India in 1902.

2. The Coroner:- As already stated, in India, the coroner’s inquest is no more held. The following discussion is meant for people interested in Coroner's inquest for historical research.

Coroner used to be a special officer appointed by the government to inquire into causes of unnatural deaths. The Coroner was required to have a legal qualification and is usually an advocate, attorney, pleader, or first class

magistrate, or a transferred metropolitan magistrate (all of whom must have a minimum of five years experience in the legal field). He held the rank of a First Class Judicial Magistrate. He presided over the Coroner's court and is governed by the provisions of the Coroner's Act 1871. He usually used to sit alone but must sit with a jury in certain cases.

3. The Coroner's court:-The Coroner's Court was probably the only court in the country, which had a jury system. Under section 12 of the Coroner's Act, 1871, he could summon between five and fifteen respectable persons (but there should be an odd number of people always), to act as jury. The word "Coroner's court" may create confusion in the minds of some people who may think that it is like any other court which can grant punishment. It is important to realize that the Coroner's court **was not a court of trial**, and as such it had no power to grant punishment to the culprit, even if his offense seems to have been proved. It was **only a court of enquiry**. After conducting an enquiry into the cause of death, if the Coroner found ample evidence against some suspect, he would forward a copy of his inquisition report to the Commissioner of Police, and he would take further action in this regard (like sending the culprit to the metropolitan magistrate empowered to commit him for trial, and grant punishment if found guilty). If the person

who has caused the death, is at large, the Coroner had the power to arrest him and send him to the Magistrate for trial.

The various powers of the former Coroner may be summed up as follows. Sections within brackets refer to the Coroner's Act 1871, which empower the Coroner for the said function:-

(a) Power to inquire into suspicious and unnatural deaths:- The Coroner was empowered to inquire into the causes of all deaths by accident, homicide, suicide, sudden deaths, or death of a prisoner (sec 8)

(b) Power of getting information from the Superintendent of a prison regarding death of a prisoner:- If the death of a prisoner occurs, the Superintendent of the prison must inform the Coroner. If the Superintendent fails to inform the Coroner, he may be subjected to a fine of up to five hundred rupees (Five hundred rupees may seem a very small amount today, but it was rather a large amount in 1871, when the Act was framed!) (sec 9)

(c) Power to exhume:-The Coroner could order a body to be exhumed, if he believes that some foul play was involved in his death, and the matters were hushed up by hurried and clandestinely burying the body (sec 11)

(d) Power to view the body and dispense with the post-mortem examination:-He may view the body and may decide whether or not a post-mortem is required (sec 15)

(e) Power to summon witnesses:-He can summon any witness, which he deems fit to his court, to give

information regarding the cause of death. If the called witness fails to appear in his court, he would be liable to punishment as prescribed under sections 174, 175 and 176 of the Indian Penal Code. (sec 17)

(f) Power to order a post-mortem examination, and to give remuneration to the doctor:-He is authorized to order any registered medical practitioner (usually the Police Surgeon) to hold a postmortem examination, and after the post-mortem examination is over, he may give him a reasonable amount of remuneration (sec 18). Later, the medical practitioner could also be called as a witness to tell the court his findings. If he fails to appear he would be subject to the same penal provisions as outlined above.

(g) Power to refer the matter to the Commissioner of Police:-If the person who has caused the death of the deceased, has already surrendered, the Coroner would send the report of his inquisition to the Commissioner of Police who would take further action in that regard (sec 25).

(h) Power to arrest the guilty and commit him for trial:-If the guilty person is at large, the Coroner could issue a warrant of his arrest (sec 26). In this case, he would send him for trial to such Magistrate who in empowered to commit him to trial.

(i) Power to appoint Deputy:-He could appoint a Deputy Coroner during his sickness or absence due to unavoidable circumstances (sec 38).

***Sometimes the Coroner might discover that some foul play has been involved in the death of the person, yet he may be unable to identify the culprit(s). In this case he would return an open verdict. This means, that it has been recognized that a crime has indeed been committed, but for the time being the culprits are not identifiable (It is important to appreciate, that if the culprits have been identified, but are not traceable, then the Coroner would not return an open verdict. In that case he would issue warrants for the arrest of such person(s), as outlined above). When an open verdict is returned, the matter is kept in abeyance till more facts come to light which would help identify the culprit(s). The Coroner's inquest was considered superior to the police inquest. The main differences between a coroner's inquest and a police inquest are outlined below***:-

**Differences between a Coroner's inquest and a Police inquest**

| *S.No* | *Trait* | *Coroner's inquest* |
|---|---|---|
| *1* | *Place* | *Used to be Conducted only in Bombay. Nowh* |
| *2* | *Investigating officer* | *Investigating officer used to be the Coron individual. He was also conversant with th and was thus not likely to commit serious his inquest was considered superior to the p* |
| *3* | *Types of cases handled* | *He could hold an inquest in all cases of susp* |
| *4* | *Informing Magistrate* | *He need not inform the magistrate about th* |
| *5* | *Jury* | *The inquiry was held in the presence of members. This helped the inquest* |
| *6* | *Warrant for arrest* | *He could issue warrant for arrest of the acc* |
| | | |

| S.No | Trait | Coroner's inquest |
|---|---|---|
| 7 | Exhumation | He could order for an exhumation |
| 8 | Analysis of viscera | He could order an analysis of the viscera |
| 9 | Quality of investigation | Was considered much superior to that of po |

**The Coroner's court used to be substantially different from a magistrate's court, in which the accused are tried and given punishment. The main differences can be summed up as follows:-**

**Differences between a Coroner's Court and a Magistrate's court**

| S.No | Trait | Coroner's court |
|---|---|---|
| 1 | Type of court | It was only a court of enquiry. |
| 2 | Accused | During the proceedings of the coroner's court, th be present. Even if he used to be present, he had r the witnesses. |
| 3 | Punishment | The coroner could only arrest the accused, if h arrested and found guilty, the coroner had no po to him. For this, he would have to refer the magistrate |
| 4 | Contempt of court | If anyone committed an indecent behavior, or wi the coroner could punish the guilty of the offence such punishment could only be awarded, if th within the premises of his court |

C. The Magistrate's inquest:- The magistrate's inquest is held under section 176 of the Cr.P.C. (compare with the police inquest, which is held under section 174 of Cr.P.C.).

This means an inquiry conducted by a magistrate to ascertain certain matters of fact. The law (i.e. section 176 of Cr.P.C.), specifically directs the Magistrate to hold an inquest in following three types of cases:-

1. Death occurring in police custody
2. Suicide of a woman within seven years of marriage
3. Death of a woman within seven years of marriage in any circumstances raising a reasonable suspicion that some other person committed an offence in relation to such woman.

***In addition to the above 3 cases in which a magistrate is legally bound to hold an inquest, the magistrate reserves the right to hold an inquest in any other case of death which he deems fit. On receipt of information of death by the police officer, he may choose to hold an inquest himself. Experience has shown that a magistrate generally holds an inquest in the following types of cases too:-***

4. any death in which the police is involved in any way, such as death of a convict in jail, death in police firing, or death occurring during police investigation. The essence behind this provision is that the suspect culprit (police) himself can not be the judging authority as to who has committed the offence.
5. Cases of exhumation

D. The Medical Examiner system:-This system is prevalent in the USA. It was first introduced in the USA in 1877, in Massachusetts. The state was divided into a number of sectors, in each of which was designated a physician who functioned as a "medical examiner", to determine the

cause and manner of death. However, at that time the medical examiner did not have the right to order autopsies, a situation which prevailed till the 1940s. In this system, a medically qualified person investigates the death from a medical point of view. He usually visits the scene of crime too, and thus gets a first hand information regarding the circumstances of death. This system is therefore undoubtedly superior to other kinds of inquest, in which non-medical personnel conduct an inquest. However like the coroner, the medical examiner has no power to summon witnesses and examine them on oath. He submits his report to the district attorney for further action.

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