

THE INFLUENCE OF THE CORONER'S INQUISITION
ON THE DEVELOPMENT OF THE COMMON LAW AND
THE MEDICO LEGAL SYSTEM.

by

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ABSTRACT

Inquisitions held by various authoritative bodies from the Crown in the eleventh century to the Board of Trade or the local Borough Council in the twentieth, have existed for many and different reasons. In contemporary society any commission of inquiry can be termed an inquisition, whether its purpose is a retrospective assessment or a prospective modification of established policy. The inquisitorial theory is the searching out and correcting of error on the basis that there is safety in the truth. As a legal principle it is the demarcation line between the ancient prophetic laws of the oracles and the scientific legal systems of modern civilisations.

William the Conqueror introduced the "Inquisitio" into England as one of the measures of facilitating the integration of local administration with the centralisation of Royal Justice.

Initially, its main function was of a fiscal and political nature but the institution was not allowed to suffer the corruption and misuse of its process, as was

its continental counterpart following the Lateran and Toulouse Councils in the thirteenth century. Given expression in the Coroner's inquest it was used mainly in the investigation of unnatural death or any matter ordered by the King's writ. From the onset it acquired a significant role in the developing common law when inquisition records were used by the Justices in Eyre for the conducting their business.

The Coroner's inquiry exists in all parts of the world where the common law took root, but its purpose has changed; although on occasion an inquest may bring to light a secret homicide or contribute to the preferment of a criminal charge; its duty is to provide a forensic forum for the sifting of medical, legal and scientific issues in the prevention of untimely death and the promotion of a better quality of life.

CONTENTS

Introduction.

The History of the Office of Coroner in England and Wales is divided into two parts. The first deals with the development of the Inquisition from the Conquest to the beginning of the Tudor Dynasty. The second extends from 1485 to 1975. Both parts outline the development of its legal and administrative procedure against the sociological pattern of England at four different stages in the last eight centuries. The duties of the Coroner are described. Differing theories on the origin of the office are examined briefly and the relevant statutes are commented on. Part 2 also deals with certain types of inquisitors and their courts. p. 8

Chapter 1. explains the aim of this study which resolves itself into four postulates. These are directed towards showing the adaptability, the purpose and the chronological value of this ancient common law institution. Some inquests of the thirteenth and fourteenth centuries, which have a

bearing on legal, medical or sociological principles are categorised. The matters touched upon include, the early classification of homicides, the prison system, the development of hospitals, and other points of medieval life.p. 70

Chapter II deals with the Inquisition throughout the 180 years of Tudor rule. Emphasis is placed on the effect of tudor legislation on the Coroner and the diminishing scope of his jurisdiction. The political flavour of certain inquests is also commented on. p. 136

Chapter III traces the emergence of the Inquisitorial Law from its medieval setting to its consolidation into the legal framework of the nineteenth century. The epoch studied is from 1603 to the enactment of the 1887 Coroner's Act. Medical and legal reforms are exemplified in the analysis of inquests on witchcraft deaths and Treasure Trove Inquiries.p. 188

Chapter IV examines the Inquisitorial process in contemporary times. Most of the cases referred to belong

to the last two decades. These illustrate the influence of the Inquest in the evolution of the medico/legal service, the help given to developing a public health system, the aid in the investigation of crime and the valuable insight into our technocological era. p. 233

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INTRODUCTION

From an analysis of the transcripts of selected Coroners inquests at different stages in the eight centuries of the existence of the Coroner's Office in England, an attempt has been made to trace the growth and effect of inquisitorial law, from its cradle in the mediaeval setting of the Plantagenet shire jurisdiction to the unobtrusive, yet none the less necessary place it holds in the present day legal system.

In London alone an average of 25000 deaths are reported annually to the Coroners¹. The use of specially trained pathologists for the autopsies has developed forensic diagnosis and morbid anatomy into a specialised branch of medicine; this has greatly strengthened factual and circumstantial evidence not only in the Coroner's inquiry but also on occasion in civil and criminal court. A recent example is a reference made by Bridge J. in his summing up at the Birmingham Bomb Trial, on the scientific evidence of explosive material found on three of the accused when they were arrested². The statistical information which is provided by the large number of

1. In the years 1971 - 72 : 27404 cases were reported in London and 115946 - throughout England and Wales. Coroner's Society Rep. 1971-72.

2. Times. Aug. 6. 1975.

inquests carried out in England and Wales provides a vital means of alerting both the public and the professions of law and medicine to growing problems arising out of the modern environment. For example the "bladder cancer death cases" and the recognition of crimes of child abuse afford modern illustrations of this service of focusing attention which these courts provide.

Few books have been written on the Coroner's inquisition, as a subject it seems to have aroused the historian more than the lawyers interest. Gross wrote a comprehensive treatise in 1889 and a more modern version by Hunnisett was published in 1961. Two Coroners, Umbreville and Baker were authors of an account of the law concerning the matter in 1761 and 1856 respectively. But the only lawyer to approach the subject from the standpoint of the legal practitioner was Jervis J whose book first published in 1829 and regularly revised since the consolidating Coroners Acts of 1887 and 1926, remains the only authoritative text for Coroners law to date.

Throughout the various stages of its evolution, the Coroner's system has at times been criticized by the authorities. Mediaeval thought was directed towards

preventing corruption in the office. In the eighteenth and early nineteenth centuries bureancratic administration concerned itself with financial issues and brought the Coroner into conflict with the Justices, whose approval for inquest fees was by statute ¹ necessary. At intervals departmental and select committees have questioned the value of its existance and tried to limit its scope. The most recent objection issues from the legal profession itself, namely that proceedings in a Coroners court may lead to a person being found guilty of murder or manslaughter when he has not been accused before the Coroner, so that should he ultimately be acquitted at his trial he may find himself treated in Society as though he had been convicted by the process of the criminal law. It was this dissatisfaction which led in 1966 to a departmental committee being set up to review Coroner's law.

Examination and criticism of any institution is healthy and necessary for its survival and value to contempory society. However incorrect reporting in the press and mass media have on occasions helped to fan

1. 25 Geo. II c29 s 3

prejudices which often stems from a lack of knowledge of Coroner's work.

It was Sir John Fortescue who said " Ignorancia legis causat contemptum eius" ¹. This thesis which endeavours to trace the influence of the Inquest upon the common law is designed to remedy in part this lacuna in the existing corpus of knowledge.

1. (Chap. v of the Dialogue 1468)

HISTORY PART 1

The Coroner's Office is a perfect example of the survival of an ancient Institution by adaptation to social environment and the changing needs of the community.

A system of Law reflects the moral development of its people, and today when the concept of moral obligation by the Law to the individual has extended beyond simple protection of personal and proprietary rights, to responsibility for the criminal, the misfit and the sick, the Coroner's enquiry is of practical legal and medical value.

To understand the manner in which the Office created initially for fiscal reasons for the King, was moulded into a distinctive form from that of other Crown Institutions eventually to emerge as a forensic service for the protection of persons in almost every walk in life; its origin and purpose must be studied.

It would appear that from the days when the Norman Kings sought to secure their hold over the Realm by making Royal Justice available to all - enquiry into unnatural death had always existed, as evidenced by the Frankpledge System and Murdrum fine. The origin of the Office has been the subject of controversy

and any probable conclusions arrived at can only be based on the circumstantial evidence of History and interpretation of such opinion in writings and records of earlier times as well as the modern views of the present day mediaevalist. Coke and Jervis were of the opinion that it existed in Alfred the Great's day but modern research has shown that the source of their information, a treatise written in Edward I's time is unreliable. ¹

The first undisputed evidence of the existence of the Coroner is to be found in the Articles of Eyre in 1194 Chap. 20, where it provides for the election, by the County, of three Knights and one Clerk as Custodians of the Pleas of the Crown - the Article written in Latin is as follows:-

"Preteres in quolibet commitatu eligantur tres milites et unus clericus Custodes plaetorum coronae"
Some writers on constitutional history, however, considered this a Declaratory Act and that the Office came into existence at about the same time as the

1. Andrew Horn. Mirror of Justice. Whittaker Seldon Soc. V7 1895 i.iii p9.
In the Rhyming charter said to have been granted by Athelstan to St. John of Beverley there is allusion to the Coroner (Dugdale's Monasticon Anglicanum 2.130).
In Vin Abr. Coroner, A, a statement is adopted from Nath. Bacon's treatise "Of Government" c.32 s.2 where it says "It is evident he (coroner) was an officer in Alfred's time, for that King put a judge to death for sentencing one to suffer death on the Coroner's record, without allowing the delinquent liberty of traverse". The explanation for this is however that any official who could have disturbed false judgements, but did not do so were hanged whenever the justices were hanged. (Seldon Society Vol.7 Mirror of Justice p. 169. Halsbury's Laws of England Vol.9 4th Ed. n.635 n.2.

itinerant Justices ¹. The modern theory is that it was innovatory ². The various ideas that have been and are put forward on the origin of the Coroner's Office are worth mentioning.

In 1194 the raising of as much money as possible for the final payment of Richard I's ransom and his fruitless subsequent wars abroad, was the concern of Hubert Walter, that able Justiciar, in itself sufficient reason for emphasising an already existing and lucrative Office; since, the greater the number of Pleas of the Crown the Coroner could enrol for the purpose of checking the Hundred Jurors Veredicta (or true sayings that is verdicts) which were presented to the Justices in Eyre, the larger the source of revenue for the King's Treasury - 'Crime really paid'.

From 1194 until about 1400, as will be seen from the Ordinances and Statutes of that period, the office became one with specialised functions; but to understand the development of an organism one must go to the germ centre of its life, and a logical hypothesis as to the reason and nature of Crown enquiry must be searched for in the fabric of English life under the Norman Kings a century and a quarter before Richard's reign.

1. Temp. Henry I 1100 - 35

2. Transactions of the Royal Historical Society
5th Series V.8. 1958 p.87.

THE BEGINNING OF THE MODERN INQUISITORY LAW

William I not only superimposed his Norman innovations on the People he conquered, he made the greatest possible use of existing customs and Laws which might be of value to him. The Country as he found it could be termed an amalgam of loosely knit provinces or shires governed by plenipotentiaries, administered by the Earl's appointed Reeve and advised or aided by the Bishop. This self-contained unit had a practical but not strong tie with an overlord or King. Without disturbing the pattern in essence the Conqueror however, made outstanding changes. Church and lay Courts were separated, land was re-arranged and occupied by Norman Lords, the King, as customary, sitting to hear suits and administer justice according to the Laws of the land.

William's servants and Reeves were appointed to the Shires and Hundreds - and most important for this dissertation, he re-established the Frankpledge system, and introduced the Inquisition.¹

The 'Inquisitio' as it was termed, is a record of information collected under oath and in both these procedures lie the seeds of the later Grand Jury and the

1. See Stubbs. Select Charters from the beginning to 1307. Oxford 1966. p.16. n.1.

modern Inquest. The Domesday Survey can be termed one of the first great Inquisitions.

This system on inquiry put to many uses was so successful that Royal Clerks were sent out as a sort of surveillance in increasing numbers and subsequently on more frequent occasions by the Conqueror's youngest son.

The Sheriff, however, was still responsible for recording events, particularly collecting and delivering to the Exchequer the King's dues, and he was the Chief Magistrate of the Shire.

A brief comparison of the Office of Sheriff and Justice throws light on the origin of the Coroner's Office. In his constitutional history Stubbs points out that for the period of transition between the two systems, the Anglo-Saxon and the late Norman, the Sheriff not only presided in his Court as sole head but also in a dual capacity. As Sheriff he administered the Shire and acted as exchequer for the Crown - but in his character of Justiciar he transacted the special business of the King's Writs - of necessity much of his work increased with the extension of Royal control.

As Henry I's Judicial System was taking root we find two authorities presiding together in the Shire Court. The Vicecomes or Sheriff and a local Justiciar to share the business of keeping and determining the Pleas of the

Crown - this state of affairs did not last long, local Justices were abolished around 1160; but for that short period they performed many of the future Coroner's functions, such as attaching witnesses and suspects and appraising lands and chattels for possible forfeiture.

There is little doubt that the County Justiciar was the precursor of the County Coroner, but his powers were greater. He not only kept the Pleas of the Crown he also heard them. With his disappearance the Sheriff once again became the sole Judge in the County Court - except that he was precluded from acting as such during the Eyre or if a Judicial Commission sat in his own Sheriffdom.¹ ('Et nullus vicecomes sit Justiciarius in vicecomitatu suo nec in comitatu quem temerit post primary Coronationem domini Regis')².

Some of the Coroner's duties devolved on the King or Sheriff's Serjeants - these officials heard Inquests but never determined them. Nevertheless the short term presence of these local Justices coupled with an analysis of the Charters granted to London by Henry I, to Coventry by Henry II and to Colchester by Richard I authorising the inhabitant's election of a Justiciar from among themselves to keep and determine Crown Pleas, gave rise

1. Articles of Eyre. Chap. 21.

2. Stubbs. op.cit. Capitula placitorum Coronae Regis; p.254.

to the theory that Coroners, under the name of Justiciar, had existed pre 1194. Gross was firmly of that opinion and Round further ascertained that the Bailiff, so far as the Town was concerned, stood in the Sheriff's shoes, as did the Coroner in those of the Justice. He substantiates this by comparing the significant passage in Richard's Charter to Colchester with that of Henry's to London.¹

From these two Charters it will be seen that the Crown was not only drawing local governments and Justice into the stream of centralisation but was creating an Office to safeguard the Royal interests (mainly fiscal). These theories are worthy of mention if only to follow the line of reasoning of the modern historians who have established the date of origin irrefutably as September 1194.

In the early days of Henry I the baronage was both powerful and troublesome; some of the local officials were tenants in chief and their loyalty to the Crown could be questioned e.g. the Abbot of Bury St. Edmunds was himself a tenant in chief and franchisal Sheriff of

1. "Ipsi ponant de se ipsis Ballivos quoscumque voluerint Justiciam ad servanda placita infra Burgum summ et quot nullus alius sit inde Justicia nisi quem elegerint" (J.H.Round Geoffrey de Mandeville 1892 p.110)

HENRY I - "Ipsi cives ponent Vicecomitem qualem voluerint de se ipsis et Justitiarium qualem voluerint de se ipsis ad custodiendum placita coronae meae et eadem placitanda; et nullus alius erit Justitiarius super ipsos homines Londoniarum".

the County of Suffolk.¹ By his granting of numerous charters, by organising judicial and fiscal circuits and in recognising the claims of the body of the people in the restoration of National Laws;² Henry was able to reduce the hereditary franchises of the barons and establish a covenant with the people. Now with his death and the disappearance of his restraining despotism, the Barons are no longer rebellious, they are insurgent and under Stephen and Maud, the budding judicial system is disrupted by the anarchy of the reign - the King's man is swallowed up by feudalism let loose. The feudatories strike their own coins and mete out their own law.

Henry II's reign sees a reversal of the situation. The baronage is brought under control crown lands are regained, the coinage is reformed. He re-confirmed at a later date in his reign, his grandfather's Charter to the Town of London, but with reservations, keeping, as does Richard I later, the appointment of the Sheriff in his own hands.³ In his Charter to London he refers to Vicomes meus and omits the clause allowing the citizens to elect their own Justiciar and Sheriff - so that at this point we are back to the peace of Henry I, with

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1. Warner Martin and Muir. New Groundwork of British History. (Bk.I. p.110) London and Glasgow 1963.
Green J.R. History of the English People. London 1902. Vol.1.pp.175-178
 2. Stubbs. Select Charters pp.116-17.
 3. Round. ed. 1892 - Early Admin. of London.
Geoffrey de Mandeville pp. 369 and 371

a government far more skilfully organised, and a Judicial system which the King establishes on similar but more polished lines than his grandfather.

From then on it seems that the Office of local Justiciar is obsolete and the King keeps the reins in his own hands, via the itinerant Justices and the Sheriffs, either of whom incurring his displeasure, he does not hesitate to replace.

THE MEASURES OF HUBERT WALTER

With the shift from quasi independent provincial administration to centralisation taking shape and the King's law becoming the law of the Country, greater surveillance of local officials became a necessity; that the King had shown some doubt as to the honesty of their transactions is indicated by his Inquest of the Sheriffs 1170 and his revision of the Criminal Law by the Assise of Clarendon; but there was a gap in his embryonic Civil Service which no doubt Hubert Walter sought to remedy - by Article 20 of the Eyre - namely the election of the three Knights and Clerk to keep the Pleas of the Crown. Records, however crudely kept hitherto, needed checking. ¹

1. This mainly for financial reasons. For a full account of the mode of checking presentments at the eyres see Hunnisett R.F. The Medieval Coroner. C.U.P. 1961. pp.104-106.

The election of Coroners in the Shire Court was not only a safeguard for the tie between Crown and People, but a strong counter-measure against the power of the Sheriff, who more often than not, would belong to the baronial class, a thorn in the side of Hubert Walter. The French Norman influence had taken over.¹ From that date onwards until the Local Government Act 1888 County Coroners continued to be elected by the Freeholders of the County. Today the County Council elects the Coroners and the old Writ "de Coronatore eligendo" formerly issued to the Sheriff is no longer necessary².

SOME DIVERGENT VIEWS AS TO THE ORIGIN OF THE CORONER

Modern historians agree that the Coroner's duties were not new in 1194 but disagree with the opinion that the County Justiciars appointed under Stephen and Henry were the same officers as the Knights elected as Keepers of the Pleas of the Crown under the measure of 1194. The three following postulates which led to this mistaken belief can be refuted on palaeographical and linguistic grounds coupled with historical deduction:-³

1. The record of an Appeal of Homicide from Lincolnshire in the Curia Regis Roll for the Michaelmas

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1. I. Note the signatures of the Barons on The Magna Carta. Select Chart. p.302.
 2. cf. Coroner's (Amendment) Act 1926. 16.17 Geo.5.c.59. See 2.
 3. Hunnisett. Transactions of The Royal Hist. Soc. 5th Series Vol. 8. 1958 pp.86-87.

Term of 1194 - which was started in the County Court not later than April 1194, was heard in the Autumn by the Justices and removed to the Curia Regis in November, the records being carried by the Coroners to Westminster.

The Report by the itinerant Justices to the Justices of Westminster stated that Hugh de Severbi had accused Alured de Glentham and an accomplice of killing his brother. After the commission of the crime, the accused had been placed in the custody of the Bailiffs of Gerard de Camville - the Sheriff of Lincolnshire. The "milites custodientes placita coronae" said that Hugh had made his appeal at the first County Court, after the homicide, (this would be roughly anytime in the first four weeks following the crime when the first Shire moot assembled). The Sheriff and men of the County confirmed the testimony of the Coroners. Gerard de Camville was Sheriff of Lincolnshire from 1189 to March 1194 and was removed from office by Richard I in 1194 for treason - Therefore Hugh de Severbi must have made the accusation in the County Court before the Articles of Eyre were issued in September 1194¹.

The argument put forward is that Coroners there were at Westminster in November but it was perfectly

1. Seldon Soc. Select Cases from the Coroners Rolls AD.1265 - 1413. Ed. Gross 1896. Vol.9.p.xvii.

compatible with their having been elected in the September by the Justices in Eyre, since the bearing of records to Westminster was a duty shared by non-suitors of the County Court in the 13th Century and must, therefore, have fallen to freemen or knights of the Shire prior to 1194¹.

II. The manuscripts containing the claim by the Citizens of Norwich that in 1152 Stephen granted them the right to choose their own Coroners and Bailiffs, have been proved to be no earlier than the Fourteenth Century - this is the most scientific evidence adduced yet that Coroners existing before 1194 is a misinterpretation.²

III. Two manuscripts in possession of the Dean and Chapter of Peterborough containing the citation of a Writ 1182-3 concerning a perambulation of boundaries at Fiskerton, Lincolnshire, ordering the attendance of "Custodes placitorum Corone" - It is suggested that this description, could easily have applied to officials who at the time kept the Crown Pleas and again the manuscripts were written in the mid Thirteenth Century when Coroners were often ordered to attend such events and, therefore, does not prove the existence of Coroners in Lincolnshire prior to 1194.³

1. T.R.S.H. 5th Series Vol.8. 1958 pp.87-88

2. T.R.H.S. Vol.8 p.86.

3. ib p.87.

But most convincing of all, there is no mention in the Pipe Rolls of the Office of Coroner until 1202.¹

The logic of this reasoning is undeniable and certainly places Art 20 of 1194 Eyre as the beginning of the Office on the map; but viewed in the light of the evolutionary nature of any legal system, the theories of older Historians² cannot be completely dismissed, because the origin as distinct from the establishment of the Office, must stem from those local officials who kept the Crown Pleas prior to 1194, be they of greater or lesser importance than the Coroner. This does not preclude Art. 20 being innovatory, it does show an early indication of the separation of Law and Administration in the local governmental system and an apportioning of certain duties. One can draw a parallel with other local officials discharging Royal duties - for example, the "Vidarius"³ or Verderer of Edward I's day took inquests of Pleas of the Forest - "one shall set a seal and another shall keep the roll until the coming of the Justices or else be amerced".⁴ "Moreover if any see any misdoer within the bounds he shall levy hue and cry, and if he do not he shall remain in the King's mercy".⁵

1. ibid p.88.

2. Gross and Round.

3. cf. Webster's Dictionary London 1882. Halsbury's Law of England London 1974. Vol.8. 4th Ed. para. 1476.

4. Halsbury's Statutes of England London 1969 Vol.6. p.433. (These medieval Laws were abrogated by the wild creatures and Forest Laws Act 1971.s.1.(2)).

5. Customs and Assize of the Forest (temp uncertain)

One sees here that Verderers are the King's men concerned only with the breaking of the forest laws - but the procedure of raising Hue and Cry, attaching the culprits, holding an Inquest, enrolling the verdicts and presenting to the Eyre is the same as for the Coroner. Even the mode of appointment is analogous,¹ - "Except the Verderers who shall be ordained by election and our Writ"².

The need for the Coroner acting as a check on the power of the Sheriffs, some of whom were particularly assiduous and sometimes unscrupulous fiscal agents, especially in the time of John, is expressed in Chap.14 in the Articles of the Barons - "Ut nullus vicecomes intromittat se de placitis ad coronam pertinentibus sine coronatoribus".

Coroners never determined Pleas of the Crown but that some coroners and indeed other local officials exceeded the duties allotted to them is indicated in Art. 24 of Magna Carta. "Nullus vicecomes constantabularius, coronatores, vel ballioi nostri, teneant placita coronae nostrea".

In the reign of Henry III it would seem that there was some doubt as to the type of men elected to be coroners

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1. ib. Edw.I 1306. Ordinance of the Forest p.426. Statutes at Large (Baskett O.P.1769) p.158.
 2. 25 Edw.I 1297 c.16. Holdsworth. A History of English Law 5th Ed. Methnen 1931 p.96.

though the Statute of Merton¹ assumed that Coroner should be Knights elected on a basis of land ownership, this was not always so and in Edward's reign some coroners were removed from office because of insufficiency of land². Under Edward I the various Institutions in the legal machinery were given precision and individuality. The King was a lawyer by instinct and learning. As a boy he had studied law under his father's Chancellor, Walter Gifford, and on returning home from the Holy Land had been granted a degree at the Law School of Padua. Thus we find in Chap.10 of his first Statute of Westminster "that none but lawful, most wise and discreet Knights" should be chosen for the Office.

It was also in that year that Edward decreed that "Sheriffs shall have counter rolls with Coroners as well as of Appeals as of Inquests of attachments or other things belonging to that office"³ - But it was the Coroner's Rolls and not the Sheriff's that formed the legal record upon which the King's Justices acted.

The duties, power and status of the Coroner's Office are laid down in the so-called Statute "De officio Coronatoris" ascribed to the fourth year of Edward's reign⁴. Its precepts were reiterated and enlarged upon

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1. cf. 14 Hen.III c.3 s.1. 1235 Statutes at Large printed Mark Baskett O.P. 1759 Vol.1 p.17.
 2. Hunnisett R.F. The Medieval Coroner. Cambridge 1961. p.172.
 3. 3 Edw. I c.10 Statutes at Large Baskett 1759 Vol.1 p.44.
 4. Ascribed to 4 Edw. I, Stat. 2. 1276

later in 1290-92 when the legal testbooks by Fleta and Britton were written - there are discrepancies on a few minor points in both accounts, but in the main the authors agree and both seem to have had recourse to a common source for their work, namely Bracton's treatise on the laws and customs of England, written in the reign of Henry III. Chap. II of Britton deals with 'Les Corouners' and from it we learn that Coroners were the principal agents of the Crown in bringing criminals to Justice. They also received the confessions of felonies made by approvers - but this had to be in the presence of the Sheriff "whom we intend to be his controller in every part of his office"¹.

There were to be no loopholes in Edward's legal system. If his first intention, that the Coroner be a countermeasure to the ever present menace of a too powerful sheriff, he was also determined not to give the Coroner too much rope - so again a Coroner could be removed from office by the Sheriff applying for a King's Writ accusing him of malice or corruption, but if these charges could not be substantiated the Sheriff could be amerced.²

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4. Maitland considers this statute to be apocryphal and compiled from the writings of Bracton (Pollock F. Maitland F.W. History of the English Law London 1898 ii.641.) It was nevertheless repealed as a "statute" by the Coroners Act of 1887.
 1. Britton. On the Laws of England Ed. F. Nichols Oxford 1865 Liv.i.2.16.p.17.
 2. Britton i. 22. p.89.

On the other hand, "we will that our Sheriffs and Bailiffs be attendant on our Coroners and execute their precepts" ¹ thus making the Coroner the Sheriff's peer. So a sharing of duties all designed to keep Law and Order, further the centralisation of Justice and fill the Royal treasury, emerged. The Coroner would hold inquisitions, would appraise the goods and chattels of felons, suspected felons and fugitives and deliver them to the townships for the King. The Sheriff would, on demand of the Coroner, summon to appear at a certain day at the place where the death occurred; the four adjacent townships whereby the Coroner might enquire of the casualty - The oath was administered at the hearing; even to this day, the oath taken by the Coroner's Jury is the same, namely to 'diligently enquire to the best of their skill and knowledge' as to how and by what means the said death occurred. No doubt it is from this ancient source that hearsay evidence is admissible in a court of enquiry and that a Coroner's verdict can be reversed. When a person had been indicted by the Jury, the Coroner would give his precept to the Sheriff to arrest him and hold him until the coming of the Justices when he would have to stand

1. ib. i. 2. 18. p. 18.

his trial; that is if the culprit could be found, most felons usually fled or took Sanctuary.

Inquest were held "super visu corporis" and all the signs of violence and the length and breadth of wounds were noted, measured and enrolled. Today only the Coroner views the body and the Jurors are exempt.

If the body was buried before it had been viewed by the Coroner, he could have it disinterred,¹ viewed openly and viewed by the townships, the matter would be enrolled with the names of the persons responsible for the unauthorised burial so that they or the townships could be amerced at the next Eyre.

The power of emercement, however, was not the Coroner's. Edward was definite about this, no doubt to prevent corruption - Inquests were to be taken impartially and without rewards, upon pain of imprisonment and heavy ransom² - But corrodias were allowed i.e. a grant of Board and lodging, clothing and all necessaries in a religious house,³ and it is said that some Coroners took full advantage of this.

One of the more exacting tasks of the Coroner was to ensure by correct cross-examination, that the Jurors

1. Britton Li. 2. 3. p.9.

2. Britton Liv.i.2.11.p.14

3. cf W.C. Bolland - Manual of Year Book Studies, Cambridge University Press 1925 p.15.

returned the right verdict - particularly in cases of homicide, the penalty for which varied according to type.

Some attempt had been made in the reign of Henry III to distinguish between murder and manslaughter with little success ¹ & ² - According to Britton who devotes Chap VII to defining murder and Chap VIII Accidents and Suicide; "Murder was the felonious killing of a person unknown whereof it cannot be known by whom it was done" - but it was not adjudged murder if any kin of the deceased were found who could prove that the deceased was an Englishman - this presentment of Englishry was another of the Coroner's responsibilities. He would hear and enrol such evidence. If no presentment of Englishry was made the Hundred wherein the body was found would be amerced at the next Eyre - this 'Murdrum Fine' as it was termed was introduced by William to safeguard the lives of the Norman invaders, who were very much in the position of an armed garrison in a hostile country and liable to sporadic attacks from local inhabitants. Edward I no doubt kept up the practice for a very different reason - the emoluments obtained from this rather ingenious innovation must have been important enough to the Exchequer to warrant specific legislation concerning it 200 years

1. 52. Hen.III c 25 S.L. p.38

2. Bracton makes a point of defining "intention" as an ingredient of murder "quia crimen non contrahitur nisi voluntas uscendi intercedat".
Br. Laws & Customes of England. Samuel Thorne
Massachusetts. Havard University Press 1968 V2 p.384.

after its introduction. No doubt many unclaimed bodies were the work of felons whose families were either accomplices or wished to shield them; since by Edward I's time the integration of Norman and English was an accomplished fact. Presentment of Englishry was abolished by Statute ¹ in 1340, but it continued on occasion to be recorded - for instance we note in the Roll of Thomas Rose, a Suffolk Coroner, that in January 22, 1362 at an Inquest on a certain Margaret found drowned in a well, which he orders to be closed, Englishry is presented ². Recorded on the Coroner's Inquisition were also the names of those who were present at the death as well as the finder of the dead body and their pledges, and they would be attached to appear at the trial before the itinerant Judges.

Appeals of Rape ³ were also the Coroner's concern. Britton states that the Coroner must inquire into all the circumstances of the force and the felony and make enrolment of the presumptive signs, such as stains of blood and tearing of clothes, as he must take note of the magnitude and severity of woundings which might lead to death. Such appeals would be heard in the County Court

1. 14 Edw. III Chap. 4.

2. SS V9 pp. xliii - xliv

3. Britton terms these appeals as "Inquest of Rape".
Li.2.17.p.17.

and the Coroner's record would be used. As would Appeals of Larceny and Robbery of Assault. Enquiries into Prison Breakings which were a common occurrence in those days probably resulted from taking confessions of felons in Sanctuary and promulgating abjuration of the Realm.¹ Coroners also received declarations of approvers.²

In cases of Accident i.e. "that which occasions the death of a man without felony, as where people die suddenly by any sickness or fall in the fire or into the water and there be lie until he be quite dead" - mischance, "where a man is killed by a fall from a tree, ship, boat, carthorse or mill, or in the like case where felony is committed and in which there is no need of raising hue and cry or making presentment by the Kindred of the deceased or the township at the next County Court"³ the Coroner's Inquest was sufficient enquiry and this verdict was implemented by the Jury appraising the deodands concerned.

In Felo de Se - there was forfeiture of the deceased's chattels but his inheritance descended in entirety to his heirs.

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1. Britton states that Coroners should inquire into prison breach, (Britton 1.2 2. p.8) but in practice Coroners did not enrol cases of prison breach, nor cases of Treasure Trove or Wreck (The Med Cor p.110)
 2. Sel. Soc. V9. pp.36,41,45,81,127-30.
 3. Britton Li.2.12 pp 14.15.

According to the Provisions of Westminster¹ Art. 22 Close Rolls version, the Murdrum Fine was in future to be imposed only in cases of felonious killing the word felonious had to be included in the Coroner's record. The Pipe Rolls of Henry II shows the first recorded Fine in 1184² - Deodands, as already stated, were not only concerned with felonious killings, but were the thing or object causing death which became forfeited to the Crown by was of gift of God, originally the forfeit was given to the Church for the good of the deceased's soul; the value would be appraised by the Jury and it was the Coroner's duty to make sure the proper value was assessed - Juries sometimes tried to lower the value of a deodand for the benefit of their owner. A distinction was made between cases where the thing causing death was in motion and where it was not "omnia quae movent ad mortem deodanda sunt"³ - if in motion everything connected with it became deodand i.e. a stage coach and horses running someone down - but in contrast, in a death as the result of a fall down stairs, only that portion which was the immediate cause of death was forfeited - i.e. the step on which the deceased had tripped - Deodands were claimed by the civic authorities

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1. Confirmed by Stat of Marlboro. (52. Hen. III c. 25) Stat. of the Realm 1.11.25 Baskett. Statutes at Large 1759 Vol i p.35.
 2. Aurward D. 1941 56 Hist. Rev. 404.
 3. Britton 1.2.12.p.14. Bracton also refers to "movable things causing misadventures" Thorne S.E. Bracton on the Laws and Customs of England. H.U.P. Massachusetts. 1968 V.2. p.384.

of certain areas, and indeed many liberties were granted the right to retain deodands such as the City of London and Borough of Southwark. A Charter (4 Edw.IV) ratified Southwark's claim, but the City's appropriation remained unfounded¹. Then in 1833 by a Statute William IV c 99 it was enacted that all deodands should be estreated to the Exchequer.

This form of levying money afforded the only possible compensation to the deceased's descendants - until they were abolished by Lord Campbell's Act² as unreasonable and inconvenient - Although as late as 1838 a Coroner's jury levied £1500 on the boiler of the S.S. Victoria which had exploded and caused loss of life.

One of the duties of the Coroner was to pass judgement on felons caught in the act³. A contrary opinion is that this was not so and is attributable to a misconception of Britton who, in his chapter on Homicides, states that if it be found that a man had killed another in circumstances where it be difficult for him to deny it, as for instance "with a knife or other weapon all bloody in his hands" the Coroner shall

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1. Sharpe R.R. Calender of the Coroners Rolls of the City of London 1300 - 1378 London 1913 p. xxvii
 2. 1846. (Stat. 9 - 10 Vict. c 62)
 3. SS. V9. pp. xxv xxix

be presently fetched and in his presence the felon shall, upon the testimony of those present be judged to death. The like, when a person is found in a house or other place where one shall be found killed and the person found alive is neither hurt nor wounded and has not raised the hue and cry and has not charged any with the felony and shall not be able to do so¹. Modern thought considers this a development of the Coroner's presence being required at capital trials in private courts where his functions was only that of recording the matter, partly to ensure there was no usurpation of Royal powers and to safeguard any financial interest of the Crown.² Britton may well have been on the same mind when he wrote "in his presence the felon etc...." Bracton also cites these two cases of presumptive guilt in which there is no need of proof (sen per corpus sen per patriam) which he states is ancient practice; "quam quis captus fuerit super mortuum cum cultello cruentato, mortem dedicere non poterit, et haec est constitutio antiqua, in quo casu non est opus alia probatione"³. Neither he nor Fleta mention the presence of the Coroner at the judgement of death⁴ - but in such case it would seem quite

1. ibid 1. 36.4

2. Bulletin of the Institute of Hist. Research.
Vol XXXII. No.86 Nov. 1959 pp.127-129

3. Bracton Notebook ed F.W.Maitland 1887 V2 p.117 n 4

4. Britton 1. 6. 4.

in order that the Coroner should be fetched to record the fact and the judgement¹.

The duty of the Coroner to attend the delivery of infangenetheof was but seldom exercised and then mostly in Boroughs, as evidenced by some inquisitions, e.g. in the City of London the Trial and punishment by hanging of Byndo of Florence, a Lombard, before the Mayor, John Hammond, the Aldermen, Sheriffs and the Coroner on Saturday, Feast of St. George the Martyr 23rd April 19 Edw.III 1345², and again, The Trial and punishment for Highway Robbery and Claim of Benefit of Clergy by a certain Thomas Harmere who was sent to Newgate³. But these cases, as in others occurring in other Boroughs, such as Bedford, Northampton, Norwich or Colchester, were relatively few. During Richard II's reign, the Mayor, Aldermen and Sheriff seems to have sufficed⁴ and very much later on, 5 Hen. V 1417 - the Escheator takes the Coroner's place at trials within the liberty and franchise of the City of London⁵.

It is possible that Coroners also attended ordeals until their abolition in 1215 - this was probably an inherited duty from the Hundred Serjeant who before 1194 had to attend both ordeals and judgements of death⁶.

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1. Bracton Note Books Ed. FW Maitland V2 p.117 case 138 Hilary AD1222 Ar.6.
 2. Letter B.F. cox 4 - Riley H.T. - Memorials of London page 195.
 3. ibid pge 229
 4. ibid 295 - 337 - 520
 5. ibid pge 655
 6. Bull. 1.H.R. no.86 Vol 32 1959. p.129. n.10

The Coroners Rolls bore the records of exactions, outlawries and waivers, except in the City of London where by the ancient custom the Recorder presided ¹. The County Coroners had to attend all exactions and outlawries not only to record them but also to legalise them, as these would by law be invalid in their absence - which led to the idea that Coroners gave judgement of outlawry when, in fact, they were only declaring the decisions of the Suitors of the Court. Even with the promulgation and recording of the outlawry the Coroner's duties were not complete, he had to enquire in whose tithing or mainpast the outlaw had been and enrol this in order that the tithing be amerced at the next Eyre - his lands and chattels had to be appraised, and in exactions arising from a Writ of "exigi facias" to the Sheriff concerning felonies not brought by appeal, as in cases brought by a Writ of Trespass, the Coroner's presence and his enrolment of full details was essential.

In the ceremony of abjuration of the Realm the Coroner played an onerous role, he would first have to go to the consecrated church or chapel where the felon had taken sanctuary to hear his confession, that is when

1. Jervis 'On Coroners' 7th Ed. London 1927. p.14.

the offender chose, within the forty days of sanctuary allowed unmolested to him, to call him; after hearing his confession, and it must be a confession of felony¹, he would give the felon the choice of surrendering to the Law or of abjuring the Realm. Few chose the former, so the Coroner would see that he took the Oath of Abjuration at the church gate in the presence of the townships (the number varied in different districts), a port would be designated to him and he must hasten to it by a direct route, not leaving the King's Highway under pain of arrest and death, at the port he must diligently seek to leave England never to return except with the express permission of the King.

Finally, the Coroner could, by Special Writ, be ordered to perform any duty within his bailiwick either alone or with the Sheriff². After 1250 the presence of the Coroner was essential in the proceedings arising out of the issue of a Writ "de odio et atia" which was the mediaeval equivalent of an action for malicious prosecution. Writs concerning the sanity or character of men who had committed homicide were sometimes necessary and these further inquiries were also generally

1. Hunnisett. The Medieval Coroner C.U.P. 1961
pp 44 & 45

2. For a full account of the possible duties performed by Coroners see Hunnisett. The Medieval Coroner
Chap. V. pp 75 - 95

held "assumptio tecum custodibus placitorum corone nostre" in the County Court, the Coroner's record of the original inquest being used as a guide.

At the end of the Thirteenth Century when wars made pardons very numerous, a number of Inquisitions termed "de gestu et fama" concerning reputation alone were held by the Sheriff and Coroner on Special Writs; to inquire if it were fitting to recommend a pardon to an outlaw or felon. The Coroner was also responsible for collecting or paying amercements suffered by the Sheriff and any other debts he owed. He would also replace the Sheriff in executing Writs or assessing compensation of land when the latter was an interested party. This duty still exists today.

It also belongs to their Office to inquire of ancient treasure found in the earth, of the wreck of the sea, of sturgeons and whales as soon as they have notice thereof and to attach and let to mainprise those who have found or made away with them and to enrol their names and to secure such findings for our use ¹. Bracton and Flets ignore enquiry into wreck, but the first Statute of Westminster c. 14, however, ascribes these duties to the Coroner and to the Sheriff or the King's Bailiff,

1. Britton i. 2. 18. p.18

although modern research, based on the negative evidence of the extant Coroner's Rolls, instead of on the law books, reveals that these Inquests on Wrecks were only very rarely carried out by the Coroners and then probably only when ordered by Special Writ to do so; Such Inquisitions were often taken by the Sheriff with the Coroner, or, again if the finds were appreciable by virtue of a special commission of Oyer and Terminer ¹.

As the Statute Prerogative Regis temp incert 17 Edw. 2 probably indicates² "Item habet Warectum maris p totum regnum Wallenas et sturgiones captos in mari rel alibi infra regum exceptis quibusden locis privilegiatis p Reges," Coroners had authority to hold inquests on Wrecks of the Sea. But they seldom did, this regalian right was very often usurped by or granted to local landowners along the coast; (almost the whole of the Sussex coast had passed into private hands in Edward I's time)³.

In 1279 Sheriff and Coroner were ordered by the Justices of Eyre in Northumberland to appraise in future all wrecks for the King's profit in the area commanded by Banburgh Castle to prevent misappropriation, but in

1. Bull H.R. v. XXXII. p.135

2. H.S.E. vol. 6 3rd Ed. Const. Law pt. I. p.428.

3. Bull H.R. v. XXXII. 86 pp 134 - 135.

1304 a ruling, following a petition to Parliament from Cornwall concerning the delivery of Wreck by the Coroner to the township, decreed that the Sheriff was to account annually to the Exchequer for such issues as they arose¹.

In the late Fourteenth century the task of enquiring into wreck fell to the Escheator².

The best description of jurisdiction over Treasure Trove and quoted by later authorities is the following, given by Fleta "The Coroner must attach all those having knowledge of the Treasure until the coming of the Justices"³.

Early cases of Treasure Trove dealt with by Coroners were exceptional - Two Finds were presented to the Eyres of Gloucester 1221 and Berkshire 1242 - the latter Coroners being amerced for not holding an inquest when Treasure was found during the making of a dyke by night⁴. Both Wreck and Treasure had to be presented at the General Eyre and the fact that the Coroners were not amerced for not enrolling such cases suggests that they did not deal with these matters⁵.

In his Chapter "Dreit de Roi" Britton⁶ has this to say about Royal Fish -

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1. *ibid* Pleas of the Crown and The Coroner - Hunnisett pge 133.
 2. *Capitula Escheatrial - Statutes of the Realm* i 240 Stat. at Large pp 147-148
 3. *Seldon Soc. Vol 72 Fleta Commentarius Juris Anglicani Vol ii* Ed Richardson and Sayles 1955.
 4. *Bull I.H.R. XXXII* 86 p.132
 5. *ibid* pge 135.
 6. Ed. Nichols. Oxford. 1865. p.68.

"Sturgeons taken within our Dominions shall belong to us saving to persons who took them their reasonable costs and expenses; and of whales caught in our jurisdiction the head shall belong to us and the tail to our Consort according to ancient usage"¹.

Inquests by Coroners on such matters appear to be non-existent although there is mention of an Inquisition before the Lincolnshire Sheriff and Coroner concerning the seizure of a small whale which had come to land². Although this was probably a presentment at the County Court and not at a Coroner's Inquiry since the Coroner took no action and the case on the Roll is cancelled by a cross³. It was probably a stray Dolphin which had got lost up the river (the Dolphin is the same species as the Whale - only just recently the selfsame thing occurred at the mouth of the River Severn when a small whale 15ft long was washed ashore⁴.)

The Coroner was at the height of his power in the second half of the Thirteenth Century and second to none but the Sheriff in the County. Already by the end of the Fourteenth Century the progressive decrease of appeals in favour of the new procedure of trial by

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1. Leg. Hen. I xi Statute of Westminster I c.4.
Bracton 120. Fleta 61. Bracton On the Laws and Customs of England. Thorne S.E. Massachusetta 1968
Vol II . pp 339-340.
 2. Hunnisett The Mediaeval Coroner pge 81.
 3. Bull I.H.R. v.32 pge 134.
 4. Times 26th October, 1972. but no inquest was held.

indictment, the restriction of the Murder fine to felonious killing only¹ with the subsequent abolishment of Presentment of Englishry in 1340² and more important the eventual cessation of the General Eyre in which he was the main link between local and central government, coupled with the rise in power of other local officials such as the Keepers of the Peace and the Escheator, led to a decline in the importance of the office. More changes were to come which would fashion the office in the direction of its modern counterpart - Constitutional change almost invariably effects legal change and while this is not the place to write the history of the Wars of the Roses, the events in the last half of the Fifteenth Century which did so much to increase the decline in power and function of the coronership must be briefly mentioned. The disputed succession and divided loyalties of the Great Nobles with their perennial quarrels among themselves made adequate central supervision over the local governments and Courts difficult, if not impossible. The Jury System broke down; followed by an inevitable corruption of many of the local officials (although corruption had not been unknown in the preceding centuries. There are

1. Provision of Westminster 1258

2. 14 Edw III c 4. Statutes at Large 1811 Vi p.472
Statutes at Large. Baskett 1759 p. 223.

some interesting examples of deliberate perversion of justice practised by some Coroners for their own ends).¹

The Common Law due to political factions had received a dent which was reflected in the Inquisitions and Coroner's work. Sudden death shorn of its fiscal remuneration became less important and there was little incentive to hold inquests.

Pardons were more numerous than ever during the Wars, and Outlawries which, as has already been mentioned, needed the presence of and record by the Coroner to legalise, were often annulled in the King's Bench on mere technicalities, although the Outlaw had to buy or give service to the King for his pardon². Moreover, the pardons were couched in such generous terms as to dampen any zealous efforts on the part of the Coroners or Sheriffs e.g. "The Lord King who now is, by his letters patent, has pardoned remitted and relaxed John Boteler, or by whatever other name his is enrolled, all offences, negligences ignorances, contempts, forfeitures and deceits by the same committed or perpetrated before... such and such a date... of every sort whatsoever and also outlawry

1. Hunnisett The Mediaeval Coroner pp 123 - 126

2. Payne v Balthorne. Seldon Soc. Year Book Series 10 Edward IV to Henry VI A.D. 1470. Ed. Neilson 1931 p.129.

if it was promulgated against the same etc. " ¹ At the "Redemptio" of Henry VI a general pardon was issued although the administration had the good sense to re-elect the same Judges and Serjeants who had held office in the reign of Edward IV which helped to keep the bones of the Common Law together.

1. Boteler v. Anon. ibid pge 140.

HISTORY (CONTINUED) PART II
FROM 1485 ONWARDS

Henry VII's remedy to correct the offences which flourished in such a disordered Society was to increase the judicial work of his Council - the Council had always had a prescriptive right of adjudicating and most of its work was performed partly by the Court and Star Chamber at Westminster and partly as Council in attendance accompanying the King to all parts of the Country. Henry took the precedent of creating new Courts of Criminal Jurisdiction - three such Courts were established in his reign.

1. One by the Act pro Camera Stellata 1487 (not to be confused with the Court of Star Chamber it was a different Bench) ¹.

2. Another in the same year by an Act against offenders in the Royal Household ². The Lord Steward conducting the enquiries into offences but the Coroner to continue enquiring into any suspect death ³. By the same Act c.11 reads "All reasons, murder and malicious bloodsheds committed in any Palace or Residence of the

1. Seldon Soc. Vol 75. Select Cases in the Council of Henry VII. Ed. C.G. Bayne. 1958. p.liv.

2. 3 Hen. VII.c.14

3. Journal of the House of Lords (1846) Vol.i.p.i.

King shall be tried before Officers of the King's household without any commission and by a Jury of the Household. All Inquests on persons slain within the Court shall be taken by the Coroner of the Household" ¹.

3. The third in 1495 by an Act against corrupt jurors.

It is interesting to note here that these measures taken to combat the failures incumbent on the Common Law were precisely those which enabled the Coroner's System to survive although unawares shaping to a different role; concurrently with the establishment of the two first tribunals an Act to deal with murderers was passed which focussed attention on the activities of the Coroners who "have been on occasion remysse in doing their Office" and the King requires that they shall continue to exercise the Office - according to the Law - the Act also provided that in future Coroners should be paid "upon every inquisition taken upon the views of the body slayne xiiij s iiiij d (13/6d) of the goodes and catalles of him that is sleer and murderer" - Townships were to be amerced for the escape of murderers by day and Coroners were to enquire therof. There was also a penalty (fine)

1. 33. Hen. VIII. Statutes of the Realm. p.845
Journal of the House of Lords. Table of Acts 198a.

for neglect of £5. for not holding an Inquisition on the body slain, and Justices of the Peace were empowered to examine and determine defaults of Coroners ¹.

The fact that fees were only to be paid for inquests held on the bodies feloniously slain was a method of strengthening criminal investigation at local level, with recourse to the Central Courts if necessary. Indeed the extent proceedings under the Act Pro Camera Stellata consist of a complaint of misconduct against a Sheriff and eight cases of Juries giving false verdicts ². This emphasis on investigation of violent death was further emphasised by an Act ³ prohibiting Coroners claiming their fees for inquests held in cases of misadventure, at the same time a penalty of a £2. fine could be imposed on a Coroner failing "upon request" to view the body of a person dead by misadventure ⁴.

In 1540 Sanctuary and Privilege of Sanctuary being disallowed or falling into disuse in Henry VIII's reign ⁵ probably because this was looked upon by the Reformation policy as an encroachment of Royal Justice by the Church, no less than 4 Bills received the Royal

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1. 3. Hen VII. c.1. (Stat of the Realm. II. p. 510)
3. Hen VII. c.2. Stat at Large. I 68 - 69.
Journal of the House of Lords. Vol 2. p.511.
 2. Sel Soc. Vol 75 Select Cases in the Council of Henry VII
 3. I. Hen VIII c. 7.
 4. Statutes at Large 1 - 108
 5. 32 Hen VIII 12. T.F. Plucknett. A concise History of the Common Law London 1956. p.341.

Assent ¹, led to the cessation of Coroner's powers in receiving abjurations although this was confirmed by Statute only very much later².

Henry VIII also revised the procedure of outlawry³.

From this time onwards only four of his ancient duties were left to the Coroner:-

- i. Inquiry into unnatural, violent or unexplained deaths.
- ii. Treasure Trove, only resumed after a long period of inactivity
- iii. Replacing the Sheriff in executing Writs or assessing compensation of land when the latter is an interested party
- iv. And he still attended outlawries

The period in Coroner's History following the 1508 Act until the Consolidating Act of 1887 is a dismal one.

An Act of 1751 providing for the payment of the Coroners for all inquests duly held, did little to ameliorate the state of affairs because the Act, unfortunately, provided that the payment of Inquest fees should be dependent on the approval of the Justices in Quarter Session with the consequence that the rivalry

1. Bill 7 Hen. VII. Vol.I.1526. Bill 22. Hen. VIII. ibid i 195 b. Bill 27 Hen. VII. ibid i 246a, Bill 32. Hen. VIII ibid 163b.

2. Stat. 21. Jac I c 29

3. Official Declaration of Outlawry in civil proceedings was abolished only in 1879 and in criminal proceedings in 1938 cf. Administration of Justice Miscellaneous Provisions Act.

between the two concurring jurisdictions flared into open hostilities; Justices were obstructive on most occasions and refused to allow the Coroners their fees for the Inquests and were upheld in their decisions by the High Courts. Medical witnesses could not be compelled to give evidence and were not paid for their attendance if they did - not surprisingly Coroner's Inquests were often of little value and even on occasion inquiries into certain unnatural deaths were not held or if so frowned upon by the Authorities¹.

Indeed, it is surprising that Coroner's proceedings were not abolished and relegated to the historical legal antiquities of the past. To quote Umbreville² "the practice of the office was too frequently deputed and the office itself in despice".

However 1836 saw two pieces of legislation enacted which, if not immediately effective in restoring to the Coroner's Inquest value in the cause of Justice, paved the way for the future medico-legal system in which the Coroner's record of investigation into sudden, unnatural or violent death became an important link between the Public and the legislature.

1. J.P.J. Havard. Detection of Secret Homicide
London. 1960. p.43.

2. "Lex Coronatoria" p.iv.

The first was the provision of payment of medical witnesses at Coroner's Inquests, including payment for autopsies and toxicological analyses, plus the power to compel any medical practitioner to carry out the examination and to appear at the Inquest ¹.

The second was the Births and Deaths Registration Act 1836 ² which instituted the registration of every death which occurred in the Country.

These Statutes were brought about by the grave disquiet occasioned by the rapid rise in suspect deaths and deaths of poisoning which remained uninvestigated and the completely inaccurate information on mortality recorded in the Parish Registers. The Local Registrar today is still one of the main sources for the reporting of "unsatisfactory" deaths to the Coroner ³.

This unsatisfactory state of affairs once again focussed attention on the Coroner's Inquisition and three important Acts were passed.

The Coroners Act of 1844 ⁴ defined the extent of the Coroner's boundaries. In 1859 a Royal Commission on Costs of Prosecution recommended that Coroners be salaried and this was given effect by the County Courts Act of 1860 ⁵.

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1. 6 - 7 Will. IV c.89 s.1. s.2 1836
 2. 6 - 7 Will. IV.c.86.
 3. 1 - 2 Eliz. II c.20 s.22 (1)
 4. 78 Vic. c.92
 5. 23 - 24 Vic. c.116.

Another important recommendation of the Royal Committee was "that an inquest should be held in all cases of sudden death of unknown cause or in deaths although apparently natural, if a reasonable suspicion of criminality exists". This important recommendation was given statutory recognition in 1887, by the Coroners Act of that year, which still forms the basis of the present day Coroner's jurisdiction.

The next most important piece of legislation was the Coroners Amendment Act of 1926¹ when three major reforms were introduced.

1. Adjournment under Section 20, of criminal cases until the conclusion of criminal proceedings, and to be resumed then only if the Coroner is of the opinion that there is sufficient reason for doing so.

2. Introduction in Section 21 of non-inquest procedure in natural cases, when the Coroner after a post-mortem has been performed is satisfied that an inquest is unnecessary.

3. The requirement in Section I that future appointees to the office should have medical or legal qualifications and experience in their profession of at least five years.

1. 16 - 17 Geo. 5. c.59.

These reforms coupled with the rapid advance of scientific achievements in Medicine, Industry and Criminology have extended the Coroner's activities into a vast number of fields - thus illustrating most markedly how in the period of eight centuries the Coroner's role has shifted from being mainly a legal investigator to gradually expanding medico-legal researcher. The greatest adaptation of the Office as yet to the needs of contemporary society is that he is Ombudsman for the Dead and Watchdog for the Living.



TYPES OF CORONERS

This Historical Introduction would not be complete without a brief classification of the differing sorts of Coronerships.

There are today three kinds of Coroners

- i. Ex officio Coroners
- ii. County and Borough Coroners
- iii. Heredity and Franchise Coroners

How this present state of affairs will be effected by the eventual change of boundaries in 1974 and any implementation of the Brodrick Committee's recommendations, is as yet to be seen. By the Supreme Court of Judicature (Consolidation) Act 1925 s.34 all the Judges of the High Court are ex officio Coroners. The Lord Chief Justice is the Supreme Coroner and the Coroner's Act of 1887 s.34 specifically safeguards the right of a Judge acting as Coroner by virtue of his office - but if he takes an inquisition "super visium corporis" he must entitle himself Coroner on the record otherwise the record will be erroneous and "coram non iudice".¹ Such Coroners however may not appoint deputies - that is with the exception of the Judge of the Admiralty Court - (see below)

1. Jervis Ed. 9 p.2.

County and Borough Coroners are elected by the boroughs and county councils who now stand in the stead of the freeholders of the County or the burgesses of the boroughs.

The Franchise Coronerships are being gradually extinguished by operation of the Coroner's (Amendment) Act 1926. s.4, with the exception of the Coronerships of the Manors of Walton le Dale and Hale, both in Lancashire; the reason being that the Lord of the Manor is a hereditary Coroner and therefore there is no vacancy and no person to appoint the franchise Coroner¹.

The Jurisdiction of a franchise Coroner is confined to the particular area over which he is appointed and depends on the terms of grant in that particular liberty.

Such franchise Coroners as remain today (1973) are the following:-

- i. The Coroner of the Queen's Household
- ii. The Coroner appointed by Her Majesty in right of her Duchy of Lancaster
- iii. The Queen's Coroner and Attorney
- iv. The Coroner for the Isle of Wight
- v. The Coroner for the City of London

1. Jervis 9th Ed. p.5.

There have been many other franchise Coronerships - but only a few are of historic interest in that they have not only suited the political and social needs of the time, but that they have played their part in fashioning the english inquisitorial system and on occasion were instrumental in contributing to the development of English Law.

Mention must be made of the following:-

- i. The Coroner for the Admiralty
- ii. The Coroner of the King's Bench
- iii. The Coroner of the Verge
- iv. The Coroner of the City of London

These four coronerships all have a particular personal link with the Crown - and with the exception of the Coroner of the City of London, are not really franchise offices - they are only termed so for convenience.

The Verge and the Bench depended on the King's Presence and the Admiralty on his pleasure. They had no defined static boundaries and no local affilications, and as the King cannot enfranchise himself - their status would be that of *Serviendi Regis*.

The most remarkable holder of the office is the Coroner for the Admiralty, who in the early days seemed to have shared his jurisdiction with the Mayor or designated official to act as Coroner in each of the Cinque Ports. The Admiral would deal with the Inquisitions on death and wounding at sea, while the selfsame felonies occurring on land became the responsibility of the local official together with Inquests on Treasure Trove, Wreck of the Sea, deodands and captured foreign merchandise (termed "Admiralty Droits"), and the Admiral whose portion they became by grant of Royal Patent in the sixteenth century would be kept informed by the "droit gatherers"¹. Although the maritime jurisdiction remained concurrent with the Common Law Courts between the high and low water marks².

Inquiries into salvage presented no difficulties - but in 1313 - 14 the Justices had to order the Coroners in Kent to take Inquests on deaths in rivers and areas of the sea where they could have been witnessed from the opposite shore³. The idea must have arisen that deaths from drowning by the sea was an Admiralty concern⁴. To understand this Twin Jurisdiction a brief mention of

1. Holdsworth. W.S. op.cit. V1. p.560-1

2. Potter p.188 - 9.

3. Hunnisett R.F. The Mediaeval Coroner p.149

4. Bracton does make some distinction of drowning deaths in fresh water and sea water. De Legibus Thorne V.2. p.344.

the nature of the Admiralty and Cinque Ports administration must be made.

In 1300, Gervase Allard was appointed as Admiral to the Cinque Ports; he apparently had no jurisdiction other than a disciplinary one over the men under his command. Because, however of the prevalence of piracy, murder and crimes at sea - Judicial powers were given to the Admirals in 1360 (there were by then more than one) to "inquire and hear all pleas and quarrels and to imprison, castigate and punish the culprits" ¹. Maritime Courts from then on were held at the ports between tides.

A case of murder and robbery at sea, was indicted and tried by Adm. Sir Robert HERLE in 1361 ². This form of Justice eventually aroused parliamentary opposition and a statute of 1391 ³ specifically enacted "that all manner of pleas and quarrels and all other things arising within the bodies of the Counties, as well as by land or water, and also wreck of the sea; the Admiral's Court shall have no cognizance, power of jurisdiction" - But "nevertheless of the death of a man and of a Mayhem", done in great ships being and hovering in the main stream of Great Rivers only beneath the bridges of the

1. Holdsworth. W.S. op.cit Vi. p.565 n4

2. Holdsworth W.S. op.cit Vi. p.546 - Plunckett T.F.T. Concise Hist. of the Com. Law p.661.

3. 15 Ric II e.3.

same rivers nigh to the sea, The Admiral shall have cognizance¹. This in principle left the Admiral with only his inquisitorial judicial powers. - But the impossibility of an impartial jury at sea or a knowledgeable one in a Port Court led to the Tudors denying the Admiralty its status of a Court of Record². Eventually the Coroner of the Admiralty formally appointed by Royal Patent, issued to the Judge of the Admiralty; when the latter office was abolished in 1873 no deputy Coroner was reappointed from 1875 onwards.

The jurisdiction of the Cinque Ports passed to the County Courts in 1869³ and with it the Coroners' Jurisdiction.

Another special Coronership, which calls for attention is the Coroner and Attorney of the King's Bench:-

The Coroner's prime job here was to act as King's Attorney in the cases heard in Court, but he was also concerned with the making and extracting fines and issues and forfeitures to the Crown and among his duties he would take inquisitions on the bodies of all persons dying in the King's Bench Prison in Southwark.⁴

There is evidence of an inquest taken in Coventry

1. Holdsworth W.S. op.cit Vi p.548

2. 28 Hen. VIII e. 15

3. 31-32 Vic c71. c33.

4. Jervis Ed.1.p.4. Jervis Ed. 7. p.16

by Edmund Brudenell, Coroner of the King's Bench when that court was sitting there in 1397¹. He would also hear appeals of prisoners who turned approver - one classical case is that of "Wylkinson v Colford and others"². The unfortunate Wylkinson was indicted for the theft of four oxen and appealed several others of having abetted him in the felony; John Wyralle the King's Coroner heard his appeal and prosecuted him much to his detriment in court, the judgement being "one cannot abet one's self" and was thereupon found guilty and hanged.

When the Prison Act of 1865 abolished³ the Fleet and Marshalsea prisons - the taking of Inquisitions on persons dying in the King's Bench Prison was transferred to the City of London Coroner. The King's Coroner was thus left without a jurisdiction; however when it was proposed in 1892 to abolish the office of Bench Coroner because of this, Lord Halsbury and Lord Coleridge L.C.J. declined to entertain the proposal on the grounds of the great antiquity of the office - This seems an odd decision since the actual origin of the King's Coroner has not been established satisfactorily; Jervis says that it may be traced back to the ancient office of Clerk to the Crown

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1. Hunnisett. The Mediaeval Coroner p.146
 2. Sel. Soc. Vol 47. Year Books of Edward IV
Ed. N. Neilson. 1931. p.121
 3. 28 - 29 Vict. c.126. s.48.

and that at sometime unknown it became a separate and distinct office ¹. But there is no valid evidence for this theory. A much more logical explanation springs to mind, irrespective of the early dates at which the office is mentioned in the above cases, is that the King's Coroner and the Coroner for the Verge were initially synonymous and that by the Act of Henry VII for dealing with offenders in the Royal Household ² - a partition of the office was effected - since the Lord Steward whose mandate it was to deal with the offenders and hear the Coroner's Indictments, was not empowered with judicial status outside the precincts of the Verge; hence a Royal Coroner was needed for the King's Bench which at this stage of history was more than ever part of the King's Retinue and it follows that an extension of the Coroner's Services to the bench in a more specific capacity is not unreasonable conjecture.

Moreover the Coroner of the Verge also, was attorney for the King in cases heard in the Marshalsea Court ³. If one bears in mind that during the reign of Richard I and John's time the bench's only disfunction was that it was not often Coram Regis, but that it nevertheless

1. Jervis 7th Ed. p.102; 9th Ed. p.2.

2. ante History. Part II

3. Hunnisett The Medieval Coroner p.148

transacted the King's business in his absences.

In the above mentioned reigns these were frequent and often prolonged which of necessity caused the interchange and apportioning of specific judicial duties from one Royal Officer to another to suit the occasion. For example even as late as in the fourteenth century, Coroners for Surrey had often to hold inquests and hear appeals in the King's Bench Marshalsea ¹. This dichotomy of legal work was not uncommon in mediaeval times ² even among higher ranking officials ³. So the possibility of a common source for the Coroner of the King's household and the Coroner of the King's Bench becomes feasible, irrespective of the fact that different persons concurrently held one or other of the two offices. In this respect it is worth noting that Britton in his treatise refers only to one Royal Coroner namely The Coroner in the King's household.

The case of Wytkinson v. Colford and others already mentioned, upholds this idea when in the original text; John Wyralle is referred to as

"J.W. Coroner le roy en mesne le bank",

"en mesne" in mediaeval french would mean

'at the sametime of the bench' - not as the

1. ib p.144

2. ib. p.147. Sel. Soc. Vol. 47. pp. xvii, xxv.

3. ib. p. xxix

English translations asserts, "of the said bench" - this would have read as "e ledit".

C.T. Flower presents another theory as to the reason for the office of King's Coroner and Attorney, he states that it was probably an attempt on the part of the Court to settle its scandals within its own verge and that the Court of the Verge, which would include Coroner's duties is the origin of the Palace Court - erected in 1630¹ for trials and personal pleas and actions arising within 12 miles of the Palace of Westminster. In fact he mentions a case of murder investigated by the Verge Court in Northamptonshire where John was spending Easter². Therefore since the King if in London resided either at Westminster or in the Tower³ it is not difficult to see how the King's Coroner and Attorney could serve the Bench as well, as the Curia Regis.

The Coroner of the Verge and Coroner of the King's Household exists today as the Coroner of the Queen's Household and his jurisdiction is merged with that of the Coroner for Southwark.

Britton defined the office in the following manner :-

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1. Guide to Public Records I 178
 2. Sel. Soc. V.62. Intro to Curia Reg. Rolls. p.52. Ed. C.T. Flower.
 3. Lofties Hist. of London I - 76.

"In our household let there be a Coroner to execute the business of the Crown throughout the Verge and wheresoever we shall be or come within our realm; and let the same person or some other be assigned to assay all weights and measures in every our Verge throughout our Realm. According to our standards and these two duties he shall not fail to do by reason of any franchise" ¹.

The Verge extended for 12 miles around the King's Court - The Verge no longer exists and the jurisdiction is only within the limits of any of the Queen's Palaces or within the limits of any other house where Her Majesty is then demurrant and abiding in her own royal person, notwithstanding the subsequent removal of Her Majesty from such Palace or house².

At first no other Coroner was empowered to act within the Verge - but in 1300 by a statute³ it was enacted that the County Coroner should sit with the Verge Coroner so that no felonies should escape presentation to the Justices in Eyre after the King's Court had moved on ⁴.

1. Brit. 1. 6.

2. Coroners Act 1887 s.29 (2).

3. 28 Edw. I c.3.

4. Hunnisett. The Medieval Coroner. p.148

In the Thirteenth Century the King's Bench and the Common Bench were acquiring a much more individual identity and it appears reasonable that at this stage the Coroner for the King's Household and that of the King's Bench parted company. Certainly by Henry III's time the Verge Coroner was no longer Clerk of the Market. In Henry the Eighth's reign the appointment of the Coroner for the Household was settled in perpetuity on the Lord Steward ¹ and is now dealt with by Section 29 of the Coroner's Act 1887.

The Coroner for the City of London

The duty of keeping the pleas of the Crown ascribed to the office of Coroner in 1194 - was carried out in the City of London by King's Chamberlain in conjunction with the Sheriffs. In the roll of felonies and misdemeanours for the years 1277 - 8, when Matthews de Columbars was the Chamberlain of our Lord the King and Walter le Coune Waley and John Adrian, being Sheriffs - the title Coroner is not once mentioned ² although the powers and individual duties of the office had been defined by Statute in 1276. In the first Roll 1300 - 1

1. 33 Hen. 8 c.12

2. Riley. H.T. Memorials of London and London Life.
London 1868 p.17 - 19.

there is the first mention of a Coroner or his deputy associated eo nomine with the Sheriffs in place of the King's Chamberlain. The Coronership of the City of London belonged exofficio to the King's Chamberlain who also combined his duties with that of the King's Butler (Pincerna) so called as it was his business to levy taxes on wines ¹ (Here again we meet the fiscal preoccupation associated with Crown Office). As this Royal Official however was very much occupied with royal matters, a Sub-Coronator or deputy was usually appointed by Royal writ, to carry out the duties of the office. There seems however to be some evidence that in the thirteenth century the title was an honorary one and the Sheriffs alone held Inquests and attached felons; At the famous Iter held in the Tower in 1244 the question was asked what penalties were exacted if Sheriffs failed to attach a felon to appear before them, seeing that heretofore the Sheriffs made attachments and Inquisitions on homicide not the King's Chamberlain "Et attachiamenta et Inquisitiones de mortis hominis usque nunc fecerant Vicecomites et non camerarius"².

1. Maddox. Hist. of the Exchequer ed. 1710 p. 526.

2. liber Albus i.100. R.R.Sharpe. Calender of Coroner's Rolls of the City of London 1913. p.x. n.4.

Even so when a Sub-Coronator was accepted by the City he did not act alone, Inquests "supervisium Corporis" and all other duties such as abjurations, confessions and appeals were recorded and held in the presence of the Sheriffs and sometimes the Mayor - (who was the Chief Magistrate as indeed he is today). On occasion although rarely, the office seems to have been combined with the Mayoralty chair; as in the case of John de Wengrave ¹ "Eodem amis (AD 1316) Johannes de Wengrave recordator for Gildanlae et subcoronator; electus est in majorem quifuire habuit illapraedicta officio"² who continued to act as subcoronator during his term of office as Mayor; two others, Gregory de Rokesle and Stephen de Abyndone are recorded as having filled the office of King's Butler and therefore the Coronership of the City while occupying the Mayoralty chair ³ and John le Clerk, otherwise known as "of the Vintry" was a locum tenens Coroner for William Trente King's Butler and ex officio Coroner of the City and continued to be so after Trente's death ⁴.

The reason for this very localised Court of Justice is twofold. Firstly as in all the local administrations

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1. c. 1320 The Coroner in Med. London. Kellaway p.89.
 2. Sharpe. Calender of Coroner's Rolls of the City of London. p. ix. n.7.
 3. ib n. 9. p.ix.
 4. Cal letter BK pp. 93. 116.

of the early days expediency dictated measures - and men sufficiently capable for crown office were not plentiful. Secondly the King intended to keep his royal hand on the City. The commonalty had long since earned its right to elect its Sheriffs but despite all efforts and subterfuges and quoting of charters at least three centuries elapsed before the citizens could elect their Coroner. When in 1478 the City released King Edward IV of a debt of £7,000; they gained the privilege of electing their own Coroner as soon as the office then vested in Anthony Woodville, Earl Rivers, the Queen's brother and Butler, should fall vacant ¹. An admirable example of the pitting of Royal and City wits in the tussel for power by the Monarch over the richest and greatest city in his realm and the resistance to oppression by the common people to the aristocratic party. (Although this obstinancy of the Crown was perhaps not quite as self seeking as it might appear, checks and counterchecks by Coroners on Sheriffs and vice versa, was still the basic necessity in the developing system of law at this stage).

That the Coroner in the first three centuries of

1. Sharpe. Calender Coroners Rolls. p. xiii and letters patent to 10 Edward IV 20th June. ib. n.2.

Mediaeval England was part of the City Court as distinct from a separate department on his own is seen in the complaint made to the King in Parliament in 1399, because the Assizes which ought to be taken before the Sheriffs and the King's Coroner or his deputy, could not be taken, on account of either or both's frequent absences; they prayed that the sheriffs might proceed without the presence of Coroner or Deputy and were allowed to do so but only after making a formal proclamation in writing for either one or other to attend ¹.

The Coroner took Assizes of fresh force and mort d'ancestor with the Sheriffs on Saturdays - An Assize held before the Chamberlain in 1276 was quashed on the grounds that no Sheriff had been present - the converse also applied, hence the petition to Parliament mentioned above ².

The Coroner also heard Inquests with the Sheriffs on escapes from prison - In 1325 an Inquest was held upon 10 prisoners who escaped from prison at midnight. Five were immediately recaptured, four took sanctuary in the Church of St. Sepulchre all of whom abjured the

1. Sharpe. Calender of Coroners Rolls. p.xi

2. The Coroner in Mediaeval London Kellaway p.83.

realm in a week, one fortunate one escaped down St. Bride Fleet Street ¹.

The Coroners also held Inquests with the Sheriffs to enquire into robberies and misdemeanours against the Crown ², but because he was the King's appointee he was not subject to the civic authorities and in the last year of Edward III's reign the commonalty of the City complained to the King that great mischief was occasioned by this and prayed that they might elect their own Coroner and remove him at will as other cities were wont to do. To this the King replied that he would not depart from his ancient right. The right of Infangethief was however granted to them by the self same King and in 1390 ³ the Coroner John de Scardoburghe, and John Tremayn the Recorder and William Venour the Mayor attended a punishment for burglary by hanging, after a delivery of Infangethief made in the Guildhall before them ⁴. Although in the reign of Edward the Third the Coroner seems already to have been involved less and less in the generalised business judicial or otherwise in the City Court. No doubt this was because by 1332 the appointments of Recorder, Common Clerk and Common Serjeant of the City

1. lb. p.84.

2. ib. p.85.

3. 3 Ric. II.

4. Riley Memo p.520.

appear to have become distinct and salaried posts different from that of Alderman and Coroners ¹ and sentences of death for burglary were then invariably held before the Mayor and Recorder and Aldermen in the absence of the Coroner ². The investigating of unnatural deaths and holding inquests then became much more exclusively his domain. Riley considers that the office of Mayor, Coroner and Chamberlain of the City as distinct from Chamberlain of the King were all vested in the same person around 1275 - 6 to Ed. II 1307. He accepted the Town Clerk's compiler of the City's Liber Albus in 1471 - 38 as truth "Et sic patet quod olim eo quod quis erat Major, erat Camerarius cinitatis et in eo quod erat Camerarius erat et Coronator" ³ there is however no evidence to support this and the Coroners Rolls tell us differently.

After 1478 the City Coroner was elected by the Court of Common Council and still is today - but the provisions of the Coroner's Amendment Act and or any other enactment relating to the office of Borough Coroners, apply to the City of London as if its Coroner were a Borough Coroner.

1. Riley Memo p.186

2. ib. p.562

3. Sharpe Calender of Coroners Rolls. p.x. n.i.

The jurisdiction of the City Coronerships extends eastwards as far as Tower Hill even over part of the Tower itself, notwithstanding the presence of the King himself within its walls ¹. It embraced the Borough of Southwark by virtue of a charter of 1550 ² but since the advent of the Greater London Council this no longer holds.

By a private Act in 1888, the duty of holding Inquests in case of loss or injury by fire has been imposed upon the Coroner, if he thinks, after considering a report by the Commissioner of the Police, or the Chief Officer of the Fire Brigade, that proper cause for enquiry exists, or if it is ordered by the Lord Mayor, the Lord Chief Justice or the Secretary of State.

This was not an entirely new procedure up to 1860 - Previous non fatal fire inquests were held in London, Manchester, Lincoln, Doncaster and other places. The Coroner of the City of London Mr. Serjeant Payne held seventy one fire Inquests during the five years 1845 - 50.

It was however decided in the case R v. Herford that a Coroner had no power to hold an Inquisition into the origin of a non fatal fire. The case was imperfectly argued and might have been reversed if it had been carried

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1. Dr. Waldo's evidence at the first report of Departmental Committee on Coroners 1909 Pt II p.70.
 2. Liber Albus 1. 86. 7.

to appeal, but it was accepted and confirmed by S.44
of the Coroner's Act 1887.

CHAPTER I

An Inquest is a record of evidence of events enquired into for a specific purpose, and if analysed, will reveal one or other of the four postulates which it is the aim of this thesis to show, namely that :-

- (1) The Institution has adapted itself to social needs at various stages.
- (2) It is responsible for some protective legislation and the development of a Public Health System.
- (3) It has combined the two disciplines, Medicine and Law, into a medico-legal service.
- (4) It gives some indication of the mind and social progress of the times.

The inter-relationship of these four propositions is such that it precludes any one of them aspiring to a separate identity or pursuing an individual path; all are intimately bound and summarised in the fourth. Irrespective of this, for the sake of clarity in this study, each will be dealt with separately.

PART I. THE ADAPTABILITY OF THE INSTITUTION

(1194 - 1485)

The business of keeping the Pleas of the Crown was

an integral part of the Eyre as the legal record upon which the King's Justices acted, but apart from the Coroner's duties already listed during the Eyre the Judges would make use of Coroners in connection with civil pleas,⁴ ordering them to see whether essoinees were acting in good faith to sommon parties in a suit, to empanel a jury for the trial of some issue or for the making of a record of proceedings in the County Court¹ and one finds interspersed in the Coroner's Rolls such annotations as the following :-

William and Matilda of Wardle arrested at Marston and brought into full County Court on suspicion of having stolen money from the house of John Tinpane - William confesses that he found 8s 10 $\frac{1}{2}$ d. and had 4s. of his own money. No one sued against William and Matilda and they withdrew acquitted; by award of the County Court the 8s 10 $\frac{1}{2}$ d. was awarded to the Township of Marston whence it was taken². William Toft of the County of Cambridge was brought to full County Court on suspicion of stealing a sheep. He swore it was his own chattel and was therefore released from gaol. The sheep was appraised at 12d³.

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1. SS. V9 pp xxviii - xxix. Bracton's Notebook Ed. Maitland. Cambridge 1887. iii. 55. 57. 489.
 2. Hundred of Redbornestoke Jan. 1271. SS. V9 pge. 27
 3. ibid pge. 31.
 4. Requests were on occasion presented at the Eyre in an unrecorded form - these were termed 'Bills in Eyre'

These two records indicate the assiduous fiscal interest taken by the Crown - it seems strange justice that parties acquitted of thefts should have to be fined to the value of property they claimed their own¹.

The purpose of the Coroner recording these cases was probably a form of accountancy record for presentation to the Justices when they came, and may also have been a method of checking the sheriff's fiscal activities.

Sometimes a record of Mayhem and Theft is reported to and noted by the Coroner², which subsequently leads to an arrest and trial of one of the robbers in the County Court³.

On occasion the Coroner will record a Writ by the Lord King ordering him to see that all the enactments of the Great Charter be observed - for example that no person be arrested on the appeal of a woman save for the death of her husband⁴ (Nullus capiatur nee imprisonetur propter appellum foeminal de morte alterius quam viri sui)⁵. From this it can be seen that the Coroner, apart from holding inquiries into felonies, was rapidly becoming a sort of Registrar of the Country and this was probably the first adaptation to the public need for a

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1. Professor Gross is inclined to look upon the case of William and Matilda of Morda, as one of Treasure Trove, this may be the reason for their being acquitted and the property claimed for the King. *ibid.* p.xxvi. n. 7.
 2. *ibid.* 34.
 3. *ibid.* p.35
 4. SS. v.9 pge.35
 5. Magna Carta c.54 - Stubbs Select Charters Oxford 1966. p. 299. 9th. Ed.

more centralised administration and a check on the Sheriff's records.

There is also some indication that the evidence of persons not on the Jury at the Coroner's Inquest could be taken and was entered on the "Rotuli Coronatoria" ¹ for use before the itinerant Justices, as shown in the case of Azeline wife of John Cobbler who named and identified a felon who killed her husband, before she died of wounds inflicted - the felon, Richard of Neville, was arrested on the accusation of the said Azeline at the request of the Coroner and assigned for gaol delivery by the King's Writ ², and again when the testimony of Matilda at the Inquest on her husband, John Rede, that he had been killed by Simon Russ in her presence was accepted ³. But these were only isolated occurrences; and this procedure was not often made use of owing to the fact that the manner of pleading in vogue at that time was a trending of ways through a mass of doubtful facts and uncertain law ⁴. It was not until 1554 that the Coroner was empowered to put into writing the effect of any material evidence given at an Inquest held by him and

1. xxxiv. SS. Vol. 9. and pp 26.52

2. ibid pge. 14 and see p.7.

3. ibid pge. 16.

4. Plucknett "Statutes and their Interpretations in the 14th Century" pge 4.

was able to bind over witnesses to appear at the trial ¹.

Here in this blending of the old system of procedure with the modern practice of deciding matters upon the evidence of witnesses openly examined in Court we see the early indications of that adaptability of the office which has allowed it to survive the centuries and to contribute to our system of Law.

Again, Coroner's work was put to various uses in certain parts of the Country, i.e. in Worcester, Coroners looked after the assize of wine and in Shrewsbury they had charge of the public works, while in Boroughs, Custodes Placitorum Coronae are said to be elected "ad ridendum quod prapositi juste et legitime tractent tam pauperes quam divites" and often, but not invariably, the Coroner would sit with the Sheriff to hear criminal pleas².

In Edward III's reign a serious attempt was made to ensure that Coroners not forest officials should perform Coroner's duties within the forest ³.

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1. 1 - 2 Phillip and Mary c.13 ss 5.
 2. SS. V.9 pges 27 -31-114 and pp xxvii - xxviii xxviii
 3. This may have been an interpretation to the Ordinatio Forestae of 1306 and later statutes of 1. Edw. III c.8 Stat I and 25 Edw. III c.7 Stat. 5. wherein it is stated that "accusations are made of the breach of the forest laws not upon the lawful inquisitions of honest and lawful men of the Country, as Justice requires, but on the word of one or two Verderers who from hatred or other malicious motive, accuse or indict persons" (Holdsworth . op.cit 5th Ed. V.1 p.103) and if one bears in mind that these officials existed in early norman times and were subject to the authority of the Sheriffs (ib. pp.95-99), a later amalgamation of the Coroner and Verderer's jurisdiction could have been a practical administrative suggestion to bring the forest and its laws within the stream of centralised justice from which it had fallen apart in the reign of Henry II - indeed Coroners and Verderer did on occasion officiate jointly at inquests on

PART II

THE LEGISLATION

The legislation stemming from the Inquisition can be divided into (a) Domestic, and (b) Constitutional.

(a) The domestic legislation is not very great in the early days but some is to be found; Assaults and Killings which formed the larger percentage of Coroner's Inquests, probably brought about the law enlarging the breadth of the Highways leading from one market town to another "so that there be neither dyke, tree or bush whereby a man may lurk to do hurt within 200 feet of one side and 200 feet of the other side" ¹. Outlaws, although they had lost their civil rights, if they kept strictly to the Highways on abjuring the realm were protected ². One of the reasons for holding inquests on outlaw deaths was to ensure that this law was kept ³.

The following three Inquests illustrate how this ⁴ was given effect:-

(i) On the King's Highway outside Sudbury an unknown outlaw was attacked and decapitated. Because this was an unlawful killing - the victim had not left the Highway -

persons found dead in the forest. (The Medieval Coroner op.cit.p.147) According to Statutes of Edw. III and Richard II persons indicted at the General inquisitions held by the Verderers, could not be imprisoned unless they had been duly presented by officers of the forest and other lawful men, although offenders would have to appear at the eyre and find pledges.

1. Statute of Winchester. c v 13. Edw. I. 1285

2. Stat 2. 34 Edw.I 1306 cf. Statutes at Large Paskett 1759. V.i. p.155. (.,Edw.II 1316 Statutes of the Realm. Record Commission 1810. V.i. p.59 and see Bolland Manual of the Year Bk. Studies. 1925 p.95 and The Medieval Coroner p.11.n.10.

the Coroner ordered the arrest of the culprits¹.

(ii) In contrast, when Hugh Priest who had been assigned the Port of Dover on abjuring the realm was found to have left the Highway and taken shelter in the house of Beatrice of Temple in Little Slaughton he was pursued by a band of men led by Thomas of Boulton, the Sheriff, and decapitated. The Jurors said he was a felon and had broken the King's peace. The Coroner contented himself with appraising his chattels and indicting Beatrice for having harboured the outlaw².

(iii) The same occurred in the case of John Westfield who having been assigned the Port of Dover fled the Highway and was beheaded at the suit of the whole Vill³.

In the cities, the Inquests reflected more positively than those in the rural areas, the customs of mediaeval times and certain health laws were enacted, which were almost certainly the consequence of unusual types of deaths. The Swine laws, are one example. In London all pigs found wandering in the street were liable to be killed and became the property of the slaughterer unless redeemed by their owner on a payment of 4d.⁴ so that if anyone wished to keep pigs in the City of London he had

3. SS. V.9. Bedfordshire Roll pps. 9.29.37.CCR p.xxi

1. SS. V.9. p.9.

2. *ibid* p.29

3. *ibid* p.37

4. Cal. Letter Book A. pge 220 Cal. Letter Book C. pge 5
Cal. Letter Book D. pge 251.

to feed them in his own house ¹, and in the City of York the finder of a vagrant pig was allowed to cut off "les quatre peeds" (the four trotters) unless he received 4d from the owner ².

The menace of these animals wandering the streets is substantiated by a sad little Inquest held on the 19th May, 1322, on Johanne de Irlande, a child who while lying alone in her cradle in her father's shop there entered a certain sow and bit all the right side of her head - Margaret, her mother, hearing her cry, snatched her up and kept her alive till midnight when she died of the said bite ³.

One or two Inquests give a glimpse of the type of entertainments and sports which occupied the leisure of the indigenes. Organised sport then, as now, seems to have been mainly reserved for the wealthier classes. There is a distinct lack of inquests on deaths from jousting or hawking, no doubt because legislation concerning this had already been effected, as stated in Britton, "because as to injuries done at tournaments and jousts or such warlike feats, we will not interpose, unless

1. Liber Albus 1. 270

2. CCR. pge. 57. - York Memorandum Bk. (Surless Soc.)
V. I pge lxix and pge. 261. Manual of Year Bk.
Studies. pp 101 - 102.

3. CCR. B. c.29 p.56.

the acts be done in our presence"¹; but one reads of the death of Phillip le Failour who was knifed by Henry le Portour with an anelace on the day called Hokeday which took place on the third Tuesday after Easter when a rough game called Hokkying was practised in the street ² and in the same year (1201) John le Espicier of Cornhill complained of bloodshed caused by John Faber in Whitsun Week ³.

Wrestling caused some deaths e.g. Peter de Huntingdon fell while wrestling with Andrew Prille and broke a leg; strangely enough although the Jury stated his death was due to his fracture and bad attention, the Coroner still issued his precept for the arrest of Andrew when he appeared in the Bailiwick⁴. In passing, the Rider "bad attention" is worthy of note as the stirrings perhaps of the concept of medical negligence.

A game of Tiles killed a certain John Futard who received one on the left side of his head accidentally ⁵.

Two proclamations concerning these antisocial games - probably more to safeguard the King's Peace than to prevent deaths, which were little more numerous than the occasional rugby death or riding mishap, which are part and parcel of most of today's Coroner's records - were

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1. Appeals of Mayhem, Injuries at Tournaments Chap. XXVI p.125. c.26.s.2.
 2. Riley. Memorials of London and London Life 13th - 15th Centuries (being extracts from city archives 1276-1419) London 1868 pps. 561. 562. 571.
 3. CCR. A. C20. p.20
 4. ib A. C21. p.20
 5. Mar. 8 1307; Riley Memo. pge. 3.

made in the reign of Henry IV.

I. "that no person of the City take hold of or constrain any person for Hokkying on Monday or Tuesday next called Hokkedays"¹ and again -

II. "Hokkying - Foteballe and Cokthress trying" forbidden by proclamation (10 Henry IV 1409)².

Some Inquests on deaths caused by horses indicate that the age had its road traffic casualties. In one, a child aged three was accidentally hooped on the right side of the head while she was playing in the street, by a strong horse ridden by a certain Hugh Picard³ and in the Coroner's Roll of 1336 - 37, the death of Agnes de Cicestre occurred as a result of two unknown carters taking two empty carts out of the City and urging their horses a pace when one of the carts collapsed opposite St. Mary's Hospital so that the following cart fell on the said Agnes and she was killed outright. The Carters⁴ fled⁴. In this inquest we see all the ingredients which are manifest in some irresponsible present day motorists, speeding and virtually "horse playing" with their vehicles.

1. Riley pge. 651; 7 Henry IV 1406; Letter Bk. I f. XLIX on 6. Jan.

2. Riley pge. 571.

3. CCR A. C.30 p.30-31. 4 May 1302.

4. *ibid* c. 10 p.181. 14 Feb. 1337.

In records of 1338, John, a pauper and mendicant aged 7 years, was killed in the High Street of Chepe when the erroded wheel of a water cart fell off and crushed him, he was at the time squatting in the street to relieve nature ¹ and at an inquest on a rider who was drowned when riding his rey horse in the water of the Thames, the Jurors were careful to ask whether anyone had frightened the horse. Frightening a horse carried the penalty of imprisonment and fine ². At the Eyre of 1244 Justices committed a man to prison for having foolishly frightened a horse and caused loss of life eight years previously ³. So much for the "Road Traffic Act" of the thirteenth Century, harsh perhaps, but backed by a cynical reality which might well give the modern legislators food for thought in these days of 1975.

(b) The Constitutional Legislation (or perhaps more correctly termed some legislative reform of the Common Law) inspired by the Inquisition can be searched for in the Inquests on Prison Deaths.

These Inquests held in Prisons reveal a sorry story of squalor, filth, starvation and on occasion, torture, but provided there were no wounds on the body the jailer

1. CCR G. c.28 p.220.

2. ibid H. C.36 p.264

3. Liber Albus I. 97 CCR. p.264. n.1.

was exonerated and the prisoner was considered to have died his "rightful death" ¹ . Of 49 deaths recorded in a City Coroner's Roll ² 23 are prison deaths - starvation or rightful death being the usual verdict. Prisoners if they had no private means relied on the bounty of their friends for food. These records of misery which can scarcely be called inquests, since they consist merely of the Prisoner's name, the offence for which he was indicted or suspected of and the cause of death, were really only a viewing of the body by the Coroner to ascertain that there were no signs of violence and their enrolment was probably a relic of the Writ issued by Henry III to the Eyre of 1212 when abolition of the ordeal left the Justices in some doubt as to how to deal with Criminals. The instructions at that time were that "they shall be kept in our prison and safeguarded yet so that they do not incur danger of life, or limb on our account" ³ . Certainly no humanitarian principle seems to have been considered. Little wonder that escapes were numerous and in 1325 that a riot occurred in Newgate when John de Ileford the then Deputy Coroner for the City from 1321-25, was commissioned to take an inquest "on

1. Helen M. CAM The Hundred and the Hundred Rolls Merlin 1963 pge. 68. CCR of City of London and Northamptonshire Coroner's Rolls. SS.V.9. pges 79-81

2. CCR. B. 1321-22

3. T. Plucknett. Concise History of the Common Law 5th Ed. Futersworth 1956. p. 119.

what malefactors broke the King's Prison at Newgate and other particulars" ¹ and a little later, in the year 2nd June 1325, Nicholas alte Mulle, the gatekeeper of Newgate was killed by four felons aided and abetted by two women who supplied them with knives ².

Similar deaths occurred in the Marshalsea and the Prison of the Flete - Sheriffs' prisons in the Counties were no better. Dr. Cam describes a particularly gruesome case of one Alan Blunt, arrested in Lincolnshire on a charge of suspected theft on 19th June 1254, he was placed in the stocks with a thick steel collar around his neck which choked him; the Coroner, however, found that he had died his "rightful death" ³.

Some attempt, however, at Public Health measures was made by the Authorities and in January 1356 when a Writ was directed to Simon Franyceys, Mayor of the City of London, enforcing "Inquisition to be made as to obstructions in the Foss surrounding the prison of the Flete now so obstructed and choked with filth from the latrines built thereon that there is cause to fear for the abiding there of the persons therein detained" ⁴.
One can only suppose that the number of deaths in prison,

1. CCR. D. C.45 pp. 130-131.

2. *ibid* D. C.33 pp. 121-123.

3. The Hundred and the Hundred Roll pge. 68.

4. Riley Memo of London. p.295. 31. Ed. III 1357 L.B.C. f ixiv. In 1350. Proclamation was made by the King against bathing in the Fosses or in the Thames, near the Tower on the pains of death. *ib* pp. 260-1. - CCR.p. xxiv n 5.

of which the only record would be the Coroner's must have struck some more responsible member of the hierarchy as unfavourably high even at a time when the pathological hazards of infection and contamination were unknown.

But the Crown was not as entirely devoid of legal conscience as would appear from these prison deaths, for in the middle of the thirteenth century the Petty Jury was evolved to help the Judges in their dilemma in dealing with indicted prisoners. This Petty Jury in contradistinction to the Jury of Representation, which spoke for the Country, was selected from among the Jurors present and was twelve in number; some might be from the presenting Jury but not all. This innovation to replace the Ordeal by fire or water stemmed directly from the principle of the ancient inquisition and can be said to be one of the first major legislative changes in the developing Common Law. This precedent brought in its wake a new Ordeal that of "Peine forte et dure"¹, a necessary and expedient measure at the time to enforce trial by Jury, about which there was doubt as to its legality. Paradoxically this, in turn, was a limiting factor on the Coroner's inquiry into prison deaths, because if a prisoner refused to "put himself on

1. Stat. West. I c.12 1275. Statutes at Large. Baskett. 1759. VI. p.45. Peine forte et dure was initially, Prisons forte et dure, a form of imprisonment equivalent to the modern common law court's power of imprisonment for contempt; it unfortunately deteriorated into a form of torture.

the Country" he was not tried and could not be convicted, neither could his goods and chattels be appraised or forfeited to the Crown. All the Coroner was able to do was to record the death without qualification, and the Inquests on deaths from "Peine forte et dure," which are fortunately few, read very differently from other prison Inquests. For example, Sunday the Octave of the Holy Trinity, 23rd May, 1339, Roger de Glastyngbury, brewer, died being confined to Newgate for the death of Roger Ingelby, glover, whom he feloniously killed and for which he was indicted before the Coroner and because he refused to justify himself by law before the Justices, was remitted to prison there to remain in penance until he died ¹

or again,

John Burel of Lengele died in Newgate "in Penitentia sua" ²
R. Sharpe interprets "in penitentia sua" as the prisoner having had the rites of the Church, this is wrong, because if a felon had felt the necessity of receiving the last rites, one of the requisites would have been to confess the crime not only to the priest, but probably also to the Coroner as the law demanded, which had he not done so,

1. CCR. G. c29. p.220.

2. ibid D. c. 35. p.124.

would have invalidated the theological aim of the rites. Demanding the last rites, would have negated the purpose for which he refused to stand his trial by jury and these facts would have been recorded in the Inquisition. Moreover it was not necessary for the Coroner to view the body in cases of persons having had their ecclesiastical rites. "Si interfectus habeat jura ecclesiastica, non est necesse quod Coronator eum videat"¹.

On occasion, however, we find the Coroner exercising his ancient right in an unusual prison inquest.

A prisoner died of a head wound in prison - a Jury was taken to Newgate for the inquest and they came to the conclusion that the prisoner had received the head wound in an assault, prior to the assault he had himself made on another individual and killed and which had occasioned his arrest and committal - precept was given to the Sheriff to arrest the culprit ².

The pattern of deaths in prison and the dealings with prisoners altered little in the following three centuries and will be considered more fully in the medicolegal part of Chapter II in connection with the mediæval concept of unnatural death ³.

1. The Eyre of Kent 6 - 7 Edw. II. Seldon Soc. i .112.

2. CCR. H. c40. pp. 269 - 270.

3. Post Chap. II.

PART III

THE BEGINNING OF FORENSIC MEDICINE

The link between Law and Medicine is not very evident at this stage, but it exists in the shape of the unusual maladies found by the Jurors to have caused sudden death; for example Richard of St. Albans who fell dead in a stable as the result of a quinsy. On view of the corpse it was reported in the inquisition that the neck was large and swollen ¹. Robert le Bracoeur having been given a severe beating in a street fight was sacked for drunkenness by his employer spent the night in a Church sleeping it off, the next day he died and the Jurors decided that "he was not nearer death nor further from life because of the beating but because of illness contracted by passing the night in the street" ². William de Otteford died of a quartan fever³. A certain Emma found drowned in a ditch is said to have the "falling sickness" which caused her death not the drowning ⁴.

Many of the illnesses described in the Inquest can be interpreted in modern terms from their names alone, for instance "tistik" a disorder which caused Roger le Brewere's death ⁵ was obviously pulmonary tuberculosis,

1. CCR. A. C.23 pp. 22-23.

2. ibid A. C.24 p. 23 - 24.

3. ib. F. C.7. p.178. 2. Feb. 1336.

4. ibid F. C.16. 1301 - probably epilepsy

the term 'tisik' is still used by the peasants in Brittany, France when referring to this disease, although the Jurors at the Inquisition would not have been aware of its nature. Again a certain Will Hampie suffering from a malady called "festre" of the leg, a vein burst, unable to stem the flow of blood he weakened and died some hours later. This is, of course, the classical untreated ulcerating varicose ulcer ¹.

The "falling sickness" "morbo caduco" of which John de Bristowe died suddenly in Church presents very much as "status epilepticus" which still today is the subject of some Inquests. The "flux" seems to have been interpreted by most historians as dysentery. This is probably wrong, because still referring to the French influence on the current vernacular of the times, fluxion means pneumonia or inflammation and is still used in common medical parlance in that Country today. So that at the Inquest³ on the death of a certain Thomas Carter who was wounded by an arrow during a game called "le wrastling" the Jurors found that he recovered from his wound but died of a disease called "le flux" ². Pneumonia is the most usual immediate cause of death in injuries which are not immediately fatal. Sometimes the disease is not diagnosed

1. ibid Roll A. C.11 p.11.

2. SS. v.9. pge. 62 and pge. 4.

and the verdict in countless Inquests of the day will read as in the following; Robert de Balsham who was afflicted with a grievous infirmity from which he had suffered for three weeks past, rose from his bed and laid on the ground where he immediately died¹. Here it is difficult to give a name to the complaint and the only value in citing this Inquest is that it illustrates the recognition of disease or deaths of unknown causes and is one of the first indications in the chain of causations leading up to a medico-legal approach to death, primitive and unscientific as this was at this stage.

One must take into account that medicine at that time was more empirical than rational, it formed only part of a whole curriculum of arts of which theology, philosophy and law were by far the more important subjects. In the University of Oxford medicine as a study was discouraged. In 1384 at New College, out of a total of seventy Fellows, ten were to study law, only two might study medicine, the rest were to concentrate on theology and astrology.

At Merton it was expressly forbidden and at Magdalen only one Fellow out of a total of forty was allowed to study medicine, after receiving special leave².

1. CCR A. C.15 p.15. 15 Feb. 1300-1.

2. C.H. Talbot Medicine in Mediaeval England
Welcome Hist. Med. Library London. 1965 pge. 69.

The earliest Statute for giving the Licentia Practicandi at Oxford is around 1350¹. Moreover, the mode of study was totally non-practical, it consisted of the reading, over several years, texts of the Old Masters, Galen, Hippocrates, Theophilus, Avicenna and others and as a part of the training the students would hold discussions and answer questions on theoretical not factual medical problems, much in the same manner as the students in the Inns of Court met to discuss their difficulties and hypotheses. These were the men of doctrine and reason, the practical doctor was little known and would invariably be the humble physician or surgeon with his homemade brews and unsterilised scalpels who tended the sick in the secular infirmaries attached to the Monasteries. Laymen had superseded the clerics by ecclesiastical legislation passed at the Lateran Council of 1215².

The above decree and the abolition of the Ordeal by the Council, was the first step in loosening Medicine and Law from their bonds to the Church; and played an important part in the future rationalisation of both Disciplines; without this, their subsequent coalition (although brought about not without difficulties and Centuries later) could not have taken place.

1. ibid pge. 71.

2. Documents of the Church, English Translation,
 Jesuits St. Mary's College, Kansas, U.S.A. 1955 pge
 347 and Talbot, Medicine in Mediæval England pge. 177.

Apart from these hospital doctors there seems also to have been a few isolated practitioners whose vocation it was to tend the sick at their homes - mention is made of Robert le Leche who in a house in Cornhill, London, medically treated people brought to him ¹ and another Inquest records how a certain Ralph fatally wounded entered the house of James Beauflour where he was hospitably received and had his ecclesiastical rites, lingered and died later ².

Little wonder that the Inquests of persons dying of lack of attention were numerous. But that the Coroner was very much implicated in what was a natural malady or an unnatural death is shown by the following inquest held in Bedfordshire in June 1266 ³. Two men fell in a pit one accidentally wounding the other, having recovered from his wound he suffered from a disease called the Flux and ultimately died, the Coroner was sent for and despite the fact that the Jurors say that he dies of the disease and not the wound the Coroner ordered the arrest of the other man.

Some Inquests were held on wounded men coming to London to seek medical advice or attention; London was

1. CCR. pge 91.

2. CCR. E. C.12 p. 141.

3. SS. V. 9. pge 4.

considered even then, as today, the heart of the medical world; where in that scientifically under-developed community, Master Surgeons of the City were admitted and sworn in full Husting before the Mayor and Aldermen ¹. The following Inquest illustrates this. "William Wattepas, who had for a long time lived in the country in Essex, came to London to be cured of a wound in his arm; he was taken ill and lived until Tuesday before the Feast of St. Edward, on the morning of which day he died; but not say the Jurors of his wound" ².

Verdicts were, however, not always so convenient for there is record of a contemporary doctrine of medical negligence which was actionable i.e. "instead of the hoped for cure the patient became worse" was the plea in a case against a physician ³ and in reverse we have a Surgeon suing for his fees ⁴.

We also meet with the attachment of a certain "Henry the Surgeon" as one of the four neighbours at an Inquest for homicide ⁵. Moreover, some legislation against professional negligence perpetrated by the law or medicine had been proclaimed even if not always enforced. In Britton's opening chapter on Homicides mention is made

1. 43 Edw. III 1369 2nd Feb. Riley Memor. p.337
L B. 6 f cc. xix.

2. CCR A. C.1. p.1. 13 Oct.1300.

3. Year Books 41 Edw. III p.19 c.13.

4. *ibid* Hil. 48 Edw. III p.6. c.11.

5. CCR. A. pge 28.

of homicide "committed under the colour of judgement through malice of the Judge or under some other pretence, as by false physicians and bad surgeons, and or by poisons and sundry other ways"..... "that he be indicted" ¹.

From this we see that although medicine had not yet developed a completely separate professional identity of its own, it was sufficiently a force as a responsible occupation, to be in time linked with the law and to warrant legislation. This awareness of the growing need of the community for a rational approach to its bodily welfare manifested itself in some of the early public health laws such as, the Statute de Pistoribus ² "concerning cooks who knowing cook stale or stolen meat or any kind of flesh harmful to the health of man" - and indeed a certain amount of medical treatment, if rather barbaric, was in vogue - we read for instance of William le Panere falling down dead in the market of West Chepe on Friday 20, 1277 greatly weakened having been blooded too excessively on Thursday ³.

The suicide rate seems to have been low, if non-existent. Only two straightforward Inquests of self-killings are recorded in the City's Rolls. Isabelle de Pamesworthy, who for two years had suffered from "frensy" hanged

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1. L.i C.6. s.i. p.34 Interestingly "sundry other ways" of homicidal deaths include giving false testimony which results in judgement of death being passed on someone.
 2. Temps incertain Britton. V. pge 83.
 3. Riley Memos. pge 14.

herself from a beam in her chamber ¹; and in the same year John de Irlande did the selfsame thing on the gate of the hospital of Saffron Walden - the Jurors gave no explanation as to his condition. The Bedfordshire Roll records only one possible suicide that of an unknown woman found dead of exposure in a ditch ². This today is accepted as an infrequent but recognised classical method of female suicide ³.

The Rolls of Northamptonshire, Cambridgeshire, Essex, Gloucestershire, Norfolk, Shropshire and Wiltshire have no records of self-murder, and one must infer from this that either the Coroners did not record all suicides or that many went undetected; some of the cases of drowning may well have been and possibly were suicides. Only one accepted suicide by drowning is recorded "Alice de Warewyk who had been long non-compos mentis opened the door of her house and in a wild state at the Port of Dounegate flung herself into the Thames and was drowned" ⁴.

This (low) record of self destruction which is but a rough indication of the suicide rate of the period is nevertheless valuable as a guide to the incidence of this type of death since it is a percentage of the whole material available; moreover it bears out "Durkheim's Theory".

1. CCR. B. c.4 p.33.

2. SS V.9. p.12.

3. Journal of the British Academy of Forensic Sciences
pges 200 - 3 V.12 - No. 3 196.

4. CCR. H. C. 18 p. 249.

Durkheim asserts that suicide is a social product and that the degree of the tendency to it within a group was a derivative of the society so considered; and varied inversely with the degree of cohesion within that Society. When a society was strongly integrated it held individuals under its control considered them at its service and thus forbade them to destroy themselves; in short, in a cohesive and animated society there is a constant interchange of ideas and feelings from all to each and each to all, a mutual moral support which instead of throwing the individual on his own resources led him to share in the collective energy and supported him when exhausted. This theory although not accepted by all psychoanalysts seems to be a forcible factor in the explanation of the low suicide rate in the populations of the thirteenth and fourteenth centuries, in comparison to that of later periods¹. If viewed in the context of the Inquisitions and its procedure, with the obligations of the hue and cry, the recording of Tithings and the representation of the townships and vills by the Jurors with the discussions taken collectively in returning verdicts from their knowledge of the individuals and facts; the county and the hundred of mediaeval life were a cohesive society².

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1. Although one must make allowances for the paucity of Chronology on such events and also the fact that many inquest records have been destroyed or gone astray.
 2. Suicide - A study in Sociology - Ed. George Simpson 1952 pge. 299 and pge 363.

Yet contrary to popular opinion, mental disease was well recognised and patients were treated with more humanity than was accorded to them in later centuries. Even a plea of diminished responsibility would be accepted by the Courts in trials for murder as the following Inquest illustrates. In 1285 an Inquisition was held at Beverley as the result of a Writ sent by the King to the Sheriff of York. It appeared that on the Wednesday after the Feast of Saint Wilfrid (17 October, 1285) Brother Walter of the Hospital was lying in his chamber after dinner. Richard the Clerk, to whom he was deeply attached, was lying sick in the same chamber and had been carefully tended by Walter the whole of his long illness. One day (rendered frantic and maddened by his sickness) he suddenly rose from his bed and smote Brother Walter as he slept, first with a bench and afterwards with a trestle so that all his brains came out. Immediately after doing this Richard went out into the courtyard and kitchen with his hands still covered with brains and blood, and when the other brethren asked him what he had done he laughed and said "I have killed my dear master, Walter. Come and see where he lies slain. He will never speak another word". At the trial he was convicted of killing by misadventure

during a fit of madness that being so, he was taken and imprisoned; and still persisted in his madness ¹.

A similar case is reported in a Court at Cheddestan at the trial of Richard Blofot for the murder of his wife and two children in 1270. The Jurors say that on returning from the market at Rapham, Richard seized with a sudden frenzy threw himself into a marlpit full of water and tried to drown himself and was saved only by his wife dragging him out. On reaching home he appeared to have calmed down and was behaving himself quietly, his wife went out to get some necessities. Whilst she was out he attacked and killed his two children. When his wife returned and found the children dead she broke out into cries of grief which so enraged him that he attacked and killed her. The noise aroused the neighbours, who ran to the house to find Richard trying to hang himself. At the Trial Richard was found not to be responsible for his actions. He was then put in prison, presumably for his own safety.

A few words should be added here about the treatment of psychiatric criminal cases and their late treatment jointly by the Law and Medicine.

At the trial Richard pleaded 'not guilty' and the Court, considering all the circumstances, came to the

1. Talbot C.H. Medicine in Mediaeval England
pge. 181.

conclusion that he was not fully responsible. He was, therefore, put into prison. Six years later the King sent a Commission to John Lovetoft to enquire whether Richard could be safely released or not, and the reply was that although he was at that time sufficiently sensible and behaved reasonably it could not be said that he was so far restored as to be set free without danger to himself, especially in the heat of the Summer ¹.

This is a remarkably responsible approach by a system which posterity has come to regard as part of the dark ages and is very little different from modern management of difficult psychiatric cases today. The term "prison" here would no doubt mean incarceration, in view of what has been said about conditions in gaols. The length of his sojourn in "prison" is testimony to this and no doubt must have been a place such as one of the "Monastery's Hospitality Houses" which were the precursors of the hospitals.

England at this stage was peppered throughout its length and breadth with Abbies, Priories and Religious Houses of all kinds, and the familiar nomenclature of the Hospitals associated with these places have come down to us through the centuries in the Inquisitions

1. ibid pge 181 (1270 Norwich Gaol, Cheddeston).

e.g. The Hospital of St. Leonards in York ¹. St John of Jerusalem in England, in the Liberty, Wetherby, Yorkshire, which was attached to a preceptory of knights called Templars ². We read of the Leper Hospital at Sudbury in Bedfordshire in an Inquest on a shepherd who was slain by a gang of hooligans in an attempt on his part to defend a woman and her son on their way to visit a patient ³. There is even on record an Inquisition held in the Hospital of St. Mary's without Bisshopesgate on a certain Philip de Asshendone who had been taken there following a street brawl in which he was fatally injured ⁴. St. Mary Bedlam was the largest and first mental hospital established in England in 1247 ⁵.

The Inquests certainly corroborate much of the hospital administration recorded in some of the extent hospital records. For example, the Inquest on the murder for robbery of Julians the Hospital Laundress of St. Katherine's Hospital in the City, "who occupied a house underneath the Hospital". It appeared that Hospitals employed and boarded a considerable laundry staff and that hygienic and heating regulations were rigidly adhered to ⁶.

1. SS. V. 9. p.122

2. *ibid* 124.

3. *ibid* pge 1 - 2.

4. CCR B. c. 10 p.43

5. Med. Medi. Eng. p.183.

6. *ibid* pgs. 174 - 176.

Having considered the adaptation of the Office to public needs, the legislation stemming from unnatural deaths and the evolving link between Law and Medicine, it is time to examine the fascinating facets presented by the Inquests on the community life at various stages in its history. If one accepts that there is an ubiquitous series of factors which reflects in all forms of societies the stage of its evolution, the adoption of a formula termed the PCHR factor of the community to denote this, will simplify such an analysis for the purpose of proving the fourth postulate of this thesis in a summary manner.

The PCHR factor consists of the following components:-

- P. The Political stresses and pressures;
- C. The incidence of crime and violence;
- H. Human problems, frailties and occupations;
- R. The influence of religion.

The formula will present a different picture according to the degree that one or other of its components and the extent to which they are involved, or are the subject matter of a Coroner's inquiry.

In the early days concerned in this chapter, the political stresses have been sufficiently considered in

the Historical Introduction ¹ and need not be enlarged on.

The Bedfordshire Coroner's Rolls calendered by Gross ² and the Inquests of two of the Rolls of the City of London calendered by Sharpe depict the PCHR of rural and urban life in mediaeval England. A numerical study of the Inquests in both documents, if rather imperfect as a scientific statistical assessment, since such data, as the number of the population and the number of Inquests taken ³ are uncertain, will nevertheless be as satisfactory a method as any of placing historical facts on to the broad canvas of the era.

The Bedfordshire Roll spans a decade from 1265 to 1274 (Hen. III to Edw. I) and is the work of five Coroners;⁴.

Not surprisingly because of the Coroner's prime role to enquire into suspicious deaths, the apparent predominant factor of PCHR is the C component, or the crime and violence of the period. It has long been accepted that the age was violent but this had probably been over emphasised in history and magnified by the Coroner's Inquisitions.

A numerical study of the series of Inquests in the Bedfordshire Roll reveals however that misadventures were

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1. ante pages 8 to 49
 2. SS v.9. pges. 1 to 39.
 3. Many records must have been lost or destroyed.
 4. G. ROULAND (Rowland) S. RUFFUS (Red or Read)
R. of GOUDINTON (Goldingstone). R. Le CREVECOEUR
(translated Crevener, should really be Heart pierce)
P. LORING.

just as numerous as felonious killings; e.g. of 103
Inquests in the span of 12 years,

50 are felonious killings

50 are misadventures

Two although recorded as misadventures are natural
deaths ¹ "the falling sickness" ² "mal del flanke"
(hip pains)

One is an Inquest to value the moveables of an
abjuror and appraise the year and waste of his
house and lands.

Some of the recorded misadventures are drownings
of very young children in ditches or wells - no less than
seven such cases on children all under three years are
recorded ³. (Negligence seems not to have been a crime
unless performed by Lawyers and Doctors⁴.) Falls and
burnings in boiling water or by fire ⁵ present a picture
of very much the selfsame hazards as are with us today.

The fatal felonious assaults are usually the results
of quarrels or during robberies with violence or by
marauding gangs of youths (six such cases are reported ⁶.)
Two of these Inquests are worthy of comment. It seems
that a gang of six thieves came to Honeydon in the Parish

1. ib pp. 5-6.

2. ib. p. 17.

3. ib. pp. 1,2,5,7,8,11,13. SS V.9. was the Battered
Baby Syndrome of modern society perhaps perceivable ?
See post Chap. 4. pp.

4. ante page

5. ibid pge. 6.

6. SS. v.9 pges 8,12,16,23,24,25,34.

of Eaton at twilight one September evening 1267 having forced entry into the house of the Lord of the Manor killed his mother and servant and robbed his house. They then went to five other houses with similar results, plundering and murdering the inmates. This case is very similar to the scourge of gang robbery so prevalent at the moment, on the streets of our twentieth century cities.

A similar case occurred in the Vill of Renhold in August 1267 when the residence of Simon Read, one of the Bedfordshire Coroners, was broken into by twelve or more felons. Simon was protected by his son who axed and killed one of the felons, Roger Benfield, the other fled. This Inquest is interesting because Benfield confessed in the presence of Crevenquer and the township of Renhold that he came to kill Simon and all his family. Crevenquer seems to have already held some official position in the town but was not then a Coroner ¹ he was only appointed officially Coroner years later on September 16th 1274 in the County Court of Bedfordshire ². The felons left a good deal of valuable equipment which was appraised at the Inquest, which very much indicates that violence and crime was not restricted solely to the lower classes of society. (The Coroner who held the Inquest was Rowland).

1. ibid p. 7. This is another example of one official undertaking the duties of another.

2. ibid page 32.

In the City of London Coroner's Records, the statistics are different, crimes are more numerous. Of the 9 Rolls which record the Inquests from 1300 to 1372, Rolls A and B will be analysed for a numerical assessment of the crime rate. These are the records of two Coroners, they are the earliest extant City Inquisitions, and must serve our purpose although they are a century later than the Bedfordshire Rolls.

Roll A - 1300 - 1301, the work of John le Clerk, Deputy Coroner to William Trent, the King's Butler and Chamberlain. In all these are 31 cases and 1 abjuration; of these there are :-

- 14 homicides
- 7 misadventures
- 7 natural deaths
- 1 pregnancy death due to assault
- 1 suicide
- 1 prison death of a debtor

Roll B - consists of 48 cases during the period 1321 - 1322 and is one of the Rolls of John de Ilford, (sub-Coroner to Stephen de Abyndone, and seems to have held the office for as long as Stephen remained King's Butler until 1325).

The 48 deaths comprise :-

- 16 homicides
- 7 misadventures
- 3 suicides
- 23 prison deaths

One immediately notices from these figures that the crime rate in the urban area is double that of the other sorts of deaths, and is considerably higher than that in rural areas.

The "type" of crime in the City Community varied little from that in the Rural Areas, or indeed, from that in present day London. Assaults and robberies with violence were a monotonous part of its staple diet; only the kinds of weapons and the venues were different. Most of the unlawful killings were effected by knifings or blows with blunt instruments, there was little sophistication in these methods.

Taverns and Inns abounded in the City so that it is not difficult to visualise the quarrels and brawlings escalated by the consumption of alcohol which resulted in deaths. We read of an unknown youth who entered a brewhouse and stole a woman's hood worth 9d., the Brewer followed him to recover it and for his pains was stabbed

in the belly and mortally wounded ¹, and the fate of John de Markeby, a drunken goldsmith, leaping about in a state of alcoholic excitement fell on a knife which hung at his side and sustained a fatal injury², and the death of Henry Coburn of Barford who went to drink a pot of beer one night and not returning was found by his mother outside, stabbed repeatedly ³, differ little from that of Nicholas, a servant stabbed in a brawling at a house of ill-repute held by Alice de Wytency, a courtesan, in the Parish of St. Botolph in the City ⁴. Gang warfare, which has already been referred to in the Bedfordshire survey, was not lacking in London - One Inquisition is a carbon copy of the methods of operation and motives of some young thugs who often armed with offensive weapons, plague our present day society and merits being quoted in full for those who insist on attributing undisciplined aggression to modern social values - "When at the hour of Compline Walter de Benystone with seventeen unknown companions entered the brewhouse of Gilbert de Mortone with stones in their hoods, swords, knives and other weapons; and were sitting there drinking beer and lying in wait to abduct Emma, a young girl there in the charge

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1. CCR. G. C.41 p.233
 2. ibid ed. G. C.40 p.231.
 3. SS v.9. p.3.
 4. CCR. C. c.18. p.86.

of the said Gilbert. Perceiving this, Gilbert told them to leave the premises but they replied that the house was public and that they would stay whether he wanted or not to spend their money. In the following brawl that ensued Walter was killed"¹.

One type of crime which seems to have been peculiar to or at least more prevalent in urban life is the Affray; and most of the affrays appear to have had their roots in student or guild rivalries. The records of Coroner's Inquisition in the City of London confirm the early existence of these Guilds, Liveries and Inns of Court, formed to safeguard the trade or professional interests of its own specific numbers and apprentices. The following Inquests are illustrative :-

(i) We read of a party of Goldsmiths (12 in all) strolling the streets one Sunday evening in search for men of the mystery of Saddlers in order to beat them up on account of a quarrel that had arisen between the two misteries. One of the Saddlers, John alte Rise, during the incident met his death by a blow on the head with an axe. The record states that most of the assailants were captured and taken to Newgate ².

1. CCR. D. c.27 p.115.

2. CCR. B. c.1 p.133.

(ii) Much the same story occurred in the notorious affray between the mistery of Skinners, and the mistery of Fishmongers in which one Ralph Turk, servant of John Turk, a Fishmonger, was killed. In this particular case two Inquests were held, one in which the Jurors were the best and wisest of the mistery of Skinners, on Wednesday 24th August, 1340, and another on the Thursday after the 24th with Jurors from the mistery of Fishmongers; it seems that the Skinners came out of these Inquests very badly, three were indicted and found guilty¹, but then the Fishmongers were a powerful syndicate and one of their members had been Andrew Horn, the famous Fishmonger from Bridge Street, sometime Chamberlain of the City and author of the Liber Horn, a law book, he died in 1328.

Affrays, however, did not always incur death and we read of such an affray between Skinners and Fishmongers which was the subject of two Inquests held on 3rd August 1340; the first, which involved a wounding, was held before the Mayor and Sheriffs and the second, which involved an assault upon a man whose life was endangered, was held in the presence of John de Shirbourne, the Coroner. Three years later the same Coroner was once again present

1. CCR. H. c.39. p. 266.

at an Inquest upon another affray between the Fishmongers and Skinners in which a certain Hamon de Waltham was robbed of his girdle and purse ¹. The dissention between these two Companies was thought to be a struggle for precedence. Another Inquest was held on Thursday after the 1st August 1340 concerning the Affray in Bridge Street in which the Mayor, Andrew Aubray, and his officers were wounded. On this occasion no less than five different juries were summoned ² and on the same day Thomas, son of John Haunsard, and a John le Brewere "portour" who had been indicted at the Inquest, were found guilty of this assault at a congregation of the Mayor, Aldermen and Sheriffs and an immense commonalty and were beheaded in Chepe near Stone Cross ³. Although the name of the Coroner is not in the Husting Records he would have been there, not only by virtue of his unusual City Coroner's appointment, but because the proceedings would have been invalidated in his absence. His presence was required at Judgements of Death ⁴ in the Liberties and infangthief had been granted to the City by Edward III.

Much the same sort of spirit seems to have affected the students; as described in the Inquisition on John de Glenheim (apprenticuis de Banco a law student of the Court

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1. Kellaway Studies in London His. Hodder and Sloughton 1969. p. 84.
 2. ib p.84.n4. cf. Common Pleas Memoranda Placita.
 3. Husting Common Plea 64 memb 30 - Footnote CCR p.266.
 4. Britton 1. 6. 4.

of Common Pleas) when he and other apprentices of the Court (apprenticii de Curia) intervened in a quarrel at a tavern in the Parish of St. Brides ¹.

Another serious affray occurred between the law students from the Northern and Southern Counties in the vicinity of Aldgate causing a large crowd to gather and resulting in the death of an onlooker who was killed by an arrow shot into the crowd by an onlooker hoping to stem the tide of the disturbance ².

This disgraceful behaviour seems to have been endemic among students from different parts of the Country - John de Pykerying and Thomas de Pokelyingtone, both of the County of York and both Clerks in the Chancery were found dead on 24th June, 1339 in the rent of Thomas de Lyncoln, narrator (Pleader, Barrister) having been set about in the High Street by William Fort of Co. Sommerset John Berkeryk of Co. Cumberland, John Grendone of Co. Northampton and John de Hatfield of Co. Essex (4 apprentices of the Bench) ³.

That so much space has been devoted to the description of Crime and in particular the Inquisitions on Affrays is because it enables attention to be directed to the

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1. CCR. E. C.2. p.34
 2. ibid E. C.30 p.187
 3. ibid C. 35 p.225.

sociological elements which are part of the H component of the PCHR factor. The Affray itself is only a minute percentage of the crimes committed and recorded - Of 314 cases in the 9 extant Coroner's Rolls between 1300 - 1378 only 8 Affrays are recorded, the 7 cited above and 1 which took place in July 1339 between rivalling groups of mariners when William Rose of Greenwich received a mortal sword wound ¹. These Affray Inquisitions, more than others, open a door to the pattern and psychology of medieaval society. Because of their detailed recordings not only have we confirmation of the migration to London, the seat of legal learning, of Students from all over the Country but first hand information as to the early collegiate life which was to give rise to the Inns of Court. Holdsworth, in his History of English Law, maintains that a number of Masters of the Law, Pleaders, Judges etc., drawn by ties of a common profession, and even directed by the Crown, housed students and assumed a quasi corporate form. To support this theory he quotes Fletcher on the Pension Book, the Middle Temple Records, the Black Book and Admission Register of Lincoln's Inn and the Calender of the Inner Temple, but he states that

1. CCR. G. C.37. p. 228.

the early records of the Inns are no longer in existence so this is mostly conjecture. The earliest evidence of the existence of the Inns is to be found in Fortescue's De Laudibus.¹ In the Inquests quoted there is bona fide evidence to corroborate Fletcher's theory of the manner in which the Inns arose.

The Thomas de Lyncoln to whose Rent the injured Clerks of Chancery returned to die after the assault on them, may well have been a member of Lincoln's Inn or even the so called founder of that Society, The Earl of Lincoln². The Inquests do not necessarily record a person's tittle unless he were allied to or politically involved with Royalty.

1. H L E Vii. 4th Ed. ps. 486 - 96

2. In the middle of the fourteenth century, a King's Sergeant Thomas de Lincoln owned property on the site of the present Furnival Street; this property, which was the earliest house of the Society of Lincoln's Inn, was conveyed by Thomas de Lincoln to the Abbot of Malmesbury by three deeds 1364 - 1366 - 1369. The Abbot let it to the Society at a rent of £8. Between 1412 and 1422 The Society moved its premises to the See of the Bishop of Chichester. At the latter date, the earliest authentic records show that the Society was in occupation, bearing the corporate name of "Societas de Lincoln" with a well established constitution. Thomas de Lincoln the King's Sergeant having, it seems been forgotten (Fortescue Governor of the Inn in 1425 - 29 does not mention him) the name was accounted for by a wholly imaginary connection of the Society with Henry de Lacy, Earl of Lincoln. For further details on the subject see Holdsworth. Hist. of Eng. Law 4th Ed Methuen 1936. Vii. pps. 499 - 500. In the Inquest referred to the Thomas de Lincoln housed chancery students and was himself described, as Pleader, narrator - barrister; the requisite qualifications for a future King's sergeant. On acquiring a sergeant's degree he would have had to leave his inn or the premises of the Society, which may well account for the transfer to the Bishop of Chichester's Inn. It is highly improbable that

e.g. Sir Roger de Mortimer died his rightful death in the Tower, where he and his nephew (who escaped), who were friends of the Queen Isabella, were confirmed there by the King's Order in 1322 ¹; or the investigation into the death of John Gremet, groom of the kitchens of Dame Phillipa, Queen of England, on the 24th August 1339 ².

The Coroners themselves were usually knights but in the Inquisitions and at the heading of the Rolls only their names are recorded. Most witnesses were designated by their occupations and a man of means would be termed a "gentleman".

From these brief data it is not difficult to visualise the teeming busy life of the City of London, the hub of England, with its collegiate life of young men residing there in the houses of their masters, to learn their law and stand in the Crib at Westminster writing their Year Books; and the rivalries between the different grades of

there were two Thomas de Lincolns who were sergeants; particularly when one bears in mind that in those times, surnames often designated a person's place of origin. This inquest could well be the earliest record of evidence of how Lincoln's Inn came by its name, who the founder of its Society was and explains its connections with the two Inns of Chancery. (Furnival and Chichester Inns).

1. CCR. E. C.40 p. 167. in Chron. Edw. I and II (Rolls Series) Vi p. 312 Vii p. 264.
2. ib. H. C.37 p.264.

students, which, as has been stated, resulted sometimes in tragedy, often terrifying the general public, but no doubt stemming in good faith, from the upholding of professional or political affiliations on the part of youthful enthusiasm; symptoms manifest indeed today in some of our Universities. Neither is it difficult to understand how the artisans and traders who, with common interests and privileges such as the Fishmongers, Goldsmiths, Saddlers, Skinners etc., banded together to form the Guilds or Societies, still existing today, in that commercial City.

Before leaving the crime component of the PCUR one type of crime needs to be mentioned and that is Rape. It appears to have been remarkably rare at least where the Inquisitions were concerned, probably because Rape seldom resulted in death and would warrant a viewing of the wounds and recording of facts by the Coroner for the purpose of an appeal. And Appeals because of their cumbersome legal procedure were often not proceeded with. Three Inquisitions in which the element of this felony is present can, in passing, be considered, mainly because of the legal reasoning each involves.

1. The death of Christine le Mestre whose body was found in the Churchyard of St. Mary de Walcherche house - the jurors say she had refused the advances of William of Carsholton and was stabbed by him under the right shoulder - at the subsequent Gaol Delivery the felon put himself on a jury, was condemned and hanged¹. This is not really an inquest on Rape, it might have been attempted rape but it eventually became a straight forward indictment for felonious killing.

II. The second inquest is a stange case and concerns a certain Johanna de Cherringe who lay drowned between the Tower of London and the Hospital of St. Katherine in the Parish of St. Botolph on a certain Saturday the eve of the Nativity (25th December 1300). The Jurors say that on the preceding Friday the said Johanna was being pursued by Lawrence, the King's Poulterer, who compelled her to drown herself. Being asked the reason the said Lawrence had so acted they say they know not; Lawrence was taken to Newgate. On view of the corpse there was no wound or hurt, so at the next Delivery, Wednesday after the Feast of St. Hilary, 18th January 1301 Lawrence was acquitted. The information in

1. CCR. A. c. 7. p.5.

three days she was delivered of a dead male child ¹.

The indictment contains two counts, the one of Rape and the premature delivery of a dead male child, it would seem that the latter charge is the more serious, because, as has already been stated, Rape was usually prosecuted by appeal and the Coroner had to have more details of proof than the above record states ². The fact that the birth of a dead child (in those pre - ante-natal care days when still births cannot have been uncommon) was mentioned could mean that it was considered as circumstantial evidence of Rape, and that injury to an unborn child resulting in its subsequent death in utero was a crime. It is difficult to assess the nature of the indictment because there is no record of the Trial. This inquiry compares favourably with another heard at a very much later date in the Coroner's History which in principle is analogous and it may not be out of place to include it here for comparison.

On August 26th 1899 an Inquest was held on a female child aged 9 days who had died according to the findings of the Jury as a result of injuries received before birth

1. SS. v.9. p.114

2. See Hist. ante p. and Hunisett. The Mediaeval Coroner. p.57.

this particular inquest is too scanty to interpret the root cause of Johanna drowning herself it might have been a case of attempted rape or maybe a private vendetta. The fact, however, that this inquest does portray is the great awareness of the movements and personal matters each had of one another in this close knit mediaeval society, which made the presentation Jury such a potent means of securing the indictment of felons or suspected felons; it also shows how guided the Justices were by the recordings of the inquest as to whether or not there were signs of violence to the body, in passing their judgement ¹.

III. The third Inquest is again unusual in the sense that it opens up quite a field of legal speculation; it is an entry in the Roll of William of Frothingham, Bailiff of the Liberty of Holderness concerning those of the Sheriff's Tourn in the thirty five year of King Edward the Third (September 29th 1361 - June 24th 1362) ².

The record reads as such :-

By the oath of twelve Jurors it is said that William of Wainfleet, a tinker, raped Ada, wife of John Milner at Hollyn, and violated her against her will, so that within

1. ib. A. C.13. p.7.

2. William of Frothingham was Coroner and Bailiff of the Wapentake of Holderness which was held at fee farm to one of the descendants of Edmund Crouchback SS. V.9. p. 116 vi.

following an assault made by the father on the mother. The Jury on the instructions of the Coroner returned a verdict of manslaughter by the father, James Dugan. At the subsequent trial the prisoner was found "guilty of having feloniously killed and slain an unknown female" and was sentenced to eighteen months hard labour¹. In the comparison of these two Inquests one becomes very aware of the little changed legal reasoning in the domain of domestic issues and the slow growth of forensic medicine in four centuries. In both cases it seems equally dangerous to come to the conclusion that the raping of a pregnant woman can cause the premature birth three days later of a dead child any more than the death of a child 9 days after birth can be due to an assault on the mother three weeks prior to delivery; both cases are medically unsound and most certainly would not be able to be substantiated in our Courts today without the strictest forensic evidence.

The type of crime is but the harsher reality of the mind of the times. The Inquests do also present us with the lighter side of communal living.

The commercial side of the City and its trade connections with the Continent is discernible. For

1. Coroner's Society Reports 1899 - 1903 private publications p. 132-35 and for reports on Inquest and Trial - Leicester Daily Post Nov. 18 1899 R. v. Dugan.

example, in the Inquest held on John le Brewere found dead on the River side of the Fleet - we learn from the Jurors that he had entered the river at low tide bent on escaping from two Florentine merchants, John Bercard and Alexander Gydetti, whom he had robbed two days previously and who were searching the streets for him; but he was swept away and drowned by the rising tide. On the body was found 160 florins worth 4/- and John Bercard's seal ¹. This particular inquest was the subject of a Writ of Certiorari to the Sheriff of London and the Coroner bidding then return the money and seal to the merchants of which they had been robbed. The Writ was witnessed by Edward, Duke of Cornwall, the King's son, Warden of England, at Kensington, the King himself being in Flanders (45 Nov. 12 Ed. III 1338) ².

These two documents certainly corroborate points of history. They confirm the presence of foreign merchants in the City and the safeguarding of their interests by the Crown; which on occasion had borrowed from these merchants to further its wars on the Continent and against Scotland (The Bardi were a company of Florentine merchants who had aided the Crown of England well - Edward the Second is said to have borrowed excessive loans from

1. CCR. G. c.4. p.204

2. *ibid* p. 205.

them rendering them bankrupt and causing great distress in Florence) - it seems that they carried out their business in one big establishment - one inquest mentions as a venue for the finding of a body "outside the gates of the Merchants of Bardi" ¹. Another inquest records membership of the Society of Scala, also Italian merchants who, like the Bardi and the Peruzzi, dealt largely with Edward II ². One also notes in the Writ attached to the first inquest the absence of the King in Flanders probably hoping to enlist the support of the Court of Flanders in his claim to the Crown of France. But not only the Italian merchants come through to us in the Inquisitions - more than one Dutch or foreign sailor finds his death in the Thames trying to regain his ship late at night with too much alcohol in him to ensure safe boarding ³.

The occasional Frenchman also makes his appearance such as John de Chartress (Seine et Oise) was killed by a couple, William de Wodeford and his wife Johanna, when as their accomplice he had a change of heart in helping them to rob the home of a certain Master de Luca ⁴.

If these few Inquests give only a brief glimpse of foreign commercial alliances in the City, the majority

1. ibid p.105.

2. CCR. D. c.2. Sept. 1324 p. 95 n.1.

3. ib I cl, c2, c4 pp. 272 - 276

4. ib. C c.4 28 October 1323 p. 73 n 1.

of Inquests amply indicate the monetary value of the times. The appraisals of deodands and chattels are very enlightening on that score; we have for instance a bucket valued at 6d.¹ a stair at 6d.² in the case of Walter Faversham's death, knifed in the heart by a certain John de Caustone who took sanctuary in St. Andrew's upon Cornhill following the killing, the appraisal of his chattels gives the impression of his having been a man of some substance; they were four geese worth 12d., a little pig worth 12d., wood 12d., a cock and hen 4d., 100 flasks of beer 5/-, a box of dice 6d., a quarter of brewing barley 4/- (quite a drinking and gaming man)³. Sometimes the reckoning is practical as in a case previously mentioned⁴ when it was necessary to value a cart and 3 horses which, by misadventure, killed a woman in the street. The cart was valued at 6/8d., the brown horse at 10/-, the black horse at 6/- while the white horse, which was blind, fetched only 4/-,. In another case of accidental death by a fall from a pear tree, the tree was valued at 5/-.

To the modern mind this seems to be crude, and parsimonious accounting, but if one realises that the

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1. ib. D. c.7 p.101
 2. ib. C. c.23 p.93
 3. ib. D. c.15 pp. 108 - 109
 4. ante Chap. I. p.8.

penny coin in those days was silver and a halfpenny was made by cutting the penny in half ¹ and that the wages of a labourer was 2d. a day, it is not difficult to accept John de Caustone as comfortably off, not of the considerable means, of Sir Baroncin, a wealthy merchant from whom a sanctuary seeker had stolen sixteen silver dishes, or, indeed, as was Sir John de Everdone, Dean of St. Pauls, whose benefices were not inconsiderable, as disclosed at the Inquest on his servant, Robert Palfreyman, accidentally shot by an arrow while he was guarding his Master's crops in the fields of Stepney ². The fields of Stepney comprised the most expensive of all the manors appertaining to the Bishopric of London; seven different modern parishes ³.

Wealth and Poverty lived fairly amicably side by side - the concept of equality had as yet not occurred to the mediaeval mind - the risings and riots of the Peasants' Revolt to come were not the clamourings of an awakening social conscience but sheer necessity for existence.

The Civic Authorities did little for its beggars, some of whom, by name, have come down to posterity in the

1. Times 6th Oct. 1972.

2. CCR. D. c.42 p.128.

3. Loftie's Hist. of London ii.8 148 - 9.

Inquests and a few were heartbreakingly young, e.g. John le Stolere aged seven years who was run over ¹ was described as a pauper and mendicant at the Inquest, as was John de Kent aged twelve, who standing alone by the Thames fell in and drowned².

The rural districts seem to have had their quota of beggars. In the Hundred of Guilsborough, Northamptonshire, a certain poor beggar woman was found dead by the wife of the owner of a house in whose yard she had sought shelter with another beggar who cut her throat ³. The curious thing about this particular Inquest is that the owner of the house, Michael Darling of Buckley, who had sanctioned their sheltering in his yard, had to find pledges for having given them shelter.

In another case, also in Northamptonshire, two beggar men were sheltered for the sake of charity in the house of a certain Robert Prentice; during the night one wounded the other and robbed him of his clothes and fled. Although the Jurors exonerated Robert of the crime, the Coroner nevertheless ordered his mainprise by four pledges ⁴. So it seemed rather precarious to house vagrants and their welfare was the responsibility of the

1. CCR. G. c.28 pp. 219 - 220

2. ib. c.26 F. p. 194 and ib. F. c.3 p.174

3. SS. v.9. p.74

4. ib. p. 77.

Monasteries, whose facilities and supervision would be easier. This probably stemmed from the tithing rule that the Lord of the manor was responsible for all his servants and his guests; so that on occasion, the Coroner could attach the Lord or even the whole household, if a death had occurred therein or if fatal wounds had been given which led to a death elsewhere ¹.

But that there was a real cross section of acute poverty is probably best illustrated by the Inquest on the mass fatality of many poor people crushed at Blackfriars in the ward of Farndone - The Jurors do say that when at day break on 13th July 16 Edw. II 1322 a great multitude of poor people were assembled at the gate of the Friar Preachers seeking alms - Robert Fynel, Simon Robert and William his sons and 22 other persons names unknown and Matilda daughter of Robert le Carpentier, Beatrice Cole, Johanna le Peynture, Alice la Notice and 22 other unknown women were fatally crushed.

The occasion of this disaster was the distribution of alms for prayers for the soul of Henry Fingrie a wealthy fishmonger under his Will². Mass disasters however seem to have been no existent ³ this appears to

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1. Memorials of London and London Life in the XIIIth, XIVth and XVth Centuries pp. 7 - 11 and Med. Cor. p.23.
 2. ib, C. c.35 p.61.
 3. Except in the case of War, Famine or plague.

be the only recorded case of the times.

The human problems and by this is meant the mode of life, the customs and manners, the frailties of people and types of employment, not to mention the different social strata of the community are very much revealed in the Inquisitions. Many other documents, such as the Year Books, the few extant Hospital Records and the Accounts of the Chroniclers and Historians, give wider and fuller specific information than do the Inquests, but the latter have the advantage in that they deal with simple ordinary individuals whose trials and tribulations arising out of untimely death, shrink the span of centuries and it is as if one were brought into contact with recently living people, more forcibly so, when one reflects that as records, the inquisitions were not written for posterity. The H component is the most poignant and the least changing of this equation applicable to all forms of societies.

For example, we find the busker of today in the wandering minstrel, Thomas Somers, referred to as such in his indictment for killing Thomas de Laine, a pelleter (furrier) when the latter objected to his playing his music outside his house ¹ and the equally familiar picture

1. CCR. C. c.17 p.85.

of the cheerful Costermonger selling his apples on the barrow, crying "Costard Apples for Sale" is classically described by the Jurors at an Inquest on Copin le Kyng, who died as a result of an altercation with a certain Thomas Brewers, when attempting to prevent his purloining five apples ¹.

Inquests are of necessity, records of personal tragedies but no tragedy is devoid, on occasion, of a glimpse of the ludicrous and sometimes the motives and trivialities which cause unnecessary death appear absurd.

One must smile compassionately at the account of poor William le Hancrede's death; when on coming home in a very drunken state after a banquet being held in the City to the house of William le Cuver, where he had hired a bed, imprudently left the lighted candle by the bedside, which igniting the straw of the bed set fire to him ² - it could have occurred in 1972. Many such inquests into similar manner and cause of death are held at the present day, the offending agent usually being a cigarette or an electric lamp or fire. Even more absurd is the manner in which John Toly met his death on the 12th January 1325. The Jurors say on oath that when on the said Tuesday at midnight John rose naked from his bed and

1. A. c.14. p.14

2. This occurred in 1272 Riley Memos. p.8.

standing at a window to relieve himself towards the High Street, he accidentally fell headlong on to the pavement crushing his head and other members and died at cockcrow ¹ (midnight to dawn spanning about 6 hours in January) therefore, he must have been able to give an account of what occurred. Could any death be more ludicrous than that of Richard le Rakieve who was found dead in a latrine in a rent held of the Prioress of Haliwell in Little St. Bartholomew. The Jurors say that while seated on the latrine on Thursday before the Feast of St. Lawrence, the 10th August 1322, the planks being rotten gave way, Richard fell in and was drowned. Planks appraised at 6d ². (one can only reconstruct the type of latrines in one's imagination and this particular one must have been constructed over a cesspool such as the Foss; to enable a man to meet his death in such an undignified manner and certainly betokened a lack of hygienic concern. Some habits leave more than a little to be desired and alcohol certainly activated them - i.e. William Bonefaint's death occurred, the Jurors came to the conclusion, because while in a drunken state he stood at the top of the stairs to relieve nature slipped and

1. CCR. E. c.13 p.142.

2. CCR. E. c.41 pp. 167 - 168.

broke his neck ¹. The Streets of London may have been paved with gold in the commercial sense - but these anti social customs described above, plus the fact that most locomotion was by horse or horse and cart - filled the streets with filth and manure contributing not a little to the rat infestation and consequent epidemics which on and off ravaged the population - And the garbage along the river banks and in Thames Street was such "that no well dressed person could pass from his boat into Thames Street" ².

The objective pity evoked for any mother who loses her child is just as possible on reading some of the ancient Inquests and no different as that experienced when scanning similar accounts in our daily news papers today.

The case of Roger Mazon aged eight, who on Friday 22nd July 1301 on the way to school after dinner - hung in play from a beam sticking out of the side of London Bridge - unable to hold his grasp he fell into the water and was drowned; there were many onlookers ³. We learn from this that there were schools and children are children the world over - Again as in the case of

1. CCR. F. c.27 p.195

2. Lofti's Hist. of London Vi. p.188.

3. CCR. E. p.25 c. 26.

John Atte Noke, who in trying to retrieve his ball from a gutter fell out of the window to his death ¹.

Inquests on babies were rare occurrences in those days although the number of still births or cot deaths must have been high. Occasionally one comes across one, like that of day old Dyonisia daughter of John Snow found dead in her cot ². This latter type of death which has as yet not found its niche in medico legal investigation is still baffling the doctors, crimiologists and lawyers and is discussed at length in Chap. 4 (post

The reason for this unusual inquest is a mystery and was probably provoked by neighbours malicious gossip. The conclusion of the Jury was that there had been no felony - but no other information is recorded.

The impunity with which the Jurors at an Inquisition informed on the personal relationships of either the felon or the deceased, denotes how much everyone was aware of the other person's business and how little human frailties have changed - For instance we are informed that Edmund de Breckles a chaplain while sleeping with his Concubine Juliana was stabbed to death by her lover John de Maltone aided and abetted by the said Juliana. Both took

1. ib. F. c.20 p.186.

2. ib. G. c.3 p.222

sanctuary and abjured the realm; the Coroner and Sheriffs thoughtfully allowed them to choose their ports of abjuration, both chose Dover ¹. And the case of Lan de Halford also a chaplain who, according to the Jurors shared Alice of York's favours with Walter de Anne, killed Walter one night when he found him and Alice together in a hired room. Alice heartlessly fled Alan, Walter lived long enough to have his ecclesiastical rites and tell the tale. In this case the Jurors contented themselves with appraising Alan's goods - The Coroner gave no precept for his arrest to the Sheriff - Probably because he would be able to plead benefit of Clergy at his trial it was not worth the trouble of Indicting him ².

The brutal murder of Lucy Fauks for the theft of the fine clothes she was wearing by a couple she was often wont to visit is a classical example of greed ³.

Conjugal hate is not lacking in a proportion of Inquests on murdered wives - Perhaps one of the most gruesome is that held on Alice, wife of John who blamed her for the fire caused in their home by the fall of a lighted candle left burning in their shop. They hurriedly left the premises when he violently pushed her back into

1. ib. C. c.19 p.89

2. ib. E. c.17 p.148 and see n3 on p xxii

3. ib. B. c.49 p.68

the fire and she died of her burns a few days later ¹.

There are many and other Inquests in which the H factor is the causal agent of felonious and accidental deaths, but no other illustrations need be given.

Another aspect revealed in the Inquests are the trades and skills practiced by the urban and rural population many of which no longer exist, to name a few we read of "Tyghlere" Tiler ², "Gaunter" Glover ³, "Huncel makers" maker of weighing machines ⁴, "Cissorbursam" purse cutter ⁵, "Taborer" maker of small drums or tabours ⁶, "Hamaper" Basket maker ⁷, "Groom of the mystery of Lormerie", Manufactor of iron works for horse trappings and harness ⁸, "Mundatoris Cloacarum" Cleaner of Latrines and sewers ⁹, "Saltstonere", a maker of pans for evaporating salt, "Cardemakere" - card maker who used a toothed instrument for carding wool ¹⁰, Palfreyman, skimmers furriers, fishmongers and gold and silver smiths have already been commented on.

In rural areas occupations are mainly labouring, herding and farming ¹¹ - occasionally one comes across certain skills and as cobbler ¹² (sonter) poulterer ¹³ or webster ¹⁴. We learn that in London the fields of

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1. ib. C. c.43 p.170 -1.
 2. ib. p.165
 3. ib. p.166
 4. ib. p.175
 5. ib. p.182
 6. Riley Memos. cc R. p.208
 7. ib. p.210
 8. CCR. C. c.10. p.209
 9. ib. C. p.221
 10. ib. p.260
 11. SS v.9. p.94
 12. SS v.9. p.92
 13. SS v.9. p.92
 14. SS v.9. p.92

Tyburn were used for archery practise much to the sorrow of Walter de Lychefield who was passing by and was accidentally shot by an arrow from unknown sportsman ¹.

In Oxfordshire we find that students are often referred to as clerks and live in "Hostels", that there is a street called "School Street" where there is more than one school which they attend ².

In the record of an Inquest on a student who died as a result of a fight with one of his colleagues, we find that the University had a Chancellor at the head of a governing body called a "Commissary" which had quite powerful disciplinary powers; even to the extent of sentencing to prison for disturbances ³.

The Religious Influence or the R Component of the PCHR factor with its effects adverse or beneficial, its political abuses and long term consequences on the development of the Corpus of any community, has been the basis and the subject of much literature and would warrant a study of its own; it will therefore be mentioned only briefly for the purpose of a concise overall appreciation of the English Inquisition.

1. CCR. G. c.17 p.213

2. SS. v.9. p.88 and p.90.

3. ib. p. 89.

England in the first period under survey was at the time a theocratic society; Beckett's murder had strengthened the Benefit of Clergy rule and in 1401 Heresy had been made a Capital Offence,¹ (although the motivating element for this statute was not of the most ennobling or christian). The geographical boundaries of "Heaven and Hell" were defined as indeed was the personality of God; the hand of the Bishop of Rome lay heavily on the Christian world and particularly on the purse and the people of England.

Religious Rules and Regulations were deeply embedded in the matter of Society, despite private opinion or personal conviction men and the Common Law were subservient to the Church². In no other documents of a secular nature is this force so vividly evident as in the Inquisitions.

Time is geared by the Canonical hours of the Breviary and the days enumerated by the calender of the Saints; so that the Recordings of the Inquisitions have a characteristic pattern.

For example :-

Henry de Flegge died at the hour of "PRIME" (7a.m.) and the Inquest is held on "Monday next before the

1. Stat. De Haeretico Comburendo 3. Hen. IV 1401

2. Anyone convicted of heresy could be put to death by burning and many a lollard did so suffer. and see post p.135.

Annunciation of the Blessed Virgin Mary" ¹. Thieves came to the house about the hour of VESPERS ². It happened in the vill of Renhold on Easter day in the fifty second year of Henry III's reign about the hour of "TERCE" (9.a.m.) that a child fell into a well while its parents were at Church ³. It happened in the parish of Ravensdon on the feast of St. Faith the virgin about the hour of "NONE" (8.p.m.) that an eighteen month infant fell into a ditch and was drowned ⁴.

Sanctuary was a right strong enough to defy the law and subject of a jealous guardianship. The chronicler tells us how in 1334 by order of Reginald de Conduit the then Mayor of London, the dragging of a criminal out of sanctuary was ordered. Thereupon the Archbishop of Canterbury hastened to London and cited the Mayor before him in St. Paul's to explain this grave offence committed against the Church. The Mayor had humbly to submit to the Head of the Church who not only imposed a penance on him and his officers but insisted on his publicly restoring the prisoner to the Sanctuary of the Church from which he had been taken ⁵.

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1. Riley Memos. p.3. c.2.
 2. Sunset SS. v.9. p.8.
 3. ib. p.11.
 4. ib. p.16, p.24.
 5. CCR xix and xx. ni. Chron Edw. I and II 1. 363 -4
 6. The Canonical hours are eight in number.
 - i. The night office, Matins (divided into three nocturns)
 - ii. Seven day offices.
 - a, Lauds Prime 7.a.m.
 - b, Terce 3rd hour 9.a.m.
 - c, Sext 6th hour noon.
 - d, Nones 9th hour 3.p.m.
 - e, Vespers at Sunset
 - f, Compline before retiring to rest
- (cf. Encyclopedia Britannica). 9th Ed.

Some of the Inquisitions give full details of how the felons took sanctuary and were watched by the men of the wards¹. The forty days allowed with food and drink in sanctuary, in itself is symbolically religious epitomising Christ's forty days in the desert before taking up his ministry; and in the colourful ceremony of abjuration often recorded after an Inquest² the symbolic cross of suffering is carried by the outlaw as he steps out bare footed and without a cloak on his journey to leave the Realm³.

Even confessions are not so much pleas of guilty as the hybrid of a religious sacrament carrying the inviolability of truth; one Inquest records how a Coroner took the confession of a certain George de Cloon in the Sanctuary of St. Peter de Wodeshall that he had feloniously killed a tailor John de Laundele; the next day a Monday on the feast of St. Dunstan 19th May 1325 - the Coroner being in possession of the full facts of the felony held his Inquest and indicted the felon, the deceased having had his ecclesiastical rites, as has already been stated, it was not necessary for the Coroner to view the body,

1. Riley Memos p.18

2. CCR. C. c.16 p.84. ib. D. c.17 p.111.

3. (e la porte faunt cum il est en la protection de l'eglise) C.f. Stat. of the Realm, i. 59.

nor necessary for the finder of the body to be attached, the reason no doubt being that the deceased had lived long enough to state who the culprits were and it would be inconceivable that a dying man should meet his maker with a lie on his lips.

A great respect was accorded to the Cloth by the Law as we read in the Inquisition held in prison on Richard de Salop confirmed on his denunciation of the Bishop of London ¹. But a little dichotomy between the two professions was on occasion not amiss - Every Serjeant had his own pillar in St. Paul's Cathedral which served him as office and consulting rooms ². The balance was however eventually to be upset and the English Inquisition to follow its own path.

1. CCR. E. c.7 p.137

2. Concise History of the Common Law Plucknett p.223.

CHAPTER 11

The period from 1485 - 1603

PART 1 - The Adaptability of the Institution

By contrast with the first period in the history of the Coroner's Inquiry, certain differences are noted in the second period indicating the first major adaptation of the Institution to contemporary society. A study of the Nottinghamshire Inquests between 1485 - 1558 which can be assumed to be typical of the proceedings of this Court throughout the Country at this time, will illustrate the point. These differences do not lie in a changed procedure but in a changed attitude to, and in the recording, of the verdict. This was the result of two factors;

- i. The Acts of 1487 and 1500 concerning Coroner's Inquests, and
 - ii. A more reasoned and less intransigent approach in judicial thinking to the felony of homicide.
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The Statute of 1487¹ allowed the Coroner a fee of 13/4d. for holding Inquests only in the cases of the "body slain" and further required the delivery of records to the Justices at the subsequent Gaol Delivery in the County. In cases by default (the culprit usually having fled or taken sanctuary) they were to be delivered into the King's Bench. This resulted in a more selective type of Inquest predominating. Of the 34 Nottinghamshire Inquests returned into the King's Bench in the 25 years of Henry VII's reign, only 9 are non-indictable deaths². But the Act was slow to take effect and before 1500 only 4 Inquests from this area were returned into the King's Bench³ and the first, which has a quasi-political flavour and will be commented upon later, was so, only when called in a special Writ on the 6th June, 1488. As a result of this leisurely implementation of the Statute a Writ was then issued on the 10th May, 1509 to the Midland Circuit Gaol Delivery Justices ordering them to produce in the King's Bench all Coroner's Inquests held in the reign of Henry VII which they had in their possession - this gave rise to another piece of legislation, the Act of 1510⁴ which emphasised that Coroners must hold inquests

1. (3 Hen. VII c.2)

2. (Thornton Soc. Records Series Vol. XXV p. xviii)

3. (ibid xvii)

4. (1. Hen. VIII c.7)

into deaths by misadventure as well as in those cases for which they were entitled to be paid, and since there seemed to have been a good deal of negligence in that direction, the Justices of Gaol Delivery, Assize and of the Peace, were given authority to try and punish them for any default. The Act also provided a fine of 40/- if the Coroner failed on request to view the body of any person slain, drowned or otherwise dead by misadventure because "great inconvenience doth daily grow to the King's subjects, for as much as often times the person that is so by misadventure slain, lieth long above the ground unburied, to the great noyance of the King's liege people" ¹. More often than not the community would not bury a suspect body without its being viewed by the Coroner for fear of amercement. So one got on occasion a highly unpleasant situation as in the following case. In Sussex a woman lay drowned in the Cuckmere for nine weeks and three days before the Coroner took his inquest and then he had to be bribed ². The health hazards and unpleasantness of stinking corpses were such that the above legislation became necessary.

Nevertheless although unperceived at the time, these

1. Stat. at Large, i. 108

2. op cit. Hunisett. The Mediaeval Coroner p.120

Acts were destined to be the blueprint of an established and specialised Institution which is still with us in the Twentieth Century. So that the first observation, law-wise, in the study of the Institution's adaptability, is that it is no longer just a governmental instrument of central administration for enforcing law and order and a fiscal agency for the Crown. It is becoming a quasi-criminal tribunal, with a vested interest in the rights of the individual, and a greater selectiveness in its Inquisitions. But its adaptability to the needs of the community could not be achieved by the Statutes alone; a greater flexibility of judicial thinking was indispensable and with an increasing sense of communal responsibility towards the administration of justice; this was occurring; from it was to emerge the classification of Homicides.

PART II - The Legislation stemming

Hitherto the concept of self-defence, provocation or misadventure, as defences to a charge of homicide could not be considered by the Courts. These ingredients of unintentional unlawful killings had presented themselves to the minds of Thirteenth Century lawyers. Indeed,

Bracton in his famous treatise, writes the following ¹.

"The crime of homicide, be it either careless or voluntary, does not permit of suffering the same penalty - because in the one case the full penalty should be exacted and in the others there should be mercy." But this was advance thinking for the Age and such pleas were not used as defences but as circumstances entitling the accused to a Royal Pardon. The situation, however, was to change with the Coroner's Inquest becoming the Acting Grand Jury of the times.

Of the 334 Nottingham Inquests in the Calendar there are :-

92 Killings

146 Misadventures

39 Suicides

20 Natural Deaths

25 Prison Deaths.

The 92 killings are not all outright murders - 20 have mitigating circumstances included in the Indictment.

One of the most popular requisites being the necessity to flee from one's assailant to a place of no retreat, before killing him to save one's own life - As the Coroner

1. Item Crimen homicidii, sive sit casuale sive voluntarum licet eandem poenam non contineat, quia in nuo casu vigor et in alio misericordia" (cited pge 349 Potter H. Intr. to Hist. of English Law).

was not empowered until 1554 to put into writing evidence of material witnesses, one must conclude that the Jurors spoke of their own knowledge of the parties and the hearsay of the community, for one assumes that there would rarely be eye witnesses to this ingenious legal fiction.

The three following Inquests are very good examples of the drafting of such indictments :-

1. On July 26th 1502 Thomas Trowle late of Rampton "Yoman" assaulted Richard Holmes of Rampton and beat and wounded and ill-treated him so that his life was despaired of, in order to save his life Richard fled from him to a wall and with a staff worth a 1d., which he held in one hand (this also seemed an important part of self - defence) gave Thomas a wound on the front part of the head (serebrum) 2 inches deep and 2 inches long - so that Richard feloniously slew Thomas in self - defence - He was acquitted by the Justices of the Peace on 17th July 1503 having pleaded 'not guilty' - the record of these proceedings was sent into the King's Bench in Michaelmas Term
-

1506 on a Writ to the Justices of the peace - Richard appeared in the King's Bench and went *sini die* in respect of the Inquest because of the above acquittal ¹.

II. On the 20th November, 1504 - Richard Harrison was feloniously slain by Henry Durant in self - defence - who on this occasion fled to a River Bank, beyond which he could not go. Here too the accused was acquitted by the Justices of the Peace and his case on indictment went *sini die* in the King's Bench because of the said acquittal ² (It is worth remembering here that Justices of the Peace from 1344 onwards were associated with lawyers in a commission of *oyer and terminer* for the trial and punishment of felonies and also that it was customary to make Judges of Assize - Justices of the Peace in the counties which they visited, for the sake of convenience).

III. Hugh Warde, however, was not so fortunate when he slew, with his back to a hedge beyond

1. T.S.R.S. pge 6

2. *ibid* p. 10.

which he could not escape, Thomas Goode, who had furiously pursued him with felonious intent - The Inquest was delivered to the Justices in Gaol Delivery on 17th February, 1506 - Hugh was outlawed in the County on 1st November, 1507 both on this indictment and an appeal of homicide brought against him by Alice, Thomas' widow.

This indicates that not on all occasions were the Justices prepared to accept the pleas of self - defence put forward by the Coroner's Jurors. Nevertheless, self - defence and/or provocation were now a consideration in homicide trials and from this process the principle of Mens Rea was to take shape.

The marked difference in judicial dealing with the crime of homicide in the two stages of inquistorial development is very much revealed by a brief comparison with a few of the Inquests in the earlier times.

Note the fate of John of Goldington, who during a quarrel with William Read over some sheep, gave him a wound 4 inches long on the forehead from which he recovered and peace was made between them; later William had the ague and died. His wife raised the hue out of

spite and Simon Read, a Bedfordshire Coroner, took an Inquest with the four neighbouring Townships, all of whom stated that William died not of the said wound but of the said illness. It was ordered, however, that John of Goldington be attached. The date was September 6th, 1267¹. Two centuries later the verdict in such a case would probably have been natural causes. Today with the liberal use of antibiotics the man probably would have survived - had he, however, succumbed, it is more likely that the cause of death would have been septicaemia and the verdict misadventure.

Again, at an Inquest before P. Loring, which was presented at the County Court of Bedford on August 3rd 1276, it was recorded that Walter of Willingale in cutting down a tree, it fell on a girl killing her, he carried her body into the woods, not raising the hue, the Hundred was ordered to arrest Walter, who at once fled².

In Cambridgeshire a certain Ralph Bulteel, a servant, seeing his master's life threatened by one, John Harper, came to his aid by driving his staff into Harper's back to make him rise from off his master who, having been assaulted, was lying in a vulnerable position on the

1. S.S. Vol. p. p.8.

2. ibid p.38 he also had committed the offence of not raising the hue and cry.

ground - Harper died of the wound and Ralph was ordered to be arrested - March 19th 1338 ¹.

Contrast this Inquest held in September 1314 in Barnack, Northamptonshire "It happened at Barnack on Friday They (the Jurors) say John was beating his wife, Emma, and she raised the hue. Her brother came and with her assent, mortally wounded John with an axe, which was worth a penny. Emma and John were arrested and placed in charge of the Bailiffs of the Abbot of Peterborough" ².

These three cases which show the elements of unintentional, accidental and provoked killings respectively, would be grouped for legal purposes under the term Homicide and the felon would, in the circumstances, prefer to flee or take sanctuary with a consequent abjuration rather than risk custody in an insanitary prison with only the faint hope of the prerogative of mercy being exercised. It is interesting to note how the Jurors, in whom an unconscious recognition of the element of intention in homicide seems to be taking shape, on occasion for want of other mitigating circumstances, attempt to attribute unlawful death to disease. eg. The inquest held on Thomas Brodie, 31st August, 1549 in Basford before Richard Odinzelles and

1. ibid p.44

2. S.S. V.9. p.70.

John Raworthe, the County Coroners; Thomas, attempting to intervene in a quarrel between John Berker and Hugh Ravell, was so weak with "an agewé" and being over 60 years of age, that he fell to the ground without any blow or force from anyone and languished there on the cold ground from 8 a.m. to 2 p.m. the same day; when he went from there with the aid of his neighbours to Basford and likewise languished there until 11 p.m. the same day when he came to his death naturally and not otherwise. This Inquest was subsequently delivered into the King's Bench as a misadventure ¹.

One views with a certain amount of scepticism this account of the heroism of an old man, sick and weak with ague, intervening in a quarrel, being left unattended on the battle ground to die of cold and disease for six hours; particularly when it is stated that he was accompanied on his mission by one, William Dawson alias Jelicote, a companion who seems to have shown an extraordinary indifference to the deceased in his plight. However, the neighbours who helped Thomas to his home, where he subsequently died, no doubt testified as Jurors to the authenticity of the story. The fact that this so called quarrel between John and Hugh is referred to as making

1. TSRS. p.136. 284.

"an affray" gives one food for thought as to the real issue behind the facts, which a verdict of homicide without malice aforethought might have revealed, perhaps to the embarrassment of the County.

Malice aforethought as an ingredient of wilful homicide was introduced by Statute into the legal repertoire in 1532¹, and as a phrase in the indictment was an offshoot of the then necessary inclusion "felonious killing" to describe murder in the earlier inquests. The finding by the juror of illness as a cause of death, could be construed as a form of primitive differentiation between unintentional and intentional killing; this found expression in the pleas of self-defence and accidental homicide in the era at present under consideration.

These verdicts were on occasion viewed with suspicion, as evidenced by an inquest (18th March 1275) concerning the death of Thomas Cook, the Jurors say that Ralph Otny struck Thomas; but this blow did not cause his death. Afterwards in full County Court a second Inquest was made before the Sheriff and the Coroner by twelve men; they say that Thomas died of the said blow;² or again as indicated by the following Writ issued by King Edward at the County Court held on September 20th 1314, to the

1. 2.3. Hen. VIII C.1. Journal of the House of Lords V.1. p.390.

2. T.S.R.S. p.33

Sheriff of Northampton and his Coroners of that County
in the following terms :-

"Since for certain causes we desire to be certified concerning the record and process of a certain inquest recently made by you regarding the death of Andrew Pease of Brockhall, who, so it is said died of a serious illness with which he had been afflicted, we order you to send us without delay the record and process of that inquest in distinct and clear form and under your seals, together with this writ.....
Witness etc.....".

This classification of homicide, based on the circumstantial evidence surrounding individual cases; which Professor Plucknett attributes, to the machinery of Pardons, could, however, not have been achieved scientifically without the Coroner's verdict. In the Country's legal system as it was then, a homicide (unless the felon were caught in the act or with the murder weapon) could not be dealt with without an Inquisition. In Gold -v- Brumpton ¹ a case of redress for false imprisonment

1. 1308/9 Edward II Y.P. series p.56.

for homicide - the Plea was "He was never indicted before the Coroner nor found guilty". If one remembers that at this stage the Law of Evidence as known to the modern lawyer was virtually non-existent - except perhaps in the realm of the Land - law where deeds and covenants could be produced at a trial of issues, and/or on occasion Trial by Witnesses could be awarded by the Judge ¹ when the "evidence" of the more numerous suit prevailed. But this was highly unusual. The differentiation of types of homicide in the Coroner's indictment afforded a valuable contribution not only to the later development of the Criminal Law and to the growth of the Law of Evidence, especially the principle of mens rea, it also in time was to become the foundation - stone of medical jurisprudence.

PART III - The Medico- Legal link

Justice being the most pressing need of society at this stage; in the province of medicine, the progress towards a twin community service was a slow and almost non-evident; but that the link existed and was shaping towards a definite pattern can be appreciated if the Inquests are examined in the light of present day

1. ibid p.111. 54 Anon.

knowledge; the medical conditions and any semblance of public health measures are most revealing; they differ little in their approach to that in the previous three centuries and can be dealt with briefly.

The diseases enumerated were the same and some of the old public health laws mentioned in Chapter I were still in force, only the hospitals are not mentioned in this period of Inquests; this was probably due to the dissolution of the monasteries - which were the chief repositories of centres for the sick and the needy - Medicine as a discipline was as yet in the hinterland and the obstacle to the value of an Inquisition contributing to its growth was the different concept of unnatural death by the mediaeval mind as compared to the modern outlook.

i. The modern definition of an unnatural death can be said to be a death prematurely brought about by the effect of an external agent or the ingestion of an alien one.

ii. The mediaeval idea of an unnatural death was one brought about by visible physical violence or by an unfortunate incident such as drowning, burning, struck by lightning, crushed by some object such as a tree,

cart or masonry etc. or being bitten by an animal (in fact all the classical misadventures of any age,) or murder. All other deaths were natural, caused by disease, age or the withdrawal of civil liberties by imprisonment.

No better example can be accorded to this theory than by an analysis of the seventeen Inquests on prison deaths in our calendar. In the earlier records deaths were simply termed natural ¹ - and little different from prison inquisitions of the Thirteenth and Fourteenth Centuries - but twenty five years later the Coroners are beginning to attribute prison deaths to "serious illnesses from which the prisoners were suffering" ², and a little later still it seems to have dawned on them that the serious illnesses these unfortunate captives were suffering from were due "to the squalor of the prison and not otherwise" ³ - Richard Odinzelles, one of the County Coroners for Nottingham, whose Inquests range from 1st August, 1537 -to- 25th May, 1554, seems to have been the first to record a more specific cause of prison deaths than his predecessors and we find that he even tried to differentiate between the prisoner who was already ill

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1. T.S.R.S. p.21 (Case of William Barton - 12th May, 1508)
 2. ibid pp. 59, 64, 77, 85.
 3. ibid p. 113.

when incarcerated and the one who becomes ill - eg.

Inquest 9th March 1545 in the King's County Gaol at Nottingham. On 20th October, 1544 Reynold Oddenbede a suspected felon died naturally of an illness with which he was troubled and

on 10th February 1545 - John Johnson, who was in the same prison for the same reason, died therein from an illness by reason of the squalor of the prison¹.

Again in an Inquest taken the same day at the same Gaol between 10th January to 28th February on three prisoners, two men and a woman, died, the two men were found to have died therein from an illness with which they were "gravely troubled" but the woman died from an illness by reason of the "squalor of the prison"².

Only a month later at a prison Inquest, John Raworthy, the contemporary County Coroner, recorded much more scientifically that William Millett died "naturally from an infection of the prison and not otherwise"³.

This soon came to be known as the "pryson syknesse"⁴ although how even this generalised diagnosis of the cause

1. ibid p.117

2. ibid p.118

3. ibid p.119

4. ibid p.152

of death could be achieved is difficult to understand because the bodies cannot always have been viewed. Prison Inquests were often held on prisoners collectively although the dates of their deaths were different. Odinzelles on one occasion held an Inquest on the deaths of seven prisoners, deceased at different times between 20th November 1545 to 28th February 1546 in Nottingham Gaol.

This Inquest which is stated to have been held on view of all seven bodies was delivered into the King's Bench ¹. The verdicts are questionable when one considers the lack of facilities for the preservation of bodies in those times - William Chylderman, the first of the prisoners to die on 20th November, 1545 must have been crawling with maggots and unidentifiable by the time he was viewed at the Inquest on the 2nd March, 1546 - Also unbelievable is the assumption that the Coroner with the same jurors would on seven separate occasions ride up to the Gaol, to view the body for the purpose of holding a collective Inquest six months later - bearing in mind that Juries were often difficult to summon and journeys were difficult. It is more likely that these deaths were not enquired into too diligently, the prisoner having lost his civilian

1. KB 29/179 n 8d T.S.R.S. vxxv p. 125

rights could be considered to have died a 'natural' death on his arrest - and very little concern was shown either by the Bench or the Public or the Gaolers for the hapless condition of these miserable persons, and hapless they were - one cannot but feel chilled when one reads the Inquest on Robert Waddynton in January 1534.

The poor man, who had been detained on suspicion of felony in Nottingham Gaol, was riding in a cart to Derby, there to be delivered by virtue of the King's Commission of Gaol Delivery, when he suddenly died at Bramcote from a serious illness from which he was then suffering. The apparent inhumanity which stemmed from a legal determination to put down crime can also be laid at the door of medical ignorance, and it is fair to suppose that only lip service was paid to the Edict in Britton's Chapter on Various Wrongs :-

"And if any one has died in prison and been buried without view of the Coroner let inquiry be made" ¹.

It is also significant that Inquests on deaths due to "Peine forte et dure" ² were rarely held. "Peine forte et dure" seems to have been regarded as a symptom

1. Britton Nichols Ed. p.881 Sec. 5

2. St. West. I c.12.

of natural prison death. But an Inquest was held on the prisoner who escaped from Canterbury Gaol, was recaptured, flogged and then died - the County Coroner and his Jury returned a verdict of death from natural causes. The City Coroner then held an independent Inquest and his Jury found that the flogging had caused the death, - despite this, the City Jurors presented this at the Eyre as a natural death ¹ presumably because flogging was, just as starvation was, part of the prison punitive system.

PART IV - The Minds of the Times

The spectrum of the P.C.H.R. is not so clearly defined by the inquisition in the second epoch of its development probably because it had become a legal rather than a governmental instrument and the term service could, as yet, in no way be ascribed to it. The P. component is reflected in the brief political picture described in the History of the office of Coroner ², and the effects of the enacted legislation which changed the prime purpose of the inquisition ³. On occasion an inquest will cast a pale little light on the political arena or the historical

1. op. cit. The Mediaeval Coroner p.56.

2. ante p.

3. above p.

background. In this respect the following five inquests are worthy of mention :-

- (1) The Death of Richard Wyeld in 1488
- (2) The Death of Richard Hunne in 1514
- (3) The Death of John Scott in 1528
- (4) The Death of Amy Robsart in 1560
- (5) The Death of Christopher Marlowe 1593;

not because these people were important public figures, but because for various reasons their lives became inadvertently entangled in the changing wind of political expression which was eventually to burst the mediaeval cocoon. And in a minimal but truthful fashion provide a glimpse of the upheaval of the ideologies of that era. There are others but the above will illustrate the point.

(1) The death of Richard Wyeld in Warsop (Nottinghamshire) on the 11th April 1488 was the first inquisition to be returned to the King's Bench under the measures of 3 Henry VII c.2¹: and then only by writ, depicts the type of rural disturbance which the king was determined to stamp out and gave expression to in his "Statute of Livery".

Richard Wyeld an ordinary husbandman was feloniously killed by a certain John Moreton and his accomplice John Ryley; the reason thereof is not stated, but the

1. above p.

interesting fact recorded is that the commission of this murder was "feloniously incited procured, aided and abetted there by no less than seven persons" all termed "laborer" and even more significantly on the 13 April the inquisition states that the felons were "Feloniously received, comforted and entertained at Holbeck Woodhouse, knowing that they had committed this murder, by a Knight, Henry Perpount, Richard Perpount esquire, Edmund Perpount gentelman" and thirty-one other laborers and yomen are named in the indictment ¹. This account is very indicative of the turbulence in the society of Derbyshire and Nottingham in the late fifteenth century which is but a small sample of the sporadic and private wars among the nobles; a curse on the economy of the nation which the Crown was determined to abolish.

(2) In the year 1514 the first note for the English Reformation was struck by Colet. Dean of St Pauls in a sermon to a convocation of clergy in the cathedral. He rebuked them for their worldliness and greed, exhorting them to a more spiritual approach to life. Well aware that he was treading on dangerous ground (his bishop Fitz James being a strict lollardist) he had nevertheless perceived the steadily growing unpopularity of the clergy and other ecclesiastical foundations among the people.

1. T.S.R.S. c.1. p.1.

But it was dangerous to bring a priest to justice. Richard Hunne a respectable citizen who had been concerned in a prosecution against a priest was himself accused of heresy and shut up in the Lollard's Tower adjoining the cathedral and there, after a short interval, was found dead. The Coroner's jury would not be fettered in its inquiries and refused to bring in a verdict of suicide but accused the gaolers of wilful murder and went so far as to implicate the Chancellor, Dr. Horsey, notwithstanding his indignant denials, of having helped in the killing and of having hanged the body so as to raise the suspicion of suicide ¹.

(3) Another London inquest in the year 1528 shows the tempo of the new learning and the substitution of criticism for entire obedience to authority plus the methods used by the diehards to curb anyone foolhardy enough to air his views. John Scott, one of the King's Players was sent to Newgate for seven days for "rebukynge of the Shreffes"; after this prison sentence he was paraded through the City and then "delyverd home to his house" but as the verdict reads "he took such a thought that he died, for he went in his shirt" ². (It is probable that he died of pneumonia.) The case itself presents a

1. Hist. of London Loftic 1. p.300. and see Russell C. Crises of Parliaments Oxford University P. 1971.p.74.

2. T.S.R.S. p. 302.

certain mediaeval resistance on the part of the administration towards any self expression from the lower orders and once again raises unhappy speculation about prison conditions.

(4) An inquest held in mid September of 1560 on the body of Amy Robsart, also has a political flavour. The Coroner's record is no longer in existence, but certain facts of evidence heard at the inquiry have come down to posterity and give rise to the thought that the jury may have been intimidated. Amy Robsart estranged wife of Robert Dudley was found dead (by her servants at the foot of a flight of stairs in her home at Cumnor Place near Oxford) a coif on her head was not disarranged. The jury returned a verdict of misadventure suggesting that she died of an accidental fall. Following this death seditious rumours concerning the Queen and Dudley, which the Privy Council had been hard put to suppress became unmanageable¹, and made it impossible for the Queen to marry him (had she ever had any intention of so doing). No satisfactory explanation of the cause of Amy's death, on the known scanty facts and absence of medical examination, can be given. But the negative and the circumstantial

1. op cit. Russell C. The Crisis of Parliament p. 148.

evidence is strong enough to presume that the jury was intimidated; a presumption very much supported by Dudley's behaviour and in his correspondence to his cousin, T. Blount at that time of the tragedy.

The following facts are not in dispute :-

Robert Dudley, Master of the Horse, Earl of Leicester and Knight of the Garter, was very much a favourite with the young Queen, and might well have considered himself a suitor for her hand but for the fact that he had a wife, he therefore had a great deal to gain by her death particularly at a time when one of Parliament's most pressing considerations was the vexed question of the Queen's marriage and succession. On hearing the sad news, Dudley's behaviour does him little credit. He removed himself from Windsor to his home at Kew and from there kept up a feverish correspondence with his cousin Thomas Blount whom he had sent to Cumnor directing him to see the Coroner and to instruct him "to make choice of no light or slight persons, but the discreetest and substantial men for the juries". He also asks Blount to send his own opinion "as to whether it happened by evil chance or by villainy". His second letter dated the 13 September, asks Blount to speak to the Coroner's

jury and to ensure that they perform their duties properly and without fear or favour, "if it fall out a chance or misfortune then so to say; and if it appear a villainy (as God forbid so mischievous or wicked a body should live), then to find it so". A later communication from him to Blount states that he had received a note from the foreman of the Coroner's jury to the effect that he had no doubt that the death was due to misfortune - a finding which was formally recorded. He failed however to attend the funeral which was a very ceremonious affair held on the 22 of September 1560 in Gloucester College Oxford attended by many civic and royal dignataries; a testimony to the importance of the family in the neighbourhood¹. While all these machinations between Dudley and the Coroner's jury do not necessarily imply that he was implicated in a homicidal act. It does show that he was sufficiently anxious to allay suspicions which might stand in the way of his ambitions and popularity, although his apparent concern for justice seemed not to have induced him to attend the Coroner's court or the funeral; which may have been a manner of indicating to the Queen his apparent disinterest in his wife. There is very little doubt however from the above

1. These contemporary letters between Dudley and Blount are preserved in the Pepys library Magdalene College, Cambridge.

reading that the jury had little desire to offend their wealthy landlord, (the jurors would be summoned from around the area of Cumnor) particularly one who was at the time enjoying the Royal favour.

There has been much medical and political speculation about Amy Robsart's unusual death. The late Professor Aird suggests that she had cancer of the breast with bony deposits in her cervical spine which could occasion a spontaneous fracture of the neck and sudden and natural death. This theory seems to have been accepted by even the most modern historians ¹. While Professor Aird's suggestion is feasible on purely medical grounds it is in direct contradistinction to even the few facts given at the inquest i.e., there is no contemporary account that Amy was ill or suffering from severe pain at the time of her death; the professor bases his diagnosis on a letter dated April 18 1559 from de Feria, Spanish Ambassador to King Phillip of Spain, in which he writes "Lord Robert has come so much into favour that he does what he likes with affairs, it is even said that Her Majesty visits him in his chamber night and day. People talk so freely that they go so far as to say that his wife has a malady in one of her breasts, and the Queen is only waiting for

1. The Crisis in Parliaments p.148.

her to die to marry Lord Robert". A knowledge of the Coroner's proceedings would preclude such a hasty conclusion on such minimal hearsay evidence, when the slightest corroboration thereof could have so facilitated the decision of a jury, anxious to fall in with the dictates of the "deceased's" powerful husband. In a paper on the subject a more plausible explanation is given namely that of the occurrence of some form of cerebral catastrophe - unexpected and resulting in sudden death¹. Such cases in young people (Amy was only 28) are not uncommon, and make up a small proportion of Coroner's inquiries into unusual deaths even today, and are easily proved by autopsy. There are however, two important pieces of evidence in the inquest which, while not of course excluding natural death, to anyone with Coroner's experience very much point to a verdict of suicide :-

(i) Her coif was in no way disarranged.

Unfortunately there are no details of the position in which the body was found but common sense dictates, that by whatever means a sudden and unexpected demise occurred she would have fallen or slumped with a consequential

1. G. Thurston Contemporary Review April 1964 p.305.

disarray of her headgear.

(ii) Blount had information at the time and this would have been told at the inquest, that Amy had been most insistent on all the members of the household going to Abington Fair on the fatal day and it was on their return that she was found dead at the foot of the stairs.

One of the striking things about many a suicide where a person is determined to succeed in his own destruction, is the precaution taken to ensure not being disturbed and on occasion to make it appear as an accident. Amy was not a happy person (some of her letters testify to this), married and without a husband for nine years - possibly lonely - poison may have been the solution to an unsatisfactory existence. In September the Belladonna was in fruit and Yew trees, with their poisonous leaves abounded all the year round in Elizabethan gardens, renowned for topiary work. Apart from many other deadly herbs, Atropine and Taxus Baccata if taken in sufficient quantities could have served the purpose suggested, bearing in mind that these poisons were known to most Elizabethans. Conjecture this may be, but a distinct possibility nevertheless¹.

1. Sowerby. J.E. British poisonous plants 2nd Ed. London 1861. p.20. (for the effects of these poisons)

(5) There are only two authentic records in existence concerning the death of Christopher Marlowe. One is the laconic entry in the burial register of the parish church of St. Nicholas Deptford. "Christopher Marlowe, slain by Francis Archer - June 1 1593"¹. He was twenty-nine years and three months old and already a poet of great repute. The second is the inquisition held into Marlowe's death by William Danby the then Coroner for the Royal Household dated the 1 June 1593 and preserved in good condition in the Public Records Office. This document is a meticulous narrative of the manner in which Marlowe, referred to as Morley, received a wound over the right eye inflicted with his own dagger by a certain Ingram ffryser, who was allegedly acting in self defence. Most of the record is devoted to a description of the positioning of the assailants at the time of the struggle between the two men. This occurred in a hired room in the house of a certain Mistress Bell where Marlowe and three other men, Nicholas Skeres, Robert Poley and Ingram ffryser had repaired to on the early morning of the 30 May 1593 and had remained discussing 'business'. Sometime in the evening Marlowe and ffryser exchanged "one to the other divers malicious words for the

1. c.f. Encyclopedia Brittanica V XV. 9th Ed. p.556.
Adam and Black 1883.

reason that they could not be at one nor agree about the payment of the sum of pence, that is the recknynge" ¹. Thereupon Marlowe moved to anger grabbed ffryser's dagger which was worn in a sheath transversely across the small of his back, and inflicted a head wound on him. In the ensuing struggle to retrieve his dagger and save his own life which was in jeopardy because of Poley and Skeres seated on either side of him at the table, ffruser stabbed Marlowe over the right eye. Great trouble is taken to point out in the inquisition, written in latin, that the table is "near the bed", (this phrase is in English), thus making ffryser unable to evade attack. In fact the whole document is one of justification for ffryser's action and a legally constituted record of proof that the assault was not deliberate but an act of self defence and warrented the Queen's Pardon - which was forthcoming a month later ².

The above inquisition is cited as one reflecting the P component of the PCHR factor of the Tudor times and can only be accepted and understood as such if analysed in the context of a few undisputed facts;

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1. This probably refers to the bill for their fare or perhaps to the nature of their buisness.
 2. For a full account of the proceedings see Gavin Thurston's paper on the matter in Contemporary Review April. 1964.

(1) Marlowe apart from exercising his great literary talent had been involved in espionage, which had necessitated several and prolonged absences from the seat of learning during his studentship at Cambridge. As a result the Senate refused him grace to proceed to his Master of Arts degree in 1587. Strangely enough, almost immediately a resolution of the Privy Council was made, known to the authorities of Cambridge, and read as follows :-

Whereas it was reported that Christopher Morley was determined to have gone beyond the seas to Rheims and there to remain, their Lordships thought good to certify that he had no such intent, but that in all his actions he had behaved himself orderly and discreetly whereby he had done Her Majesty good service and deserved to be rewarded for his faithful dealing. Their Lordships request that the rumour thereof should be allayed by all

possible means, and that he should be furthered in the degree he was to take in this next commencement ; because it is not Her Majesty's pleasure that anyone employed as he had been in matters touching the benefit of his country should be defamed by those that are ignorant of the affairs he went about.

Following the receipt of this important document at Cambridge Marlowe received his Master's degree. This memorandum from the Privy Council put Marlowe's service to the State beyond doubt and interesting as it might be to do so, this is not the place to discuss the nature of his political services.

(2) In May of 1593 Marlowe was accused of heresy, blasphemy and issuing atheistical writings and summoned to the Privy Council which placed him under open arrest and he was ordered to report daily while further evidence against him was accumulated. Despite the fact that such matters constituted a capital charge, Marlowe seemed unperturbed and the Privy Council reluctant to take any more decisive action.

(3) It might also appear significant that the men who were at the meeting taking place at Mistress Bell's house

were all in the service of Thomas Walsingham and were known to one another. Poley was an experienced spy and informant who had played an important part in unmasking the Babington Plot, he had just returned from abroad and was on his way to Nonesuch Palace, Near Ewell on the Queen's business. Skeres was also a spy and the other two had carried out transactions for the Walsinghams and were agents of the well organised Walsingham Secret Service. Marlowe himself had long been a friend and associate of the Walsingham family and a member of Sir Walter Raleigh's literary association called "The School of Night".

(4) The "recknyng" referred to in the inquisition and subject matter which led to the fatal blows could have meant a plot a mission or some mischief; various authorities have ascribed different meanings to it. That as it may be, it was important enough a resolution to require the presence of four government agents at a secret meeting lasting all day. Mystery still shrouds the death of this brilliant vitriolic son of a shoemaker and opinions and theories as to what really occurred, are still diverse, and it would be irrelevant to analyse or discuss their merits. Suffice it to say that the inquisition was certainly hampered by political considerations,

the very nature of its precise recording arouses suspicion and admirable mirrors the mind of the times in a sphere fraught, at least in governmental circles, with intrigue and plots.

The Crime and Violence in the Community (The C. Factor)

Sociologically the Inquisitions which were used as indictments were limited in their information as to the nature of crimes, since they generally only recorded the verdicts of murder, manslaughter or suicide, but that diverse criminal activities were not lacking is discernible in the formative marginal notes made by the Coroner, his scribe or the Justices of the King's Bench on some of the Inquisitions.

From these we learn the various dates of the peregrinations of the Gaol Delivery Justices, the dates of return of the inquests unto the King's Bench, any action taken there concerning the felon, what happened to him, and instructions to the Coroner; such as reprimands for faulty or incomplete recording or the fining of the Townships for allowing the escape of criminals; in short the various legal processes which constituted the elaborate criminal machinery for the dealing with crime.

The following inquest illustrates the point:-
Richard Handewyn was assaulted with a dagger
by Robert Wylkynson and feloniously murdered;
Cuthbert Benett was with Wylkynson at the
time, of the murder but was restrained by
bystanders from aiding him, as he appeared
to wish to do.

On the dorsum of the Indictment there is
noted:-

- (a) The date of delivery to the Gaol
Delivery Justices (Nottingham 5
Mar. 1518).
 - (b) The delivery into the King's Bench
Easter Term 1518.
 - (c) That Robert Wylkynson (who had
fled at the time of the killing)
was outlawed in the County Court
at Nottingham on the 12th October
1523.
 - (d) That Cuthbert went sine die in
the King's Bench on Michaelmas
Term 1518 - because the indictment
in respect of him was insufficient.
-

(e) That Richards goods and chattels were in the keeping of Robert Brown the bailiff of William's Bishop of Lincoln and consisted of 4 cows, 2 steers, 9 pigs and piglets worth in all 46/8d.

(f) Robert Brown was summoned in 1526 Michaelmas Term to the King's Bench to answer for the goods, and was discharged by virtue of a general pardon granted by the Statute 14 - 15 Hen VIII c. 17.¹.

One concludes from this that process of the law was as slow and as ponderous as it is today and that "embezzlement" as a crime was not unknown. Occasionally in an Inquest the Coroner may record facts which go a little beyond just establishing the cause of death; as for example in the case of William Drynker whom Richard Langton assaulted and feloniously stole and carried away 4 shillings in coin of William's goods and chattels, which were in a purse upon him and that on the same day (5 Nov. 1538) Richard then broke William's neck feloniously and thus murdered him and then threw the body into the river².

1. T.S.R.S. v. xxv. c. 57. p.34.

2. ib. p.87. c.173.

This more detailed description of Robbery and Violence and the nature of the stolen goods by felon who was not to be found (He was eventually outlawed in the County Court on 13 Dec. 1546) seems not to have met with the approval of the authorities and the Coroners were summoned to the King's Bench to answer by what warrant they claimed to exercise their office in Nottingham. No doubt the administration considered that this sort of evidence was questionable and an usurpation of another legal department's powers - namely, that of the Justice of the Peace.

Attempted murder or robbery with violence if it resulted in the felon being killed by the victim apparently warranted an automatic King's Pardon without forfeiture of goods - by a Statute of 24 Hen. VIII which allowed men who killed robbers on cartway's to be fully acquitted ¹ - Such was the successful plea in the King's Bench 1535 a year after the event of a certain Henry Molde, who was attacked by Highway robbers and in self defence slew one - under the Statute process was started against the Constable for the return of his goods and chattels which were not insignificant ².

Despite the greater sophistication of the Law, only the more enlightened criminals took advantage of it.

1. This was the precursor of the verdict of "Justifiable Homicide" which was only recently abolished by the Criminal Law Act of 1967. 15-16. Eliz. II C.58

2. ib. p.72. c. 138.

In 55 recorded cases of murder from 1488 to 1558 in Nottinghamshire, there were 10 acquittals in all - the greater majority still more conditioned to the England of Hubert Walter than to that of Henry the Seventh, fled to escape justice or took sanctuary - from whence they might abjure the Realm after confessing to the Coroner. One such colourful ceremony is described in an Inquisition held on the 25th August 1507 at Newark on Trent on a certain John Bradschawe who had been killed by two ruffians, Roger and John; One felon Roger took sanctuary in the parish church of St Mary Magdalen Newark and asked for a Coroner to be brought to him; whereupon on the 24th August he abjured the realm "a cross placed in his right hand according to the Custom and Law of England ". Meanwhile his companion in crime who had fled had been indicted of this murder before the Justices of the Peace on 6th October 1507 - This indictment was delivered to the Justices at the Gaol Delivery on the 8th November in Nottingham; when for some unknown reason John was acquitted of both murder and the fleeing; in 1510 in Easter Term John appeared in the King's Bench and went sine die in respect of the Inquest because of the above acquittal ¹.

1. ib. p.18. c. 24.

Indeed there seems to have been little rhyme or reason in most of the subsequent acquittals if one examines some Inquest records of murders and one can only suppose that when a General Pardon was not brought into play (and in Henry VIII's day there was more than one), it was a form of encouragement to criminals to put themselves on the Country and stand trial rather than adhere to the archaic solution of fleeing, or abjuring the Realm.

The Inquests on deaths in prison in the Tudor period are disappointingly uninformative and are for the most part recorded with monotonous regularity in the following terms :-

" X died his natural death in gaol
where he was confined for suspicion
of felony" ¹.

Of the 23 cases of prison deaths in the Nottinghamshire Records, all have this caption; in itself a clear indication that the Coroner had no reason to enquire or needed to know how or why a prisoner had transgressed the King's laws.

Whereas in the earlier prison Inquests, when many crimes had no identity of their own, they were listed in

1. T.S.R.S. v. xxv. p.232.

a more descriptive manner for example :-

(a) Robert de Bokloude died in Newgate on 8th September 1325 committed for counterfeiting the King's letters ¹.

William Cook on the theft of colt.

John Small arrested for burglary

Robert Rushton placed in prison for arrears in his account.

John Wagg arrested because having abjured the realm, he returned to England without the King's permission.

Geoffrey of Steventon, a chaplain for setting fire to the houses of John of Ashton.

Thomas Phillip for breaking into the Chamber of Eustace ².

Sometimes the writ relating to the offence or the Statute transgressed is written on - or attached to the Inquisition,

i.e. We command you to arrest Nicholas, John William, John and John..... for a certain trespass committed by force and arms.....(witness H. Scrope at York) ³.

1. C.C.R. D. 43. p.12.

2. S.S. V.9. pp.79-81

and in a case of debt a certain Nicholas of Appleby died a natural death in the prison at York where he was detained,

until he should make satisfaction to William of for twenty pounds, in accordance with the forms of the Statute of Merchants enacted at Acton Burnell ¹.

One must therefore accept that the crimes which plagued society were the same as those which are recorded in the prison Inquisitions in the earlier Coroner's Rolls and in fact the Coroner sometimes allowed himself a little licence if the prisoner's offence justified it, to put it on record. e.g. detained on suspicion of Treason and Felony ² or "Breaking and Entering" ³ but such annotations were unusual.

Because of the newly acquired but narrowed objective of the Tudor Inquisitions - the way of life with its attendant human problems, the H component is not always easy to assess; nevertheless some information about this time is obtainable in the undisputed facts recorded as matters of circumstantial evidence about deaths. These feature the widespread social and economic changes in the

1. ib. p.112.

2. T.S.H.R. p.21.c.30.

3. ib. c.300. p.144.

Country which affected the common man.

For the first time there is mention of enclosures; in our earlier Inquests - the venue of where the act was committed would be referred to in such simple terms as "in the Vill of Barford" or "It happened in Little Staughton" or "a certain stranger met another stranger at a certain place between Alderesfield and Edwards Croft and one kills the other", even fields, streets or streams are described as the places where a person met his death ¹.

We now have a new and important descriptive word; the significance of which raises the curtain on one of the thorniest issues of Tudor England; the apparent cause of a wave of poverty among the labouring classes and the subject of more than one Parliamentary commission of inquiry. The largest amount of enclosures appears to have occurred during the reign of Henry VII.² In the Inquests we read about these private territories which changed the rural pattern of England.

There are about eighteen Inquests in which the enclosure is mentioned.

1. c.f. SS V.9.

2. The Crises of Parliament. p.19.

In the following Inquest into the deaths of twelve men and women held on the 20th May 1510, who were drowned whilst intending to cross the River Devon where it joins the River Trent at Newark. The trip was to a close called "Le Tolney", the party intended gathering flowers and bilberries growing there; unfortunately due to the force of a whirl pool and the negligence of the boatman - the boat capsized and all were drowned ¹.

This appears to have been a large sized enclosure to warrant a day's outing for so many people.

Not all enclosures were of the manorial type and one finds people of quite modest means having a close. Thomas Howton's "laborer" in self defence killed an assailant in his own enclosure ².

Some could be termed back gardens. Alice wife of Thomas Mee drowned herself in a well in Robert Burghe's Close at Nottingham in a street called Castle Street ³.

Most Rectories seem to have had enclosures. Alice wife of Phillip Swift committed suicide by flinging herself into the "parsonage well" in the close of the Ruddington Rectory ⁴.

These enclosures were sometimes referred to as yards. John Weerton drowned himself in the River Leen at Lenton

1. T.S.R.S. c.46. p.28

2. ib. c.177.p.89.

3. ib. c.294.p.141.

4. ib. c. 290.p.139.

which flowed through "the Vicarege yerde" ¹. A yard of no mean size to have a river running through it; And it was in "Le Butted yard" where John Herd went to buy some wood, tripped and impaled himself on a pointed piece of wood dying by misadventure ².

The fact that some of these enclosures were not all massive estates lands given over to rearing of Sheep very much establishes the theory that a new social class of husbandmen or yomen was emerging; who had managed on their own resources to weather the economic shifts following the inflationary rise in food prices and unemploment extending over the period 1510 - 1550 ³ and to settle themselves in independent small holdings.

There were also other types of enclosures termed "Parkes" - which seem not to have been reported on by the Commissioners to Parliament ⁴ - these were the Deer Parkes and ordinary enclosures of arable land. (There are seven Inquests in the calander on deaths in parkes).

One very unusual Inquest of a death in a deer park must be mentioned, not only because it puts on record the existance of these deer parks but also because of an unusual verdict by the local Jury and which was

1. ib. c.217 p.106

2. ib. c.161 p.82

3. Crises of Parliament p. 6.

4. Probably because they were areas for communal use or perhaps because they belonged to the wealthy landowners.

unquestioned in the King's Bench. It concerns a boy.

Thomas Flynt aged 12 years who on the 4th September 1541, intended to go into "Sibthorp Park" about his affairs, viz. to watch the animals and cattle in the park, "a stagge" of a wild nature worth 6s 8d which was in the park, (now) in the keeping of Richard Coo of Sibthorpe, violently murdered Thomas with its horns. This extraordinary verdict may well denote that the entry into the park by Thomas was illegal and that the owner may have been a land owner of wealth which the local Jury might have thought illadvised to penalise - because no action on the verdict seemed to have been taken¹. In contradistinction the Inquest held on the death of Richard Lounde some 10 years later when he was tossed and killed by a "Stagdere" in "Gayteforth Parke" - the Jury found this to be a misadventure and the worth of the animal 6s 8d was given into the keeping of John Collen, deputy almoner in Nottinghamshire.

1. T.R.S.H. c. 212 p.104.

Concurrently with the appearance of enclosures, there is an increase in livestock in the goods and chattels or deodands appraised at Inquests. Robert Lynton a simple baker was found to own among other things five mares and 20 sheep worth 26s ¹.

Another felon William Perwick a "gentilman" (a tittle reserved for persons often yomen, who had achieved a certain amount of prosperity) ² had 34 sheep ³ while John Draper an ordinary "husbandman" owned 3 steers, 3 cows and 30 sheep ⁴.

These inventories of felon's possessions and deodands are of a different nature to those in the preceding Chapter of Inquests; when more often than not the Jury would restrict its appraisal to the weapon of offense or even return a verdict that the felon had no goods or chattels at the time of committing his crime.

These simple records reflect the change over, from agricultural farming to livestock breeding which was occurring at this time and coincides significantly with a boom in the wollen cloth manufacture which at the beginning of the Sixteenth Century was England's one and only substantial export.

1. ib. c. 18 p.14

2. Crises of Parliament p.17.

3. T.S.R.S. c.23 p.17

4. ib. c. 32 p.22.

Another and newer type of possession which comes to our notice is coal, as early as 1505 at an Inquest on a fatal assault, the felon - a labourer was found to have among his chattels twenty cartloads of coal worth 8s 4d. This budding coal industry, which acquired magnitude in later Elizabethan times is the only development of the period which deserves the title of industry ¹.

In the Nottinghamshire Calander there are five coal pit deaths - these "Colepitts" as they were termed ² seem to have been both commonly and privately owned - It was in "Wollaton a parke" in which there was a "Colepitt" where Robert Sewell voluntarily threw himself into the pit and died therein by breaking his limbs ³. It was again in the same colepitt at Willaton that William Tailleur going there to dig coal, being dark, slipped and fell by misadventure into the bottom of the pit, breaking his neck and so immediately died ⁴.

The growth of the coal industry, had been activated by the fear of a timber shortage ⁵ so coal was quickly adopted throughout the country for domestic fuel - transportation of coal therefore became a necessity as

1. Wolsey when he became Bishop of Durham increased the rent of coal from the Durham mines, which was one of the perquisites of the office, to a ton per working day C. of P. p.74.

2. T.S.R.S. p.95

3. ib. c.254 p.122.

4. He may well have been stealing coal at nightfall. ib. c. 191. p.95.

5. allegedly brought about by Henry VIII's decision to build larger ships. C of P. p.187.

seen in some Inquests on the deaths of four coal merchants in transit with their wares ¹.

This case is most illustrative and it concerns a William Crosselande who on the 28th July 1548 was sleeping on a "carte" loaded with coal belonging to William Craforth in Rutland - the cart was drawn by 2 horses and 3 mares, when suddenly on reaching Nottingham Gate he fell from the cart by misadventure to the ground and immediately one of the cart wheels went over his stomach and crushed him to death.

The load must have been quite heavy to need five horses to draw it and William Craforth, a wealthy merchant, to trade from one county to another; such as Rutland to Nottinghamshire.

These changes in the working pattern of the community show a regeneration of economic effort and an overall more sophisticated society in the making.

But nearer the hearth the picture is not so healthy and that life is perhaps not so secure can be deduced from the greatly increased cases of suicide, which even

1. T.S.R.S. c. 112. p.61. c.248 p.119, c.251 p.121 and c. 272 p.132.

when making allowances for a certain amount of undetected cases in the previous three centuries - vastly out number those recorded in any County in England then ¹ - From 1485 - 1548 there are fortyfour Inquests on suicides in Nottinghamshire.

The proportion of males to females is fifty fifty and they have one thing in common; almost all and certainly all the women had no goods or chattels at the time of their deaths ².

Sickness, insanity, poverty and even the "instigation of the devil" are held responsible by the Jurors for this sad state of affairs; and in one case "the plague" ³.

One Inquest held on Joan Wynspere a "syngil woman being pregnant" is recorded as a suicide - but it is in actual fact an attempted abortion - "she drank divers poisons and dangerous draughts to destroy the child in her womb, of which she immediately died" ⁴.

Another unfortunate woman lying in childbed suffering from an ague rose from her bed and with the "instigation of the devil" flung herself into a well and drowned ⁵.

These few Inquests indicate some of the unchanging

1. ante. chap. 1

2. T.S.R.S. V. xxv

3. ib. c. 238 p.115

4. ib. c. 10 p.8 - 1504

5. ib. c. 294 p.140 1550 a case of puerperal insanity or confusion.

human problems - criminal abortion and puerperal dementia with their accompanying misery and anti social consequences are still with us today.

The "by instigation of the devil" as a clause inserted in some of the Inquests is interesting and leads one to a brief comment on the final phase of the PCR formula namely the R factor.

The secularisation of the country in the climate of the Renaissance and Reformation, had its effect on sixteenth century Inquisitions - No longer do we read about the importance of having the last rites to exculpate the first finder - he is now usually referred to as "X a man of good reputation". The time at which the death occurred is the reading of the clock or the sun as distinct from that of the canonical hours;¹ and the date of the hearing no longer depends on the Saints Calender. Yet despite this progressive bureaucracy, superstitions and doctrines of the past died hard or were often inverted to suit the occasion by those less educated and in humbler stations of life. Then as now, reforms and new ideas are generally the product of a minority group and take time to reach a homogenous level in the community; and the devil continued to do his mischief.

1. time was important to the townships since allowing a felon to escape by night was not an amerciable offense whereas it was so in the daytime.

It might be well to remember that Witchcraft at this particular time was widely practised and had indeed been elevated to the rank of felony by a Statute¹ which made provision for a remarkable mixture of offenses; it declared various kinds of sorceries, such as discovery of hidden treasure, destruction of a neighbour's person or goods, making of images and pictures of men, women, children, angels, beasts and fowls and pulling down crosses, which if death ensued as a result the offender was punishable by death without benefit of Clergy. If a human agent were unobtainable as "the instigator" of a death caused by sorcery - then the devil served the purpose admirably; moreover it was a practical solution as he was uncontactable, (except by witchcraft of course) he was expendable, and his services could be relied on in moments of difficulty for more than one inquest or trial. This perverse form of approach to inquiry into certain unnatural deaths, did much to withhold for the next three centuries, science and reason from the Inquisition. Although this attitude is not as blameworthy as would appear at first if one reflect that Martin Luther himself so believed that the devil was responsible for the cardiac pains he suffered from, that on one occasion convinced he was being attacked by him, threw a pot of ink at the fiend.

1. 33. Hen VIII c. 8.

2. De Mortuis Ed. Cape 1930. p.115.

CHAPTER III

1603 - 1887

PART I

THE ADAPTION

In the third epoch of the history of Coroner's Inquisition, one finds that two outstanding adaptations have been established :-

(a) The exercise of rights of the Grand Jury

(b) The Acquisition of Prescription in the matter of inquiry into Treasure Trove

(a) To appreciate how this came about, a brief recapitulation of practice concerning the procedure of the courts of first instance, throughout and particularly during the later half of the Tudor period is necessary; this resulted in the Coroner's Inquisition establishing a symbiotic existence with the Justices of the Peace in matters appertaining to the Grand Jury - these Inquisitions taken before the Justices were known as "Sessions ad Inquirendum".

The Justices of the Peace took general examination of the prisoners before admitting them to bailment or mainprise in accordance with the statutes (1-2 P & M c. 13; 2-3 P&M c.10) and then submitted formal bills of indictment against these same persons to the Grand Jury or to "Session of Inquiry" in order that they should be found True Bills or not True Bills ¹.

In the case of Coroners, Inquisitions for cause of death were used in drafting indictments for murder, manslaughter and increasingly from James I onwards for deaths due to witchcraft.

The Coroner's Indictments were sometimes themselves submitted to the Grand Jury (post p.193-6) before the Justices; but that a considerable proportion of Inquisitions by Coroners were used as True Bills, is that besides being so endorsed, they exhibit the memoranda usually found on Indictments for Murder or Manslaughter ²; and since nearly every affair gave occasion for the drafting of a Bill of Indictment it follows that all or nearly all True Bills calendered as indictments for Homicides are Coroner's Inquisitions; and in fact the Coroner Inquisition post mortem was often filed with an indictment touching

1. J.C. Jeffreson Middlesex County Records Vi, London. 1886. pps xxiv - xxix.

2. ib. xi. iv.

the same death in the Gaol Delivery Rolls ¹. Indictments for lesser offenses were filed in the Justices of the Peace Sessions Rolls.

The reason for a more precise and redrafting of the Coroner's Inquisition, seems to have been for the purpose of amending or correcting some misdescription by the Coroner's Jury or even in certain cases out of mere consideration for the Trial Jurors who were likely to be misled by the Coroner's phraseology ². From this simplified survey of the method of inquiry and prosecution in the 16th and 17th Centuries it becomes obvious that the Coroner's Inquest is not only the father of the Grand Jury but that it had adapted to become a tribunal with a twinfunction;

i.e.

- i. to establish a cause of death and a verdict (i.e. the legal cause of death as distinct from the medical cause of death)
- ii. and on these findings to see if there is a case to answer

(In modern times the process is extended to civil actions for example - whether there is grounds for compensation

1. ib. vi. p.xxii and p.6.

2. ib. xi iv.

in cases of industrial disease or injury - or the safeguarding of the pension rights of the spouse of the deceased, should the inquest find that injury or industrial disease caused death ¹.

The re-assessing of an indictment prior to trial was a new line of thought in the legal frame work, this process took root in Edward VI's time and was firmly established by the time of James I - Therefore the Grand Jury of the 16th and 17th Centuries is not to be confused with the Jury of Presentment of earlier times; the former is an intermediary stage in legal proceedings to facilitate the work of the Courts of Trial, and a method of preventing wrongful prosecution - whereas the Jury of Presentment was a form of local policing based on suspicion, knowledge and hearsay ².

The Grand Jury decided on facts presented whether there was a case to answer, and any attempt to establish a continuity between it and the Jury of Presentment, the Frankpledge System or the twelve creditable men of the Assize of Clarendon, all of which were accusatory bodies, would be erroneous. One finds the glimmer of its concept in the hearings of Writs, "de Odio et Atia" and

1. See post Chap. IV p. and Appendix XI

2. See Ante History p. 10.

"Gestu et Fama" by the Sheriffs and Coroners (assumptis tecum custodibus placitorum corone nostre) or by the Coroner alone in the County Courts of earlier days and later in conjunction with the Justices of the Peace ¹.

The Grand Jury was abolished in 1933 ², but the adaptation of the Coroner's Inquisition to the duties of that of the Grand Jury is a process which is still with us in principle if not in fact. An analogous procedure exist, where an accused person may be arraigned both upon the inquisition and the indictment ³.

The words of the late Lord Chancellor Campbell very much corroborate this line of reasoning :-

"This is a very ancient and important office in the realm of England. The Coroner next to the Sheriff is the most important officer in the County, and he performs the duty of the Sheriff when the Sheriff is disabled from doing so; and there are peculiar duties ascribed to him, more particularly to inquire into the manner in which persons have come to their death, where there is any reason to suppose that they may not

1. R.F. Hunnisset. The Mediaeval Coroner. Cambridge University Press 1961 pps. 77 - 120 - 194.

2. Administration of Justice (Miscellaneous provisions) Act 1933.

3. See Chap. V post and Criminal Procedure. A.M. Wilshere. London. 1950 18th Ed. Harris and Wilshere Criminal Law. p.54.

have been by natural means; and on that inquiry, a jury being sworn, the jury have all the rights of a Grand Jury to find a verdict of murder, and on that finding the party accused may be tried and may be sentenced to death"¹.

The sharing of Grand Jury duties with the Justices was no doubt a method of doubly safeguarding the interests of Justice and in fact the rapport between the Coroner's Inquisition and the Justices hearings was similar, especially in the Seventeenth and Sixteenth Centuries, to that of the Sheriff's and Coroner's proceedings of earlier days.

The Indictment of a grave offender could become a joint affair. This is evidenced in some of the Records of the Middlesex Sessions.

In the Sessions Register of 1617 one finds that a certain William Lawson of Ratcliff, surgeon has to appear in front of the Justices for giving poison to a woman, who died within a short time after².

There is no record of the trial or Coroner's Inquisition, although obviously both must have taken place. (3)

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1. Jervis 7th Ed. London 1929 J.F. Waldo p.13.
 2. Calender to the Sessions Records. New Series Ed. William Le Hardy V4. London 1936. p.110.
 3. The Coroner has never been deprived of his right to inquire into an unnatural death except "when he is informed that a person has been charged before the examining justices with murder, manslaughter or infanticide, he shall, in absence of reason to the contrary, adjourn his inquest until the conclusion of the proceedings" C(A) A. 1926 S.20. ss.1.

In another case of unnatural death we find the Justices taking recognizances of two women to give evidence against a certain Thomas Hardinge suspected of poisoning Frances Forrest - The said Thomas was found not guilty as the inquest recorded that Frances had committed suicide ¹. But the best example of this is seen in the manner in which William York a boy of ten years who murdered a girl of five in 1748, was indicted. The trial case, as a classical example of the criminal liability of infants is mentioned by more than one legal historian ² but little regard is given to the manner in which the Coroner's findings and the Justice's hearings were equated to share the responsibility for the fair indictment of the young criminal. The sequence of events was the following and deserve to be quoted in full.

" The boy and girl were parish children, put under the care of a parishioner, at whose house they were lodged and maintained. On the day the murder happened, the man of the house and his wife went out to their work early in the morning and left the children in bed together; when they returned from work, the girl was missing

1. ib. p.356

2. L. Radzinowicz. A History of English Criminal Law. London. Stevens 1948 Vi - p.12. Foster Crown Law 3rd Ed. 1792 p.72. Jervis On Coroners 1st Ed 1829 p.81.

and the boy being asked what was become of her, answered that he had helped her up and put on her clothes, and that she was gone, he knew not whither. Upon this, strict search was made in the ditches and pools of water near the house, from an apprehension that the child might have fallen into the water. During this search, the man under whose care the children were, observed that a heap of dung near the house had been newly turned up, and upon removing the upper part of the heap, he found the body of the child about a foot's depth under the surface, cut and mangled in a most barbarous and horrid manner."

Upon this discovery, the boy who was the only person capable of committing the act, having been left at home with the child, was charged with the killing, which he stiffly denied.

When the Coroner's jury met, the boy was again charged ¹ but persisted still to deny the fact. At length, being closely interrogated, he fell a-crying, and said he would tell the whole truth. He then said that the child had been used to foul herself in bed; that she

1. until the 1926 c(A) Act S.20 ss1 a Coroner's inquiry could be held on a death for which a person had already been arraigned.

did so that morning (which was not true, for the bed was searched and found to be clean); that thereupon he took her out of the bed and carried her to the dung heap, and with a large knife which he found in the house, cut her in the manner the body appeared to be mangled, and buried her in the dung heap, placing the dung and straw that was bloody under the body, and covering it up with what was clean; and having so done, he got water and washed himself as clean as he could.

The boy was the next morning carried before a neighbouring justice of the peace, before whom he repeated his confession, with all the circumstances he had related to the Coroner and his jury. The Justice of the Peace very prudently deferred the proceedings to a commitment until the boy should have an opportunity of recollecting himself. Accordingly, he warned him of the danger he was in if he should be thought guilty of the fact he stood charged with, and admonished him not to wrong himself, and then ordered him into a room where none of the crowd that attended should have access to him.

When the boy had been some hours in this room, where victuals and drink were provided for him, he was brought a second time before the justice, and then he repeated

his former confession; upon which he was committed to gaol. On the trial, evidence, was given of the declarations before - mentioned to have been made before the Coroner and his jury, and before the Justice of the Peace; and of many declarations to the same purpose, which the boy made to other people after he came to gaol, and even down to the day of his trial; for he constantly told the same story in substance, commonly adding that the devil put him upon committing the act. Upon this evidence and with some circumstances tending to corroborate the confessions, he was convicted ¹.

The evolution of this two tribunal process becomes understandable, when one reflects that the demarcation line between inquisitorial law and accusatorial law in reaching a conclusion was not so clearly defined as it is at present. The Trial Court took charge of the proceedings for the most part. Until 1837 ² no Counsel was allowed to felons and the Crown could compel its own witnesses to testify against the prisoner ³. The prisoner, himself could not give evidence and although a statute of Elizabeth ⁴ had made perjury a crime, this applied only to civil proceedings. It was only in 1702 ⁵ that the legislature enacted that accused persons could produce witnesses, who

1. Jervis 1st Ed. pp.81 - 83

2. Theodore Plucknett. A Concise History of the Common Law. 5th Ed. Butterworth 1956 p.435

3. 2 and 3 Phil and Mar C.10 (1555)

4. 5 Elis c.9 (1563)

5. 1 Anne Stat 2 c. 9 (1702)

shall be sworn for their defence, and it was not until 1898 that accused persons were made competent but not compellable witnesses at their trial ¹. The law of admissibility was non existant and evidence of hearsay previous convictions against the prisoner was admitted without comment. In 1848 a statute was enacted stating that the magistrates examination was to be proceeded by a warning, that it might be used in evidence and that the prisoner need make no statement unless he so wished ². In these judicial circumstances which operated clearly to the disadvantage of the accused, the legal administrative device of two separate inquiries would afford him some measure of protection.

This "protection" for the accused in a criminal case or for a defendant in a civil action was not primarily the intention of the process; it was a by product of the undefined jurisdictions characteristic of the lower courts of this period. The blurring of the lines of distinction between the proceedings in the Coroners Court, the Grand Jury inquiries, the Escheator inquests and the hearings before the Justices of the Peace was a legacy of a tolerant inter-relationship which existed in mediaeval times between the various courts transacting the King's

1. 61 and 62 Vict. c. 36 (1898)

2. 11 and 12 Vict. c. 42 (1848)

business at local level ¹.

This confused interpretation as to the duties and powers of the Coroner's Court persisted well into the nineteenth century, as evidenced by some of the judicial decisions concerning its legal authority. We find for instance that "a verdict of *felo de se* is traversable, but not one of *fugam fecit*", and for want of the word "murderavit" a Coroner's inquest was quashed and a new inquest was ordered to be taken before the Justice of the Peace ².

A similar conclusion was so resolved, in an inquisition before the Coroner *super visum corporis*, that found the person was *felo de se* and *non compos mentis*, was traversed ³. The most important question upon the pleadings in another case ⁴, was as to whether the Inquest was a public hearing and whether the proceedings of the court could be published. It was argued that there was no substantial disfunction between the nature of proceedings before a Grand Jury and of those before a Coroner ⁵. And quoting a former case in which it was left to a Grand Jury to decide whether a certain thing was *deodand*. On a motion to quash this inquisition, it was said that being an office of entitling

1. op cit The Mediaeval Coroner p.81

2. R v. Aldenham, the Alderman of Rowel 2 Lev. 152.

3. Holland v. Ellis 1 Vent. 278

4. Garrett v. Ferrand 6 B & C 611

5. ibid 6 B & C 617.

it ought to be openly found ¹, and that this was so by express Statutes ².

After many references to ancient Law and the dicta of several Judges ³; Tenderton C.J. ruled in the case of Garnett v Ferrand ⁴ that the Coroner's Court is a Court of Record of which the Coroner is the judge and that it is a rule of great antiquity that no action will lie against a judge of record for any matter done by him in the exercise of his judicial function. Because this freedom of action at the suit of an individual is given by law for the safety of the public and the advancement of justice ⁵. The value of this case and others quoted was that they,

- (a) established the Coroner's Courts position positively in the hierarchy of the ordinary courts of justice and that it is a public court.

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1. R v. Killinghall (1 Burr. 17)
 2. Lord Mansfield, was speaking of inquisitions before the Coroner on the same footing with inquisitions upon writs of ad quod damnum, but the latter being directed to the escheators (F.N.B. 509) were by express statute executed publicly (R v. Killinghall 1. Burr 17) and Lord Kenyon in R.v.Eriswell (3 T.R. 707) also compares the examination before the Coroner to writs of quod ad damnum.
 3. The Common Law is the common custom of the Realm and is chiefly ascertained from the opinions of eminent jurists or laid down by judicial decisions, unless statute clearly limits the law, they then both have a "concurrant efficacy" Blackstone Comm. i. p.89.
 4. A case of trespass against a Coroner for turning a person out of a room where he is about to take an inquisition. 6 B and C 610 p.576 -81

- (b) that the inquisition is only a preliminary inquiry and that the findings to a certain extent are traverseable; but that in cases where privacy may be requisite for the sake of decency of if due to the family, or when charge or accusation begin, then exclusion and secrecy is appropriate and the presiding officer has the right of decision.
- (c) Drew attention to the different types of inquests and stressed the distinction of public and secret inquiries.
- (d) gave recognition to the "apocryphal statute" De officio Coronatur¹ - which is affirmative of the present day Coroner's jurisdiction and which the Act of 1887 purported to repeal.

The process of adaptation of this ancient institution is portrayed in its survival. Unlike the Court of Requests, the Coroners Court did not fall into disuse.

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- 5. Citing Hammond & Howell (1 Mod 184 2 Mod 218) an analogous case of trespass against the Recorder of London (6 B & C 624) and see Plucknett Conc. Hist. of the Common Law quoting Bacon's views of the old writ "ed non procendo rege in consulto" p.196.
 - 1. Pollock and Maitland. History of the English Law Vii. p.641.

It kept the bones of its mediaeval concept and forged a bridgehead linking ancient laws to modern ideas of justice¹. If the nineteenth century is considered the age of law reform, then the seventeenth and eighteenth centuries are those in which laws were analysed, explained, and established, in short, developed along modern lines - Coroner's proceedings at this stage suffered the same scrutiny as other Courts, particularly concerning matters in which its jurisdiction was ill defined.

The prescriptive right of the Coroner

"to inquire as heretofore into Treasure
that is found, who are the finders and who
is suspected the reof"

was incorporated into Section 36 of the 1887 Coroner's Act and is an example of customary law being reinforced by Statute. But it was the result of blind acceptance on the part of the legislature of ancient legal literature without relation to fact. From the time of Bracton to Coke, Blackstone and Chitty, Coroner's enquiry into

1. The other example of survival of antiquated procedure serving modern needs are the Liverpool Court of Passage and the Tolzey Court of Bristol. Their jurisdiction is however very restricted to their own venues.

There are in existance many ancient courts, among these, the City of London Court of Hustings, the Coventry Court of Orphans, the Great Grimsby Foreign Court, the Maldon Court of Record for passing the Estate of Married Women. A Law Commission Report published on February the 4th 1976 recommends that their jurisdiction should cease, this proposal is only giving legal effect to an already existing situation. An exception to the abolition however is made for the Lordship of Denbigh Court of Estray which deals only with claims concerning the ownership of stray sheep and still exercises an active

treasure finds seems to have been accepted as standard practice, in reality this was not so ¹.

It arose from the fact that although Treasure Trove in mediaeval times was of considerable value as regalian revenue ² in the seventeenth century few ownerless treasures came to light - therefore the law concerning it was not very clear and continued even after the 1887 Act to raise certain thorny issues ³. These divergent views are expressed in the case history on the subject.

One of the earliest judicial decisions concerns concealment from the Crown ⁴ (*Occultatio fraudulosa*) ⁵.

An inquest was held on March 27th 1863 on some gold bangles worth about £500. These had been found by a certain William Butcher while he was ploughing a field; Thinking they were brass he sold them as such for 5/6d to a Silas Thomas and his brother in law Stephen Willett, a jeweller, who recognised their worth, but failed to make known the find.

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1. See Hist. ante pp 35,36
 2. Adam Smith Wealth of Nations 1770 i. p232
 3. Questions concerning the nature of Treasure Trove; possession and ownership thereof; the title of the Crown and proof of hiding as distinct from abandoning treasure. and see Appendix 1 for a fuller account on the subject.
 4. R v Thomas and Willett CCA Nov. 14 1863 Cox CC p.376.
 5. It was contended at the trial that the indictment was bad since the word "fraudulently" was a necessary ingredient of the crime of concealment. The authority for this was a passage in Coke 3rd Inst. C.58 and Glanville Lib. I.C.2. where the words "occultatio thesauri inventi fraudulosa" are used.

The Coroner recorded

" that the said pieces of gold had been
concealed from "me" the Coroner and Our
Lady the Queen"

and committed the two men for trial.

The Judge, C. Bramwell reserved the case for the
opinion of the Court of Appeal on two questions :-

i. Whether the indictment and inquisition
or either is sufficient in Law.

ii. Whether the evidence against both
prisoners or either was sufficient to justify the verdict.

It was held that the indictment and verdict were
sufficient in law and that there was enough evidence to
support a conviction. In a later case in Ireland ¹ it
was found that it is not necessary in an indictment for
concealing Treasure Trove to allege an inquisition before
the Coroner, or to show the title of the Crown by office
found. And a conviction for concealing Treasure Trove
is good although no proof had been given of such
inquisition or office found. The Judges of the
Commission Court reserved the case for the opinion of
the Court of Appeal on the grounds that Treasure only

1. Ireland C.C. Ap. Nov. 26 and 27 1867
R v. Toole 11 Cox CC.

becomes the property of the Crown when it is proved to be without an owner and the proper legal evidence of there being no owner is the inquisition and office found before the Coroner ¹.

The Judges decided that not only was it unnecessary to show inquisition before the Coroner but that Treasure would become vested in the Crown before it was dug out of the ground. The argument in favour of this, was that there was no difference between the forfeited goods and "choses in action" of a felon becoming vested in the Crown immediately on forfeiture and the vesting of Treasure Trove in the Crown immediately on finding ².

In a much later case ³ in 1892 Shirling J. decided that the jurisdiction of the Coroner with reference to Treasure Trove is limited to an inquiry "who were the finders and who is suspected thereof". He has no jurisdiction to inquire into any question of title to the treasure as between the Crown and any other claimant, the title of the Crown to all Treasure Trove being independent of any finding of the Coroner's Jury.

1. In defence of this legal principle the following authorities were cited. Stat. 4 Ed. I; Jervis 1st Ed. pp. 45-46 Precedents pps. 336-7 Thomas Case, Leigh and Cave 313. The pleadings were consistent with Chitty's definition of Treasure Trove which is accepted by the present day courts:- See Prerogatives of the Crown London 1820 p 152-153. Chitty stresses that it is in the Hiding and not in the abandonment of the property that entitled the King to it and that any claimant to the Crown has to succeed by the strength of his own title not the weakness of the Crown - It is the duty of every person who finds treasure to make it known to the Coroner. Penalty for concealment is fine or imprisonment (3 Inst., 133 1 Black p.296).

The Inquisition in the above case concerned treasure of ancient silver (church property, chalice and cups etc) worth at the time about £80. It was found by a farm labourer while engaged in ferreting for rabbits - The Coroner's jury found the articles to be Treasure Trove. But a claim to it was put forward by the Lord of the Manor as a grantee under a deed of grant of Royalties; dated 1620 and executed by James I to the Marquis of Buckingham; a predecessor of the claimant - The Jury failed to agree on the title of the property so they were bound over by the Coroner acting under the Coroner's Act 1887 to attend the next assizes ¹.

The matter came before Day. F. in Dec. 1892 who was of the opinion that the Crown was not absolutely entitled to treasure trove.

"It cannot seize chattels because they are Treasure Trove the Coroner is bound to enquire into the matter and deal with it. If the Crown has parted with its rights the treasure ceases to be treasure trove".

The Coroner then gave notice that he would hold a second inquest. The Crown thereupon commenced an action for delivery of the treasure.

2. ib. p. 79 Pigot C.B.

3. Att. Gen. v. Moore 1 Ch. D pp 676 - 685.

1. S.4. ss. 5.

At the second Inquest the jury found that the Lord of the Manor of Stake was entitled to the treasure and not the Crown. Notwithstanding this judgement the Lord of the Manor consented to an order upon a Summons taken out by the Treasury on 19 Feb. 1893 to hand the property to the Lords of the Treasury and that all further proceedings in the action should be stayed. The verdict entitling the Lord of the Manor to the treasure was recorded on the Inquisition and still holds.

In a case as late as 1903 Farwell J. held that certain of ancient and extremely valuable articles found on Lough Foyle in the North of Ireland (the articles were of celtic origin attributable to 2nd Century AD) were treasure trove and that treasure trove was a prerogative right of the Crown and that a franchise of it from the Crown must be in specific terms.

The Judge in this case can be said to have exerted his rights as an exofficio Coroner ¹ and the claimants three in all, the British Museum the Irish Society and in part the Fishmonger's Company adduced the most colourful arguments in support of their individual claims - even to the extent of suggesting that the articles were ancient votive offerings to marine deities - deposited

1. See W. Holdsworth. Hist. of the English Law. 6th Ed. Methuen 1938. p.83.

by the upheaval of beach at the place where they had been anciently deposited - this meant that they were not treasure trove since they had not been hidden ¹.

These judicial decisions not only affirmed the Coroner's jurisdiction concerning treasure finds, but also, as a curious side effect, enabled a common law tribunal to appropriate Roman Law precepts in its deliberations on the matter ². The general notion that ownerless treasure belongs to the King or the fiscus had been accepted at all times in most countries; certainly in England in mediaeval times, the present day legal strictures seem not to have applied. Chitty's accepted definition of treasure trove is only a modification of that given by the jurisconsult Julius Paulus writing about AD 200 ³.

The monarch retains her prerogative right to treasure trove at Common Law, although parliament abrogated the regalian fishing and hunting rights ⁴, and that right is safeguarded by the modern inquisitorial law of Treasure Trove administered by Coroners which was developed in the nineteenth century.

The 1926 Coroners Amendment Act has retained s.26 and the Brodrick Committee has recommended that Coroners

1. Att. Gen v. Trustees of the British Museum 2. Ch. D. p.598.

2. See Appendix I

3. Theusaurus est vetus quaedam depositio pecuniae, cuius non extat memoria, ut iam, dominum non habeat; sic eium fit eius qui invenerit, quod non alterius sit, aloquis siquis aliquid vel luevi causa, vel metus, vel custodias, condiderit sub terra, non est theusaurus: cuius etiam furtum fit. (Proceedings of the British Academy. Oct. 18. 1933 V. xix. p.8.)

4. Parliamentary report. Times Jan. 26th 1971.

should continue to exercise the duty of enquiring into finds of treasure until comprehensive legislation is introduced to deal with the whole question of the protection of antiquities ¹.

PART II The Legal and Medical situations

Apart from the Act of 1751 which was substantive Law, the Coroner's inquisition did not contribute to any domestic legislation until the middle of the nineteenth century. The two main reasons for this were the following :-

(a) The Justices aided by constables with wide powers, informants for pecunary gain and searchers, were responsible for maintaining law and order, promulgating public health measure and even on some occasions recording medical data (it is not unusual to find such entries as the following in the General Sessions of the Peace Rolls)

"Recognizances taken for the appearance of Robert Streaker at the next General Session - for that he is a Constable and hath not done his duty concerning the shutting upp of one Wildman's doore, one dyeinge out there of

1. Cmm̄d 4810. para. 13. 27

the plague, he havinge knowledge there of upon his own confession by reason where of his owne house became infested and both his next door neighbours and there were buried five persons of the plague" ¹.

It seemed that the Coroner's mediaeval duties came to exercise him less, he was no longer needed even to legalise the procedure of waiver or outlawry ². Only the taking of the Inquest Supervisum Corporis remained his monopoly.

The Inquisitions in the sixteenth and seventeenth centuries cast very little light on the medical knowledge and practice of the times.

Plague is mentioned on and off in some prison deaths but for the most part the cause of death is by "divine visitation or natural" or as a result of the "Peine, dure et forte". In the Gaol delivery Register in Middlesex from 6 Jac I to 15 Jac I a total of 32 persons died in this barbaric fashion of which three were women ³.

The introduction of simple parish registers in 1586 by Thomas Cromwell had further restricted the Coroner's power of investigation into nonhomicidal deaths; for in

1. Midd. C.R. V.2. p.41. Graunt J. Observations London 1662 2nd Ed. pp. 12 - 13.

2. In the Roll of the General Sessions held at Westminster on the 2nd and 3rd of October, 1617, 36 writs of outlawry are recorded by the Justices (M.S.R. NS. V.4. pp. 263-75).

3. Midd. C.R. Vol 2 p. xviii.

determining the cause of death, the clerk of the parish register sought the advice of the "Searchers" ancient women, sworn to their office ¹. These ignorant and often drunken old women formed their own opinion at the corpse side, taking due note, one supposes of gossip and scandal - and on some occasions accepting bribes to suppress the presence of plague or infectious diseases which would necessitate harsh public health measures.

No bills of mortality have survived in London before 1603 but in the later extant Bills some of the causes of death recorded as late as 1662 in the parish registers include the following, colourful reasons for shuffling off this mortal coil; bleach, purples, mother planet, toes off, thought, canker or privities and heaving of lights; on occasion no cause is given ².

If the Clerk of the Parish register thought it necessary he would convene a Coroner's Inquest - very much in the same way as unsatisfactorily certified deaths are referred from the Registrar to the Coroner today. With the state of medical science and statistics, very little progress could be made to harness the forces of medicine

1. Grant. A Register 2nd Ed. p.22. M.C.R. p.71 V.3. and see Appendix II - Bills of mortality for 1629 - 1659.

2. Observations by Grant. B.M.J. 25 March. 72. pp 795-96.

It is interesting to note that as late as 1970 a check of the Central Register in some of the rural areas of West Ireland revealed that in some parishes as many as 10 per cent of deaths had neither been certified or registered. The people concerned were therefore still alive.
(An Bord Taighde Pobal Liachta. Annual Report 1970 p.9)

and law for a common purpose in the investigation of unexpected deaths. Although on occasion in those deaths which did reach the Coroner's Court, the jury might show a little imagination no doubt guided by an enterprising Coroner, for example :-

The verdict as for cause of death taken on Easter term 20 March 10 Charles I in "le Towne Court Howse" on James Prymerose barber and surgeon; that he fell ill of a nephritic malady called the "payne of the kydneyes" on the 13th March, died of the same disease on the 18th instant ¹ or on the Inquisition on John Arnold at Islington "sickened of a disease called a pestilant spotted fever and died in three days" ². While John Gosbill languished and sickened from the 14th July to the 15th August of a disease called the "burning feaver".

This particular disease seems to have been venereal disease probably gonorrhoea - a statute was passed as long ago as 1611 forbidding brothel keepers in Southwark from taking in women suffering from the perilous infirmity of the "burning" ³. Gonorrhoea or the burning reached

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1. Midd. Sess. Records 1625 -1667 J.C. Jeaffreson 1888. Gaol Deliv. Reg. 25 June 11. Charles I p.58.
 2. ib. p.58.
 3. Grant calls this the french pox and records 392 cases in his register from 1629-1659, as distinct from the ordinary pox and small pox in the same period, of which there are 10576 deaths - See Appendix II
which are casualties fol. 70.

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almost epidemic proportions in this country during the period of the Restoration after Cromwellian times.

Despite the little influence exerted by the Inquisition on public safeguards or health and life saving measures, its proceedings were drawn into the vortex of two monstrous pieces of legislation.

(a) An act condemning witchcraft, conjuration and dealing with evil and wicked spirits. This act was an extension of two previous statutes, one passed by Henry VIII in 1541 and another by Elizabeth in 1562¹.

(b) An act against bastardy to the effect that the body of an illegitimate child, which had been found abandoned, was presumed to have been born alive and the sentence of death was passed against the mother unless she could prove it was stillborn².

It was popularly believed that death could be caused by witchcraft and most of the witches were women, because "Women's smaller bodies accommodated the devilish spirits more easily"³. An ingrained belief and fear of the super-natural is to a great extent an ingredient of the human complex. The Bibliography on witchcraft is immense and little need be said on the subject here.

1. 1 Jac I c.12 1603

2. 21 Jac I c. 27 1623

3. cf Encyclop. Brit. 9th Ed. p.620 G.B. Harrison
Trial of The Lancaster Witches 1612. Muller 1929
p. xxiii.

The Church took cognizance of sorcery as a crime against God ¹, the lawyers looked upon it as a social scourge and many doctors were convinced that the etiology of some mysterious maladies was due to witchcraft ².

Many learned persons believed in the power of evil spirits and conjuration - Hale, Coke and Blackstone and even the great William Harvey discoverer of the circulation, must be counted among their number. The people of this age accepted the evils caused by witchcraft with unquestioning faith and fear; the ancient customary proof of guilt by the ordeal of water was on occasion applied to a suspect ³. One must guard against too harsh a condemnation of these inhuman views - The development of public thinking in England at every stage has been to some extent influenced by the character of its monarchs.

The first half of the seventeenth century reflects more than any other the attitude of the Sovereign. James the First of England not only abhorred smoking (although it had as yet not been perceived as a health hazard) he feared witches and was a firm believer in their powers ⁴.

1. This authorisation of belief in witchcraft was based on well known texts of mosaic law. esp. Exod xxii. 18. "you shall not permit a sorceress to live", and 1. Cor. xi 10 "That is why a woman ought to have a veil on her head because of the angels" (meaning that this is the sign of Subordination of which, witches were totally devoid).

2. Sir Thorne Browne the famous physician who wrote a treatise called "Religio Medica" gave evidence at the trial of the suffolk witches in 1664, is quoted as saying of the bewitched children in question that "symptoms were natural but they had been brought on by sorcery and co-operating with the devil".

He was frequently present at witch trials and attended the examination of the witches alleged to have tried to murder him in 1591. Most of the more horrible cases recorded are those which occurred in his reign ¹.

The earliest case of witchcraft in England was an appeal heard by the Coroners of the King's household in 1324 ² and was then subject of a writ of certiorari because of acquittal by the Jury ³ and the last trial was that of Jane Wenham in 1712 ⁴. But on the whole, trials for witchcraft in England do not seem to have been proportionately as numerous as in other countries - nevertheless there were some inquests on persons who were supposed to have died as the result of witchcraft.

A typical true Bill of the said crime is the following :-

1. Nov.12 James I 1614

Elizabeth Rutter of Finchley for exercising witchcrafts, charms, enchantments and sorceries upon William Lyon, son of John Lyon so that his whole body is wasted away and he scarcely now can live and upon

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4. In 1597 as King James of Scotland he had written a treatise on Demonology.
 1. Pitcairn Criminal Trials Vi. p.216 - in one case the jury having acquitted an accused woman who had confessed under torture, the King had them tried for wilful error.
 2. Edward II was a weak and suggestible as a monarch.
 3. Parliamentary Writs (Record Commissioned) Vol. ii div. i. p.403.

Priscilla and Frances Field, daughters of James Field, son of the said James, so that they languished and died at the same; and the jurors say that the said Elizabeth murdered the said Priscilla, Frances and John Field, and bewitched the said William Lyon lame. Guilty, no goods to be hanged ¹.

It seems that more than one death must have occurred before there could be an indictment for death to be attributable to sorcery ², although on occasion one will suffice.

On the 28th March 1615 Joan Hunte wife of William Hunte of Hemstead was found to have exercised witchcraft and enchantments of John Nutting an infant of three, so that he languished and died. But the couple had faced prosecution the previous year for causing the death of Richard Parrett and bewitched Alice James lame and had been acquitted ³.

Very often the witch did not confine herself solely to people but turned her attention to the domestic animals of the deceased as well ⁴.

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1. Midd. Calender to the Sessions Records 1615. New Series William le Hardy 1936 V.ii p.242 (to the modern medical mind this case appears suspiciously like a tuberculous cross infection among members of the same family;) also pp 279-280.
 2. Midd. Cal. to the Sess. Records 1612 -14. N.S. Hardy 1935 vi pp 190, 199, 372-376.
 3. ibid p.409 G.D.R. 2/14d, 18d - the justices had traversed the verdict of the Inquisition which had brought a verdict of murder against them (ib p.xxi).

ibid p. 302 a bay gelding was bewitched to death;

Towards the end of the seventeenth century the feeling towards witchcraft began to change - The case of Hathaway in 1720¹ no doubt activated the decay of the old belief. He was convicted of cheating and assault by falsely pretending to be bewitched and making an attack on an alleged witch. This did not mean, that pretended supernatural powers were totally disregarded by the Law.

Witchcraft took on the mantle of more materialistic manifestations and became the problem of other tribunals. (As in a certain case when a seventy five year old widow was induced by the defendant, a medium, to transfer large sums of money to him on the instructions of her deceased husband², he was successfully prosecuted.) The Act of 1736³ against witchcraft was followed by the Act of 1824 concerning vagrants⁴ which was eventually replaced by the 1861 Larceny Act⁵. It seemed that continuing legislation against sorcery was necessary - But no inquests on witchcraft deaths are recorded in the nineteenth century. With a more rational approach to the subject, persons purporting to have supernatural powers seem to have confined their aims to fraud and embezzlement rather than to

1. 14 St. TR., 643

2. Lyon v Home Law Rep. 6 Equity 655

3. 9 Geo. II C.5.

4. 5. Geo IV C.83 s.4 (Any person using a subtle craft to impose on H.M.'s subjects is deemed a rogue and a vagabond).

5. 24 - 25 Vict. C.96(A false pretence of witchcraft is punishable).

inflicting illness or death. However it is interesting to note that immediately following the abolition in 1950 of the 1861 Act. Covens and witchcraft practices once again made their appearance; although these incursions into the spirit world, do not seem to have been taken very seriously by the church or the general public, until evidence was heard in a recent inquest ¹ of the circumstances in which a young woman was murdered in a brutal fashion by her husband who had been exorcised for evil spirits some hours before the crime. The murdered woman and her mother were self acclaimed witches. (The matter of Exorcism was raised at the next synod).²

The Section of the Female Convict Act of 1623 which was to prevent the destruction of bastard children by their mothers ³ was an attempt to curtail a particular type of homicide, which few doubted was one of the most heinous forms of murder. The circumstances however which fostered its increasing occurrence throughout the seventeenth and eighteenth centuries was the social attitude to illegitimate births and in particular an early jacobean statute, which provided that when an illegitimate child

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1. Re: Christine Taylor (Inquest) April 21st - Wakefield and for full account see Times 21st 22nd 23rd April 1975.
 2. At the synod the advice given by the Archbishop of Canterbury to the Bishops was the following, that Jesus Christ exercised such a ministry and has commended it to his Church and when this ministry was carved out it should be done in collaboration with medicine, in the context of sacrament and prayer and by experienced persons authorised by the diocesan bishop.

became chargeable to the parish, its mother could be committed to the house of correction for one year ¹.

It was common place to find the bodies of infants lying in the streets, apparently stillborn, frequently the offspring of servant girls employed in the large houses nearby, and countless babies died of neglect and starvation by being put out to "nurse" ². The Statutes arouse indignation in the modern mind on the grounds of their inhumanity and medical ignorance. But it must be appreciated that some laws are enacted to suit the climate of the times, which is usually concerned with economic issues, as a result the principles of justice and morality are often transcended ³. Such laws are expedient and are only repealed when society can afford to do so, or if they are found to be unworkable. This harsh Law lasted until 1803, when it was replaced by another which restored the presumption of innocence ⁴ - Graunt in his "Observations" puts it very crudely "the Law ought to be strict against fornications and adulteries; for if there were universal liberty, the increase of mankind would be but like that of Foxes at best" ⁵. The law against bastardy, was rarely put into operation ⁶. In an endeavour to avoid

1. 7 Jac. 1 c.4. s.7.

2. Disraeli substantiates the saga of the sordid liquidation of unwanted babies. B. Disraeli "Sybil" pp. 112. 113.

3. Examples:- The Statutes of Labourers of the fourteenth century and the 1967 Abortion Act.

4. 43 Geo III c.58 s.3.

5. 2nd Ed. p. p.48. 13, 14.

6. For a full account of the Statutes see Radinowicz
Law. V.1. pp. 430-436

the death penalty for mothers who had killed their infants, various counter-acting presumptions were developed to prove stillbirth and non-concealment; The inquisition was largely instrumental in the development of this forensic evidence, which narrowed the scope of the Act's severity - For example if the corpse had no hair or nails, it was presumed to have been born before its time and therefore born dead. Or if the mother was heard to have cried out, when giving birth, then there was no concealment and the case was outside the Law ¹. Harvey drew attention to Galen's test, that the lungs of a new born baby that has breathed float in water ². This sort of evidence and the uneasiness felt about presuming murder because of concealment of a body led to the examining of the bodies of abandoned infants to see, whether medical evidence could solve the problem of live or stillbirth - So it is, we find in Umfraville's records, medical evidence, in the form of a summons to a surgeon to open the body of a new born child on which he was holding an inquest ³. Attention to autopsy evidence at inquest was therefore an unexpected side effect of a notorious Act, which itself was the precursor of Section 21 of the Coroner's Act of

1. ib. V1. p.434

2. This test is still used today, but it is unreliable and modern methods are based on the histology of the lung tissue.

3. J.D.J. Havard. The Detection of Secret Homicide. Cambridge Studies in Criminology - Macmillan 1960 p.7. n.1.

1887 and the Infanticide Act of 1922 although this can only be appreciated in retrospect.

With the appointment of Thomas Wakley in 1839, as Coroner for Middlesex, the first constructive step towards a medico legal system was effected. Wakley was the first medical Coroner¹, he was also a member of Parliament and the founder and editor of The Lancet. As a man he had boundless energy and was a great reformer. He claimed that no lawyer could appreciate the niceties of medical evidence² and he set himself the task of using his inquests to put into practice his views, many of which he published in his journal. In 1836, he had sponsored The Medical Witness Remuneration Bill which reached the Statute Book. The same year he protested vigorously against flogging during a Parliamentary debate on the Mutiny Bill - The sentence of flogging was only abolished after Wakley's death³, but it was rarely imposed following the publicity elicited by an inquest on a soldier who had been flogged in Houndslow Barrack, for assaulting a sergeant with a poker. The man by the name of Frederick White withstood the cruel thrashing (one hundred and fifty lashes) fairly

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1. William de Hastyngge a Sussex Coroner in the fourteenth century was considered to be a surgeon. See R.F. Hunnisett, The Mediaeval Coroner. Cambridge University Press 1961 p. 177 n.11. Sx. Arch. Colls xcvi 51-2.
 2. Medico Legal Journal. V 37 part IV p.165.
 3. Army Act of 1881.

well, he walked unaided from the ladder to which he had been tied to the barrack hospital. Three weeks after the flogging he developed paralysis from the waist down and died a week later ¹. In an attempt to cover up the circumstances of White's death, the military authorities had the death registered as of natural causes.

The Vicar of Heston when an application for burial was made insisted that the Coroner be informed. At the inquest the jury nominated a surgeon unassociated with the army to make a second autopsy who stated in evidence that he had "no doubt that but for his injuries White would have lived".

The jury urged that any law, order or regulation permitting the revolting practice of flogging should be abolished.

Wakley turned his attention to deaths in work houses and prisons - he considered it his duty to expose abuse in these public institution, which were hot beds of poverty, degradation and disease - One of his first inquests in 1839 on T. Austin a pauper who fell into a laundry copper at Hendon laundry and died of scalds was the cause of an exhumation order - An Inquest was held

1. Medico Legal Journal p.170 V.37 1969

and the jury returned a verdict of negligence on the part of the workhouse authorities.

He brought to light many conditions and helped to improve the lot of those who were forced to enter these places. (Dickens another crusader against poverty and disease often attended Wakley's Inquests and there is little doubt that he obtained much material for his books in the heart rending revelations of the Coroner's Court). Wakley was constantly at loggerheads with the magistrates. After the Austin Inquest a magistrate the vicar of Hendon even suggested his being removed from office ¹.

In one inquest, taken on a certain John Templeman, the victim of robbery and assault at Clerkenwell - Wakley quite rightly adjourned the inquest until the suspects who had been committed to prison were allowed to come before a Coroner's jury. He enlisted the support of the then Home Secretary (Lord Normanby), in the face of the prison governor's refusal to produce the men.

The prisoners attended the Inquest and the subsequent trial proceeded by indictment ². Despite repeated criticism from the justices, Wakley's instructions were recognised as public safeguards; he tenaciously contended

1. Medico Legal Journal G.Thurston (Presidential address 9th Oct. 1969).

2. ib p.169.

that the Coroner's Court was a superior court to the justice's court - The weight of his influence and his courage were instrumental in the formation of the modern Coroner system and he did much to pioneer the 1887 C. Act - Wakley was succeeded by an even more outstanding Coroner Edwin Lankester his friend and colleague. A man of deeply religious temperament and high principles. On the taking of his appointment of Coroner concurrently with that of the office of medical officer of health - of his own volition he produced from 1866 onwards nine Annual Reports of his work ¹. Many of the measures which he advocated have become fact today. He believed in frequent inquests and stated that inquests without post mortem were useless - That inquests should be held in all cases of sudden death where a doctor was not in attendance ², to eliminate murder as a cause; in all cases where deaths occurred in circumstances which might have been preventable - to force the authorities to take necessary action and in all cases where deaths occurred in unvaccinated persons - to draw public attention to the need for vaccination. He believed that, unless these types of death were the subject of inquests, and therefore of publicity, infectious

1. The reports for the years 1866 - 1869 are to be found as a subsection in the bound volumes of the Journals of the National Association for the Promotion of Social Sciences - The sixth is separate booklet. (pub. Hardwicks).

2. In a modified form this is present law.

diseases would continue to spread and that only after a large amount of life had been sacrificed would the legislature become alarmed, and take precautions, too late. With these aims in view during the first three years of his Coronership 3597 inquests were performed, he conducted all but 326. He suggested that medical students should take an examination in forensic medicine and that post mortems should be done only by specially trained medical men and not ordinary general practitioners ¹ who could only be but inefficient. His insistence on post mortems caused a great rise in costs which resulted in friction with the local magistrates and treasurers; the question was raised in the house of Commons and the Marquis of Salisbury produced a report on the recent expenses of various local Coroners in the Middlesex area; when it was found that Lankester conducted 178 post motems where the average only 34; even the Lancet in a Medical Annotation under the title "Ne quid Nimis" accused him of unnecessary extravagance - He was continuously attacked by the magistracy but on the whole the medical press conceded that he was a conscientious Coroner ²; Lankester was undeterred at the criticism and he closes his 1869 report

1. 2nd Report.

2. Lancet 1874 ii p. 635 British Med. Journ., 1874
ii p.624.

as Coroner, with the following healthy appraisal of local government policy;

" In all things I find our corporations and county magistrates rather looking to the figures in the rate books, than to the public good".

His reports while Coroner, show the wide diversity of his interests. They range from the reform of the office of Coroner itself, particularly in the mode of electoral reform and a unified system of selecting and appointing and paying so as to exclude the inefficient. In these sentiments he seems to be in accord with the opinions of today ¹. He was a practitioner of preventive medicine and constantly aimed to serve that cause - He pressed for the registration of still births and foster homes in an effort to combat infanticides and child abuse.

Prisons and workhouses and mental institutions aroused his deep concern as they did Wakley's.

The verdict on one of his inquests on the death of a young man of twenty five is reported as "fracture of the knee joint on tread-wheel" - an indication of the

1. The Spectator 27th April 1956.

savage conditions and lack of medical care which existed in the nineteenth century prisons ¹. The provision of public mortuaries was also another of Lankester's favourite wishes - Decency and prudence dictated that dead bodies should be removed from among the living and public mortuaries would not only facilitate this but would render performance of post mortems easier. Believing, as did the Lancet that a good Coroner should be judged by the verdicts of his juries ² he turned his attention to deaths caused by alcoholism and advocated the restricted sale of poisons as well as protective labelling, this became only effective in 1933 ³. Wastage of human life distressed Lankester. He did his best to activate and educate the mind of the public, he tried to improve the housing conditions and made valuable suggestions to prevent road traffic accidents and called for power to arrest for dangerous drivers and that a speed limit should be imposed in towns ⁴.

Lankester was scientific in his methods and exact in his results in the face of much public and professional criticism he insisted on employing only doctors expert

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1. Fourth Coroner's Report p.169
 2. Mancet 1874 ii. p.635
 3. Pharmacy and Poisons Act of 1933.
 4. "because it is intolerable that butchers carts and other light vehicles should be allowed to pass crossings and street corners at the rate of eight or nine miles per hour" (Seventh Coroner's Report p. 111).

in performing post mortems. More than any other he made the inquisition an instrument of the medical legal system and a precursor of the modern public health system.

However at his death the controversy as to whether a Coroner should be a doctor or a lawyer was revived ¹. But the public had been impressed by Lankester's record and Dr. Hardwicke, his deputy was elected by a majority of 255 votes over two legally qualified opponents.

PART III

The Mirror of the times

It would be untrue to claim that the inquests of this era provide much information as to the P.C.H.R. factor of the times. The epoch under question is well documented in other quarters and the inquests only corroborate in a minimal way, that which is common knowledge. For instance there are some distinguishing characteristics in the Commonwealth Inquests, they differ in particulars of style and language from those in Charles I time and reflect the political change of spirit. For example "Jurors for the Lord the King" is replaced by "Jurors for the Keepers of the Liberty of England by authority of Parliament"; who after Cromwell's assumption

1. This controversy is still with us; see the Report of the Brodrick Committee p.245 s.20, 41.

of the Protectorate are succeeded by the "Jurors for the Lord Protector of the Commonwealth of England Scotland and Ireland"; and after Oliver had passed from the scene we come back again to "Jurors for the Keeper of the Liberty of England by the authority of Parliament"- we also find that English language is substituted for Latin in the record ¹.

A historic Inquest, which lifts the curtain on the political evolution of the working class in early nineteenth century England was held in May 1838 on Culley a policeman who was killed when the police force was ordered to disperse a meeting on an open space known as Coldbath fields in St. Pancras - This was a time when in consequence of the distress caused by depression in trade, the desire of the working class for greater political power and liberty was expressed; open air meetings were held in London and throughout England.

The Inquest on Culley lasted five days ²; after some difficulty and about three hours deliberation the Jury returned the following verdict; "We find a verdict of justifiable homicide ³ on the grounds that no Riot Act was read, nor any proclamation advising the people to

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1. Midd. County Records 1625-1667 Ed. J.C. Jeffreson 1892 V3. pp. xii-xiii.
 2. Times 16th 17th 18th, 20th and 21st May 1838 and for a full account of the proceedings See Jervis 7th Ed. pp. 249-251.
 3. Justifiable homicide is a verdict which has been replaced as homicide in self defence (Criminal J.A.1967)

disperse; that the Government did not take the proper precautions to prevent the meeting from assembling and that the conduct of the police was ferocious, brutal and unprovoked by the people". Following this inquest great public acclaim was given to the jury - silver cups were presented to each of the seventeen jurors and it was generally recognised in the press that this verdict established the right of the people to assemble in public meeting and was declarant at the time of that which was then designated "the palladium of English liberty" - trial by jury.

Another Inquest depicting English life (H.factor) is that of the Great Thames Disaster, which occurred on September the 3rd 1878 ¹, when on a day trip to Gravesend the Princess Alice Pleasure steamer came into collision with another steam vessel the Bywell Castle with a loss of life of at least 640 persons. The Coroner's jury found that the Princess Alice was not properly or sufficiently manned, that there were too many people on board and that the life saving equipment was insufficient for a vessel of her class ² - Irrespective of the great tragedy of this disaster - The descriptions given by

1. For a full account of the disaster and inquest proceedings see G. Thurston "The Great Thames Disaster" George Allen & Unwin 1965.

2. *ibid* p.149.

witnesses of the trip and the joy among the trippers prior to the accident, testifies to a true British way of life which has not changed ¹.

The Composition of Crime is similar throughout the centuries, the most outstanding observation that one can make in examining the inquests of this time is that certain deaths of a nature recognisable to the forensic mind of the twentieth century have made their appearance, such as the child abuse and cot deaths.

The following examples are in keeping with a now accepted pattern:-

George Wright murdered his son an infant of eighteen months by throwing him into the river (31st Oct. 19 Char. II) ².

Mary Mannering slew her infant aged two years by hitting it on the head with a pair of tongs (6th Jan. 29 Char. II) ³.

Alice Hinde cut the throat of Elizabeth her daughter aged six months with a knife ⁴.

Charles Flood threw a female child to the ground so that it died instantly ⁵.

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1. Pleasure steamers still cruise down the Thames for day trips to Margate or Sherness, the traditional outing for so many Londoners.
 2. Middlesex Sess. County Records V4. J.C.Jeffreson 1892 p.5
 3. ibid p.81
 4. Midd. C.R. New series V 3 p.189
 5. Midd. S.R. 1614 New Series V2 p.107 (Strangely enough the jurors found that the child had died by the visitation of God).

And a classical case of baby battering:-
Ann Capell a spinster held Abigail a female child so near the fire that her back and buttocks were burnt - the child died of the burns a month later ¹.

In the case of Dorothy Mulbery's child who died aged four days - the inquest came to the conclusion that it was too weak to live ².

Shotgun deaths were a new mode of unnatural death :-
A most interesting inquest on this type of homicide is the death of

Alexander Earl Hume who was set about by six "gentlemen" one of whom fired a pistol loaded with gun powder and a leaden bullet inflicting a mortal wound of which he died some days later ³.

Although the times were fraught with religious strife - The R. Component of our formula does not emerge in the inquisition, unless one made an analysis of the deaths of those persons committed to prison for their religious beliefs and dying there of disease or peine dure et forte; but there are no reliable data as to the number of committals on these grounds.

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1. ibid p.204 - She was found not guilty at her trial.
 2. Midd. S.R. N.S. p.189 obviously a "cot death".
 3. M.C.R. Jeffreson V.4. p.40 and see also another gunshot death p.41.

CHAPTER IV

THE PERIOD FROM 1887 - 1972

Sir John Jervis, the author of the first modern Treatise on Coroners had this to say in the preface of his work published in 1829.

"The office, whether in consequence of the rust and relaxation inseparable from ancient institutions or of the inefficiency of its offices, has fallen from its pristine dignity into the hands of those, who are in some instances, incompetent to the discharge of even their present limited authority. A perfect restoration of this office, which undoubtedly contains the germ of vast public utility, is for the consideration of the legislature alone; but the efficient discharge of its existing authority may, in some measure, be facilitated by a simple and lucid arrangement of the law at present incident to it"¹.

1. cf. Coroner's - Jervis 1st Ed. March 1829.

More than half a century was however to elapse before the enactment of the 1887 Coroner's Act which clearly defined the scope of the Coroner's Jurisdiction and which, coupled with the Local Government Act of 1888 (51 - 52 Vic. C.41 s. 3) severed the last link of the Coroners with the Justices, when the administrative business of Quarter Sessions was transferred to County Councils, which became responsible and still are for the remuneration and expenses to Coroners; thus putting an end to the chicaneries of these rival jurisdictions. These two Acts enabled the Inquisition to consolidate its position in the English legal system and to emerge strengthened by directive and in purpose as an Institution with a foot firmly planted in the field of Medicine.

(This stage in its history bears a striking resemblance to that of the period in early Tudor times - then as now the legislature reappraised the Inquisition, became aware of its public value and took measures to define and confine it to a sphere, where it could best serve the needs of the community.)¹

Therefore it is fair to say that from 1887 onwards, the Coroner's Inquiry assumed its modern form and with

1. See Chap. II. ante pp 136-8

the enactment of the Coroner's Amendment Act of 1926 Medicine and Law became irrevocably welded in the activities of the English Inquisition which although retaining all its common law powers - i.e. capacity to expose criminality, power of committal and subpoena, it has become a public service which is educational or prophylactic¹ as well as judicial.

An analysis of some of the Inquisitions in the last decade will illustrate how the four postulates not only fall into place but are proven.

PART I

The Adaptation of the office and therefore that of the Inquisition is self evident, in the shift from a purely legal institution to a widely used medico-legal service and in the modification of the Inquisitorial procedure to include inquiry into unexpected death without public hearing².

Of the average four thousand cases reported per annum in a full-time Coroner's Jurisdiction in Greater London, only about one-sixth or even one-eighth ever comes to Inquest³. But that one-sixth is the fulorum

1. See Chapter V. post pp. 392 - 3

2. C(A) A 1926 s.21.

3. See annual statistics in the Reports of the Coroner's Society Journals from 1961 - 1973. (privately circulated to members of the Society)

on which hangs much protective legislation and the eliciting of medical, chemical and industrial data which are fed to various organisations and committees for assessment in the interest of safeguarding the community - The Dunlop Committee for the Safety of Drugs, now the Committee for the Safety of Medicines, The Road Traffic Accident Laboratory, The Medical Research Council and the Pneumoconiosis Panel, are examples, while the Ministry of Transport or The Board of Trade and Industry, now the Department of Trade and Industry, The Department of Employment and Productivity, or the Home Office and/or the Embassies may demand the transcript Notes of Evidence of any particular Inquest which may need their attention to promote or activate legislation or litigation.

As the Law demands, the deaths to be inquired into are ones which are unexplained, unexpected or violent but the approach to their investigation is now conducted more from a sociological than a legalistic angle, notwithstanding that, legal problems of varied nature can and do on occasion arise which may become the subject of a trial of issues or a civil action - The candidates for such deaths are usually individuals in which one of the

three great needs of life has been traversed i.e.

The need for sex

The need for security

The instinct of self-protection or the
need for survival

The first group comprises most of the Inquests on suicides, murders, drug addiction deaths and machochistic practices. The second often forms the basis of child murders, suicides, alcoholism, self-neglect or mental illness and drug dependancy. While in the third group fall most of the industrial accidents, road rail, air and sea disasters, medical mishaps and fatal illnesses. This is, of course, but a broad classification of the varied fields into which the Coroner's Inquiry spreads its tentacles, the basic principle of which is threefold -

- (a) The prevention of unnecessary deaths
- (b) The detection of homicide, secret or otherwise.
- (c) Finding the casual agent of unexplained deaths.

Many unexplained deaths turn out to be natural and are not dealt with by inquests ¹.

This does not mean that there is no inquisition, a full inquiry into all the circumstances surrounding the disease is carried out and if on the findings and the

1. "Inquest" is the term given to the public hearing of the case and "Inquisition" refers to the record of evidence of the completed investigation. - Both are derivatives of the ancient latin-norman name "Inquisitio".

results of the autopsy the Coroner considers that a public hearing is unnecessary, the death is certified by him, recorded in his archives and registered with the Registrar of Births and Deaths.

This practical form of recording reported deaths is one of the main adaptations of the ancient procedure to modern conditions and is the result of the discretion accorded to the Coroner ¹ and also the flexibility of the Common Law in its undisputed acceptance of medical and scientific evidence of proof that a death is neither unnatural or criminal.

Inquests into natural deaths are however sometimes held to allay public anxiety if the circumstances so warrant.

When a death has been registered on a doctor's certificate and then reported to the Coroner and subsequently the inquisition does reveal a different cause of death, that cause of death will be recorded marginally in the register by the Registrar.

The Coroner's Records not only bear testimony to the number and types of unnatural deaths, they highlight the salient features of this mounting age of technology

1. Coroner's (Amend) Act. 1926. s.21. ss. 1. 2.

daily subjected to new hazards and a pattern of life with the physiological and psychological stress it imposes.

PART II

The Legislation stemming from the Inquisition is twofold :-

- (a) that which is associated with its procedure to enable it to combine its activities with and not to traverse other legal processes and ¹
- (b) the legislation which some findings at a public hearing have provoked, such as the Factories Acts various Public Health Acts and Road Traffic Acts and others, which cannot be dissociated from the third postulate, the emergence of Medico legal system and will be considered in Part III.

The proceedings in Court are not bound by inelastic Rules of Evidence, hearsay, circumstantial, medical and best evidence are pooled, and in this manner not only is much information obtained but the truth is difficult to

1. Coroners Rules Stat. Inst. No. 205, 1953
S18 i and S 33.

suppress.

Any person duly Summomed to give evidence at an inquest who does not without lawful excuse answer a question put to him may be fined £5. ¹.

The only privilege allowed to a witness in the name of justice is the right to refuse to answer any question which might incriminate him ².

As well as the heard direct evidence from all parties, the Jury can use its own knowledge of events and of places to reach a verdict. Because of the manner in which this is arrived at, the verdict is not binding on other Courts. (in much the same manner Coroner's indictments were not always upheld at the General Eyre or before the Commissioners of Oyer and Terminer and General Gaol Delivery.)

In fact, as stated by Willis J. in his charge to a Coroner's Jury.

"In Criminal enquiries a Coroner's verdict, the finding is no more than did previously a true bill of Indictment by the Grand Jury" ³.

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1. Coroner's Act 1887 c.71. s.19 amended s.30 of the 1926 Coroner's (Amended) Act and its second schedule and see Crim. Justice Act 1967. c.80 Pt II s.49.
 2. ib Rule 18 i.
 3. The Times 18.3.1890. H.S.E. v. 7 pge 819. H.L.E. v.4 pge 827.

But it differs from the Grand Jury in that ancillary conclusions about a case can be reached and both the Jury and Coroner can in their discretion add a rider. This arises from the fact that the proceedings are directed to ascertaining 4 matters ¹ which extends the perimeter of inquiry well beyond the findings of a true bill of indictment. The Grand Jury having been abolished in 1933 the Justices of the Peace are responsible for the establishing of a prima facie case from the facts presented.

As an example of (a) :-

Section 20 of Coroner's (Amended) Act. 1926 provides that when a person is charged before the examining Justices with murder or manslaughter the Coroner must adjourn the Inquest until the conclusion of criminal proceedings, but it also provides that if there is sufficient cause, he may resume the Inquest subsequently so that it will be open to him to do so and for his Jury to find a verdict of homicide even if the examining Justices have thrown the case out or indicted for a lesser offence :-

1. Rule 26 Coroner's Rules 1953.

A satisfactory example is R. v. Conroy 1953¹, where a Coroner's Jury returned a verdict of infant murder at a resumed Inquest. The couple had been charged with concealment of birth in front of the Justices. At the Assizes the man was found guilty of murder and the woman of infanticide on the Coroner's Indictment. This decision on the part of the Court was strengthened by the Ruling given by Devlin J. the previous year in R v. Bersford (36 Cr. App. R.I.) who said.

"In a case adjourned under Sec. 20 the Police should not prefer any lesser charge, or if for some reason a charge is preferred, it should not be heard and determined until after the Inquest is concluded since in any other case but murder or manslaughter the criminal responsibility for the death should be decided at the Inquest".

In this particular case the circumstances were the following :-

In 1952 Harold Beresford driving a motor car, struck and killed a girl cyclist. He was convicted by the justices of dangerous driving, fined and his licence was endorsed.

1. R v. Conroy Leeds Assizes. 1953 for an account of the inquest and trial see Harvard D.J.D. The Detection of Secret Homicide London 1960 p.179.

Following the conviction a Coroner's Jury returned a verdict of manslaughter and he was committed for trial to the Assizes. The Attorney-General entered a nolle prosequi ¹.

Case such as the above are few and far between but they continue to crop up from time to time; the Criminal Investigation Department are often reluctant to bring charges of homicide when a lesser charge, such as Cruelty or Negligence under the Children & Young Persons Act, or Concealment of Birth, or in a death as a result of a Road Traffic Accident - charge of Reckless and Dangerous Driving,² or Careless and inconsiderate driving,³ will secure a more certain conviction.

Only recently after three repeated adjournments in a case of child death, which had been certified by the doctor but reported by the attendant of a Public Mortuary, an inquest was resumed with justifiable results, although the Director of Public Prosecution's office had been willing to accept the lesser charge of Neglect under the Children and Young Person's Act of 1963.

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1. Coroner's Society Report 1969-70 p.247
 2. R.T.A. 1972 s.2
 - 3.. R.T.A. 1972 s.3.

In this case, the fourth child of a mother of twenty, was found dead in its cot in a seriously emaciated condition, the buttock and crutch virtually gangrenous, it was obviously a case of criminal negligence, tantamount to manslaughter, if not murder.

At the Inquest it was revealed that the eldest child aged 4 years had been adopted, the second had died and the third was in hospital blinded and mentally retarded as the result of a mysterious accident at home a year previously - the home conditions were filthy and the child had never been seen by a doctor.

The mother admitted that she fed the child only when she thought about it and that on the day of the morning she found the child dead she went to Hastings with her husband for an outing, leaving the corpse in the cot without compunction. The husband turned Queen's Evidence and the Jury returned a verdict of manslaughter, to which the accused pleaded guilty at the Central Criminal Court ¹.

In Civil Enquiries the findings of an Inquest may provide guidance for civil action. It has been held that evidence given at an inquest may not be put in evidence at subsequent civil proceedings ².

1. Daniels - Inquest Croydon Coroner's Court
March 1971 - Case 472.

2. Barnet v. Cohen 1921 2 K.B. 461 Jervis 9th
Ed. p.253.

But under the Evidence Act of 1938 S.I. (1) it seems that this is not so and that statements proven before the Coroner are admissible ¹.

PART III

The Medico-legal Aspect of the Inquisition

If one takes our three crude classifications Sex, Security, Survival it is in the field of survival that Coroner's work has been most fruitful.

Rule 26 - how, whereby and by what means did a person come by his death - has brought to light sources of hazards hitherto unsuspected or has defined hazards which public or private persons have refused to acknowledge for personal or economic reasons - some examples must be given here but firstly a definition of Survival is necessary.

"Survival" can be defined as living one's allotted span without its being cut short by preventable disease, accident, or not appreciating or being exposed to a danger which kills one. The Industrial Disease death

1. Bullock v. Borett (1939) All E.R. 507.

and R v. Kray and others. Central Criminal Court 6th March 1966 when the judge (Mr Justice Melford Stevens) in his summing up on more than one occasion referred to one of the accused's perjury at the inquest on one of the murdered victims.

is a cogent example of the type of death which falls into the survival bracket. No case illustrates this better than "The George Lucy Inquest"¹ George Lucy died at the age of 43 years of cancer of the bladder. The Deceased had for many years (1935 - 1949) worked in what was then Henley's Cable Factory, N. Woolwich and although he worked in the Stranding Department from time to time, according to his own statement, he had worked in the Rubber Mixing Mill during the War years. The reason for the taking of an Inquest on an apparently natural death was a request from the Medical Profession for liaison with Coroners to investigate such deaths the prevention of which it felt needed public and legislative recognition.

The Scientific data were briefly the following and need mention :-

Since 1895 there had been a growing realisation in medical circles that tumours of the urinary tract were more common amongst those who manufactured the so called aniline dyes than amongst the general population. In 1930 B-naphthylamine, an intermediate in the manufacture of dyes, came under suspicion in this Country. In addition to usage in the manufacture of dyestuff, this substance

1. Inquest held by Mr. G. Thurston on 7th January, 1965 - at Westminster Coroner's Court.

was used for making other products such as an antioxidant called Nonox S, an unvaluable ingredient in the processing of rubber which had also been used in the Cable Industry. Investigation into these substances was postponed for obvious reasons during the War years, and the establishing by a small group of distinguished scientists of the dangers of this carcinogen firstly in the Rubber Industry and later in the Electric Cable Industry after painstaking medical research, was not completed until 1965. At the George Lucy Inquest, to which the Coroner subpoenaed Professor Case (one of the Chief Investigators into this occupational hazard in order to enable him to give his evidence unhampered,) the occupational hazard in the Cable Industry was voiced publicly for the first time. Previously some industries were slow or even reluctant to accept or recognise the danger to their personnel. Certain firms such as Imperial Chemical Industries from the outset of receiving the statistical report of these industrial deaths showed praiseworthy responsibility and ceased to manufacture the material. The publication of the risk in the Rubber Industry which was discovered in 1948, had not been sanctioned until 1954 because of pressure on the part of the Rubber Manufacturing

Employers Association and others to keep the matter confidential, despite the fact that H.M. Senior Medical Inspector of Factories was aware of the situation ¹.

When the causal agent of death from cancer of the bladder was given as exposure to betanaphthylamine at the Lucy Inquest, Nonox S as an industrial hazard was universally accepted. The repercussions of this were far reaching. The Cable Industry although approached by the Rubber Association in 1960 hitherto reluctant to take precautions to safeguard its workers by test designed to ensure early diagnosis of the disease, now changed its approach to the question. Great interest was shown in the National and Medical Press. "If an Inquest had been held on say a cable worker some five years ago and if it had been widely reported a possible consequent saving of several lives might have been the case" ².

Following closely on this case an Inquest was held in Bath on 17th September on Reginald Charles Taylor, a Rubber Worker, who had worked in the Avon Rubber Factory since the age of 14, when the same findings and verdict applied. In this case the employers had failed to provide facilities for early diagnosis so the disease

1. Under the Health and Safety at Work Act of 1974, this could now not occur.

2. Annals of the Royal College of Surgeons of England V. 39 October 1966 pge. 21.

was untreatable when it was eventually discovered.
At the Inquest on Taylor the Coroner for Stoke - on-
Trent (F.Hails) had this to say :-

"I think that since 1954 there have been
other cases of industrially induced tumours
but had the Inquest on George Lucy not
been nationally reported it is doubtful
if any of the local deaths would have
come to the notice of Coroners even now" ¹.

Then on April 17th 1968 a 54 year old factory
foreman was the subject of an Inquest in Westminster
Coroner's Court with the now familiar result - Death
was due to cancer of the bladder caused by exposure to
B-naphtyhlamine. He had worked since 1946 for a firm
manufacturing rubber appliances ².

Following closely in the same Court in May 1968,
a verdict of Death by Industrial Disease due to exposure
of B-naphthylamine was returned at the Inquest of Mrs.
Oliver Lewis who had worked at Henley's Cable Factory
at Woolwich from 1941-1960.

The legal and medical consequences which stemmed
from the Lucy Inquest and subsequent cases gave rise to

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1. The Lancet leading article, pge 627 Sept. 25. 1965
 2. Plastics and Rubber Weekly 10.4.68

Public and Parliamentary concern as to whether the risks of this occupational hazard had been eliminated, if and whether provision of medical facilities had been instituted to enable early diagnosis and treatment in those workers who had not escaped exposure.

The National newspapers and leaders in the Medical Journals gave wide publicity to the matter.

A paper by Dr. Joan Davies established tumours of the urinary tract as an occupational disease of cable workers, firmly in the corpus of medical knowledge. The Lancet reported, that as the plea made in 1964 that occupational bladder tumours should be made a notifiable industrial disease had brought no response; "let the Coroners take the matter into their own hands and make this disease not merely its known industrial occurrence but a virtually notifiable disease and let them make the information available to properly accredited research organisations as well as the Ministries who might be concerned" ¹.

The first repercussion was the accelerating of "Carcinogenic Substances Regulations" these Regulations, which had been proposed in 1964 for the prohibition of

1. The Lancet Sept. 25. 1965 pge. 628.

employment in the manufacture of certain substances and of their use, were hanging fire; now with the backing of the Lucy Inquest, they were made on the 8th June 1967, laid before Parliament on the 16th June and came into operation on the 9th December 1967¹.

Simultaneously, the Carcinogenic Substances (Prohibition of Importation) Order 1967² came into effect on 9th December 1967. While in September 1967 the Disease was added to the Miscellaneous Diseases Benefit Scheme of the National Insurance Act, 1967, and the Coroners of England and Wales had agreed to keep a watching brief and, if necessary, inquire as to any contravention of the Factory Act in connection with these deaths.

In an attempt to remedy the damage, Cautionary Cards were issued by the Ministry of Labour to workers leaving the employment and to former workers who may have been exposed,³ and simultaneously the Ministry of Labour and the Rubber Industry set up a complementary investigation to see whether all risks in 1949 had been removed and to assess the extent of the risk that had existed before that date.

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1. Stat. Inst. No. 879 1967 Factories
 2. Stat. Inst. No. 1675
 3. Carcinogenic Substances Regulations 1967; Factory Act 1967 Sec. 7. s. 2.

In December 1966 a legal action was brought on behalf of the widow Taylor, by the Trades Union against Avon Rubber Company for negligence. It was, however, settled out of court to the tune of £2,000. The Trades Union then decided to bring an action against Henley's Cable Works and, if possible, include I.C.I. This was started in 1967 and again settled out of court. In 1969 an action by the Lucy and Wild Widows against I.C.I. and Henley's Telegraphic Works Co.Ltd was found to be statute barred ¹ and was referred to the Court of Appeal ². But in 1970, April, the Bladder Cancer Actions of Wright and Cassidy -v- Dunlop and I.C.I. were wholly successful. The Judge O'Connor J., in these Actions rejected the submission that the Action was Statute barred because the Union had in 1967 told the Plaintiffs they had no case; the Writ being issued on 15th May, 1968 was well within the 12 month period required for the Plaintiffs to have knowledge of the conditions under the Limitation Act of 1963 - Sec. 3 and in the following words summarised the liability :-

"If a manufacturer chooses to use a chemical which he knows to be a dangerous carcinogen

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1. Times Law Report June 17 1969
 2. S.2(1) Limitation Act 1939. S.3. of the Fatal Accidents Act 1846, as amended by S.3 of the Limitation of Actions Act 1945.

in the manufacture of a product and knows that the product contains a proportion of the carcinogen and if he chooses to market the product without giving warning of its presence then I hold that the Law imposes a very high duty indeed upon him to satisfy himself that the product will not prove dangerous when used for the purpose for which it is supplied..... I hold he cannot market it without giving adequate warning" ¹.

Suffice it to say that at the Lucy Inquest in January 1965 evidence given on behalf of I.C.I. disclosed on the depositions, led one to conclude that I.C.I. had not discovered the dangerous quality in Nonox S until April 1949 - The fact is that it was not until Solicitors acting for Henley's Cables who occupied the position of Dunlop in the Lucy Action had settled out of court, that they received advise that they should form I.C.I. as third parties ².

The Plaintiffs, Cassidy and Wright, got damages from I.C.I., because they had negligently marketed a

1. Pge. 46 in Judgement Transcript of Mr Justice O'Connor Tues. 20 Apr. 1971.

2. ibid pge. 84

dangerous product and damages from Dunlop because they had failed to provide safeguards against injury for their workers (i.e. early diagnostic tests).

I.C.I. appealed against the judgement on the issue of liability. The Appeal case was heard on the 31st Oct. 1972, before the Lords Justices Sachs, Megaw and Lawton, when it was stressed that the relevant principle of Law was on the duty of a manufacturer to a purchaser's workman¹ and that in this case I.C.I. were involved in strict liability.

It follows that the appeals were dismissed².

The results of these consolidated test cases were:-

- I. A more equitable interpretation of the Limitation Act of 1963 (s.3); and Legislative protection and early diagnosis for victims and compensation for the dependants of the Deceased ensued.
- II. The Reversing of the decision of MacKenna J. who refused Mrs. Lucy's Application to sue I.C.I. as joint defendant in an action against Henley's Telegraphic Co. Ltd (Tues 17 June 1969).

1. P.57 of the Transcript of the Appeal Judgement.

2. ib. p.61.

III. Finally, and most importantly, the principles of industrial responsibility not hitherto commonly understood were found and upheld at Common Law; because the Judgement set down rigid conditions of future industrial responsibility applicable to many types of firms.

The above case alone would confirm the four requisites of this study:-

All the four factors are satisfied the adaptation to modern needs, the concerted action of medicine and law, the picture mounting of technological intrusion into the natural - the establishment of a duty of care by master to servant, which has extended to other types of industrial diseases such as asbestosis, the mesotheliomata and pneumoconiosis, are now accepted facts and most Coroners have their yearly percentage of these industrial deaths to investigate.

The following diagram illustrates the sequence of events admirably ¹.

Two other series of Inquests which are illustrative of the liason of Law and Medicine are:-

- (a) Infant Deaths
- (b) Deaths associated with experimental medicine.

1. See Diagram 'A' overleaf.

INFANT DEATHS

Sudden Child deaths and deaths in infancy have increasingly compelled the attention of forensic experts in the last few decades. These deaths can be divided into three classes :-

- (a) Natural but unexpected deaths.
- (b) The Cot Death, or as it is termed the SDI Syndrome is as yet unexplained but thought to be natural.
- (c) Deaths due to child abuse or the "Battered Baby" Syndrome, include deaths due to criminal negligence or other forms of violent death such as infanticide, and accidental deaths in the home or on the roads.

NATURAL

The natural baby deaths can be dismissed immediately and are usually cases of acute bronchio pneumonia, gastro enteritis or congenital disease, the reasons for their being reported to the Coroner are :-

- i. the child has died before a doctor had seen it or
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- ii. the onset of the illness was undetected, the signs and symptoms and death ensued too rapidly to be diagnosed with certainty.

On occasion a seemingly natural death is found at inquest to be a medical misadventure as in a certain case when a normal healthy fourteen months old child having been given a measles vaccination, developed a rash two days later with subsequently irreversible Brain damage and paralysis, dying two years later ¹.

A postmortem and the issueing of a death certificate by the Coroner disposes of the problem.

THE COT DEATH

At Inquest these cases usually fall into our Survival classification; while, according to the pathological and circumstantial evidence, a few, particularly those of a criminal nature, may present some or all the features of the traversed survival, sex or security groups and are dealt with later in the section on child abuse.

The classical picture of the "Cot Death is the following :- An infant in which there has been no history of illness and which is reported to have taken its feeds

1. Sutton Coroner's Court c.1136 13.7.71

normally, is put to rest in its pram or cot; when it is picked up some hours later, it is found to be dead. Sometimes the tousled bed clothes and the position of the child indicate that there has been a period of distress.

The age group most frequently affected is that of 3 months. In the past these deaths were attributed to suffocation by overlaying or inhalation of vomit or smothering by bedclothes. Both the Law and Medicine have intervened but with little success, to prevent these recurring tragedies. Research, by Head and Gertinger at the Institute of Forensic Medicine in Gothenburg ¹, Gormsen in Copenhagen, and the work of German ², British and American Authorities ³ has established the probability that most of these deaths are natural; The physiological and pathological reasons being clearly established at autopsy, need not be discussed in this study.

But because the "Cot Death" is always sudden, unexpected and often at the time of occurrence inexplicable; the cases are invariably Coroner's Cases and subject to an inquiry - The Inquest in such a case not only precludes any malicious gossip which may arise to distress the bereaved parents - it also satisfied the needs of the

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1. Preven Gertinger. Cot Deaths. Jour. of For. Med. V. 14 1967 pp's 46-57.
 2. J.Gleiss. Advantages and Disadvantages of the Prone Position for Newborn and young babies. Germ. Med. Monthly V. x.v. April 1970 pp's 225 - 227.
 3. Jour. of For. Medicine V.4. April 67 and Ameri. Jour. of Clin. Path V.38 6 pp 637 - 638.

Law, that unexpected sudden death of unknown cause must be enquired into publicly ¹ to preclude any question of criminality ².

An Inquest is sometimes needed to convince the parents or the public, that the sudden death of an infant in the Care of foster parents, was unavoidable and that there has been no neglect. Again in some cultural groups - mostly of African origin, it is essential to hold an inquest to protect the mother of the baby from the father. According to certain tribal laws the death of a son would be a sign of weakness in the father and the mother would have to be punished or rejected by sending her back to her tribe, for causing a son to die, with the resultant slur on the father's masculinity ³.

Finally an inquest presents the true facts, explains to the parents the nature of the syndrome and how little is known of how to prevent it.

In some Cot Deaths no medical cause can be found and the pathologist may report the death as asphyxial or due to respiratory arrest - Asphyxia is defined as the suppression or suspension of the normal oxygenation

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1. C.A. 1887 S.3 as amended C(A)C s. 30 Sched. II
 2. In R -v- Quigg a Mother aged 22years pleaded Guilty to having suffocated her three children - The first two deaths were put down as cot deaths despite autopsies having been performed. (Times Dec 19th 1975) This case shows the importance of holding inquests into sudden deaths in infancy - When cross examined in open court, the Mother admitted the Killings because she felt "The world was too wretched a place for children to live in".
 3. Hammersmith Coroner's Court 1970. Coroner's Soc. Report 1970-71 (priv. publication) p.277.
Times 19th. 1972.

of the blood long enough to cause unconsciousness or death; any prevention of respiration by blocking of the air passages by a foreign body, or the inhalation of fumes or gases can bring this about - so indeed can criminal intent - it is, therefore, this type of death which exercises the Coroner's Vigilance most.

Recently the Coroners' Society passed a motion accepting as a registerable cause of death in cot deaths, "Sudden Death in Infancy" ¹, the Registrar General was prepared to accept this terminology, the purpose of which was to get more accurate statistics and to curtail inquests on such infant deaths - the contention being that the inquest is distressing to the bereaved parents.

This line of reasoning is unfortunate for the following reasons:-

(i) S.D.I. as it is now termed, is a syndrome not a cause, which, while it is eminently valid for the purpose of medical research and parlance, is unacceptable in a legal inquiry - (the purpose of which is to establish as far as possible the cause of a sudden unexpected death,) therefore, S.D.I., must be qualified if only as a negative, for example S.D.I. of unknown cause.

(ii) Again extraneous non-medical factors are

1. Health Report No. 113-1965 "Enquiry into sudden deaths in infancy H.M.S.O. and see Coroner's Society Report Minutes Jan. 1970.

sometimes established at inquests which, in conjunction with the post-mortem, may throw a new light on the cause of death - certain consistent factors re-occur with monotonous regularity.

- i. the children concerned are usually vigorous.
- ii. they are often (not invariably) bedded in confined space (carrycot or pram) of impervious material.
- iii. there has often been, although not invariably, some terminal vomiting into the air passage.
- iv. the position of the child is often prone on the mattress or with its face against the side of the cot.

These findings gave rise to a theory that a child could suffer respiratory failure in a confined unventilated space. This controversial view has been expressed in the British Medical Journal;¹

While this theory is no longer quite so popular it still, however, cannot be disproved or even dismissed and was the causal agent in the framing of The Carry Cot Regulations 1966.

1. See Appendix III letter to the British Medical Journal.

"In the majority of instances, however, the combined efforts of the pathologist and the investigators (Coroner's Staff) at the scene fail to uncover any satisfactory leads in these cases - A careful explanation with frank admissions of what we do not know would seem to be a reasonable way of avoiding the dilemma of the of the heartbroken bewildered parents".¹ and the most satisfactory way is to do so by inquest. Coroner's Records may be of great value to the medical researchers in the problem now and in the future. (The Lord Chancellor has stated that Coroners records are to be kept for 100 years - Statutory Instrument)²

An attached list of reported cases from 1965 - 71 from the London Borough of Bexley illustrates the frequency of these deaths and the little progress made by medical or legal endeavours to find a cause or a cure. (see Table I overleaf)

As the situation is still clinically a baffling one despite the numerous papers and reviews on cot deaths since 1940. It is advisable for the Coroner to familiarise himself with the many scientific theories put forward by world wide authorities, if only to be able

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1. American Journal of Clinical Pathology V.38
No. 6. pp. 637 Dec. 1962.
 2. Home Office Circular 250/1967 para. 9.

WADSWORTH BOROUGH OF BEXLEY

Return of 'COT DEATHS' for the period from 1.4.1965 to 31.10.1971

<u>Year</u>	<u>Case No.</u>	<u>Date</u>	<u>Age</u>
1965	93	8.04.65	1 month
	202	24.04.65	5 months
	303	9.05.65	2 months
1966	96	10.01.66	2 months
	218	22.01.66	4 months
	276	28.01.66	5 months
	912	24.04.66	3 months
	1355	4.07.66	10 days
	2488	23.12.66	8 months
	2508	30.12.66	15 months
1967	270	30.01.67	3 months
	403	17.02.67	7 weeks
	526	5.03.67	5 weeks
	1080	20.05.67	6 months
	1133	26.05.67	5 weeks
	2249	22.11.67	2 months
	2670	28.12.67	8 months
1968	235	16.01.68	3 months
	357	28.01.68	8 months
	1733	4.08.68	3 months
1969	595	6.03.69	3 months
	773	31.03.69	3 months
	1055	24.04.69	2 months
	1166	16.05.69	2 months
	1714	13.08.69	2 months
	1848	2.09.69	4 weeks
	2542	30.11.69	8 months
1970	799	20.03.70	6 weeks
	2445	15.10.70	3 months
	2514	25.10.70	2 months
	2950	13.12.70	2 months
	3095	19.12.70	2 months
1971	71	7.01.71	7 months
	388	9.02.71	6 weeks
	1433	6.06.71	7 weeks
	1755	18.07.71	3 weeks
	1958	18.08.71	2 months
	2161	13.09.71	4 weeks

Bexley has been singled out statistically as being a borough with a relatively static non-fluid population. From 1965 - 71 the population figure has risen from 217076 to 218000 with a fairly constant 5 - 6 "Cot Deaths" per annum.

to ask the pertinent questions at the Inquest. A brief mention of these current propositions may not be irrelevant to this study.

a. Hypersensitivity to cows milk was suggested by Parish and Associate a cause of S.D.I. and is still an unsettled controversy ¹. Feeding habits must therefore be inquired into carefully and recorded.

b. The immunological competence of the new born infant was questioned ² - thus any allergic reaction should be inquired into which might have been the trigger for a fatal anapylactic reaction - Such was the case in two inquests of sudden death in infants who were immunised by oral anti polio vaccines ³.

c. The positioning of a baby in its cot was considered (Advantages and disadvantages of the prone position for new born and young babies) ⁴.

Two particular inquests focussed attention on this particular concern ⁵.

Infection and virulent viraemia have been and still are a focus of suspicion ⁶ - Some sudden deaths can be accounted for under this heading - but to equate such deaths with unexplained cot deaths opens a field of

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1. Lancet 2. 1106 1960. Dapena and Rose Amer. 7 Clin. Path. 56 pp.412-415 1971.
 2. Rosen Paediatrics Springfield 33. 159 1964
 3. Sutton Coroner's Court Feb. 1967
 4. Gleiss German Medical Monthly v xv April 1970 pp. 225-227
 5. Baby W. c.860/74 Baby P.c.2330/73 (Croydon Records)
 6. Huntington and Jarzynka. Amer. 7. Clin. Path.

medical speculation which must remain the prerogative of the specialist.

Poisoning and suffocation must be ruled out - since on occasion a Pathologist may give as a cause of death Asphyxia - which only at inquest is revealed as of non criminal etiology ¹. In certain instances the dividing time between a pure cot death and a death due to child abuse can be very thin ². Only persistent and continuous medical research and an expert inquiry into all the circumstances surrounding the S.D.I. Syndrome may elucidate possibilities which will help solve this tragic problem.

Infanticide and The Battered Baby Syndrome

There are two types of child killings.

- a. The impulsive or sudden killing of an infant under the age of twelve months by its mother while she is still suffering the ill effects of child birth constitutes the offence of Infanticide ³.
- b. The baby or child which is battered or neglected unto death - which is manslaughter or even murder.

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1. Geenash Croydon 25.3.67 and Gerivat, Croydon C.C. 8.4.67 C.725.
 2. Gartner Bromley 14.2.74 c.3037 and Lewington Farnborough Feb. 74. C.2982.
 3. 1 - 2 Geo. IV c. 35 s.i.

On the otherhand asphyxia may be the result of violence Kilby.C. Croydon Coroner's Court

Violence
Violence

These two crimes must not be confused by loose interpretation of Section I of the Infanticide Act of 1938; the age of the deceased infant is not of paramount importance in the Battered Baby Syndrome; it is the type of injuries and the circumstances surrounding the death and indeed the cause of death which decide the issue ¹. A battered child can be well below the age of twelve months and therefore at an inquiry into such a death the distinction between these two crimes must be appreciated, since a verdict of manslaughter enables appropriate measures to be taken for the welfare of the siblings or in the interest of any future children in a suspect family ².

Infanticide was well known in the repertoire of homicide even in the fifteenth and sixteenth centuries, although no concession was made to this illness and the penalty for murder was always exacted ³.

But the crime of child abuse was accorded no separate identity, although in the light of modern knowledge its mirror image, even to the type of injuries inflicted, is to be found in some of the ancient Gaol Delivery Rolls ⁴.

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1. The Battered Child Syndrome Medicine Science and the Law. 1966 Cameron Johnson and Camps. Modern Trends in Forensic Medicine Keith Simpson Child abuse. Ed Keith Mant.
 2. For an example the taking into care of the three weeks old son of Maria Colwell's mother by Enfield Council under a provisional place of safety order by the Enfield Juvenile Court. Times Apr.17 1974p.3.
 3. Middlesex County Rec. Old Series London 1886 vi. pp's 83, 105, 154, 201, 214, 250, 285.

A brief description of each of these two forms of homicide will make the matter clear.

INFANTICIDE is a post partum act of destruction possibly the result of social pressures and or fear of censure, but more often than not, it is the manifestation of puerpural mania. It usually occurs immediately after parturition, although in some cases weeks or days may elapse.¹ In this sense, Section I of the Infanticide Act of 1922 which refers to "a woman by any wilful act or omission causing the death of her newly born child", was a more valid medical assessment of the situation than Section I of the present Infanticide Act of 1938 which enacts that the age of the dead child must be under twelve months. This act is still in force and until quite recently afforded a valuable defence cover for the crime of child abuse. A mother whose seven month old child died following an alleged fall from her lap sustained injuries which such an explanation could not support. The Jury ignored the history of a previous child who had died in similar circumstances at the age of three months and the mother was charged with infanticide².

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1. R -v- Donahue Times 8. Nov.1927 and 22. Nov.27
The Law Times V. 138 p.240
R -v- McConnell. June 11. 1923 Avory J. Guildford
Assizes, Tervis 7th Ed. p.161.
 2. R -v- Parmenter Croydon C.C. 7.2.1967 c. 0291

THE BATTERED CHILD is a different kind of homicide and as a specific crime has only been recognised in Britain and America in the last twenty-five years.

The definition of the Battered Baby Syndrome as it is now termed is the following:-

"A child who has suffered serious physical injury in circumstances which indicate that it was caused wilfully rather than by accident" Parker 1965 ¹.

A Radiologist, Silverman was the first to perceive the significance of the multiple fractures found in many babies as of traumatic origin.

The Battered Baby Syndrome is comprehensively described in Henry Kempe's authoritative book on the subject and amply corroborated by the findings and writings of other and many authorities to warrant description here ².

The reasons for this crime remaining "undiscovered" as an individual type of homicide despite its perpetration by a classical series of events, so glibly accounted for by suspect parents or guardians, were the reluctance of doctors to accept callous brutality on the part of parents

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1. M.S.L. 1966 Cameron, Johnson & Camps 6.2.
 2. The Battered Child Ed. R.E. Helfer and C.H. Kempe Univ. Chicago Press Simpson K (1965 B.M.J. 1.393) Mod. Trends Forensic Med. 3. 2. p.19.
Cameron J.M. (1970) Br. J. Hosp. Med. 4.769
Kempe C.H. (1971) Archs. Dis. Child. 46.28.

towards their children, the disinclination by the Crown to prosecute where the only basis is the medical evidence, and the unwillingness of witnesses to get involved and or often a lack of corroborating and circumstantial evidence.

Since the widely reported investigation into the Maria Colwell tragedy, the public, the medical profession and the Courts have become more aware of these cases.

Initially, the majority of these pathetic deaths were dealt with in the Coroner's Court, the Inquisition being the best and sometimes the only method because of the admissibility of hearsay evidence, of establishing, how, where and by what means the deceased had come to its death¹. If one considers that of 37,000 cases of child cruelty investigated by the N.S.P.C.C. in 1969 35,000 never reached police notice or court investigation².

This alone renders the inquisitorial procedure when death does occur justifiable unless the pathological evidence is so indefensible that a charge of murder or manslaughter against those who have the duty of care, can be preferred³.

1. S.I. No. 205. 1953 Coroners Rules. 26 (6)

2. Mant K. Modern Trends in Forensic Medicine
Butterworth 1973 p.21

3. There is a tendency once again for a reluctance to prosecute, the case of baby Kilby is an example

Some cases however are not resolved easily. For example in the Southern District Jurisdiction of Greater London between November 23rd and March 3rd, four cases of suspect infant deaths were reported (Baby L. C.2982/73 Baby S. C.2735/73, Baby G. C.3037/73 and Baby W. C.656/74). Proceedings in two of the cases were instituted against the parents on murder charges because the injuries were so appalling that there was no room for doubt as to the children having been brutally assaulted. (cf W and S) 1973. The W baby had multiple fractures including a severed spine and aorta while the visceral injuries in the S. child (she was four years) could only have been the result of repeated blows ¹.

The other two cases were the subject of a Coroner's Inquiry and yielded vital information on how there can be a deviation in the regular pattern of child abuse, which is only recently being recognised as a variant of the same crime. Cases 2982/73 and 3037/73 are particularly illustrative ².

Both these Inquests, which fall into the Survival classification where child safety is concerned, portray to some extent, deaths as the result of sex frustration by the perpetrators.

1. See figures a,b, showing typical child abuse injuries

2. Appendices full report of inquest cases 2982/73 and 3037/73

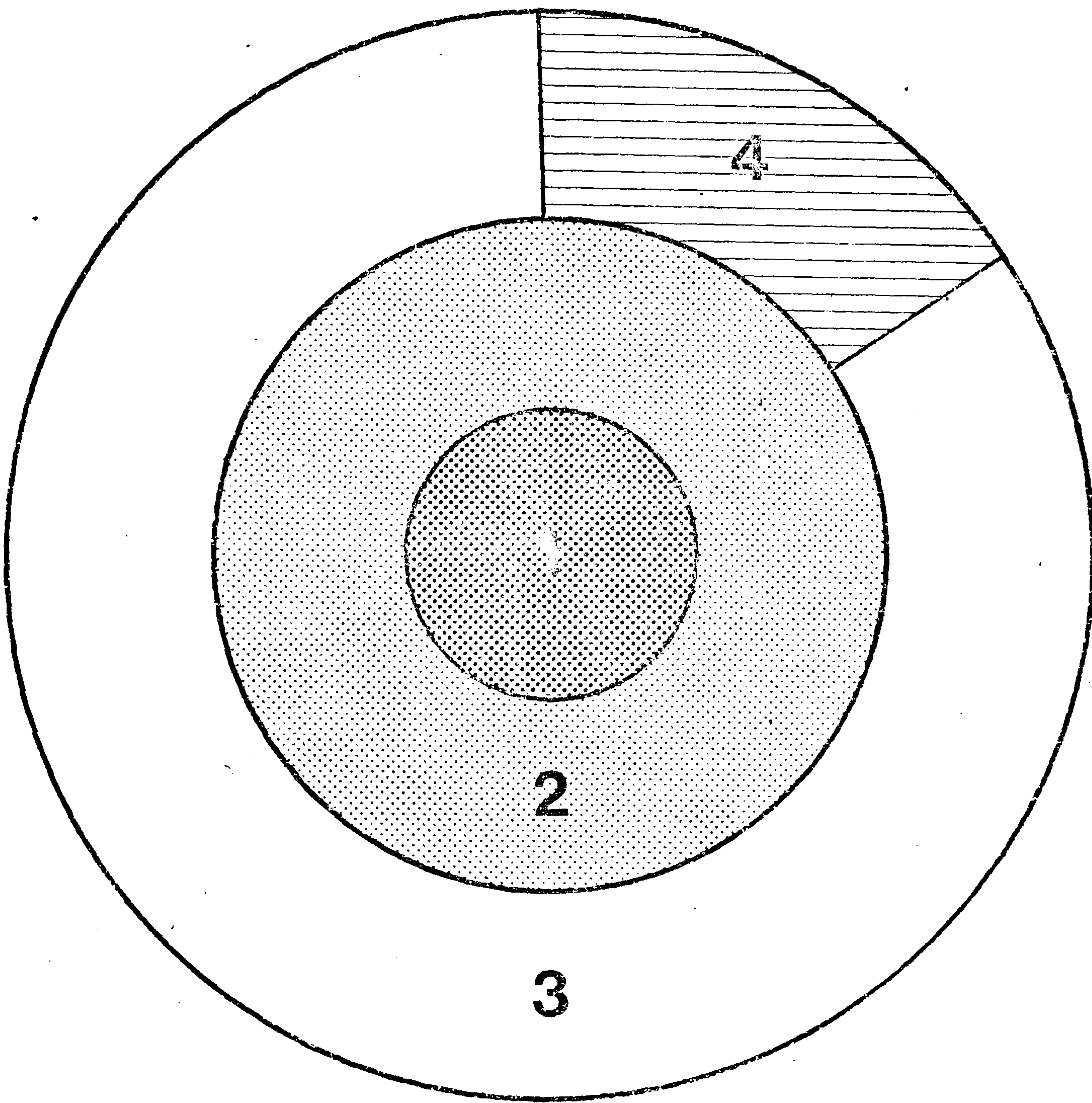
Diagram B and legend overleaf.

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DIAGRAM B

Unquantitive diagram illustrating degrees of possible child abuse



See Legend overleaf

LEGEND TO DIAGRAM 'B'

SHOWING HOW MANY PERPETRATORS OF CHILD ABUSE ARE NOT PROSECUTED; BUT FIND THEIR WAY AS WITNESSES IN CORONER'S INQUIRIES

1. There are well established clinical data and the autopsy findings of non-accidental injuries sufficient to prefer charges. Accused often admits guilt at the trial. Re:- Blackie Baby (Guardian June 7th 1974)

2. Cases where the Police are reluctant to take action because there are minimal or no external injuries. Signs of old injuries which are not the immediate cause of death. No corroborative evidence though the picture forensically is clear. Vindicating evidence from relatives or neighbours or Social workers. Possible medical cause of death such as S.D.I. or marasmus.

3. Cases of children abandoned, starved or left in circumstances where their life is in danger; or where doctors and nurses and social workers have been misled. Where a natural cause of death has been certified; plus cases which are not reported.

4. This is a type of case which occurs within Section 3 and these can be referred to as Suspect Accidents.

The explanation given by parent or guardian at inquest cannot be faulted

In R -v- Bushell a mother was convicted of the murder of her fourth child, three previous children had died in accidents which Coroners juries had returned verdicts of accidental death. Times 16. 73.

Two children aged 18 months and 3 years were left in a large bath full of water and the mother went to have a cigarette and cup of tea with a neighbour down the road. Bexley Coroner's Court 6th February, 1967

Two children under three were scalded to death in the early hours of the morning in a bath room.

Southwark Coroner's Court 2.2.1974 Times 2.2.1974.

In the case of Baby L - the mother told the Court that the only reason she had become pregnant, was to be allowed to get married and her obvious relief in turning on the television and going out for a drink when she knew her child was dead - was in a sense analogous to case No.2. In which Mrs. G. who was quite willing to link her destiny with a vagrant unemployed male and his two children (by a previous union), photographed the dead child before taking it to hospital, an action as indicative of having shelved a burden as in the reaction of Mrs. L. - (a memory such as an old photographic is less cumbersome than a baby which has to be cared and looked after) ¹.

The picture of the battered baby is now so well recognised that charges of murder and manslaughter can be preferred on the clinical data and autopsy findings alone - This gives the impression that this type of crime is on the increase ² but there are no previous reliable statistics to gauge this by, although it is roughly estimated that about 4,600 cases a year occur in the United Kingdom of which about 700 die per annum ³.

As has already been mentioned there are variants

1. See report of case in Appendix V.
2. Cameron. Deaths proven in Battered Babies personal interview 1974. Diagram C(overleaf)
3. J. Howell M.D. Director of The Institute of Family Psychiatry. "Remember Maria" p.23. (Butterworth 1974)

deaths in 231 proven
battered babies (CAMERON 1975)

Image removed due to third party copyright

and undiagnosed types of child abuse which have and still do elude the trial Courts.

The inquest C.3037/73 quoted above and others similar ¹ are illustrative of this extension of the Battered Baby crime, which outside the post-mortem room is by many not fully recognised for what it is. This serious sociological problem in which a series of incidences so impairs a child's health, that it dies or is permanently maimed, makes culpability difficult to establish since the clinical history is expendible in the tortuous field of negligence, where the dividing line between inevitability and avoidability can on occasion be blurred, thus providing, if not a defence an explanation. (See Diagram B)

The Inquests on suspect child deaths reveal certain characteristic traits which justify the conclusion that this is a totally psychological crime, ² Howell, basing his opinion on experience and a study of the findings in the Maria Colwell inquiry - calls it the product of a sick family. Actions and reactions are significantly diagnostic to the expert.

a. There is a pattern of persistent intermittent violence or criminal negligence towards a defenceless

1. Re Taylor Daily Telegraph 17 Oct. 72
R -v- Pizziani. Times Apr. 30. 74
R -v- Daniels. Ante p. 244

2. R -v- Gibbins and Procter. C app. V.13. 134. 1918

being who has become the target for the perpetrator's own frustrations, resentment or endocrinel disorders.

b. When death ensues there is often a brief moment of emotional display, followed by some expression of relief¹ finally culminating into a psychopathic indifference which under cross examination is unshakeable.

The Inquests in Infant Deaths satisfy all the four postulates of this Study.

a. In a commission of inquiry to establish motivation and causes in the death of a child, after the trial court had convicted a step-father of its manslaughter². The inquisitorial procedure was used (adapted) to obtain the knowledge necessary to allay public anxiety, and to assist the legislature in possible law reform for children at risk.

b. Medical data and findings are supported and Supplemented by circumstantial and hearsay evidence in uncovering a heionous form of homicide, which until

1. Croydon Coroner's Court C. 2982/73 App. 3

2. The Maria Colwell Inquiry

comparatively recently was treated with incredulity by many doctors and lawyers. This has helped to forge the links in the Forensic Medicine System.

In the domaine of Cot Deaths legal records of this medical anathema provide valuable co-operation between the two professions.

- c. Legislation concerning cruelty to children is being questioned. The fines of £25 - £100, for causing permanent damage to a child, imposed by The Children and Young Persons Acts of 1933-1964 have no basis in reason, since they are neither effectively punitive or adequately preventative. Of necessity until a problem becomes acute or sufficiently understood, Law Reform usually lags behind the needs of Society, sometimes two, three or even more decades ¹. The Child Abuse question has now become sufficiently

1. For example the legitimisation of children of an adulterous union would not have been considered in 1925 - it was 1965 before the necessary legislation was enacted.

recognised for many authoritative bodies¹ and the press to demand and suggest legal safeguards for children at risk; indeed it seems that such is being pre-enacted to date - for example the removal into care from its mother of a new born child².

A Bill for the protection of Children at risk has been presented to the House³.

- d. The fourth postulate or the mirror of our times referred to as the PCHR factor, is not lacking in the infant death inquests:-

The Crime and Human components have been described. It is to be noted that the immigrant population has contributed its percentage of battered babies and cot deaths⁴ - While the evidence of advances in forensic and psychiatric skills of the Social Services reflect a humanitarian expansion in the sociological pattern of the community.

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1. The Medical Services - The Institute of Family Psychiatry and the Social Services - Times Oct. 1972 - a Study of Suspected Child Abuse NSPCC Publication.
 2. Times April 17 1974
 3. Dr. Owen, Bill for the protection of children at risk

EXPERIMENTAL MEDICINE

The Role of the Inquisition in the investigation of deaths associated with experimental medicine, brings it into a field of dissenting ideologies, which must in no manner influence the prime purpose of the inquiry; namely the investigation of unnatural death.

Rule 26 (Coroners Rules 1953 s.b.) requires it to be ascertained at an Inquest :- how, when and where the deceased came by his death, it therefore follows that the scientific and surgical processes applied prior to death must be recorded in the Inquisition as part of the circumstantial evidence surrounding the death.

By the type of Death associated with experimental medicine is meant the transplanting of organs from a live or cadaver Donor to a dying donee; (the Coroner's inquiry only concerns Cadaver Donors). Although all innovations in medical techniques for extending life are to be welcomed - and despite the fact that the risks and promises such operations carry, differ little in intention from other types of surgery - some features of Organ Transplantation have evoked public concern :-

- a. People are often asked to consent to a transplant from the body of a close relative at the moment of bereavement.
- b. Some have a rooted objection on Religious, moral or ethical grounds to transplantation.
- c. Doctors are sometimes faced with the decision whether or not to switch off life supporting systems, which may give rise to a suspicion, that the decision has been influenced by the prospect of using the organs of the supported patients to save the life of another -

allied to the fact that there are no incontrovertibly satisfactory methods of diagnosing death, anxiety is not only restricted to the layman, but shared by certain members in medical circles; the result of which, has been to evolve a series of medical tests and standard procedure for diagnosing somatic deaths or "coma dépassé" prior to transplantations from cadavers - J. Hamburger of the Necker Clinic Paris gave an excellent account of these precepts in his paper on Renal transplantation at the

Symposium on Organ Transplantation held in Amsterdam in June 1968 ¹.

Legislation to permit the removal of donor organs, differs from one Country to another; in England - the existing Law governing transplantation from cadavers is contained in the Human Tissue Act 1961² which in substance extended the limited provisions of the Corneal Grafting Act 1952. No removal of organs can take place, where an Inquest or Post Mortem is thought to be required, without the consent of the Coroner ³, and since the greatest number of and the most suitable donors are among those who die accidentally or as a result of a cerebral or cardiac catastrophe of unexpected onset, (e.g. ruptured circle of Willis) inevitably "donor deaths" will be associated with "Coroner deaths" and became a subject for inquisition.

The Inquisition can do much to put the public's mind at rest and can make it aware of and be satisfied with the steps, which doctors are obliged to take in order to safeguard the interests of potential donors, and concurrently help the progress of science while at the same time safeguarding the medical ethos. (i.e. "The

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1. ef "Organ Transplantation today". Excerpta Med. Foundation 1969 p.293.
 2. 9 - 10 Elizabeth II c. 54
 3. H.T.A. Si. ss 5. 1961.

absolute prohibition of the direct taking of life"). It seems incomceivable that this basic Hippocratic principle could ever be transgressed, yet the medical profession itself, acutely aware of the possibility, however remote, of this occurring has laid down its own requirements for the diagnosing of extinction of life and or the necessity of surgical intervention having been effected in the recipients of transplant organs; these criteria have become current medical practice on an international level.

The Inquisition keeps a watching brief on these activities.

However it must be stressed that the Law does not intend that the pioneers in this new field of surgery should be hampered in their research or have to fear that vexations criminal or civil proceedings be instituted against them. From this it follows that an Inquisition into such a case can give protection to both Surgeon and Hospital and is far preferable to the suggestion put forward that doctors when involved in transplant operations should be clothed with immunity from legal proceedings; there can be no justification for this and such a

suggestion was quite rightly reputed by the Law Reform Committee of the bar council held on the subject in September 1971 ¹.

The following inquest will illustrate how the various interests of the Law, Medicine, the bereaved and the decease find their correct priority levels in terms of human rights.

Mrs. X a woman of fifty, following some matrimonial difficulties left home to live alone in the rented room of a lodging house. On a certain Saturday afternoon her estranged husband called on her unexpectedly and finding the door of her room locked forced it, to find his wife lying prone in front of an unlit and turned on gas fire, to all appearances apparently dead. She was taken to hospital, where resuscitation with a respirator resulted in establishing a regular heart beat and so life; forty eight hours later, the physicians came to the conclusion that there had been irreparable brain damage and that life was being supported in a body in which there was no possible hope of regaining consciousness and or being able to survive without artificial aid.

Such a case was ideally one in which the cessation

1. ef. Law Guardian No. 72 p.29.

of sustaining life since it was purely vegetative presented itself, for the transplantation of organs.

The respirator was accordingly switched off but unexpectedly the patient without regaining consciousness lived on for another four weeks, dying subsequently from complications arising from her enforced immobility. Her husband refused permission for the removal of her kidneys and complained bitterly to the Coroner at having been approached on such a matter ¹.

The explanation given at Inquest satisfied him and put an end to his unjustified rancour.

That which comes under consideration here is something other than the direct taking of life; the decision to cease any form of artificial means of sustaining life is a decision for the doctors and the doctors only, according to their own criteria of the value of such therapy in the said circumstances; this "permitting of death" by switching off the supporting system is medically and ethically acceptable ², but as a principle may however under no circumstances be expanded to embrace euthanasia in the wider sense; since the doctor has no right to set himself as judge, ascribing to himself the competence to

1. Case No. 3040 Croydon Coroner's Court Dec.1972.

2. Pope Paul VI.

decide, according to his personal assessment of what is best. between the prolongation of life or the death of a patient.

In this particular case the situation in the pathological sense remained the same, despite the withdrawal of artificial aid, medical assessment had established beyond reasonable doubt that life was and would remain vegetative - nevertheless the patient had not died and any removal of organs would be nothing short of murder. ¹

Because time is of the essence in the removal of live organs, the Coroner may on occasion be approached, quite erroneously, for permission to switch off a life saving device or to consent to transplantation of organs before the injured person has died - the answer in law must always be that the Coroner cannot be involved before death, the matter as has been said, is one for the doctors solely - although they may if the bereaved are dissatisfied have to justify their actions at Inquisition.

When the Coroner gives permission for the removal of organs from a cadaver - his pathologist requests the right to be present at the operation, so that, when he

1. D.Ackner Q.C. Legal Aspects of Organ Transplantation May 18. 1969. The Wolfson Institute Symposium on Organ Transplantation.

performs his autopsy for the Coroner's Inquiry no post mortem injuries vital as evidence in any subsequent litigation are overlooked or masked by the surgical interference - At the Inquest it will also be ascertained if permission for the removal of organs has been obtained from the next of kin (which is of paramount importance and must be effected tactfully and humanely) so that the bereaved is reassured that any consent to transplantation will not prejudice the immediate treatment of the dying patient. It is reassuring for the public to know that the adherence to these legal and medical rules are noted and recorded. A report from the two doctors who have certified the donor's death, and who are independent of the transplant team, should be given in evidence at the inquest on the Donor's Death ¹.-

Such a directive goes a long way towards ensuring that the alarming situation which occurred in a Midland Hospital recently when a "dead" kidney donor was found to be alive as the surgeons started an operation to remove his kidneys for transplantation is prevented ². Therefore the Inquisition on this type of case, which is bound to become more frequent, is not only a protection for the deceased but a form of education for the public

1. Times May 19. 1969. Sunday Express June 15 1969

2. Times Feb. 27. 1974. -White Inquest

and can do much to dispel the misunderstanding with which Transplantation Surgery is at present confronted.¹ Also the inquisitorial procedure is preferable and fairer to the community and to the doctors than the setting in motion the cumbersome machinery of the Law of Negligence and Trespass by bewildered and emotional bereaved relatives who, out of anguish act more often than not unjustifiably.

A good example of such consequences is the recently recorded Coroner's case in Birmingham; The removal of kidneys from a youth Nigel P. Ford aged seventeen was authorised by a surgeon without the permission of the next of kin. He had sustained fatal injuries in a road traffic accident. The Surgeon at the inquest stated that the boy's life was unsaveable and that as time was of the essence, (organs having to be removed not more than one hour after death) the parents being on holiday could not be contacted; he therefore felt justified in taking this action to save another's life; The Coroner pointed out that under the Human Tissues Act reasonable inquiry had to be taken to obtain consent.

1. See the Leading article The Guardian July 20th 1973. p.15.

"The family (to quote the boy's uncle, himself a Magistrate) were extremely distressed on religious, ethical, moral and conscientious grounds, the removal of these organs was contrary to their desires and would have been totally opposed" ¹.

The Ford Inquest was given wide publicity which automatically renewed the demand for amendment to the Human Tissue Act, and once again focussed attention on public opinion and its attitude to the question of experimental medicine ².

In order to increase the supply of organs for established forms of transplant surgery and to clarify the present unsatisfactory legal position governing it; an advisory Group had been appointed by the Health Minister in January 1969 and also to advise on any problems arising in this field of surgery ³.

The problem was again considered by the Law Reform Committee in 1971. Both committees came broadly to the same conclusion namely :-

- a. that reputable proven techniques in

1. Times July 19th 1973 p.1

2. Times: letters July 30th 1973 p.13

3. H.M.S.O. Cmnd 4106.

skilled hands should not be held back by obsolete Law.

- b. An individual's wishes as to the disposal of his own organs after death should have absolute primacy and override all others.

The Law Reform Committee was more forcible on the last recommendation and had this to say :-

"Where no such relative can be found, but there is no reason to believe that the deceased is without such relatives, it should not be permissible for the organs to be removed."

The result of these concerted efforts of thinking was that no action was taken to amend the Human Tissue Act since it would appear that it serves the community needs as satisfactorily as possible under the present circumstances. The fierce emotional reactions and the distress of the parents shown at the Inquest very much illustrates that there is a section of the community, which as yet has not accepted transplantation surgery as ethical therapeutic measure and/or personally believes that the mutilation of a dead body even in the interests

of prolonging the life of another is wrong. The caution of the legislature to change the law is therefore understandable.

Law, Medicine and Morality are all contributing to a common aim, namely the good of mankind and the benefit to Society; but a reconciliation of all three principles can only occur by educating the community through honest information on the subject and by promoting public confidence in its legislators and doctors. The most satisfactory method of achieving this is via the Coroner's Inquisition which is the bridge between Law and Medicine.

Before leaving the subject of experimental medicine the investigation of Donee deaths must be mentioned. This inquisitorially presents no more problems than the ordinary surgical deaths and limits itself within that range. The following Abstracts from the summing up by D.V. Durell, H.M. Coroner for the City of Cambridge, at an Inquest into the death of a man who died during a liver transplant operation, will explain this.

"The question to consider is whether the normal chain of causation is or is not broken by the operation. If the operation is necessary, and is properly performed;

the operation is not normally to be regarded as what is called a "Novus Actus interveniens" that is to say, the introduction of an entirely new factor. There may well be, however, occasions when this could arise, as for example whether the death was due to any malpractice or because in the normal way the operation was not such as to be specially dangerous or because notwithstanding the exercise or proper skill some unforeseen or unforeseeable event occurred which was the ultimate cause of death...."

"In the present instance the operation of liver transplantation is clearly still one which must entail a high degree of risk and, indeed, mortality. Such an operation could not possibly be justified if it was purely experimental and had no hope of at least some degree of success, but although there is that danger of mortality nevertheless, where death would otherwise in any case have been inevitable, so

desperate a remedy is justified.

I find therefore that the deceased Frederick G. Gregory of 28 Medway Gardens, Wembley, Middlesex, died on the 8th July 1969 at Douglas House, Addenbrooke's Hospital, Cambridge.

I find further that the deceased died from a haemorrhage following hepatic transplantation (Coroner's Society Report 1969 - 70 p.248)" November 13th 1969.

The Ford Inquest and the White Inquest justify the four postulates

- a. The adaptation to present needs is found in the restraining influence, exercised if necessary, on the fast growing encroachment made possible by some scientific discoveries on human rights.
- b. The bringing under review once again, of the legislation for facilitating medical advances and research by press publicity ¹.
- c. The inclusion in the Inquisition record, of a new medicolegal problem, which requires the corroborated efforts of both disciplines.

1. Times Aug. 27 1973

- d. And the picture thereby presented of twentieth century life with its stresses and strains and marathon achievements in medicine and science.

These cases however, it must be pointed out are the exception rather than the rule, because many people are not adverse to transplantation surgery and will give their consent quite willingly for the removal of organs from their deceased relatives. So that when the Coroner's assistance is sought from the hospital - the matter usually resolves itself in the manner of the case quoted below.

S.R. a young married woman of 24 years started convulsing at home in the afternoon of 12.5.73 and was still convulsing and unconscious on admission to hospital at 2.53.p.m. Neurological examination showed that severe and spontaneous subarrachnoid haemorrhage had occurred. The prognosis was considered hopeless and she was put on a respirator - she died whilst still on the respirator at 7.25.p.m.

The Kidneys were excised for transplantation with the permission of the next of kin and the Coroner ¹.

In this case the rights of the donor and her relatives were safeguarded, the needs of forensic medicine were not hampered and the requirements of the Law complied with. A public hearing was not necessary and the case was dealt with under s.21. C.(A) Act - If the death had been brought about by an accident an inquest would have had to be held - or if there had been any question of the donor being the victim of murder or manslaughter; then the Coroner would have withheld his consent to the removal of any organs (H.T.A. s.5 s.a.) - The reason for this being that in homicide a second autopsy may be required by the defence ².

Any waiving of these precepts could cause a reoccurrence of the controversy which occasioned such grave disquiet in medico-legal circles following the Inquest on Britain's second Heart Donor ³.

1. Case 1251 ; St. Helier Hospital 1973.

2. ef The People versus Robert Patterson and Alfred Branom. New York May 12 1970 (See Report C.1.)

3. ef. Times May 29th 1969 Reports C.2 C.3.

"Mankind will not be reasoned out of the feelings of humanity" (Sir William Blackstone 1723 - 1780)

The Medico-legal Assessment of Industrial and
Miscellaneous Accidents

Disease is not the only hazard in industry or in the home which threatens survival.

Electricity and/or Fire, the natural active process by which light and heat are produced during combustion water, the water which makes up our rivers and seas and which flows from our taps or steams from our kettles, Air, which we breathe, which can be liquified or compressed, Gases, Vapours and Fumes; to mention only a few of a whole gamut of natural phenomena whose properties are well known to the majority of men; can under certain circumstances be the causal agent of unnatural death. These constitute the run of the mill classical Inquests on burning drowning, suffocation and/or anoxia of which most Coroners have their yearly quota.

On occasion, however, a death brought about by a natural phenomenon, little known, dormant, forgotten in the chemico-physical store of accumulated human knowledge does occur; engendering subsequent litigation and activating research :- such a case was the death of Victor Andraevich Stroushinsky, who died of multiple blast injuries from an explosion which occurred in the

Laboratory of Vacwell Engineering Co. Ltd., Willow Lane, Mitcham, Surrey, on Tuesday 26th April 1966.

At the time of the explosion the deceased was engaged in packing ampoules of Paron Tri-bromide into a sink, in company of the Chief Physicist of the Company, Mr. R. Neale. Stroushinsky, himself a physicist, was a member of a Russian Trade Delegation to the United Kingdom and had been working at the Vacwell Laboratory for some months pursuant to a Contract with a Russian concern called Tecknoprominoport for the sale of two complete transistor assembly lines to the value of £879,000., under the Contract there was an obligation to acquaint the Russian physicist with the use of all the chemicals and to allow him to test and complete the assembly line. At the time of his death he had been in charge of the Engineers. At the Inquest he was said to be a careful and competent scientist who had been

working for one year on the project.

The two men were packing these ampoules into the sink in layers for the purposes of removing the labels thereon - this substance, manufactured by British Drug Houses, was known to all concerned to react with water by producing a toxic vapour. Neither party knew that it reacted violently with water and exploded and, so it seems, neither did the Manufacturers.

The Home Office Scientific Officer from the Royal Armament Research and Development Establishment who gave opinion evidence at the Inquest had this to say :-

"The material damage to the Works Laboratory was undoubtedly caused by a detonation in the sink, the effects comparable with those of $\frac{1}{2}$ - $1\frac{1}{2}$ lbs of high explosive".

He continues to say :-

"Whilst one might expect an explosion from a system involving an interaction between two liquids I was confident that this was a detonation and I have never previously come across a true detonation in a liquid/liquid system!

Following further experiments it appears that Boron Tri-bromide is a liquid which reacts very vigorously when brought into contact with water when it does so, it produces a considerable amount of heat and poisonous fumes of "hydrobromic acid", and here the interesting and relevant disclosure in the Inquest evidence :-

The witness continued.

"with one exception I have been unable to find in the literature or in the standard reference books on hazardous substances any reference to this reaction being of an explosive character. The exception is a remark in a paper in the French Scientific Journal (Comptes Rendus 1899); that when Boron Tri-Bromide is mixed with water an explosion occurs which breaks the vessel".

In a subsequent letter he then goes on to say that more research into this type of explosive will have to be done.

In 1969 the Engineering Company sued British Drug Houses for damages. Rees J. held that British Drug Houses

were in breach of Sale of Goods Act 1893 56-57 Vic. c.71 s.14 (1) whether the goods were fit for the purpose required if they were not adequately labelled with a warning of the explosive hazard, moreover, since the manufacturers had not consulted all the literature available on the subject - since in their library they possess the following reference books outlining the hazard.

Berthelot Annales de Chimie et de Physique 1878.
Gautier 1899.

The evidence given at the hearing was verbatim that of the Inquest ¹.

The two factors to emerge in this Inquest were :-

- (i) The rediscovery of a natural phenomenon which under certain circumstances is dangerous
- (ii) and if to be used in Industry calls for certain safeguards and research.

It is worthy of note that the three members asked to give evidence at the Inquest, only Valentin Kozlov, the senior engineer, could be persuaded to put in an appearance when he vigorously denied any knowledge of

1. Va. Eng. Co. -v- B.D.H. Q.B. D. 1969 - A.E.R
pge 1681 Rees J. judgement - Report D. 1969.

the work being done by the Deceased, the other two having flown back to Russia the day after the explosion.

Suffice it to say that in the subsequent High Court proceedings - no members of the Soviet Delegation appeared as witnesses but the Russian Embassy demanded a full report of the evidence given at the Inquisition and this was supplied; under Coroner's Rules 1953 s.39.

Only a few months later under cover of Russian Trade Delegation was a Soviet spy ring exposed ¹. - So perhaps the witnesses reticent was understandable. This Inquisition is therefore an excellent example of Postulate 4 "the mind of the times" in particular the P component of the PCHR formula.

Accidents do not just happen they are caused.

A particular type of death which occupies a large place in the Coroner's weekly list is that caused by accidents arising out of the use of a vehicle in a street or public highway.

Despite Section 20 of C (A) A. and Section I of the R.T. Act 1962 - which, as has been mentioned, provides for an adjourned inquest until the conclusion of criminal proceedings, the Coroner's work in that field has in way

1. Times 72.

diminished and neither has the toll on the roads. The Act is well known and many Departments are dealing with Prevention of Road Casualties such as :-

"ROSPA" (Royal Society for the Prevention of Accidents)

Road Traffic Research Laboratories.

Ministry of Transport.

Police

for it to be necessary to enlarge on the subject, suffice it to list the helpful data gleaned from inquests such as :-

- (i) Alcohol consumption of the deceased
 - (ii) Any illness or disability of the deceased or the person responsible for the death e.g. Coronary thrombosis, diabetes, faulty hearing and eyesight.
 - (iii) mechanical faults of the vehicles e.g. unroadworthiness, defective parts or metal fatigue.
 - (iv) Hazards occasioned by weight, shape, colour.
 - (v) The effects of speed and loading.
 - (vi) and the particular dangers, natural or artificial, if any, of the site of the
-

accident, e.g. poor visibility, centre bends, overhanging foliage and many other factors which do not immediately spring to mind but which may be responsible for accidents and are accordingly made known to the appropriate bodies, where, on analysis, statistical or forensic, information and guidance is given to the Organisations responsible for the preventative measures.

So far, from these sources, stemming back to the Inquest and in conjunction with medical advice, the following legislation has emerged :-

- (i) The Road Traffic Acts 1952, 1962, 1967, 1972.
 - (ii) The Breathalyser Test.
 - (iii) 1969 the limiting of speed to 70 m.p.h. on derestricted roads.
 - (iv) that an unroadworthy vehicle is an offence.
 - (v) the provision of pedestrian crossings and the marking and signposting of highways.
 - (vi) And just recently the Drag test to assist in estimating the speed of an offending vehicle.
-

These measures are not always very satisfactory and are, when found to be necessary, periodically revised. They nevertheless indicate a healthy attempt to remedy this scourge to "Survival".

The statistical evidence of the effect of a raised blood alcohol as a factor in Road Traffic accidents is evident from the following circular ¹.

Some typical vehicular deaths, however, do occur, the cause of which could not be remedied because of their rarity, without the publicity of an inquest.

Two such cases occurred in (1970):-

1. The Dempster Dumper Death ² :-

In this case, a motor foreman employed at A.G. Homes Refuse Disposal Yard, Croydon, was crushed to death when the "bin" or "skip" of a Dempster Lorry fell on him. The accident occurred in the Yard of the firm and happened when the victim unbeknown to the driver, was standing at the rear of the lorry.

The circumstances were that the driver of the dumping lorry was off-loading a container with a Dempster dumper hoisting equipment when, during the operation, the container slipped and fell at an angle of 45° onto Stevens.

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1. See Home Office Circular No/116/1971 overleaf.
 2. Case 2218 Stevens - Inquest 7.10.71 Croydon.

Extract from Home Office Circular No. 116/1971

Dated 26th May 1971

INVESTIGATION OF FATAL ROAD ACCIDENTS

"There was in the 12 months following the coming into force of the Road Safety Act 1969 a substantial and statistically significant reduction in the proportion of those killed whose blood alcohol content was higher than that permitted for drivers under the Act. You will see from the table below that it is still significantly lower than before the Act came into operation; but there are indications that this proportion has since been slowly rising and the Road Research Laboratory feel that more data are needed to establish whether there is in fact an upward trend or whether the figures are merely fluctuating about a stable lower value.

Motor vehicle riders and drivers killed in England and Wales within 12 hours of an accident.

	<u>Percentage with blood alcohol</u>					
	<u>exceeding (mg per 100 ml)</u>					
	<u>9</u>	<u>50</u>	<u>80</u>	<u>100</u>	<u>150</u>	<u>200</u>
<u>Before Road Safety Act:</u>						
<u>Dec. 1966 - Sep 1967</u>	<u>37</u>	<u>29</u>	<u>25</u>	<u>22</u>	<u>13</u>	<u>6</u>
<u>After Road Safety Act :</u>						
<u>Dec 1967 - Sep. 1968</u>	<u>26</u>	<u>17</u>	<u>15</u>	<u>14</u>	<u>10</u>	<u>4</u>
<u>Dec 1968 - Sep. 1969</u>	<u>29</u>	<u>22</u>	<u>19</u>	<u>17</u>	<u>11</u>	<u>5</u>
<u>Dec 1969 - Sep. 1970</u>	<u>29</u>	<u>23</u>	<u>20</u>	<u>16</u>	<u>12</u>	<u>6</u>

At the Inquest it was established that the vehicle had no mechanical defects which could have contributed and that the firm services and maintained this and two other similar vehicles at six monthly intervals and that the driver, was experienced in this sort of operation. In the Witness Box he described the mechanics of off-loading a skip, which is a one-man operation, in the following terms :-

The skip is held in position by two jibs secured by chains to the side of the skip and operated in an up and down position by a vertical hydraulic cylinder called 'B', when the jibs are at their maximum height the chains are taut and should be kept such until the front of the skip reaches the rear of the lorry which is the point of balance for unloading - the pushing of the skip backwards is effected by a second hydraulic cylinder 'C', which is horizontal on the mechanism.

Both cylinders are operated in the carriage of the lorry by two control levers, one lever operates the arms of the lifting apparatus, which lifts the skip from the lorry with the aid of cylinder 'B', the other lever is used for traversing the skip out from the rear with the aid of cylinder 'C'. Then, using the first lever again,

the skip is lowered to the ground against the back rest of the lorry, Once the skip is in the raised position the chains are taut and the rear view of the vehicle is restricted to the skip - the skip cannot drop if the chains are taut - so the traversing mechanism has to be completed before the chains are slackened. In this particular case it was noticed, at the time of the accident, that the hoisting arms were level with the ground instead of raised. The carriage mechanism had not been lifted to its fullest extent so that when the hoisting arms were operated by the first lever, the container no longer held by taut chains, over balanced on the rear edge of the lorry when the carriage out mechanism was put into operation. ¹

To obviate the human error of unwittingly not operating the carriage levers to their completion some sort of device was necessary. Mr. A. Lee, the Ministry of Transport Vehicle Examiner had the answer in the shape of an interlock bracket for ensuring that when the jibs of the lifting apparatus are in a down position the traversing cylinder cannot be operated, the diagram at the end of this account illustrates the principle ².

1. See Figs a.b.c.d.

2. See Diagram D. overleaf.

1



Illustrating "Demonstration unloading" with arms in high position and chains taunt.
Note:—Weight of container is supported by chains and lowered against backrest of lorry.

2



Showing length of free chain when arms are in a low position.

Image removed due to third party copyright

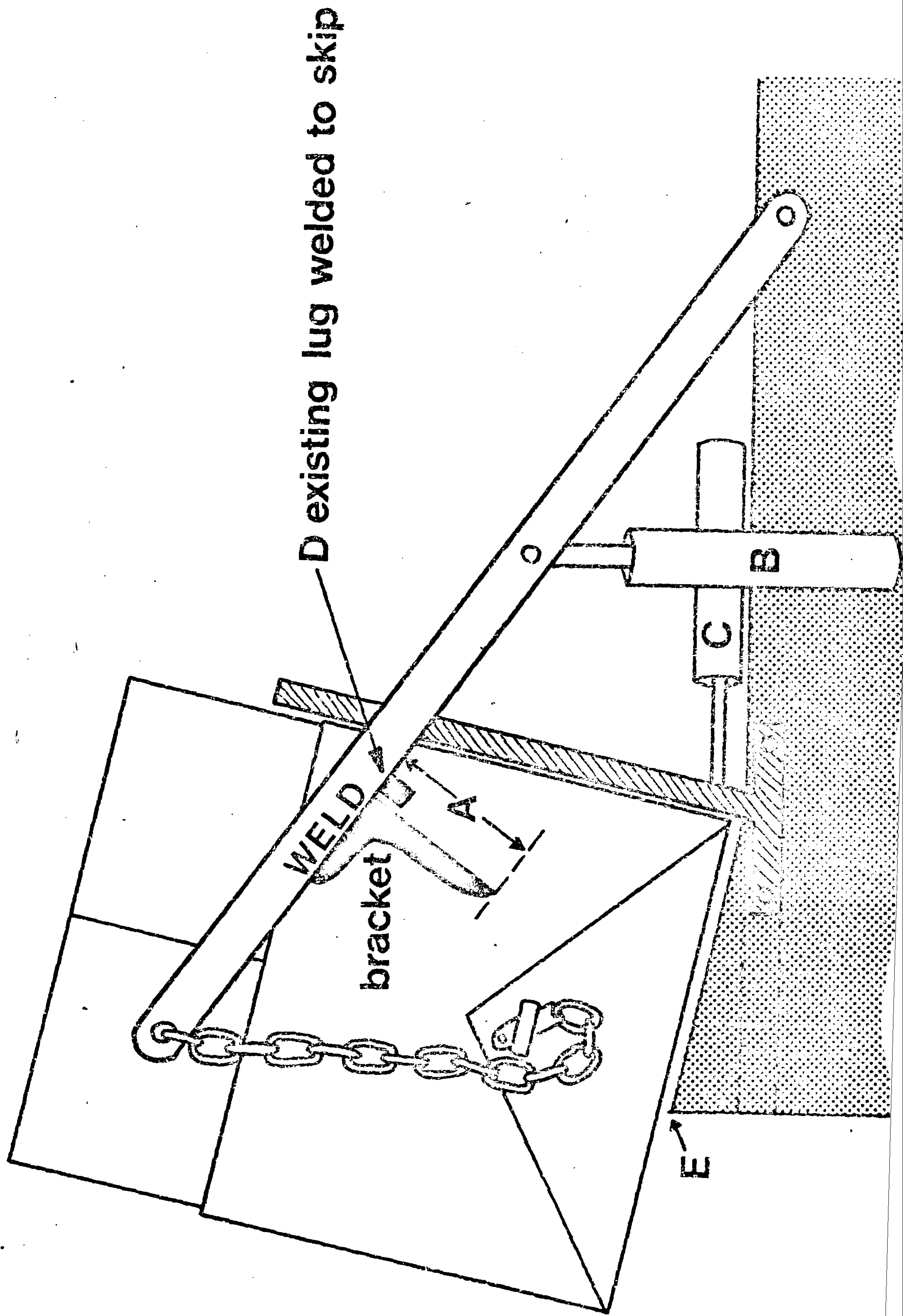
Illustrates how container can tip over when pushed backwards with arms in a low position.
Note:—No strain taken by chains which are still slack although container is falling to the ground.

Image removed due to third party copyright

Showing mechanism in approximately the same position as immediately after the accident.

DIAGRAM D

Safety modification to Demster Dumper



As a simple employee of the Ministry of Transport, his device could not be promoted commercially - but cross-examined by the Coroner at the Inquest as to the possibility of prevention of such accidents he was able to put to the Court the rationale of his safety proposal, with the result that the Jury returned a verdict of Accidental Death and added a Rider that an "interlock bracket" should be fitted to lorries of this type so that the operator of the levers had a mechanical guide as to when he should release one lever and used the second.

The Rider was given publicity by the Press and strongly recommended by the Ministry of Transport to the Manufacturers and on the 12th January, 1971 tests were carried out on a Dempster vehicle at P. Dennis Engineering Works, Llantrisant, to determine the effectiveness of these new safety hooks being added to boom arms to prevent accidental loss of containers. Despite the severity of the tests, the report of the Senior Development Engineer, A.F. Whitorne, on the 15th January, 1971, read as follows :-

"provided the boom arms are correctly seated down on the container rests with the

interlock hooks engaged.

- (a) there is no possibility of a container bouncing off during transit.
- (b) there is no possibility of a container being accidentally pushed off by incorrect operational sequence of the carriage cylinder.
- (c) the hoisting or boom arms can be 4" off the rests with no detrimental effect on the safety hooks' performance".

The Manufacturers conceded the validity of the tests and accepted the recommendation of the Ministry of Transport to equip all such future lorries with the "Lee Interlock Bracket" ¹.

Mr. Lee informed the Court that there had been previous similar accidents but none fatal and, therefore no inquest where the matter could be ventilated publicly and so promote adequate preventative measures. This is perhaps one of the most satisfactory results in public protective measures in the mechanical sphere achieved by the agency of an Inquest.

1. See diagram D and figs a.b.c.d.

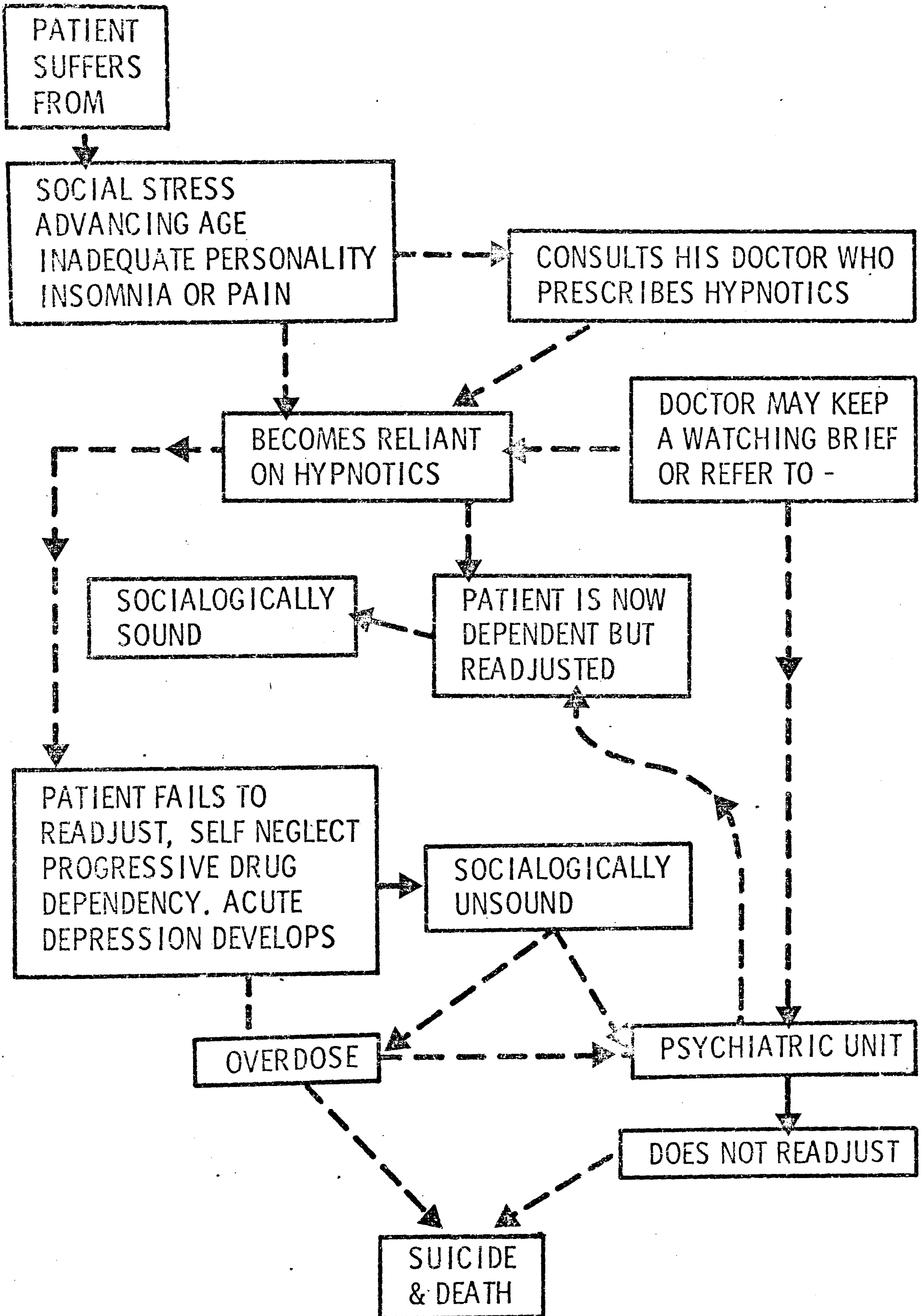
POISON DEATHS

Deaths due to poisoning account for roughly one fifth of most unnatural deaths,¹ and roughly two thirds of causes of death in cases of suicide and self inflicted injuries².

Poisoning is most satisfactorily defined as the introduction into the animal organism of a substance which produces a morbid, noxious or deadly effect on it³ - Inquests throw a great deal of light on the motivation and the circumstances which bring about deaths by poisoning and one finds that they resolve themselves into varying types - such a death can be intended⁴, accidental⁵, therapeutic⁶, anaphylactic⁷, suicidal or inevitable⁸.

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1. Appendix VI Section A and percentages in Section B
 2. Appendix VII - Figures compiled for a period of 13 years from the Registrar General's Statistical Review 1961-73 Table 7 Part I Medical Tables.
 3. Webster's Dictionary 1882 Edited George Bell & Son. Concise Oxford Dict. 1972.
 4. The recent murder case of Graham Young; Times 12 April 1973. Murder by Paraquat weed killer. Times 13 July 1974. The poisoning of Hilary Ragser by morphine in 1926, and many others of which an excellent account of Inquests and subsequent trials are analysed in "Poison" Mysteries Unsolved" C.J.S. Thompson Hutchinson 1937 and see Table 7 of R.G.'s stat. Review 1971 E.962.
 5. See Appendix VI Section B.
 6. These are cases which result from the use of drugs prescribed legitimately during the course of an illness and which give rise to addiction or sensitisation. See Diagram 'E'

Pattern of possible therapeutic death



The Spectrum of Poisoning presents a wide range, not only in the diversity of substances which can bring about death but in the methods in which poisoning is effected and the differing pathology that results - From this it follows that in Inquests on deaths by poisoning any of all the verdicts available in a Coroner's Inquiry may be applicable from Murder to Industrial disease ¹ or even to the consequentially "natural" death of a stillborn from a toxæmic mother ².

Until relatively recently poisoning was considered mostly of criminal essence by Lawyers and the General Public; although many insidious poisonings went undiagnosed or found themselves shunted into the class of natural deaths, by some physicians' careless certification or unawareness.

An illustrative case is that of the five week old child who died suddenly following a "drink of water" given to it by its mother ³. This death became the object of a Summons against a family doctor, by the Coroner, for

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7. The Laburnam seed death - Medicine, Science and the Journal of the Academy of Forensic Sciences. Vol. 10. 4 p.260 and V.13 .1 pp.23 and 46. The prison breakfast case.
 8. These are deaths which are brought about by drug dependancy or addiction and will be considered later. (post p. 324 - 328)
 1. See poisoning by Novex S and cancer of the bladder ante p. 248
 2. Poisoning by abortifacients, ergot quinine or natural disease such as eclampsia or vaginal infections.
 3. Lancashire Daily Express and Standard June 28th 1898 see also R. v. Senior C.C.R. Dec 10. 1898.

having made certification of death of natural causes when, he had never seen the child. The Coroner stated that such practice should be stopped, as it afforded opportunities of poisoning children ¹ - The Bench decided to inflict a fine of £5 on the Defendant ².

History leaves us in no doubt as to the role played by poisoning throughout the centuries in the affairs of man.

The Romans had no inhibitions in disposing of their enemies or those who acquired power or who had in any manner incurred their displeasure. The public execution of 170 Ladies of ancient Rome ordered by Fabius Maximus in 331 B.C. because they had conspired to poison their husbands ³, bears testimony to the Maxim "That the female of the species is more deadly than the male" where such activities are concerned. This was allegedly the first public knowledge of poisoning in Rome - A practice subsequently fully exploited by the powerful Borgias of the Renaissance.

Indeed in the fifteenth Century certain European states formally recognised secret assassinations by

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1. Journal of Coroners Society 1899 - 1903 Reports pps. 44-49. Private publication.
 2. The specific poison suspected was never mentioned at the Inquest; and the death may well have been natural, fortunately forensic science and techniques have improved considerably in the last fifty years.
 3. Vincent Haydn's Dictionary of Dates 25th Ed. 1910 p.1083

poisons; as evidenced in the still extant records in Venice of the notorious Council of Ten held in 1544 ¹. Heads of state came to fear poison more than the assassin's knife - Little wonder that every court had its own poison taster, the traditional remnants still occasionally colour our literature ².

In more recent times particularly in the early half of the nineteenth Century many famous Inquests were held on cases of poisoning ³- The poisons used were mainly arsenic, antimony, strychnine, prussic acid, aconite and the opiates. Although the cause of death was rarely in doubt it was often difficult to prove the presence of the causal agent or who the murderer was.

On occasion a little ingenuity on the part of the deceased or the poisoner was shown, as heard in the Inquest held on Feb. 1886 into the death of Thomas Bartlett, when the cause of death was given as due to a fatal quantity of Chloroform found in the stomach - for which after the inquest his wife and her ex lover were duly arrested and committed for trial on a charge of murder ⁴.

1. John of Ragusa a Franciscan brother offered the Council a selection of poisons and declared himself ready to remove any person out of the way whom they wished. The Presidents of the Council considered the matter at their meeting on Jan. 4 1544 and resolved to accept this patriotic offer and to experiment first on Emperor Maximilian. John had draw up a regular tariff for the removal of distinguished personages. His fee for a King was 150 ducat but only 50 for a marguis. (Poison Mysteries p.17)
C.J.S. Thompson. Poison Mysteries unsolved. London. 1937.

Because the tests for poisons were very unsatisfactory many poison deaths passed as due to natural causes and many unexpected deaths were ascribed to poisoning, but with the advent of the Reinsch test in 1842 which depended on the deposite of metallic Arsenic on a bright copper plate, followed by Marsh's discovery of the nascent Hydrogen test in 1845, which is now so delicate that the most minute quantity of arsenic may readily be detected at any period after death, it can be said that the day when poison could be given secretly with intent to murder is over, although one must make allowance for the odd criminal case. In the thirteen year periods 1961 - 1973 there were 254 deaths from assault by poisoning in England and Wales; 126 were males and 128 were females¹.

The pattern of poisoning in the past two decades has shifted from the annals of crime into the fields of medical research and sociological problems. This is due, not only to increasing scientific methods of poison detection and more accurate diagnosis of illness brought

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2. See the Times June 3 1974 At the ceremonial enthronement of King Wangchuk the wine served to the King was first tasted symbolically by attendants as a precaution against poisoning - And it was only in 1970 that Pope Paul VI officially abolished The Vatican poison taster.
 3. op.cit. Poison Mysteries Unsolved C.J.S Thompson London 1937.
 4. ib. pp. 117 -120
 1. R.G. Stat. Rev. E. 962. (see Appendix VI)

on by poisons; but because the ever expanding pharmaceutical industry has supplied us with a variety and ever increasing volume of medicaments and drugs - which, if misused can cause death. The majority of Inquests on drug deaths are suicide ¹.

In the same thirteen year period we have 41,916 suicides as compared with 4,332 poisonings of undetermined inquest verdicts ²

The next main cause of death by drug poisoning is due to accidentally injecting or coming into contact with poison ³. While a third and small section attributes death by poisoning to drug addiction ⁴.

Pharmaceutical products and their toxic effects account for the majority of these deaths, with carbon monoxide poisoning from household appliances, car exhaust fumes and fires taking second place. The number of deaths from psychotropic drugs and medicaments reported in Coroners returns during the period 1960 - 1970 was doubled as compared with deaths from carbon monoxide ⁵. The reason for this preponderance of pharmaceutical deaths

1. ib E.950 - 952

2. See App.VII E. 950 -952 and App. Vi E.980 -982 the latter figures are only for the period 1967-73, so that over 13 years they must be higher, unfortunately there is no record of indeterminate poison deaths before 1967.

3. App. VI E.850 - 934

4. ib E.303 - 304 and see Appendix VIII

5. I.C.D. Nos. E853 -854 -855 p.42 and Nos E.870 to 877 p.43 of R.G. Review table 7 1971 for decade . 1960 - 1970 and I.C.D. Nos. E.950 -951-952 ib p.46.

is the relationship between the availability and over consumption of drugs in a country which has become pill orientated. From 1949 - 1964 the number of prescriptions dispensed fluctuated between 188 million and 212 million per annum followed by a rapid rise between 1964 and 1967 levelling off between 1968 and 1971 to figures of 247 million ¹. In an article by Dr. Lloyd Christopher of the World Health Organisation Evaluation and Monitoring Unit, the cause of this over consumption of drugs was attributed to the inadequacy of medical training in pharmacology and therapeutics since it was estimated that 70% of all drugs marketed in Britain were unknown or unavailable 15 years ago when more than half the doctors practising today were receiving or had completed their training ² and it is a fact that the cases of self poisoning doubled in the decade 1962 - 1972 Dr. A.J. Smith Senior Lecturer at Sheffield University recorded that of 8000 patients treated in the medical wards nearly a tenth were cases of self poisoning ³.

This precipitated a demand by the British Medical Association for a concerted national policy to restrict the growing number of attempted and successful suicides

1. Times 24.4.1974

2. World Health Organisation Geneva Conference
April. 21. 1974

3. B.M.J. October 20th 1972.

by drug overdose ¹.

The approach of this social problem seems however short sighted and of little value as a preventive measure if equated with the collated evidence in Coroners Inquests on suicide; since it completely bypasses the determined intention of the person bent on self destruction, who if deprived of an easy and relatively painless method of ending his life will resort to more antisocial and often irrevocable ways to achieve his aim.

In most of the Coroners Inquests on suicides by hanging, self stabbing, drowning or flinging one's self from a window it is disclosed that the deceased has usually made some previous attempt at taking drugs and has been foiled in his design by medical intervention.

It is therefore more accurate to state that over prescribing and the constant new varieties of medicaments are responsible only in so far, as an increase in the availability of drugs to that sector of the community which may misuse, illuse or abuse them is made possible ².

Suiciders have a cunning faculty for hoarding or stealing drugs often weeks or months ahead in preparation for the final act. Moreover it must be stressed that

1. Times Oct. 20th 1972.

2. See illustrative Inquests overleaf Table II

TABLE II

CASE NO.	SEX.	AGE.	DRUGS USED.	YEARS ADDICTED.	C.R.O.	COMMENTS.	CAUSE OF DEATH.
C/2183/67	MALE	25	AMPHETAMINE HEROIN COCAINE	6 4 4	+++	SOCIAL CLASS III	POISONING: METHADONE
C/1051/67	MALE	19	AMPHETAMINE	3	++	NIL	POISONING: CHLOR PROMAZINE & AMPHETAMINE
C/1307/68	FEMALE	21	HEROIN	4	+	UNHAPPY HOME	POISONING: TRICHLORETHANOL & BARBITURATE WITH TRACE OF AMPHETAMINE
C/O720/69	MALE	27	HEROIN	7	-	DESERTED BY WIFE	POISONING: BARBITURATE & METHADONE
C/1524/70	MALE	25	HEROIN	10	-	OFF DRUGS THEN HAD "FIX"	POISONING: AMPHETAMINE
C/2840/71	MALE	17	EPHEDRONE AMPHETAMINE	3 3	+	HOMOSEXUAL PARENTS DIVORCED	POISONING: EPHEDRONE, AMPHETAMINE
C/1540/71	MALE	20	BARBITURATES	3	+	PARENTS DIVORCED	POISONING: BARBITURATE
C/2042/72	MALE	20	AMPHETAMINE CANNABIS LSD	3 ? ?	+++	HIPPY -TYPE SUICIDAL ++	POISONING: BARBITURATE
C/1101/73	MALE	19	VARIOUS DRUGS	?	++	NIL	POISONING: BARBITURATE
C/O783/74	MALE	19	CANNABIS VARIOUS TABLETS	2 ?	+	NIL GOOD HOME	POISONING: BARBITURATE & METHADONE

many drugs can be purchased without prescription - Aspirin deaths are not uncommon. Paracetamol which can be bought over the counter claims at least 80 - 100 deaths yearly due to deliberate overdosage.¹

On the other hand, the clinical cases in which fatal poisoning has resulted from therapy are few and far between, and rarely stem from irresponsible prescribing; They usually arise from an idiosyncrasy to the substance by the diseased or an unknown hazard of the medicament, which reveals itself unexpectedly. These "Clinical poisonings" are usually reported to the Coroner because the doctor treating the case, feels that the cause of the disease has not run true to type when death ensues, or even that death should not have occurred at all.

The following are examples of such inquests :-

Coronary occlusion aggravated by Potassium poisoning ².

The child who died following oral immunisation for polio by vaccine on sugar ³.

At an Inquest in Walsall on the child Paul Max Gee aged 10 years who had been

1. The Lancet - p.588 April 6th 1974

2. C. 1174/74 Bromley

3. An anaphylactic therapeutic poisoning - Inquest Sutton C/861/65 Feb. 1965 and see ante p. brain damage and result and death following measles injection.

paralysed since the age of 2 years following a triple antigen inoculation - it was stated by the Pathologist that in a seven year period there had been 425 cases of adverse reactions to these inoculations in England and Wales and these included 17 deaths ¹.

A girl aged 12 years who died of aplastic - anaemia following treatment with Chloramphenicol². The Cases of Sudden death which accompany poly pharmacy under General Anaesthesia ³. The mismatched blood transfusion also fits into this category ⁴.

The findings communicated to the Committees for the Safety of Medicine are invaluable not only to the medical profession which welcomes any information which may modify or improve therapeutic standards but also to the legislators who since the Dangerous Drug Act of 1920 have striven constantly to up date the various acts concerned with the control and use of drugs ⁵.

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1. Guardian June 18th 1974.
 2. St. Pancras Coroner's Court and Guardian Report 13th Aug. 1964.
 3. Anaesthesia - Paper 215 (Prof. Peter Tomlin) V.29. pp. 000.000 and death in the dental chair C.1406/74 Croydon Inquest.
 4. Times 29th March 1973. At inquest the reason for this particular misadventure was shown to have arisen as the result of a lack of communication between the laboratory staff and the medical personnel.

The Inquisition therefore provides an ideal forum for the concerted efforts of medicine and law in this field.

Death as a result of drug addiction is a recent acquisition in the repertoire of Coroners Verdicts.

As a legal cause of death it is misleading, since it focusses attention on only one of the elements which may contribute to illhealth, homicide, suicide or an accident.

As a medical cause of death it is scientifically unsatisfactory since it is but rarely the initial cause of death; natural consequences such as pneumonia, septicaemia due to infection by an unsterilised needle, hepatitis or perforated duodenal ulcer and malnutrition taking first place. Although there are some characteristic autopsy pathological findings associated with chronic drug consumption¹, and one can argue that pneumonia is a direct consequence of the depression of the respiratory system brought on by most psychotropic drugs. A verdict of self neglect would be a more fitting description.

5. The Acts and Regulations which are relevant today to Drugs and Poisons are the following:-

Pharmacy and Poisons Act 1933, Therapeutic Substances Act 1956. Pharmacy and Medicines Acts 1941. Poisons Rules 1968, Drugs (Prevention of Misuse) Act, 1964 Dangerous Drug Act 1965, Dangerous Drug Act. 1967.

1. Pathology and toxicology of Drug Addiction: A combined approach Med. Science & Law 1973 V13 No. 4 Oct. p.272.

The term "Drug addiction" has in popular parlance become associated with the misuse of the so called "hard drugs", such as heroin, morphine, amphetamines, L.S.D., and cannabis, with the result that many and varied addictions which can be equally self destroying and anti social in their effects have been obscured; Alcoholism tobacco smoking, the indiscriminate consumption of Aspirin, barbiturates and other analgesics (as often occurs in elderly and lonely women) are examples. In the thirteen year period 1961 - 1973 there were 446 so called accidental deaths due to analgesics and antipyretics ¹.

These habits in the proper sense of the word are drug addictions although they are rarely thought of in that context. This stems from the social attitudes of modern society on the acceptability or unacceptability of some drugs. For instance alcohol consumption and cigarette smoking despite the hazards they engender and which are common knowledge are socially sanctioned, because they are deeply ingrained habits and probably the most practised leisure occupations. But because Cannabis smoking and the consumption of "Purple Hearts" has fostered an anxiety on an misunderstanding generation,

1. R.G. Statis Review E. 853 p.42 of the total 234 were males and 212 females.

the moral turpitude ascribed to drug addiction has been magnified out of all sense of proportion. No better description of Society's image of addiction can be given than that quoted by Dr. Teff from a revue in the British Medical Journal of 1964 contrasting reactions towards alcohol and other drugs, "Perhaps because most people can identify with the alcoholic more readily than drug taking, perhaps because alcohol is so traditional a "prop" in our society, perhaps because as an industry it employs thousands of people and has evolved one institution the "pub" - with which the vast majority of the population are familiar, alcoholism is seen as an illness, an unfortunate condition, a fate best avoided. But it has lost the nineteenth century overtones of moral degradation and despair. This aura has passed to the drug addict ¹.

This discriminatory attitude is an occasion reflected in the reactions of witnesses at an inquest or in Court - i.e. the mother who offered to give the Coroner a list of the names of drug "pushers" ² and another mother who brought a theft charge against her son in a desperate bid to stop his destroying himself with drugs ³.

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1. Legal and Social Aspects of Drug dependancy
H. Teff 1973 p. 78.
 2. C/720/69 post table II. and Times May 26th 1972
 3. R -v- Bowker Croydon Magistrates Court 5.6.74.
and Daily Mirror 6.6.74.

But no one has yet heard a relative blame the bartender of a public house for the death of a deceased alcoholic - or clamour for the abolition of alcohol.

The mortality rate of drug addicts is low particularly when compared with other forms of addiction such as alcoholism and "pill mania".

From 1961 - 1973 there were only 349 deaths from drug addiction in England and Wales. Nevertheless throughout that period there was a slow but steady increase in such deaths from 1968 onwards, as shown in the following table ¹.

Despite the paucity of inquests on drug addiction deaths, a study of the records reveal certain constant factors which in some measure counter balance the panic propaganda into which the press catapulted the social and statutory services from the mid-fifties onwards.

When the controlled possession of various drugs was restricted ² and offences against the Acts were severely punished on indictment by a fine not exceeding £1000 and or ten years' imprisonment ³, on the recommendation of an Inter Departmental committee investigating addiction

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1. These figures were collated from Coroner's returns (Form Crim. Sec.11) and submitted to Statistical Division for the years quoted. See Appendix VIII.
 2. The Drugs (Prevention of Misuse) Act 1964
 3. The Dangerous Drug Acts of 1965 and 1967

in 1965, treatment centres were established ¹ where authority was given to certain practitioners to prescribe heroin and cocaine to addicts and a new procedure was adopted of addicts being notified to the Home Office. The Criminal Law Act of 1967 introduced liability to summary arrest for the offence of possessing cannabis ² and the controversial power which enables police to search without a warrant persons on reasonable suspicion of possessing any of the controlled drugs was implemented ³.

These latter measures seem unduly stringent in the face of the comparative figures of Inquests recorded on alcoholism. For the thirteen year period 1961 - 1973 when deaths due to drug addiction totalled 349, alcoholic death inquests were trebled to the tune of 959 ⁴. In a similar period the so called accidental deaths from "addiction" to analgesics and antipyretics, numbered 446 ⁵. Although it must be admitted that some anxiety has recently been expressed at the great increase (more than 30%) in the statistics of offences of drunkenness over the past year ⁶.

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1. The Dangerous Drugs (Supply to Addicts) Regulations 1968. No 416.
 2. The Criminal Law Act 1967 S.2. (1) (5)
 3. The Dangerous Drug Act 1967 S.6. (1)
 4. See Appendix VIII
 5. Reg. Gen. Stat. Review 1974 Table 7 I.C.D. 3.853 see ante foot 1. p.329.
 6. Times Aug. 15th 1974.

In an analysis of sixteen inquests held over a period of ten years (1964-1974) in a London Jurisdiction, in which death was directly attributable to addiction poisoning, certain characteristic traits emerged which enabled one to divide addicts into two classes.

A. The inevitable addict.

B. The experimental addict.

Both types ¹ can be said to belong to the group where the need for security has been frustrated and well portray the fourth chosen postulate.

A. The inevitable addict is no more than the deadwood of any community in any age; the isolated inadequate, solitary personalities who find life untenable and are unable to exploit their talents because of mental or physical disabilities. They resort to alcohol or drugs or both as a form of escapism from themselves or others.

Death usually comes in middle age after a long history of addiction punctuated by brief half hearted periods of abstinence or treatment. In an earlier not so pharmaceutically advanced society, these people would died as a result of alcohol or laudanum poisoning.

1. These classifications are coined for the purpose of this study and are not orthodox medical terms.

Their life can be said to be one long drawn out suicide, and so they can be considered to be suffering from a disease (which modern medical thought is beginning to consider genetic) ¹.

The following five inquests are illustrative, one of which had tragic consequences ².

C./77/67 Y.B. aged 37 years female, a clerk had been addicted to barbiturates for the last ten years and had had twelve admissions to hospital in that time. She was found dead by her doctor husband - some blank prescription forms with his stamp on them were found on the body - The cause of death was Sodium amytal poisoning Neither the hospital or her own doctor had prescribed tuinal for her. She had lost her job.

C./757/67 R.H. aged 39 years female self employed commercial artist had been addicted to drugs and alcohol for nine years. There had been several admissions to hospital for drug overdosage - On the day she died she had learnt that the Advertising Agency had refused the most recent of her works - Cause of Death - Acute barbiturate and salicylate poisoning.

1. Archives of General Psychiatry 1973 V.28 p.238

2. C/1764/74

C./1806/74 D.S. male aged 54 years - A successful surgeon but under pressure of work and pain due to a spinal condition became addicted to alcohol and morphine - for the last seven years - he had had eleven admissions to hospital for this - He was found dead in bed by a friend in a room he had let.

C.1764/74 P.C. male 34 years at the time of his death was a window cleaner; but had had many other occupations. He became an alcoholic in his mid-twenties - interspersed by several admissions to hospital for drug overdoses (mainly of the tranquiliser type). He was prone to fits of violence for which he fell foul of the police on more than one occasion. Cause of death was gunshot wound of the head. Having shot his landlord and landlady in a fit of rage under the influence of alcohol he shot himself. (there was 380 mg per 100 ml in the blood at time of death).

C./1455/69 R.S. aged 28 years an unemployed painter and decorator who lived with his mother since his wife and children left him three years previously, at which time he became very depressed and was prescribed tranquillizers - He was found dead in bed by his young

brother with an empty tablet bottle clasped in his hand. He had never threatened suicide and left no notes; but he had been known to be very drowsy and to stay in bed and sleep for long hours. The Cause of death was poisoning by tuinal, there was 10 mg of the barbiturate to 100 ml of blood. The verdict was Addiction to Drugs in preference to suicide which is never presumed as a verdict in a Coroner's inquiry, without absolute proof.

B. The Experimental Addict is a by product of the social and economic changes which have taken place in the status of young people in the last two decades. In a time which has emancipated the teenager from parental dominance and school authority with consequential freedom from certain established restraints¹ and has given him greater affluence; a form of sub culture of the streets has arisen wherein drug taking among some, becomes one of several ways of expressing youth social defiance and allegiance to his peers.

The age group most affected is from Seventeen onwards. Dr. Teff draws attention to the striking situation in 1959 when the Home Office index did not record one Heroin addict under Twenty and in 1968 the figure was 709². It is this group activity of the experimental addict,

1. In recent years it has become the accepted thing for young people to leave home and establish themselves in communes or flat groups.

2. H.Teff Legal and Social aspects of drug dependancy
1973 p.83

his involvement with the Law, often set in a background of discordant home circumstances which is so specific of a social problem which has taken world wide proportions.

The Inquests (see table II) give an excellent portrait of the changing drug scene in the mid twentieth century. All the requirements of the fourth chosen postulate, the P.C.H.R. factor are satisfied. From the P component expressed in terms of the notified addict to R the quest for a religious substitute, as illustrated in the Inquest on an L.S.D. addict who had so detached himself from reality that he would play his guitar to his "L.S.D. echo" ¹.

1. Case No C./720/69.

Multiple simultaneous Deaths.

One type of Inquest which more than any other conforms to the four postulates is the Inquest on a mass Disaster. A glance back at the earlier periods in the history of Coroner's Inquisitions indicates that mass disasters with a few exceptions ¹ are very much a feature of the late nineteenth and twentieth centuries.

A mass disaster is when a number of people, who being gathered together for a legitimate purpose, are killed or injured simultaneously by an unforeseen event or a series of events. (War casualties cannot be considered victims of a disaster in this description, since the possibility of death occurring to any member of the armed forces or the civilian population during hostilities is a foreseeable quantity. With the possible exception of Bomb outrages by politically motivated groups on peaceful crowds or in public and government buildings, such as the bombing of the Central Criminal Court in March 1973, the killing of twelve holiday makers on the M.62 in February 1973 by an explosion of a bomb in the boot or the killing of one woman and the maiming of several persons in the

1. The crushing of a mass of poor people at the Gates of The Blackfriar Preachers ante. Ch. 1 p.
The Bilberry gathering drownings, Chap II ante p.
The Princess Alice Pleasure Cruiser Disaster on the Thames in 1869. (G. Thurston Chap 3 1965. Allen & Unwin Ltd).
The Colliery disasters of all ages, the epidemic illnesses and deaths caused by floods, hurricanes and other natural phenomena can all be included and excluded.

Tower of London Explosion in July 1974, and many others ¹. These inquests will be considered separately later in the PCHR Section)

The majority of mass disasters concern rail, sea or air transport. The aircraft being the most repetitive. There are other incidences of magnitude involving loss of life which are typical and may never because of their very nature re-occur ².

In this group one can list such tragedies as

The Aberfan Tip Disaster of 21st October 1966,
The Burning of the Funfair in Douglas Isle
of Man in July 1973 or The explosion at the
Nypro Chemical Plant in Flixborough on the
1st June 1974. These will be commented on
later. ².

The Adaptation of the inquisitorial system to contemporary needs is evidenced by the fantailing of the inquest into investigatory groups. There is in the Department of Trade and Industry, an accident investigating Branch (the AIB) manned by a Chief Inspector and several Sub - Inspectors. The Chief Inspector if he feels that

1. See "previous lists of outrages in England recalled"
Times Oct 7th 1974
2. These are almost invariably the subject of a
Public Inquiry.
Aberfan, Flixborough, Douglas. Post p. 345, 349, 361

the incident warrants investigation, delegates some or a number of his inspectors to inquire into certain aspects of the accident and then reports his findings to the Secretary of State. The Secretary of State however, cannot instruct the Chief Inspector to carry out an investigation, but he may decide to order a Public Inquiry; in which event the Chief Inspector's investigation formally ceases; but all AIB activities continue to assist the Treasury Solicitor in his preparations for the public hearing. The Inspectors of Accidents continue to exercise their powers to require evidence to be produced. The investigatory procedure, particularly in the cases of aircraft accidents now follows a set pattern and is usually applied to rail crashes ¹.

The reason for an inquiry into mass catastrophies at government level is not only because of public anxiety and governmental concern aroused the gravity of such occasions, but because of the complexity of scientific evidence which is often involved (usually concerning equipment) and which demands expert opinion and professional interpretation ².

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1. The inquiry into which is carried out by the Department of Environment or the Rail Board.
 2. This procedure is not entirely new - In the Thames Disaster 1878 the Board of Trade held its own inquiry - but the liason between Coroner and government official left much to be desired and Mr. Cattar the Coroner not hampered by Coroners Rules 18(2) conducted his own investigation into the seaworthiness of the vessel with subsequent recommendations to the tightening the marine laws.
The Great Thames Disaster G. Thurston 1965 and Times.

The Inquest then becomes an ancillary part of a more extensive investigation and deals almost exclusively with the medical, psychological and registrable particulars of the deceased. Since the Coroner is required to inquire into all the circumstances of a violent death, while the Accident Investigation Branches of The Departments of Trade and Industry and the Environment are strictly concerned with the Cause of the accident, it follows that the two aspects of a fatality are inseparable ¹.

The authority for the AIB to investigate air crashes stems from the Civil Aviation Acts 1949 1968 and 1971 ² and the powers of the Inspectors are the Civil Aviation (Investigation of Accidents) Regulations 1969 respectively ³.

Normally the Coroner will be in touch with the progress of the inquiries and will consult with the Inspector of Accidents in deciding which witnesses should be called; in Scotland this duty will be undertaken by The Procurator Fiscal.

These departments rely heavily upon the evidence of the Pathologist and they look in particular for

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1. Memorandum of the Investigation of Civil Air Accidents AIB p.5. 1972 - and Home Office Circular No. 90/1971 and CA. 1887 s.3 Coroners Rules 1953 R.26. 1.
 2. These Statutes define the procedures to be followed in the investigation.
 3. These regulations cover the eventuality of a civil aircraft having an accident on a military field or vice versa; also a collision between civil and military aircraft.

guidance on whether the accident was due to disease in the pilot (or train drivers if it is a rail crash) or some physiological, toxicological or mechanical factor, and for evidence which will assist in a reconstruction of the accident ¹. The government enquiry and the Coroner's investigations therefore become a team effort. In Aviation fatalities Coroners have been instructed to "invite" a pathologist from the Department of Aviation Pathology to attend the Coroners autopsies of victims, as an observer ².

The choice of medical practitioner to carry out the post-mortems is within the Coroner's discretion but in the Secretary of State's view the employment of an R.A.F. Pathologist with a wide knowledge of aviation practices, is not incompatible with Rule 3a of the Coroners Rules 1953 ³.

Since its inception the Department of Aviation Pathology at Halton has investigated on behalf of one or other of these governmental departments over three hundred and forty fatal aircraft accidents and the department laboratories have been designed and equipped for the purpose of such investigations ⁴. In the case

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1. See Synopsis Inquiry and Inquest of Trident 16 aircraft disaster at Staines 18th June 1972 post p. 346
 2. Home Office Circular No. 90/1971
 3. Which provides that the post mortem should be made, whenever practicable by a pathologist with suitable qualifications and experience and having access to laboratory facilities.
 4. Home Office Circular No.90/1971 para. 3.

of an accident involving a large number of casualties, to obtain the maximum value from the police service the Coroner's Pathologists and the members of the AIB - a forward planning in the organisation of the pathological aspects is a prerequisite.

The Coroner's Officer of Officers are usually the first on the scene following the police; since the accident occurs in a Coroner's jurisdiction which may be some distance from London where the location of the AIB is, so that it may be some time before the accident inspector can reach the area - The plan adopted in recent air and rail catastrophies can be divided into three sections in the following order:-

- a. Body reception and storage
- b. The secretariat
- c. Implementation of tactical plans.

The duties and details of which have been meticulously set out in the Memorandum of The Investigation of Civil Air Accidents ¹.

One may well question the necessity of a Coroner's Inquest as well as an official inquiry until one remembers that official inquiries are not all public and

1. Report on the Trident G-ARPI in June 1972 paras. 20,21,22,23 see also Appendix IX.

that the Coroner is not entitled to the report on the findings of such an inquiry - since this sort of report is Crown privilege it may depend upon deeply scientific evidence and its publication (if it is published at all) may be long delayed. For as has been previously said there is nowadays a cordial liason between Coroners and Accident Inspectors and the AIB usually supply the Coroner with all the available information necessary for his own inquiry. It is therefore the duty of the Coroner to proceed and deal with the matter in terms understood by ordinary people; the Inquest may well be the only chance that relatives of the deceased or other person injured may have publicly, of ascertaining the facts.

It is noteworthy that in the investigation of the Hither Green Train Disaster, in which there were fifty five fatalities there were two official inquiries one before and one after the Inquest, this arose from the fact that although the Railway Board had investigated and closed their own inquiry, at the Inquest certain new evidence came to light regarding the maintainance of the area of track concerned; one witness giving quite different evidence from any heard at the rail enquiry - as a result of this the Rail Inquiry was reopened, and certain disciplinary measures were taken ¹.

1. Medico Legal Journal V.38 Part 3. p.70. 1970

At the actual time of the disaster there was a very thick fog over the Hither Green Continental Freight Depot where the 7.43 p.m. Hastings train was derailed at 9.16 p.m. - The police and emergency services were on the scene at 9.21 p.m. and the Coroner Mr. Gordon Davis and his Deputy Dr. David Paul arrived at the scene of the accident at 10.45 p.m. -

The Coroner having alerted all the Coroner's Officers of the Inner London Southern Jurisdiction on their arrival the whole area was floodlit by portable search lights from police estate cars and the rescue work was well on the way - Instructions were issued by the Coroners that all the bodies recovered should all be sent directly to the Southwark Mortuary - where the task of identification autopsies and the issuing of disposal orders.

A Synopsis of the trident aircrash in June 1972 will illustrate the legal aspect or the legislative recommendations which can stem from an enquiry into a mass disaster and the part which medical findings plays in promoting preventative medical measures.

Resume of Enquiry and Inquest

On June the 18th 1972 a Trident I aircraft G ARPI Callsign Papa India owned by B.E.A. crashed in a field near Staines at about 1611 hours on Sunday, shortly after take off from London (Heathrow) en route from Brussels on a scheduled flight - All 112 passengers and crew of 6 on board suffered fatal injuries. The crash was witnessed by a thirteen year old boy Trevor Burke who was on a footpath close by - with great presence of mind he raised the alarm - From 1620 hours onwards the police and rescue services were on the scene. The police were successful in controlling spectators. (It is most important that sightseers around a wreckage be kept to a minimum, since it is all too easy for vital evidence to be destroyed by well intentioned citizens trampling equipment into the ground and moving switches and controls from their original positions ¹).

Mr. Justice Lane was commissioned by the Lord Chancellor to hold a public inquiry with Sir Morien Morgan CB FRS and Captain J.W. Jessop as assessors. The inquiry lasted from 20th November 1972 and continued, with a break for Christmas until 25th January, 1973 -

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1. The Air Navigations Regulations specify "When an accident occurs in or over the United Kingdom, of which notification is required ... no person other than an authorised person shall have access to the aircraft involved in the accident and the aircraft shall not except under the authority of The Secretary of State be removed or otherwise interfered with". It is the responsibility of the Police to guard the wreckage and provide security for the accident site.

The adjourned Coroner's Inquest pending the findings of the Police Inquiry were given at the hearing; and the fact made public at the Inquest of the Captain's cardiac pathology.

The conclusions computed by the readout from Flight Data Recorder (FDR) ¹ which was fortunately recovered intact, indicated that there was no mechanical malfunction of the aircraft, but that there had been a serious error of flying procedure. The Pathology which the autopsy had shown supplied the information that there had been a cardiac incident in the handling pilot which could have caused pilot incapacity. An examination of the previous records of the three men's flying career and training revealed that at least one of them lacked experience and knowledge for the tasks demanded of him. This series of unfortunate events which culminated in the death of 118 persons has also been laid at the door of the Industrial Scene at the time ².

One of the advantages of a concurrent inquiry is that Rule 18 and R.31 of the CR 1953 is waived and that

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1. A Mandatory recorder which sets out details of speed, height and tail plane angles. BEA also have installed in their Tridents a quick access cassette recorder which, supplemented the information recorded on the parameters of the FDR. See Fig I and II Appendix X.
 2. There was in existence in June 1972 a long standing dispute between BEA and BALPA about rates of pay and conditions of work - This affected relations between management and pilot and also between pilot and pilot, Captain K was known to hold opposing views to his co-pilots on the matter and it was known that there had been some heated argument prior to the flight in the crew room and he was unpopular-

blame worthiness or civil negligence as a contribution or cause of an accident can be attributed to persons; i.e. faulty or reckless exercise of duty by the officer or officers in charge or bad workmanship in maintenance by staff or in the making of a craft by the manufacturers.

Previous records and personality failures or otherwise are looked into and anything no matter how detrimental to the party concerned is honestly viewed and its potential as a contributory factor assessed. For example in the Trident I G-ARPI disaster, it was established that the grave error in flying procedure ¹ which occurred was the immediate cause of the crash but that the underlying cause was a series of physiological events which so disasterly upset the established pattern of flight whilst becoming airborne ².

The result of these investigations culminated in a series of recommendations as to improved medical assessment and training of pilots - And some pertinent recommendations as to technical points in the aircraft itself ³.

The anger provoked by these events may it is believed by medical opinion to have precipitated a cardiac arrhythmia and subsequent cerebral anoxia with a disastrous lack of judgement or even total incapacity.

1. A failure by the handling pilot to maintain the necessary speed and the retraction of the plane droops at some 60 knots below the safety target causing the plane to enter an aerodynamic stall from which recovery was impossible.
2. Lack of concentration and lack of experience on the part of the crew.

An analogous case is that of the Vanguard aircraft which crashed into the snowcovered hillside at Hochwald in April in 1973 killing 108 British people. The inquiry which is taking place

The most important of which was that cockpit Voice Recorders should be made mandatory ¹.

Since reference to civil liability is not allowed at a Coroner's hearing (except insofar that it can obviate criminality;) it will be seen that an official inquiry not only becomes necessary but supplements the Inquest and provides a third channel to the procedural Law of the Coroner's Inquisition and enables civil negligence and liability to be established.

In the case of the Flixborough disaster, when an explosion at the Nypro Chemical plant occurred on Saturday first of June 1974 killing 29 people. An investigation by the Transport and General Workers Union - submitted a preliminary report to the official government inquiry ² suggesting that the fitting of a temporary pipe was inadequate ³ - Although the cause of the explosion has not yet been established and parts of the inquiry are

at Solothurn Switzerland at the moment - The Captain's qualification and capacity are being questioned and concern as to repairs and maintainance of the craft is expressed. Times Nov. 9.1974.

3. H.M.S.O. SBN 11 5108149 Chap VII pps. 59-60 see details of recommendations.
1. The FRD gave the picture of the flight height, speed altitude and movements of the controls of the aircraft - But there was no way of knowing as to what was passing between the crew members by way of orders, comments, exclamation or to the identity of the person who erroneously moved the drooplever. see appendix X.
2. Opened at Scunthorpe Monday 9th September 1974
3. Times Friday 6th September 1974.

being held in secret because of the confidential nature of Nypro's business¹; the Company did admit that there were deficiencies in its by-pass system and accepted full responsibility for the installation and would fully compensate the bereaved relatives².

Most of the legislation framed for the prevention of mass disasters and for public safety in such occurrences stems mainly from the official inquiries³.

The Coroner's inquiry is more concerned with the legal consequences of the medical findings; which can give rise to problems in the disposal of estates and settlements of insurance claims, when time and mode of death are of the essence. For example in the Trident I G-ARPI crash, of the 118 fatalities one person was rescued alive but deeply unconscious on arrival at Ashford Hospital, he died soon afterwards⁴. (This would entitle his relatives to increase compensation on the added grounds of "pain and suffering"). This principle was demonstrated in an unusual manner in a case of an international flavour and its worth recounting in order

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1. Times Tues. Sept. 10th
 2. Times Tues. 17th Sept.
 3. e.g. The recommendation of working Party May 1971 concerning mandatory Cockpit voice recorders and drill for pilot incapacity of the proposed Air Navigation Order 1972 amendment by implemented; is to come into force on 1st Jan. 1975. SBN 11. 5108149 p.56.
 4. Report of the Public Inquiry p.3.

to indicate all the legal implications which can beset a Coroner's investigation. It concerns a civil action pending in Illinois America where a British subject was killed in the Mass Disaster in Chicago in May 1972 when a collision between a single and double decker train railway occurred. It took 20 minutes to free the victims from the wreckage. The body of the dead British woman was flown home to her native town of Coventry for burial. Most of the Victims had been decapitated but this particular body was intact. Although Chicago is a Coroner State, only visual autopsies were carried out and the deaths were certified as deaths from multiple injuries and shock.

The body concerned was embalmed and put in a leaden casket. The Coventry Coroner exercised his right of non-liability to register.¹ Later he was approached by the London Branch Solicitors of the firm representing the American Railway for the subsequent civil proceedings; the question being that if the deceased had suffered instant death the relatives (husband and son) would receive half a million dollars but if she had lived up to the twenty minutes the compensation could be four or five million; unfortunately no record had been filed by the Coroner.

1. Births and Deaths Registrations Act 1953 S.24.2.

Since there had been only a visual autopsy the question of disinterment arose, a licence to do so was sought from the Secretary of State ¹.

The Coroner's inquiry is not concerned with questions of civil liability ² and the sanctioning therefore of the disinternment of this body presented as an unorthodox precedent, involving the Coroners inquisition in the field of Tort ³.

The autopsy which was performed by Professor Cameron clearly indicated that the deceased although she had died of multiple injuries and shock, (fractured ribs and compound fracture of the right ankle) had not died instantaneously. The absence of trauma to the central nervous system and spinal cord and the fact that the lungs contained bone marrow clearly indicated that she had survived some time after impact ⁴.

The legal proceedings at autopsy were singularly precautionary. The entire Court appears to have been present. The Judge hearing the case and four pathologists

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1. Any disinternment or other disturbance without lawful authority of a body that has been buried is a common offence (Burial Act 1957 s.25) The Coroner at common Law has power to order an exhumation be necessary, for a licence under Section 25 of the Burial Act to be obtained from the Secretary of State (Jervis 9th Ed. 1957 pp. 73-75)
 2. ib. pp.166-167
 3. This tendency has already arisen in Inquests into industrial diseases dealt with by Coroners inquiry, the findings of which are used for the purpose of compensation under the National Insurance (Industrial Injuries) Act 1946.
 4. Personal interview Professor Cameron 31st October
1971
2071

of whom three were professors and one an associate, came over from America to "observe" the autopsy; accompanying were photographers and Court recorders; twenty four persons in all to whom Professor Cameron had to make himself individually known before commencing the Post Mortem. Photographs were taken freely and all verbal evidence, i.e. the description of the autopsy findings by the pathologist and the conversations between the observers were transcribed. These transcripts and part of the bisected spinal cord were flown to Chicago as exhibits in the case ¹.

All aviation accidents cannot be termed mass disasters, as the number of people killed or injured may be only one or two, but all aviation accidents are subject to the same procedure of investigation. In these cases for practical reasons the Inquest usually takes place before the publication of Accident Investigation Branche's report.

In the case of a four seater single engine monoplane ² which crashed on a cross country flight at Biggin Hill on the 21st July 1973, the pilot and his wife were killed,

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1. It is interesting to notice two factors in this unusual legal procedure:-
 - (a) The gathering of the court virtually forming their opinions on view of the body - although strangely enough the Coroner for Chicago did not attend, reminiscent of mediaeval Coroner procedure.
 - (b) The fact that no oath was taken as to the identity of the pathologist prior to the transcribing of his evidence.
 2. Robin D.R. 360. Robin Knight G AZOX
Croydon Coroner's Court C.1856-1857/73.

the other two occupants of the plane a young woman and a boy of eight were severely injured. The Inquest was heard on the 21st November 1973 but the Civil Accident Report was only published on the 8th November 1974.

It must be said however that the Coroner was furnished with advanced copies of the Accident Investigation Branch's statements before the Inquest. In 1974 the A.I.B. issued in all sixteen reports on crashes which had occurred in 1970 - 71 - 72 and 73 respectively ; one report on an 1973 aviation accident is still forthcoming ¹.

The value, for reasons already mentioned of this extension of the Inquest is evident in the following three inquests on people killed in aircraft accidents. It resolves itself in to deciding whether the cause of the accident is medical, mechanical, or the result of a human error.

In the case of Robin DR 360 the AIB were unable to find the reason for the loss of power at about 200 feet which caused the monoplane to stall in the turn manoeuvre, spin and crash ². The cause of the accident therefore was not established; but at the inquest an interesting physiological observation came to light.

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1. Tiger Moth G A.P.V.T. and Rollason Beta G A.T.L.Y. at Nottingham Airport September 1973.
 2. C.A.A. Rep. 17/74

Of the two survivors, the young woman aged twenty five had suffered multiple injuries and the eight year old boy a fractured skull, but only the boy, after a period of deep unconsciousness and subsequent amnesia about the whole incident was able at the inquest to give a detailed and coherent account of events up to the moment of impact. (Illustrating the greater power of recovery of the central nervous system in the younger person. Were an Inquest to be held on the deaths of the fifty nine people burnt in the Luft Housa Giant Boeing 747 which crashed in Nairobi November 20th 1974 ¹. Valuable data as to individual reactions and subsequent effects - might be obtainable).

The presumption here was, that there had been an error of judgement on the part of the pilot - very much the same conclusion was arrived at in the inquest held on the deaths of Prince William of Gloucester and his Co-pilot Mr. Vyrell Mitchell, when at the Good Year international Air Therapy Race at Half-penny Green Airport, with the Prince at the controls, his Piper Cherokee Arrow aircraft stalled and crashed ².

1. Times Nov. 21st 1974.

2. Times Nov. 30th 1972; incidently this was the first time a public inquest was held on a member of the Royal Family, when the Duke of Kent died in a flying boat accident in 1942 only a private investigation eas held by the R.A.F.

The senior inspector of the A.I.B. told Mr. D.H. Cave the South Staffordshire Coroner, that the aircraft was in perfect mechanical condition prior to the crash and that from an analysis of the television film of the crash at the Royal Aircraft Establishment, no information was provided to suggest that "the accident was the result of anything more than an error of judgement by Prince William in attempting a rate of turn which was at, or even beyond the limitation of the aircraft."

The crash of the Flying Victor Air Tourne G A.T.C.K. small aircraft, which stalled and exploded into flames at Biggin Hill on the 25th August 1974 incinerating both the occupants, was found to be due to careless technique on the part of the pilot. He had not checked his aircraft in the prescribed manner before take off. At the Inquest the A.I.B. Inspector, told the Court that from his examination of the wreckage he concluded that the fuel tank had not been drained of some accumulated rain water.

The Victor had been stationed on a grass verge in the open the previous night and there had been a heavy downpour of rain. This evidence was corroborated by the aircontrol officer who witnessed the whole manoeuvre of take off ¹.

1. C. 2092 - 2093 Croydon C.C. 23rd Oct. 1974. The AIB report is not yet published.

Very different evidence was forthcoming at the inquest on the pilot of a Piper Cherokee which came to grief on August 30th 1970 ¹.

Observers told of semi aerobatic manoeuvres carried out at low altitude and a final dive to the ground in flames.

The Pathologist estimation of the pilot's blood alcohol was 313 mg per 100 ml. a concentration normally associated with stupor; his family doctor also told the Court that he was an alcoholic ² and he had warned him against the danger of flying after consumption of alcohol ³. An empty thirteen fluid ounce bottle of Vodka was found in the wreckage - The Coroner's jury heard that he was not intoxicated when he arrived at the Flying Club but that he was at the time suffering from emotional troubles.

A verdict of Misadventure was returned by the jury, because the facts did not prove ⁴ that he intended to kill himself when he set off in his aircraft sober, but with alcohol in his possession, which he partook whilst piloting in contravention to the Airflying Regulations ⁵ - and his death could be attributed to his gross impairment of judgement of flying exercise - The conclusion of the

1. C. 2088/70 Croy. C.C.

2. ib. notes of evidence

3. ib. notes of evidence

4. Suicide must still be proved L.R. July 6 1970
R v. Cardiff Coroner. Ex parte Thomas and see
Times Dec 7th 1974 p.3.

5.

investigations in the Department of Trade Report was "That as a result of emotional tension brought about by life's stresses the pilot consumed a considerable quantity of alcohol during the flight ¹, which impeded satisfactory management of the aircraft - the latter having been mechanically sound before take off".

Deaths on board ships and from accidents and collisions at Sea are another type of transport accidents.

In cases of deaths of persons dying or found dead on Board Ship, as would under ordinary circumstances on shore be reported to the Coroner; and in cases of death arising from Collisions at Sea, it will be the duty of the Coroner's Officers of the district where the bodies are landed to detain them, institute the usual enquiries and report to the Coroner. The Name, Tonnage and Port of Register of the Vessel, with the Owner's or Agent's name and address are ascertained. It must also be checked that the death or deaths have been made in the Official Log Book; (as required by the Merchant Shipping Act 1894) and copies of any depositions of witnesses taken before the "Receiver of Wrecks" of the District obtained which can be used in evidence at the inquest.

1. CAAR 9/71 and Daily Telegraph Aug. 20th 1971.

In the event of no evidence being forthcoming from the crew inquiries should be made at the Marine Department of the Board of Trade as to whether a report of the casualty or casualties has been received as required by Law,¹ and the production of the Ship's Articles and Official Log Book should be produced at the Inquest.

In deaths arising from accidents on board or following collisions of Fishing Boats a copy of the record of the occurrence can be obtained from the Superintendent of the Port at which the boat's voyage ends. This should be available within twenty four hours of the boats arrival². Under the Merchant Shipping Act of 1970 the Superintendent of the Mercantile Marine Office has to hold an inquiry into all deaths on or from Ships at Sea unless a U.K. Coroner holds an inquest³.

In an Inquest held on two of the crew of five of the motor tankard "Beefeater" which was overturned when in a collision with a Japanese Motor Vessel "Yamaguglin Mark" off Crayford Ness in a dense patch of fog on the 5th November 1968. The Board of Trade informed the Coroner that an immediate preliminary inquiry into the collision was ordered⁴ but in the light of the findings

1. Marine Shipping Act 1894 (s) 125

2. M.S.A. 1894 s. 385

3. M.S.A. 1971 s.

4. As was stated in the House of Commons on the 5th November. Communication Board of Trade ref. MS. 7/4/0605 30th Jan. 1969.

it was decided not to proceed to public inquiry. The two bodies were recovered from the river ten days later. At the inquest ¹ the surviving crew gave evidence that at the time of the impact, the Beefeater was at anchor because of a sudden and unexpected blanket of fog which had settled some distance from the shore.

According to the Master of the Beefeater he had observed all the rules ² as to lighting and signalling in fog and at anchorage ³. The helmsman and the River Thames Pilot aboard the "Yamaguglin Maru" told of reducing speed to dead slow on approaching the fog patch and on seeing the light of the tanker attempted avoiding action by putting the engines to full astern and the wheel hard to port. The bows of the Maru struck the starboard bow of the beefeater and overturned it, the five men were flung overboard. None of the crew of the Japanese vessel was in the country to give evidence at the time of the inquest ⁴.

Some unusual mass disasters in which the Coroner plays a minor or even no part at all, must briefly be

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1. Croydon Coroner's Court. Case 2416/68 2479/68
 2. See the Rules of the Road at Sea Post App XII any infringement of these rules should be reported to the Coroner.
 3. But that owing to the unexpected descent of fog he had been unable to pull in ashore sufficiently for safety.
 4. According to marine Law a pilot is only an advisor and is not responsible for any incident that may occur - in this case the pilot brought his own helmsman because of the language difficulty - the negligence of not observing the Radar signals was attributable to the Japanese captain.

mentioned - if only from the point of view of the developing inquistorial Law.

Two illustrative tragedies are :-

- a. The Aberfan tip slide at Merthyr-Tydfil on October 21st 1966 occasioning a loss of life of 144 persons in which 116 of the victims were children.
- b. The disappearance of the Hull trawler The Gaul on the 8th February 1974 off the North Cape of Norway with all its crew of 36.

The Aberfan inquiry commission was chaired by Sir Herbert Edmond DAVIES and who at the preliminary meeting posed four broad questions - what exactly happened? Why did it happen? Need it have happened. Was this a calamity which no reasonable human foresight could have prevented, or was it caused by blame worthy conduct by some persons or organisations and what lessons are to be learnt from what happened at Aberfan ¹.

The Tribunal came to the conclusion in a report of 132 pages containing 295 paragraphs, that the blame for the disaster rested upon the National Coal Board ².

The Blame was shared (although in varying degrees) among the National Coal Board Headquarters and certain individuals ³.

1. Para. 13.
2. Para. 74.
3. Para. 188.

The Coroner did not hold an inquest but restricted his activities to recording individual particulars such as identifications and the issuing of death certificates.

The reasons were twofold; firstly nothing of value would be forthcoming in a re-examination of the tragedy and the witnesses thereby prolonging the distress of the bereaved. Moreover the parents and residents had been represented at the public inquiry by Mr. Desmond Ackner Q.C. and their interests safeguarded. Also there was no medical factor which could have caused or contributed to the accident. The inquiry therefore of the causation of the Slag avalanche and the attribution of blame worthiness or negligence to the right quarters served the cause of all parties concerned.

The Inquiry into the Aberfan Disaster is unique in that it more forcibly than any inquiry stressed the difference between a court of a trial of issues and a tribunal of investigation. In the words Mr. Desmond Ackner Q.C. when referring to the reluctance of the National Coal Board to admit Blame-worthiness for the tragedy, "The Corporation owes a clear threefold duty in relation to that Inquiry firstly to avoid necessary wasteage of time; secondly to avoid any possibility of

giving any misleading impression; and thirdly, to admit at the earliest opportunity any errors which clearly have been committed" ¹.

With the ever increasing development of technological devices; major and minor incidences of the same nature are bound to become an accepted pattern of everyday life.

Attention has been focussed on the possibility of Oil rig disasters and Oil Rig deaths.

When the Continental Shelf Act 1964 was being considered a number of ministries were concerned. The Registrar General recommended putting oil rigs in the same category as ships but was unable to have a clause to this effect included. Most rigs are outside territorial waters but if they are sited within an area of the sea less than twelve miles across it is suggested that the appropriate Coroner should assume jurisdiction ². At the Congress of the TUC in Brighton in September 1974 deep concern at standards of safety and welfare on the drilling platforms was expressed. A resolution was passed calling for the setting up of a T.U.C. national committee for the North Sea Oil Industry ³. Indeed only

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1. Rep. of Tribunal paras 192-193 pp. 86-87 This principle must apply to Coroners Court proceedings with the exception of Rule 18 which prevents an individual witness putting himself in jeopardy - Although the safeguard can of course be circumvented by the hearsay evidence of other witnesses.
 2. Coroner's Society Report 1970 - 71 p.277
 3. Times Sept. 6th 1974.

recently a freak wave sank the oil rig supply vessel "Trophic Shore" while she was unloading deck cargo on the Brittania rig 45 miles off the Norfolk coast. The ship smashed the leg of the rig and holed it below the water line eight members of the crew were rescued from the sea ¹.

A Coroner's jurisdiction derives from a place where the body is lying or where the body has been landed - Therefore in the case of the thirty five lost aboard the Gaul - the Coroner did not come into the picture.

The Department of Trade and Industry ordered an inquiry by the Commissioner for Wrecks (Mr. Barry Sheen Q.C.) - With very little evidence available he came to the conclusion that the boat had capsized and floundered after being overwhelmed by heavy seas ² - The Report of the inquiry published on Nov. 21. 74 rejects allegations by relatives that the 1100 ton vessel was seized by a Soviet warship and is still being held in captivity. The findings of the inquiry were based on only two factual pieces of evidence. At the time the boat was lost the weather was severe there were snow squalls and force 7 - 8 winds. On February the 7th the trawler reported

1. ib. Sept. 6th 1974

2. Times November 22nd 1974.

her position for the last time ¹ and on that day had made a contact call to the owner's office and reported a steering fault to the superintendent engineer. The rest of the evidence was conjecture and it was submitted that it was not possible to say whether the loss of the vessel and crew was caused by the wrongful acts or default of any person or persons. But the delay in getting search for the million pound trawler was criticized. A prompt search for the lost vessel, might have enabled survivors or bodies to be picked up, which if flown home to this country could have enabled an inquest to be held in the event of no satisfactory foreign investigation having taken place ².

Deaths at sea can be registered in the Marine Register.

Bomb outrages or the Hijacking of aircraft may occasion considerable loss of life, but they cannot be viewed in the same light as the examples referred to above. The former belong to the "need for security" category ³ while deaths which are the result of terrorist activities and the deaths of the activists themselves have a political

1. ib. p.4. (72° 15 min N, 24° 50 min E)

2. See Jervis (9th Edition) p.69. for procedure of dealing with bodies brought into the country.

3. Ante - p. 237

element, although they cannot be considered as Acts of War ¹. Hence such bomb deaths must be treated by the Coroner as criminal homicides ² and if a charge of murder has been preferred (as in the case of the bombings of two bars in Birmingham on the 22nd November 1974 when seventeen people were killed and one hundred and twenty injured) the Coroner will open and adjourn his inquest until the conclusion of criminal proceedings ³. But although dealt with at Common Law, these inquests are subject to the aegis of political awareness.

This was very manifest at the subsequent inquest on the death of one of the hijackers of the ELAL aircraft which landed at Heathrow on Sunday September 6th 1970 when the evidence consisting mainly of statements and autopsy findings was put to the Jury.

The documented sequence of events were the following

An American male of left wing convictions and an arab female by the name of Leila Khaled ⁴ had successfully boarded the plane using false passports armed with two grenades and the man with a gun and one grenade - none

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1. A primary Rule of War is that it is an act between sovrein nations and that civilians must not be selected as targets for hostilities, moreover neither England or Wales considers itself at war.
 2. A Verdict of murder by person or persons unknown was returned by the Jury at an inquest held in the City of London on the 27th September, 1974 on a Miss Dorothy Household who died of injuries in the Bomb explosion on July 17th.
 3. C(A) A 1926 s.20. 1.2.
 4. She has successfully hijacked a plane previosly.

of the weapons had iron or steel in its manufacture and therefore passed the screening detector. The hijack was to be effected before the aircraft gained too much height in case a shot piercing the Fuselage caused an explosive high altitude decompression - When the pair however charged towards the crew lounge they were stopped by a bullet free door. The purser refused to open the door but informed the pilot of the hijack on the intercom, who immediately put the plane in a steep dive. The crew tried to grab the hijackers and in the process a steward was shot five times by the male hijacker. During the fight a man appeared from the rear of the plane and shot the male hijacker dead. He then disappeared into the background. The aircraft landed shortly afterwards with the dead hijacker the severely injured member and a hysterical Miss Khaled hands behind her back tied with neckties and wire from the cooker of the plane. The passengers were evacuated quickly - but neither they nor the crew could be detained as witnesses as the plane was in transit and the stop unscheduled. The first legal difficulty that arose was the removal of the hijackers from the plane as the airline regarded them as their prisoners - the need for medical treatment overcame this question of international law.

The next legal difficulty which presented itself was the question of jurisdiction over an aircraft in transit, a branch of law as yet not well defined - this was resolved by Section 3 of the Coroner's Act of 1887 which enables the Coroner to inquire into the death of a dead person lying in his jurisdiction.

Miss Khaled recovered from her emotional state rapidly and was detained ¹ in the Police Station where she made a full statement of her part in the activities - claiming that the plane was a military target. She also stated that the air stewardess had been threatened and put to fear with the grenades and revolver - This admission constituted several offences and the question of trial was considered - Here again the question of whether England had jurisdiction arose as it was hard to establish if the offences had occurred in England, radar put the sighting of the plane at two miles out to sea when the hijacking must have been taking place ². Miss Khaled was returned to her organisation ³ when on her return to safety she gave interviews which conflicted with the statements she made to the police - She also stated that her companion hijacker had been tied up and shot in the back four times -

1. C.A. 1887 s.3 50 - 51 Vict. c.71

2. We claim three miles of territorial water but the air space remains undefined.

3. Extradition would have been difficult as the offence was clearly a political one.

The autopsy showed that he had been shot in front of the left thigh, left groin and right arm, and the direction of the shots described was at the inquest - the shot in the right arm had passed straight through and made a hole in the chest which had no powder burns on it - The detailed description of these wounds and the examination of the dead man's clothing clearly established that his arms were not tied behind him when he was shot.

The documents found in Lelia Khaled's clothing and hand luggage were a series of instructions on position; shooting and timing and a speech for Miss Khaled claiming her organisation had control of the plane. A final document of a propaganda speech was not read at the Inquest - Neither was comment made that the other successfully hijacked planes in Jordan had been imprisoned in the desert and planes were burnt - Neither were any of the defects of the grenades which had not exploded made public their remedying might put innocent people at risk in the future.

Four possible Verdicts were given to the Jury.

Manslaughter - if the killing had been an execution and not a preventative act. Murder was discounted as evidence disclosed that the pin of the grenade had been

pulled aboard the plane in flight and any killing would have been done in the heat of the moment.

An Act of War was mentioned, but tickets purchased by the hijackers for the alleged military target produced at the inquest satisfied the Jury that the "Target" was a passenger flight 219 from Amsterdam to New York.

The third possible verdict and the one which was returned was Lawful use of force since the steward was almost dead from his stomach wounds and would not have survived a journey to Jordan the jury accepted that extreme measures were necessary ¹.

The Jury were also directed that if they found the evidence incomplete or inconclusive they should return an Open Verdict ².

The true identity of the dead man was confirmed from America and the relatives appeared in England when the body and the dead man's clothing, were given into their custody.

Some deaths of politically affiliated persons sometimes provoke reprisal bomb outrages or public

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1. Criminal Law Act 1967 Section 3 (1) States "A person may use such force as is reasonable in the prevention of crime, or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons lawfully at large. And in Section 2(1) the above shall replace the rules of common law on the question when force used for a purpose mentioned in the sub-section is justified by that purpose Prior to the C.L.A. 1967 the appropriate Verdict would have been justifiable homicide.
 2. For a detailed account of the case see "The Heathrow Hijack Death" John Burton Coroners Society Reports 1970-1971 ppr. 278 -280.

demonstrations. Inquests on these deaths cause problems not only at Coroner level but at government and even church level.

Two recent inquests on I.R.A. members are illustrative.

1. The death of Michael Gaughan the Irish hunger striker who died in Parkhurst, Isle of Wight on June 3rd imposed a strain on the legal acumen of the Coroner. The death was reported to him the same day and the relatives applied for a removal order to take the body out of England; Their having also rumoured to the press and public at large that illtreatment whilst in custody was the cause of Gaughan's death ¹.

To prevent any public demonstrations on the part of members of the organisation and knowing the publicity being given to other prisoners on hunger strike;² the Coroner using his discretion, released the body for burial at the first possible moment. After the post mortem result which gave the cause

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1. Guardian June 4th 1974 (front page)
 2. and aware of the pressures that were put on the Secretary of State - both by the Lords and the Commons to reconsider his attitude to hunger strikers. i.b. p.1.

of death as "pneumonia" (a condition which was terminal and the direct result of starvation). The body of Michael Gaughan was subsequently given a hero's burial service at the Church of the Sacred Heart in Kilburn North London.

Some sixteen members of the I.R.A. dressed in black berets, black glasses and lounge suits escorted the coffin and in company of a large number of sympathisers, attended the Requiem Mass.

The incident caused massive public indignation and led to the suspension of the cleric, who had performed the funeral rites and had been so misguided as to praise the deceased for this action.

The Archbishop of Westminster ¹ then issued a strong statement to the effect that the Roman Catholic Church "in no way supports the I.R.A." ² The government then subsequently took action under the Public Order Act of 1936 s.2 (the Prohibition of quasi military organisations³) and banned the wearing of distinctive and similar clothing at gatherings of obvious quasi political meetings.

1. Cardinal Heenan

2. Guardian June 14th 1974 (front page)

3. Archibald Crim. Pleadings. Sect 11 para. 3193.

To understand however the difficulties that confronted the Coroner in the management of such an inquest and the conflict that arose between the civil and church law two questions must be answered and the legal position explained.

1. Could or should the Coroner, not have released the body until after the Inquest and then have insured that it was taken straight to its destination ?
2. Was the Church in order in giving christian funeral rites to a person who had deliberately engineered his own death ?

To answer these questions satisfactorily the reasons for the subsequent actions taken must be examined in the light of the Coroner and the common law applicable at the time.

A. The Coroner's Law

Every person intending to remove out of England the body of a deceased person shall give notice of his intention to the Coroner ¹. The Coroner before issuing his order for removal, must receive notice from the Registrar that he has registered the death ².

1. Birth and Deaths Reg. Act (1926) 16 x 17 Gev. C.48 S.q.

2. i.b. Sec.2.

The body shall not be removed out of England at anytime before the expiration of four clear days after the day on which the notice ¹ of intention to remove the body was received by the Coroner. But if the Coroner states that he does not intend to hold an inquest the body may be removed before the prescribed period has expired ². It is not quite clear, whether the law allows the Coroner discretion to withhold authority for removal of a body out of the Country, when the death has been registered ³.

The Coroner felt that it would be expedient to release the body at the earliest possible moment after the autopsy, in view of the explosively charged atmosphere, which the death of the young man had caused among the members of the organisation ⁴ to which he belonged. Because of the allegations of responsibility for the death made against the prison staff, the family were represented at the post mortem, even so they requested a second post mortem ⁵. This was performed by an experienced and well known Pathologist ⁶. Both Pathologists came to the same conclusion - that the cause

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1. Form 104 (See App.).
 2. Statutory Rules and Orders 1927 No. 557 Removal of Bodies from England Reg. 1927 S.4. and Removal of Bodies 1954 Section 6.
 3. Second Schedule 2. s.b. states the body may be removed out of England on or after the fifth day unless any lawful directions to the contrary has been given in the meanwhile.
 4. Personal interview with the Coroner concerned
 5. C(A) A 1926 S.22 ss.4

6. Dr Keith MANT

of death was pneumonia due to malnutrition and that there were no signs that the deceased had in life been submitted to any form of violence. But because of all the allegations of foul play the inquest was heard much later ¹, to enable the Coroner to make searching enquiries as to the circumstances surrounding this prison death, in order to refute or substantiate these accusations.

The Law however makes no provision for the disposal of a corpse once the removal order has been signed and the body has left the Coroner's jurisdiction. There was therefore no way, at this stage in which the Coroner's Law could circumvent the undesirable political display which was to occur at the funeral.

The verdict of self neglect was tantamount to a verdict of suicide. Suicide as a crime no longer exists since 1961 ² - Therefore since the criminal element no longer existed in the eyes of the Law and the autopsy findings having nominally excluded murder or manslaughter, the Coroner had little valid reason for retaining the body until the conclusion of inquest proceedings.

1. 25th June at Guildhall Ryde Isle of Wight.

2. 9 - 10 Eliz. II c.60 s (1) (2). 1962

The responsibility for the prevention of the subsequent events devolved upon another legal sphere. Church Law has not yet changed its concept of suicide as a crime; although it must be said that ecclesiastical interpretation on that which constitutes suicide is very liberal. (If a Coroner has to return a verdict of "Did Kill himself" at an inquest on a member of a strongly religious family, the addition of "while the balance of the mind was disturbed" will satisfy the Church Authorities that the deceased was not responsible for his own demise and therefore need not be deprived of ecclesiastical burial.)

DIGRESSION

The precepts of the Codex Iuris Canonici might, to good purpose, have been applied in this case, as indeed they were in a later analogous case.

The relevant Canons of the Codex are :-

985: The following are irregular by offence:

*5: Those who mutilate themselves or others,
or who try to take their own lives

1240:*1: The following are to be deprived of
ecclesiastical burial unless, before death,
they have given some sign of repentance:

n.3: Those who have deliberately killed
themselves.

*2: If there is any doubt in the above cases

let the Bishop be consulted, if there is time. If doubt remains, let the body be handed over for ecclesiastical burial so that the scandal may be removed.

1241: To one refused ecclesiastical burial are also denied any Requiem Mass, even one of anniversary, and any other public burial services.

2339: Those who dare to order or force pagans, apostates, heretics, schismatics or others excommunicate or under interdict to be given ecclesiastical burial in contravention of the prescriptions of canon 1240 *1 incur excommunication 'latae sententiae' (ie., automatic) reserved to no one (i.e., the absolution of it); but those who willingly give them burial incur the interdict 'ab ingressu ecclesiae' reserved to the Bishop.

When the Archbishop was questioned on the subject his explanation was "that Fr. O'Brian could not refuse funeral rites to a member of his Church who according to

the medical evidence had died of pneumonia" ¹.

Unqualified as a diagnosis, this of course could be interpreted as "of natural causes"; although it was widely accepted that the deceased had deliberately as a political gesture engineered his own death.

The desirability here, of not allowing the body to leave the jurisdiction until after the inquest might possibly have been the wiser move, in precluding a church burial and the demonstration outside the church which followed in its wake. But the difficulties of applying the law and at the same time in assessing an allegedly non-political situation were as has been explained difficult. In a subsequent inquest case on the death of a James McDade, who was killed when the bomb he was planting outside a Coventry telephone exchange exploded prematurely ². The Coroner opened the inquest on the 20th November 1974 and the body was not released until eight days later when measures had been instituted to transport the coffin directly from the mortuary to the airport by a strong police escort ³. At the same time the Catholic Archbishop of Birmingham Dr. Dwyer issued a statement that no funeral service in a Catholic

1. Guardian June 14 1974 p.1.

2. Times Nov. 19th 1974

3. 600 police officers ringed the mortuary and accompanied the coffin to its destination.

Church in his diocese would be permitted for anyone killed while planting a bomb.

This particular death however caused tragic repercussions on November 21st terrorist bombs killed seventeen people and injured one hundred and twenty in attacks on Birmingham bars ¹.

The extent of the damage and the medical evidence and autopsy findings of the casualties, indicated that the explosions were massive and that phosphorous bombs had been used. This outrage led to the introduction by Parliament of the Prevention of Terrorism (Temporary Provisions) Bill which has given the highest priority to measures to combat and overcome Terrorism ².

Concurrently a message was read in all Roman Catholic Churches in England and Wales that the hierarchy condemned such acts.

All the four postulates are strongly represented in these quasi military inquests - particularly postulate number four ³.

1. Times Nov. 22nd 1974 p.1.

2. The Times - November 28 1974

3. The P.C.H.R. factor.

CHAPTER 5

The problems and needs created by the evolving complexity of mid twentieth century Society, have raised the question of the value of extending the Coroner's inquisitorial system, beyond that of inquiry into unnatural death. Conversely, the abolition of ¹ or the restriction of Coroners law has been considered.

Both propositions are subject to differing concepts of the same considerations; these are:-

- (a) The state of our society and its demands
- (b) The comparative advantages and disadvantages of inquisitorial and accusatory systems in the administration of justice.

A cursory examination of these points is necessary before a possible Coroner's Code can be suggested.

(a) The rapid and changing effects, which the mammoth achievements of science and the increasing facility of international communications have had on the way of life, not only in England but in most countries in the world, are too well know to enumerate. Suffice it to say that with this "naissance" of increased knowledge and greater

1. and in essence rejected, Cmmd 4810 paras. 1141 and 2002 pp. 130. 233.

universal education, many established standards have been discarded, a rethinking is seen in our ethics and many of our institutions are being questioned.

The result is that societies and community groups have become aware of one another. The various disciplines have become more interdependent although often very fragmented in their own fields. Inevitably this increases the potential of hazards such as litigation, prosecution and demands for specific legislation.

This sudden turbulence in ideologies imposes a strain on law making and law reform not only at national but at international levels. In the process of attempting to reconcile the past with the present many of the stalwart bastions of the Rule of Law have been shaken ¹.

Lord Justice Scarman in his Hamlyn lecture on December 12th 1974 expressed the fear "that rights and liberties would come to depend, and obligations would be declared and defined by a complex government machinery, subject not to the Rule of Law administered by the ordinary Courts but to administrative and political controls beyond the group of law. Justice was at risk.

1. 1971 saw a re-organisation of our Courts of Law. The Jury system is questioned. Times 7.11.73; 18.12.74. The change of attitude towards the sanctity of life and the uncertainty of the point of death. The increasing power of the Unions ib. 12.12.74 and the increasing tolerance of penal reforms ib. 30.9.74 - to quote only a few examples.

In the fields of Human Rights, the social security system, the protection of the environment, industrial relations and constitutional devolution, the law and the legal profession had been found wanting. Judges practitioners and teachers of law had to look to new source and fields of law and abandon habits of thought and action derived from a society that no longer exists" ¹.

It is against this background of legal thinking and the present social climate that a repatterning of the Inquisition is considered.

(b) At a time when more public inquiries are being held into suspect deaths and mass disasters, it seems an anachronism, that the Coroner System should have recently been the subject of recommendations to limit investigation into the civil or criminal liability of matters or people, which has occasioned unnatural deaths. Most Committees of inquiry into the Coroner's Law have achieved worth while results. The Coroner's Amended Act of 1926 and the Coroner's Rules of 1953 (the latter was the result of the 1936 Wright Committee) are examples.

The Committee set up in July 1966 to review the practice and law of Coroners was published in November 1971

1. Times Dec. 13th 1974.

put forward some proposals which were as impractical as they were unrealistic. Of the 114 recommendations 71 concerned the inquisitorial procedure and the Coroner. It would be tautological to restae or re-analyse them, they have been discussed by many bodies and are still the subject of controversy. None of the recommendations have as yet been implemented.

The case for reform as proposed by the Report was that it is no part of the Coroner's function to concern himself with civil or criminal issues and the retention of Rule 33 of the Coroners Rules of 1953, was strongly stressed ¹. On the grounds that the cause of death should be the Coroner's only concern. Paradoxically the committees also recommended as part of the Coroner's duty "the preservation of the rights of the deceased person's family and heirs or other interested parties" ².

A recommendation to abolish the duty of a Coroner's jury to name a person (be he dead or alive) found responsible for homicide and the duty of the Coroner to commit that person for trial was made on the grounds that "These inquisitorial duties are incompatible with the present day concept of justice, which is firmly

1. Cmnd 4810. C.16. 34. p.187.

2. ib. 14.24.

founded in an accusatorial system incorporating proper protection for suspected persons" ¹.

In support of this theory, only one actual ² and one fictitious case was quoted together with an analysis of a quite unscientific nature, comparing 8,055 committals by magistrates over a period of a decade with 105 Coroners committals during the same period ³. No emphasis was put on the fact that the Coroner's committals were cases in which there was insufficient evidence to justify charging anyone with the crime - In such cases features often emerge at the inquest which put a completely different complexion on the matter and which lead to the Coroner's jury returning a verdict of infanticide murder or manslaughter.

The day after the publication of the report of the Brodrick Committee the leading article in the Times made it very clear that "The Coroner ought not to be gagged even if what he has to say is not always itself proof against criticism; for it is the publicity in inquests that provides the assurance that some action will in fact be taken" ⁴.

1. ib. 1607 1609 1610

2. R. v. Spencer

3. Cmnd 4810 Table L pp. 200 - 201 and para 16. 16

4. Times Nov. 11th 1971.

It cannot be denied that there is less likelihood of a person escaping the consequences of his acts of criminal or civil culpability in inquiry proceedings than if the same case were heard in a tribunal solely concerned with a trial of issues bound to conform to the rules of Evidence ¹. Where the Law has considerably curtailed the extent to which the whole truth may be given in evidence by excluding matters, which judicial experience, have proven unreliable or prejudicial; Hearsay evidence, competency and compellability of certain witnesses and privilege being the most outstanding; That these rules of exclusion do not exist in the Coroner's proceedings is fundamentally the cause of dissatisfaction in certain quarters.

Counter balancing this, is the safeguard to the accused person; (as he becomes known should any inquest verdict of murder, manslaughter or infanticide be returned) in the practice adopted by the Director of Public Prosecutions department of instituting second committal proceedings in front of the magistrates, as if the accused had initially been charged by the police ². If the Justices find that

1. R v. Beresford 1953 36 Cr. App. R.1.

2. The DPP is in possession of the depositions of the inquest, but the magistrates have no knowledge of the Coroner's Court findings prior to their hearings, except perhaps as a press reporting which of course they must put out of their minds whilst hearing the case. criminal procedure A.M. Wilshire Sweet and Maxwell p.54.

there is no case to answer the police will at the Court of Trial offer no evidence and throughout the Inquest the suspect has had the privilege of R.18¹ of the Coroners Rules. This procedure by the Director of Public Prosecutions is not countenanced by any law but before the Coroner's Act of 1887 or the appointment of Director of Public Prosecution's office in 1879² it had become custom³ - No doubt as a valuable safeguard against indicting an innocent person in the days when the "protection" afforded to the accused had not overstepped the bounds of reality.

There is no evidence at all that a subsequent trial is prejudged as a result of inquest findings⁴.

Neither is there a valid argument in favour of alleged defamation of character or reputation as was stated in the press⁵ concerning the famous 1966 inquest murder case and which is quoted as a cogent example that the reform or abolition of the Coroner's Inquest is long overdue⁶. The most logical argument in opposition to this view is that an accused's reputation can be said to

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1. R.18 states that a witness is under no obligation to answer a question, which he reasonably thinks may incriminate him.
 2. Prosecution of Offences Act 1879.
 3. See Jervis and see Middlesex County Rolls.
 4. See "Poison Mysteries Unsolved" C.J.S. Thomson 1937; 29 cases in which suspects were named in inquest proceedings and were acquitted at their trial or were not even indicted.
 5. Sunday Times 28.2.1971 and Cmnd 4810 para 16.11
 6. For a full and accurate account of the case and the part played by the DPP throughout the stages in the transcripts of the Coroners Society 6 and 7.

be just as damaged by being charged by the police with a serious crime even if he is acquitted at his trial. Moreover in these days of mass media reporting, when often distorted facts concerning the subjects of an inquiry are voiced, the findings of an inquisition can redress public opinion. The Brodrick Committee refers to the "forum of inquiry into suspected homicide" ¹ as being the criminal courts - this is not so, in an accusatorial court, a criminal trial is never an investigation to prove a person guilty or innocent, but a process whereby the prosecution after all admissible evidence has been heard has made the Court quite sure that the accused is guilty; whereas the inquiry as to the type of death has been conducted either in private by the investigating police officers or and very rarely by an inquest before the trial; the only purpose of which is to indicate the responsibility for the crime.

The recommendations of the Committee concerning these matters cannot be accepted, on the grounds that they negate the whole purpose and principle of the inquest and can only be regarded as suppressing the truth; So that provided the evidence is of sufficient weight indicating a person's

1. Cmnd 4810 - 14.11. p.158

responsibility, that person should be named; thereby removing suspicion from others.

The merits of the Inquisition to establish true facts far outweigh its demerits. This has already been shown in the quoted inquests on industrial deaths and child abuse. Not infrequently a prosecuting authority defers its decision on whether or not to prosecute until the outcome of the proceedings before the Coroner ¹ are known.

An illustrative example of the use made of the inquisitory process is a recent report on a fatal accident inquiry in Edinburgh when the driver of a train was killed as a result of four boys having detached an overhead insulator by throwing stones. The Lord Advocate stated that criminal charges against the four were dropped "so that the truth could be established publicly to help the authorities prevent similar tragedies; if the charges had been proceeded with the boys could not have been compelled to give evidence at the inquiry" ².

In an enlightened Society, which favours prevention, rehabilitation and redress as panaceae for its criminal and civil ills as distinct from segregation, punishment and retribution; The truth of any issue becomes a matter

1. See Chap. 3 ante pp. 191-3

2. Times Dec. 11th 1974 p.2.

of maximum importance in its solution.

It is for this reason that the Coroner's Inquest, or at least its principle, should be extended and incorporated with greater magnitude into the accusatorial system and of course this is insiduously occurring as all the reported commissions of inquiry testify.

Proposed Recommendations for future inquisitorial procedure and matters to be dealt with by the Coroner or in conjunction with the Coroner.

Most Inquests can be classified under the headings of Domestic or of Public interest; and with the exception of private board of inquiries and investigations instigated by certain government departments, which are in a category of their own, all inquests are heard in public.

The domestic interest inquests are those which comprise deaths due to accident, homicide and unknown or undiagnosed illness. These are dealt with quite satisfactorily under the provisions of the 1926 C(A) Act, and until the legislature devises a more expedient method of investigation, the process should remain in force. However the following suggestions might with benefit render public opinion more amenable to the Inquisition.

(a) Except in the case of murder, manslaughter or deaths by accident on the highway in the air and at sea, and unless the case has certain circumstances, which may be prejudicial or has been prejudicial to public interest, it should no longer be mandatory for the Coroner to have to summon a jury; but if he feels from his knowledge of the case that a jury would assist him or make the findings of the Court more acceptable, he should retain the power to summons a jury for any inquest.

The Brodrick Committee favours the restriction of jury service ¹ and this is time saving, practical and economical for all concerned.

(b) Alternatively in cases which are particularly difficult, a Coroner should be able to call on another Coroner to sit with him at a hearing and take an active part in the inquiry. In his report on the inquiry into the Profumo Case - Lord Denning referred to one of the disadvantages of the procedure of tribunals of inquiry - in these terms. "I have had to be detective inquisitor, advocate and judge, and it has been difficult to combine them..... At every stage of this inquiry I have been faced with this great anxiety ².

1. Cmnd 4180 16. 49 p.192

2. Cmnd 3121 Chap. 3 para 37 pp.19 - 20

(c) Certain catastrophies, not necessarily involving deaths, but causing loss or injuries which may cause ill health or disability, could with value be the subject of a Coroner's Inquiry. The most manifest being fire destruction, the collapse of scaffoldings and walls, certain forms of pollution and institutional custodianships, if valid complaint is made; in the latter case it should be for the Coroner to decide whether a complaint warrants investigation. Also in any matter concerning the consent to treatment, which has been obtained from a patient, without supplying that patient or his nearest relative with adequate information about the treatment which may give rise to subsequent litigation¹.

i. Fire Inquiries

The duty of Coroners prior to 1860² of inquiring into the cause, origin and circumstances of a fire, which has occasioned loss or injury short of death, could with value be reimposed. Few fires escape claiming some victims and since the medical cause of death is rarely in dispute³, the inquest centres around all the matters connected with the origin of the fire and the means of preventing the same.

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1. This would preclude a lot of unnecessary litigation and save the time of the courts and the expenses incurred by the parties if the Coroner found there was no case to answer.
 2. Non-fatal fire inquest were held by Coroners in Doncaster Linciln, Reading, Nottingham, London, Manchester and other places before the ruling in R v. Herford in 1860 - For full report on the matter see Jervis 7th Ed. pp.16 252.
 3. Some fires are occasionally cover up for murder, the reporting sources will usually be aware of this and in these circumstances will adjourn his

With the increase of the manufacture and usage of inflammable materials both the Factory floor and domestic premises are becoming more vulnerable ¹.

The number of people who died of fire in 1974 is expected to be a record - A preliminary Home Office statistical analysis gives the following figures:- 1972 The number of deaths was 1,078 in 1973 the provisional figure was 857 and the final total for the year was 1,041 - The provisional figure for 1974 is 878 - The victims in this year included 144 children under 15 years, 365 people over 65, 5 firemen, 28 deaths in the Flixborough disaster, 18 persons in an Old People's Home in Nottingham, 6 men in a hostel in Lambeth and 8 people in a transport hotel in Islington. Of the 878 deaths in England and Wales, 648 occurred in dwellings ². The Press Association reported that a quarter of all fires were by electrical failure. Many Inquests however show that polyurethane furniture and fittings materials were responsible for unexpected, vicious and rapidly spreading fires.

The experience of the Coroner in matters of fatal fire death inquiries could be put to good use on a bench of inquiry into non-fatal fires if only in the role of an

inquest under Sec. 20 (ss.1) of the Coroner (Amendment) Act of 1926.

1. See Times Jan. 11th 1975 and transcripts of the Society 1974 -5

2. Times Tuesday March 11th 1975 p.3.

assessor. The verdicts which a Coroner's Jury can return in such cases is one of Accident or Arson, and Accident, Manslaughter or murder in cases of fatal fire inquests. It would be up to the trial court to differentiate whether manslaughter or murder had occurred as a result of Arson ¹.

ii. Pollution

Is to date a major threat to life and while it is not proposed that Coroners extend their responsibilities to investigating problems which are the concern of scientific and governmental authorities, eminently better qualified to investigate such matters and to take appropriate preventative measures; there are at local level, minor pollutions which affect the health of the community and which because of sporadic and unexpected deaths are brought to the notice of the Coroner - Reference can be made to endemic lead poisoning in several children living in the vicinity of a factory ², or the several deaths resultant on contaminated drip-feeds in a hospital ³ and latterly the cyanide gas fumes from the combustion of polyurethane materials ⁴.

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1. See Times July 22 1971. A Coroners jury decided that nine people who died in a London Hotel blaze were murdered by an arsonist.
 2. St. Pancreas Coroner's Court. Inquest July 1962.
 3. Times April 7th 1963
 4. See Cor. Soc. Rep. 1971 - 72 p.5.

If a death under these circumstances occurs then the Coroner will hold his inquest in the normal manner; but should certain similar circumstances occur, in which the community is put at risk and the public disquite is such that complaint is made, then the matter if reported to the Coroner, could with benefit be the subject of an inquest.

For Inquiries at local level the undermentioned authorities should report to the Coroner any serious danger or threat to Public Health and upon such reference, the Coroner should consider conducting an inquiry and thereafter make recommendations.

The Town Clerk

The Medical Officer of Health

The Chief of the Police

Any Group Hospital Secretary

The Chairman of a board of School Governor

The Prison Governor

In inquiries of greater magnitude which may have repercussions beyond the Coroner's Jurisdiction.

The Lord Chancellor's Office

The Home Office

Could direct the Coroner to hold an Inquest, and in all these matters the Coroner should have the power to co-opt an assessor

iii. In the cases of non fatal illtreatment and injury in custodianship

e.g. foster homes, prisons, penal institutions, schools and hospital; the same procedure could be adopted - An inquest into such matters would again perhaps save a great deal of time wasting litigation, which so often bring but partial satisfaction at great expense to either party. Medical evidence and the recorded evidence of witnesses, followed if necessary by an examination of the premises by the Coroner, or Coroners hearing the case could rebut untrue and frivolous allegations, or bring to light unsatisfactory administrative and nursing conditions which may cause or have caused injury or death, as was alleged in the inquiry into certain deaths at the Ockenden Mental Home in 1974.

This procedure is already in existance if a death of a person in custody occurs.

iv. Consent to any operative procedure, must be considered one of the basic ingredients of personal freedom. Therefore in any action in which a person takes part or is involved in the full consent of that person is needed to make the transaction ethically

acceptable. Consent as a legal principle is well established where issues of propriety or contractual rights are concerned. In the therapeutic and sociological transactions however this particular human right has never been satisfactorily defined. In 1954 Denning L.J. expressed the opinion that a surgical operation performed without just cause is unlawful even though the victim consented ¹.

In the matter of consent to medical treatment patients should be informed (unless it is against their clinical interest) as to the dangers or drawbacks of any therapy or surgery proposed and should be allowed a free choice of acceptance. This is normally the course adopted by the majority of physicians and surgeons, but should complaint arise following treatment, by the patient himself or by a relative of the deceased patient, that such was not the case - i.e. "he would never have consented to the treatment had he but known etc" then a full inquest into the matter is of great advantage to doctor or patient or hospital, before a civil action is commenced and may even preclude such action.

Consent in connection with transplantation surgery is the business of Coroners in two ways.

1. Bravery v Bravery 1954 3 ALL. E.R. 59 pp.67 -68
Evershed M.R. and Hodson L.J. dissociated themselves from this view.

- i. He must refuse his consent to the taking of vital organs from a cadaver if he has reason to believe that there may be later criminal proceedings concerning the death.
- ii. He must ascertain at an inquest on donor or donee deaths as to whether consent from either participant of the operation was forthcoming ¹.

If the above suggested policy of Coroners investigation at "domestic" level is carried out, then there must be counter balancing safeguards in the interests of justice for the aggrieved and for the bereaved during the interrogations or following the inquest.

The following three are recommended :-

- i. If any question of criminal liability arises concerning a death or injury which may put a witness in jeopardy, then that witness must remain protected by R.18 s.s. 1 and 2 of the Coroner's Rules, which states that no witness shall be obliged to answer any question tending to incriminate himself and that the Coroner must inform him of that right. It may well be that some amendment is needed to prevent blanket refusal to give evidence ².

1. See paper on Experimental Medicine Chap. 4 ante and Cmnd 4810 paras 17, 28 - 34. pp. 211, 10, 12 and H.T.A. 1961

2. This can be construed as obstructing the Coroner in his inquiry which is a misdemeanour at Common Law. R v Soleguard 1738 unless the Coroner's Rule 18.b. can be pleaded.

ii. The question of civil liability poses a different question. Rule 33 which prevents any verdict being framed in such a way as to determine any question of civil liability should be abolished.

Civil negligence may be the foundation link in the chain of causation leading to a death or chronic illhealth or injury. If a private inquiry follows the inquest the Coroner's findings and notes of evidence should be available to interested parties.

iii. Appeal from a Coroner's Inquest findings should be available rapidly and in a non-cumbersome manner.

As the Law stands at the moment a person aggrieved by the findings of a Coroners Court may apply to the High Court in whose custody the inquisition then is to show cause why an order of certiorari should not issue to bring up and to quash the inquisition ¹. Application must be made under the authority of the Attorney General ². The grounds on which applications can successfully be made fall into two classes.

1. Absence of view by the Coroner, irregularity in the proceedings or insufficient inquiry leading to a wrong verdict. Appeal can lie from the decision of the Divisional Court to the Court of Appeal ³.

1. Jervis 9th Ed. p.183

2. Law Officer's Act 1944 s.1.

3. Times 16.5.1958 See also Reg v City of London Coroner Ex parte Barber (1975) 1 W.L.R. 1310

This statutory right is rarely used and then usually only for suicide verdicts. It is difficult to find a simpler procedure in view of the fact that an inquest is not a trial of issues which can, by point and counter point methods reach a conclusion - the verdict of an inquiry is based solely on the recorded facts which are not in dispute. The Committee recommended that this procedure should continue but that, in addition, the right to challenge inquest findings could be made by application to a High Court Judge sitting at a major centre outside London ¹ and also that there should be an increased basis for redress, i.e. that an error in any part of the Coroner's record of the Court's findings should constitute grounds for an application for a fresh inquest ².

A Coroner's decision not to hold an inquest on a death, should also be capable of determination by a High Court Judge sitting outside London.

Consideration should be given to establishing a system of appeal to the Crown Court in cases where there are no criminal proceedings as a result of the Inquest. A certificate stating the grounds for dissatisfaction and signed by the Coroner should be affixed to the Inquest

1. Cmnd 4810 19. 08 p.231.

2. ib. 19. 07

notes of Evidence and transmitted to the Clerk of the Justices of the said Crown Court.

Public Inquiries

The Coroner's Inquest is a public inquiry and it is undesirable and expensive to duplicate inquiries;¹ but these facts seem not to be appreciated by the general public, who as soon as any incident attracts publicity demands a public inquiry. (And more often than not it is the public demand which helps to formulate our legislative policy). Public attitude is generally triggered off by press reports, giving a version of the facts before the inquest, which is often an erroneous and inaccurate account. There is no remedy the Coroner can take, since there is no such thing as contempt of the Coroner's Court except in the face of the Court². A Mandate to the Lord Chancellor to commission Coroners to chair any public or private inquiry of vital concern which comes within their ken could solve this vexatious problem.

For instance all public health transgressions i.e. Food poisonings on a large scale resulting in illness

1. In complex cases the Coroner should be able to obtain the services of The Treasury Solicitor and Counsel to the inquest so that he should not be responsible for all the examination of a witness, and to be able to seek guidance during the proceedings should it be necessary.

2. Jervis - Ninth Ed. p.142.

as sometimes occurs in institutions, hotels hospitals and the like, rail and sea disasters and industrial plant and factory disasters causing injuries. This would not preclude the Coroner from holding an inquest, if death was an incident in the matter under inquiry; since the registerable particulars and the investigated cause of death must be established as soon as possible for the satisfaction of all concerned ¹. If however such an inquest is followed as it often is by a wider private or public inquiry, it is not unreasonable that it be chaired by the Coroner who held the inquest or if the appointing authority saw fit by another Coroner ².

The conclusions reached by the second inquiry could be both presented in a single report, comprising the findings of both the inquest and the tribunal of inquiry. To render this procedure practical every Coroner should be on call for such a possibility, for at least one calendar month in the year. (This would have the beneficial side effect of ensuring that the deputy and assistant Coroners had solo experience for that period of training).

At the moment the machinery for instituting public inquiries operates under the Tribunal of Inquiry (Evidence) Act of 1921. Its preamble describes it as "An Act to

1. See Chap. 4 ante mass disaster p. 347

2. This is because the Coroners are the most experienced public inquisitors in the Country.

make provision with respect to the taking of evidence before and the procedure and powers of certain tribunals of inquiry" Section one makes it clear that there must be a definite matter "as of urgent public importance" ¹. Both Houses of Parliament must pass a resolution approving "the establishment" of such an inquiry, and the same section vests High Court Powers in issuing subpoenas and requiring witnesses to give sworn evidence. The Coroner is obliged by Statute ² to examine on oath "all persons having knowledge of the facts whom he thinks it expedient to examine". But the Coroner can only Summons witnesses from within the area of his jurisdiction, if he wishes to compel the attendance of a witness from outside this area, he has to obtain a subpoena from the Crown Office. The recommendation made by the Brodrick Committee "that every Coroner should have authority to summon witnesses from anywhere in England and Wales and a similar power to compel the production of documents and exhibits and that there should be appropriate penalties for non-compliance" removes a restriction on Coroner's powers. Thereby allowing a greater use to be made of Coroner man power for public inquiries other than those

1. 10 - 11 Geo. V. 1921 Chap. 7. s 1.

2. Coroner's Act 1887 s.4.

connected with death, if only at a local level. To ensure the smooth and efficient working of a code of inquisitorial law, drafted on the lines recommended. The appointment of candidates to the office should be of the right calibre.

The Coroners (Amendment) Act of 1926¹ states that only barristers, solicitors or legally qualified medical practitioners of not less than five years standing in his profession shall be appointed as Coroners.

The Brodrick Committee in agreement with the conclusion reached by Wright Committee on Coroners in 1936 favours legal rather than a medical qualifications².

The recommendation made here is that the qualifications required by Section One of the Coroner's (Amended) Act should be extended in the following way :-

1. A medical candidate should have had some legal experience or qualification - for example, have been a police surgeon; have been an expert medical witness for the Courts, or hold some diploma or degree such as the D.M.J. or LLB.

1. C(A)A. 1926 16 - 17 Geo. V. Chap. 59 s.1.

2. For the reasoning behind this recommendation see Cmnd 4810 20-35-42. pps. 244 - 248.

2. A legal candidate should be able to show that he has, over a period of about six months at some stage in his career, attended some post mortems and familiarised himself with some vital aspects of forensic medicine.

Weekly classes could be instituted at any of the large teaching hospitals in the vicinity of the contemplated jurisdiction. If in certain cases this proves impractical then attendance for a stated number of sessions at the mortuary under the tutorship of the Coroner's Pathologist and the subsequent acquisition of a certificate of attendance should suffice.

The Coroner is a law officer so that whether he is a doctor or a lawyer he should be appointed by the Lord Chancellor - He should be able to sit as Coroner in any other jurisdiction if directed to do so by the Lord Chancellor's Office, or if the occasion warrants it. The salary of whole-time Coroners should be the same throughout England and Wales and should come from the

Consolidated Fund; an appropriate analogy to follow would be the salary of stipendiary magistrates ¹.

Part-time Coroners would for practical reasons be paid on their case load by the Local Council which could be a matter of refund from the Consolidated Fund - If this is unacceptable the Consolidated Fund should give a standard salary for part-timers. These proposals are aimed at bringing a greater rapprochement of Coroners activities into the main corpus of the Law and to extend inquisitorial work on a more uniform basis in the future.

Irrespective of these suggestions on the future role of the Coroner's Inquest it could be said that it is a process which is acceptable and even welcomed by the general public. As the cases quoted have shown it has not been without some formative effect in the fields of Law and Medicine throughout its eight centuries of existence. In mediaeval times when the duty of Judges was restricted to determining Coroners indictments and sentencing, it was the framework on which the Common Law evolved and where the growth of specific defence pleas and written evidence had their beginnings. In modern times, the inquisition has helped to reinforce some

1. This achievement has been the aim of the Association of Whole-time Coroners since 1969. See minutes of the meeting of the Association of Whole-time Coroners. Jan. and it is also a recommendation of the Brodrick Committee *ib.* para 20 - 48.

common law principles such as the duty of master to servant, the duty of care, the upholding of the prerogative of the Crown in Treasure Trove and on occasion, a Coroners record has enabled other courts to take a more equitable approach to statute law, as was done in the interpretation of the Limitation Act in some civil actions. It is still a valuable procedure in the legal machinery for the detection of secret homicide and in concert with medical aid and research ensures that a progressive and efficient public health service is maintained.

It is often overlooked that the very fact that a system of inquiry into sudden death exists in itself increases the vigilance of medical and legal authorities besides affording a sense of security and satisfaction to the public that an account is taken publicly of the conduct of persons in contact with the deceased in relation to the death.

As a method of investigating unnatural death it compares favourably with the Continental and American systems. The former rests too absolutely as a decision in the hands of the police and may lack impartiality and the latter can be influenced by political motives - as

was implied in the unfortunate Kopechne Inquest in Massachusetts in 1970.

In the present state of the Law in England and Wales it would be difficult to evolve an alternative and as satisfactory procedure to meet the need it serves.

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1675/1967	The Carcinogenic Substances (Prohibition of Importation) Regulations.
1354/1971	The Removal of Bodies (Amendment) Regulations
2128/1974	The Coroners (Amendment) Rules 1974
1675/1975	Carcongenic (Prohibition) of importation Order

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ABBREVIATIONS

B.I.H.R.	Bulletin of the Institute of Historical Research.
T.R.H.S.	Transactions of the Royal Historical Society
T.S.R.S.	Thornton Society Records Series
S.S.	Seldon Society
C.C.R.	Calender of the Coroners Rolls of the City of London
H.L.E.	Halsbury's Laws of England
H.S.E.	Halsbury's Statutes of England.
C of P	Crisis of Parliament
Med. Cor.	The Mediaeval Coroner Hunnisett
Cor. Soc. Rep.	Coroner's Society Reports.
C.A.	Court of Appeal
S.I.	Statutory Instrument.

List of Enactments referred to in the text

- AD 1130-1133 Charter of Henry I to the Citizens of
London. p.14
- Temp uncertain Charter granted by Henry II to Coventry.p.13
- 1189 Charter granted to Colchester authorising
the burgesses to elect their own bailiffs
and a justiciar ad "servanda placita
coronae". p.13
- 1194 Articles of the Eyre which began its visitation
in September.
Chap.20 - first mentions the Coroner's
Office p.9.16.
Chap.21 - directs that a Sheriff shall not
be a justice in his own county during the
Eyre. p.13
- 1215 Articles of The Barons. Cap. 14 demanding
that writs de odio et atia and pleas of
the Crown be held "assumptis Tecum custodibus
placitorium corone nostre". 21. 34. 35.
- 1215 Magna Carta: Cap. 36 - Anyone imprisoned
for homicide could apply for a writ de
odio et atia which was free. 34. 191.
Cap. 24 Forbids Coroners to hold pleas of
the Crown. 21.
Cap. 18 prohibited arbitrary amercements. 25.

- 1235 20 Hen.III c.3.s.i. Statute of Merton.
Enquiry and Punishment of Rediseis. by the
sheriff with the Keepers of the Pleas of
the Kings Crown shall made lawful and
diligent inquisition of the plaint -
This statute also assumes that all Coroners
were knights on a basis of land ownership. 22
- 1259 Provisions of Westminster Article 22. The
Murdrum Fine was only to be imposed in cases
of felonious killing. The word 'felonious'
had to be included in the Coroner's Record.
These provisions were framed on the demands
of the lesser landowners; a lower rank than
the barons and indicate the beginning of
proportioned representation to the council
- the above provision was later embodied in
the Statute of Marlborough 1267. 29.39
- 1266 51 Hen. III c.2 Public health measure refers
to inquiry into whether "any corrupt wine
be in the town or such as is not wholesome
for man's body c.3 And if any Butcher fell
contagious Flesh or that died of the
murren. p. 92

1268

52 Hen. III

c. 13 Inquests taken in the Country before Sheriff or Coroners, shall be returned into the King's Justices at a certain Day. 27

c.24 Defines the cases for which the Townships should be amerced and stipulates that in inquiries of the death of man, all twelve year old boys must appear unless reasonable cause for absence be given. 25

c. 25 Attempts to distinguish between murder and manslaughter. "Murder from henceforth shall not be judged before our Justices, where it is found Misfortune only, but it shall take place in such as are slain by felony". 26

1275

3. Edw. I. What shall be adjudged wreck of the Sea and what not.

c.4. It is agreed that where a man, a dog or a cat escape quick out of that ship, that such ship nor barge nor anything within them, shall be adjudged wreck - but the goods must be saved and kept by view of the Sheriff and Coroner and delivered to the township, so that if any

sue for those goods and prove that they were his..... they shall be restored to him without delay. p.35

1276 4. Edw.I. De Officio Coronatoris (apocalyptical) pp 22.201.

3 Edw. I Stat. Westminster 1275

Cap. 10

What sort of men shall be Coroners, Sheriffs shall have Counter Rolls with them

si And for as much as mean Persons, and indiscreet now of late are commonly chosen to the office of Coroners where it requires that Persons, honest, lawful and wise, should occupy such offices it is provided, that through all Shires sufficient men shall be chosen to be Coroners of the most wise and discreet knights, which may best attend upon such offices, and which lawfully shall attach and present Pleas of the Crown. 22.

s2 and that Sheriffs shall have Counter Rolls with the Coroners as well of Appeals, as of Enquests of Attachments, or of other things which to that office belong; (3) and that no Coroner demand nor take anything of any

man to do his office upon pain of great forfeiture of the King. 22. 25.

si Enforced by 28 Edw. III c.6.

s2 4 H.6.15 4 Ed. I Stat. 2 and officium Coronat M. 13 and 5 this altered by 3 Hen.7 c.1.

(giving fees to Coroners) and again by 1 H.

8 c.7. and 25 Geo. 2 c.29 giving Direction

in respect of duties of Coroners. 22

Cap. 12 defines Punishment of Felons

refusing lawful trial.

It is provided that notorious Felons who

will not put themselves in Enquests of

Felonies - that man shall charge them with

before the Justices at the King's suit shall

have strong and hard imprisonment. (This

later was referred to as "Peine dure et forte"

and became a form of torture). 39. 84. 34.

1278 6. Edw. I c.11 Statute of Gloucester gives validity to the plea of self defence.

s.1 No writ shall be granted out of Chancery for the death of a man to enquire whether a man did kill another by misfortune, or in his own defence or in other manner

without felony entitles to a pardon. p.140

2. Imposed a fine for non felonious killing. p.44
3. In case it be found by the Country that he did it in his defence or by misfortune, then by report of the Justices to the King, the King shall take him to his grace, if it please him. pp.40 140.

(2 Edw.III c.2 and 14 Edw.III. Stat. I c.15 define in what cases the King's Pardon shall be granted this is tantamount to a verdict of not guilty).

1285 13 Edw. I Statute of Winchester C.2 Concerns inquiry of Felons and Robbers who have fled and refers to the Coroner's duty and sanctuary. 32 - 34 28.

2. And if the Country will not answer for the bodies of such manner of offenders,..... the people dwelling in the Country shall be answerable for the robberies done also the damage. 25

4. The Country shall have no longer space than forty days.(A felon taking sanctuary had forty days of comparative safety in a church before being obliged to call the Coroner and confess his crimes).34

5. Enlargement of the Highways to prevent murder and manslaughter. p.75

1300 Stat. 28 Edw. I. c.3. Coroner of the Verge to sit with Coroner of the County. p.60

1301 29 Edw. I. Statute de Escheatoribus.
This was a statute devised by John Langton the Chancellor for the Escheators taking Inquests by any of the King's Writs purchased out of Chancery being returned,
"and it be found by such inquests that nothing is holden of the King whereby the King ought to have the custody of such lands and tenements.....the Escheators shall be commanded by the King's Writ to put from their hands all lands and tenements so taken. pp. 37 - 39

(Here again one finds Statutory provisions to safeguard ownership rights even against the Crown - This Statute was repealed 50 - 51 Vic. c.5. 3. s.3.)

1306 34 Edw. I Stat. 2.
Articles of Inquisition upon the Statute of Winchester. (V.3 An Inquiry how the particular branch of the Statute be performed or by whom broken) 22

1306 34 Edw. I C.2 note about verderers.
A. Forrester, (equivalent to the bailiff
in the County) dying or absent, another
shall be put in his place by the Justice,
except the Verderers, who shall be ordained
by Election and by our Writ. 20. 21.

Temp incert Customs and Assize of the Forest.
p.20.21 probably before Edw.I reign
circa Hen.III.

1312 6 - 7 Edw. II No necessity for the Coroner
to view the body if the deceased had had
his ecclesiastic rites. p.85. 134.

Temp incert. accepted as

17 Edw. II Statute Prerogative Regis.
The King has a right to Wreck of the Sea
except where he has granted the franchise.
36-8 207

1327 1. Edw. II c.16 - States who shall be
assigned Justice for the better keeping
and maintenance of the Peace. 39
(This was enforced by 4 Edw. III C.2 and
18 Edw. III Stat. 2 c.3.)

1328 2 Edw. III C.2. Statute of Northampton
On Pardons.

ii. It is ordered that such Charters shall not be granted, but only where the King may do it by his oath, that is to say, where a man slayeth another in his own defence or by misfortune. p.40

1331 5 Edw. III C.13

ii. Because diverse people being duly outlawed have avoided outlawries against them..... it is enacted he shall yield himself to prison. 33-4.

1340 14 Edw. III C.8. SL. p.225.

iv. that no Coroner be chosen unless he have land in fee sufficient in the same County, whereof he may answer to all manner of people. (enforced by 42 Edw. III C.5. 12 Edw. IV C.9 and enforced and amended by 1 Hen. VIII C.8 which directed what estate in land Escheators shall have; abolished 1926 C(A) A.).

Presentment of Englishry shall clearly extirpate. 27.

1350 Oxford Statute for the provision of the "Licentia Practicandi" for medical apprentices. p. 89.

Temps. incert.

- Statute de Pistoribus concerning cooks who knowingly serve stale or stolen meat. 92
- 1362 36 Edw. III C.15
Pleas shall be pleaded in the English tongue and not in French, and they shall be enrolled in Latin. (enforced and extended by 4 Geo. II c.26 and 6 Geo.II c.14). p.39 p.229.
- 1369 42 Edw. III Ordinance to swear in the Master Surgeons. p.91
- 1369 43 Edw. II C.3 - Concerning the King's Butler (Coroner of the City of London), or his lieutenant shall take no more wines than is commanded. (There are other stipulations designed to prevent corruption in the office). p.62
- 1391 15 Ric. II C.3. - Defines the extension of the Admiral's Jurisdiction on Deaths and Mayhem occurring in great ships (Admiral in this sense assumes Coroner's powers). p.54
- 1406 7 Henry IV - Legislation for the prevention of affrays on "Hokkedays". p.79
- 1409 10 Henry IV - Proclamation forbidding "Hokkying, Foteballe and Cokthress". p.79

- 1417 5 Henry V The Escheator takes the Coroner's place at trials within the liberty of London. p.32.
- 1465 4 Edw. IV Charter ratifying Southwark's claim to retain Deodands. p.30
- 1487 3 Hen. VII c.1. Allowing Coroners a fee of 13/6d for holding inquests on the body slain. 43
- 1487 Act Pro. Camera Stellata 3 Hen. VII.
- ii C.14 Sharing of the criminal jurisdiction in the Royal household between the Coroner and the Lord Steward. 42
- i. C.11 All treasons and murders (in the royal precincts) to be tried before officers of the King's household but the Coroner retains the right to enquire into violent death. 43
- (enforced and re-enacted by 33 Hen. VIII)
- 1495 10 Hen. VII - Deals with corrupt jurors. 44.
- 1509 1 Hen. VIII C.7. - Coroners must hold inquests into deaths by misadventures but prohibiting their claiming fees for such cases. 44. 138.
- 1510-11 2 - 3 Hen VIII Malice aforethought ingredient of murder. p.147

- 1530 22 Hen. VII C.9. - Poisoning becomes the crime of Treason and the offenders are excluded from the benefit of clergy. p.320
- 1537 28 Hen. VIII C.15 - The jurisdiction of the Admiralty is curtailed. p.55
- 1538 Order by Thomas Cromwell to all priests to keep a register of burials on pain of a fine of 3s.4d. p.210
- 1540 32 Hen. VIII C.12 - The privileges of Sanctuary are curtailed and the Coroner's powers concerning abjurations ceases. 44.
- 1541 33 Hen. VIII C.8. The finding of Treasure is associated to witchcraft. 187
- 1541 33 Hen. VIII C.12 Lord Steward becomes Coroner for the Royal Household p.61
- 1554 1 - 2 Phillip and Mary C.13
5. empowering the Coroner to put into writing the effect of any material evidence given at an Inquest and to bind over witnesses to appear at the trial. p.73-4
- 1555 2 - 3 Phil and Mar C.10. p.197 , 189.
no Counsel allowed to felons and the Crown could compel its own witnesses to testify against the prisoner. p.197.

- 1562 4 Elis I. Condemns witchcraft. p.213.
- 1563 5 Elis c.9. Perjury becomes a crime. p.197
- 1603 1 Jac. c.12 Condemns witchcraft. p.213
- 1610 7 Jac. c.4 s.7 Makes provision for the
imprisoning of the mothers of bastards. p.219.
- 1623 21 Jac. I c.27 Act condemning Bastardy.p.213.
c.29 confirms the Coroner's power of
receiving abjurations.
- 1702 1 Anne c.9 Accused may call witnesses. p.45.197
- 1736 9 Geo.II c.5 An Act against Witchcraft. 217
- 1738 12 Geo.II c.29 Provides that Coroners fees
be levied from The County rates. 45-6
- 1751 25 Geo.II c.29 Coroners to be paid for all
inquests duly held. 45.
- 1803 43 Geo.III c.58 s.3. Presumption of
Innocence restored.p.219
- 1824 5 Geo.IV c.83 Any person using subtle crafts
to impose on H.M. subjects is deemed a rogue
and a vagabond. p.217
- 1833 4 Will. IV c.99. All deodands to be estreated
to the Exchequer. p.30
- 1836 6 - 7 Will. IV c.86 Births and Deaths
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- 1836 6 -7 Will.IV c.89 Medical witnesses
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- 1844 7 - 8 Vict. c.92 Defines boundaries of
Coroner's jurisdiction p.47
- 1846 9 - 10 Vict. c.62 Lord Campbell's Act
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- 1848 11 - 12 Vict. c.42 Prisoner is warned that
magisterial proceedings may be used in
evidence at subsequent trial. p.198
- 1860 23 - 24 Vict. c.116 County Courts Act, Coroners
to be salaried. p.47
- 1861 24 - 25 Vict. c. 96. The Larceny Act. (making
false pretence of witchcraft punishable)p.217
This Act was abolished in 1950.
- 1865 28 - 29 Vict. c.126. s.48 A prison Act
abolishing the Fleet and Marshalsea prisons
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- 1868 31 - 32 Vict. c.121 The Pharmacy Act. p.327
- 1869 31 - 32 Vict. c.77 Jurisdiction of the Cinque
Ports passes to the County Court. p.55
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Act. p.386.
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consolidated the Coroner's Jurisdiction
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- 1888 51 - 52 Vict. c.38 City of London Fire Inquest Act. p.68. 391. n2
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- 1893 56 - 57. Vict. c.71 s.14 (1). Sale of Goods Act. Concerning fitness of goods supplied for a specific purpose. p.305
- 1898 61 - 62 Vict. c.36. Accused persons compellent but not compellable witnesses at their trial. p.198.
- 1921 10 - 11 Geo. V. c.7. Tribunal of Inquiry (Evidence) Act p.401-2
- 1922 12 - 13 Geo V. c.8 An Act to provide that a woman who wilfully causes the death of her new born child may under certain conditions, be convicted of infanticide. p.221
- 1925 15 - 16 Geo V.c.49 Supreme Court of Judicature (Consolidation) Act s.34
All Judges of the High Court are ex officio Coroners. p.50
- 1926 16 - 17 Geo. V c.59. The Coroner's (Amendment) Act. pp. 48. 208. 235. 238. 241. 389. 403.

- 1933 23. Geo. V. c.12 Children and Young
Persons Act. p.281 .
- 1933 23 - 24 Geo. V. c.25 Pharmacy and Poisons
Act. p.328
- 1933 23 - 24 Geo. V. Administration of Justice
(Miscellaneous provisions) Act abolishing
the Grand Jury and Outlawry p.192
- 1838 1 - 2 Geo. VI c.36 The Infanticide Act
Where a woman by any wilful act or omission
causes the death of her child under the age
of twelve months, but at the time.....
the balance of her mind was disturbed. p.266.268.
- 1939 2 - 3 Geo. VI c.21 Limitation Act p.252
- 1944 7 - 8 Geo. VI c.25 Law Officers Act.
Appeal to the Divisional Court from the
Coroner's findings p.398
- 1951 14 - 15 Geo. VI c.48 The Dangerous Drug Act
and subsequent Acts. pp. 327-331
- 1952 2 - 3 Eliz II c.20. ss.2(ii) Registration
of Births and Deaths Act. p.47. 351
- 1954 2 - 3 Eliz. II c.61 Pharmacy and Poisons
Act p.327
- 1961 9 - 10 Eliz. II c.54 The Human Tissue Act
s.5 Where a person has reason to believe
that an Inquest may be required to be held

on any body or that a post mortem examination of any body may be required by the Coroner he shall not except with the consent of the Coroner.

a, Give an authority under this section in respect of the body or

b. act on such an authority given by any other person. p. 285

- 1961 9 - 10 Eliz. II C. 60 2(1) A person who aids, abets counsels or procures the suicide of another, or an attempt to commit suicide shall be liable on conviction on indictment to imprisonment for a term not exceeding 14 years. p.375
- 1963 11 - 12 Eliz. II c. 37 Children and Young Persons Act. p.243. 281.
- 1963 11 - 12 Eliz. II c. 47 s.3. The Limitation Act. p.282.
- 1967 15 - 16 Eliz. II c. 80 The Criminal Justice Act. s.49 Concerns fines imposed by Coroners p.170. 240.
- 1967 15 - 16 Eliz. c.58 The Criminal Law Act s.3.ss 1-2

1. A person may use such force as is reasonable in the circumstances in the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large.

2. Subsection (1) shall replace the rules of the Common law on the question when force used for a purpose mentioned in the subsection is justified by that purpose. p.229. n.3. p.173. n.1. p.332. 320.

1970 18 - 19 Eliz. II c. 36 Merchant Shipping Act. p.359

1971 19 - 20 Eliz. II c. 47 Wild Creatures and Forest Law Act.

s.i. Abolished any prerogative right of Her Majesty to wild creatures (except royal fish and swans) p.20.n.4

2. The forest law is hereby abrogated, except in so far as it relates to the appointment and function of verderers. p.20.n.4.

1971 19 - 20 Eliz. II c.38 Misuse of Drugs Act ss (1) (2) for regulating the issue of

prescriptions containing controlled drugs
and the supply of controlled drugs.
requiring a doctor who attends a person
and has reasonable grounds to suspect
addiction..... to furnish to the prescribed
authority and particulars with respect to
that person. p.322.

1972 Road Traffic Act c.20
s (i) Causing death by reckless or dangerous
driving Sec. 20 of the Coroners (Amendment)
Act 1926..... Shall apply to an offense
against this Section as it applies to
Manslaughter. p.243.

1974 23 - 24 Eliz. II c.37 Health and Safety
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