

New Zealand.

CORONERS.

1908, No. 30.

AN ACT to consolidate certain Enactments of the General Assembly relating to Coroners.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. (1.) The Short Title of this Act is "The Coroners Act, 1908." Short Title.

(2.) This Act is a consolidation of the enactments mentioned in the First Schedule hereto, and with respect to those enactments the following provisions shall apply:— Enactments consolidated.

(a.) All appointments, regulations, Orders in Council, orders, warrants, directions, prescriptions, instruments, and generally all acts of authority which originated under any of the said enactments, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated. Savings.

(b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

2. The Governor, in the name and on behalf of His Majesty, may from time to time, by warrant under his hand, appoint fit persons to be Coroners, having jurisdiction throughout New Zealand, and holding their offices during the Governor's pleasure. Governor may appoint Coroners. 1867, No. 16, sec. 4

3. (1.) Every Coroner shall, before acting, take the oath of allegiance and the judicial oath prescribed by "The Promissory Oaths Act, 1908." Coroners before acting to take oath. Ibid, sec. 5

(2.) Such oaths may be administered by any Justice.

Deputy may be appointed to act for Coroner in case of absence or illness. 1867, No. 16, secs. 6, 7

4. (1.) The Governor may at any time appoint a Justice to be Deputy to any Coroner, to act in the case of the illness or unavoidable absence of the Coroner from his usual place of residence, and such Deputy shall while so acting have all the powers, jurisdiction, privileges, and emoluments, and shall perform all the duties and be subject to the responsibilities of the Coroner.

(2.) In the case of such illness or absence the Deputy shall act as such from such day as the Coroner or, in the case of illness incapacitating him from so doing, his medical attendant certifies under his hand to the Deputy that the Coroner is ill and unable to perform his duties or that he is about to be absent from his usual place of residence; and the Deputy shall cease to act as such on the day on which he receives from the Coroner a certificate under his hand that he has resumed his duties.

Jurisdiction of Coroners. Ibid, sec. 8

5. Every Coroner shall by virtue of his office be a Justice for New Zealand, and shall, after taking the oaths hereby directed, have jurisdiction to inquire into—

(a.) The manner of the death of any person who is killed or drowned, or who dies suddenly, or in prison, or while detained in any lunatic asylum, and whose body is lying dead:

(b.) The cause and origin of any fire whereby any building, ship, or merchandise, or any stack of grain, pulse, or hay, or any growing crop, was destroyed or damaged.

Powers of Coroners. Ibid, sec. 8

6. Every Coroner shall, in respect to every inquest, have all the powers, authorities, and jurisdiction that now belong by law to the office of a Coroner in England, except so far as the same may be varied by or are inconsistent with this Act; and shall have the same power of punishing for wilful misbehaviour or wilful interruption of the proceedings of the Court as any Justice has by law in the case of like offences committed in any Court before him:

Provided that no one shall be tried upon a Coroner's inquisition.

1893, No. 56, sec. 385 (2)
Limit of duty. 1867, No. 16, sec. 11

7. A Coroner shall not be required to hold any inquest at a greater distance than twenty miles from his residence; and a Deputy Coroner shall not be required to hold any inquest at a greater distance than twenty miles from the residence of the Coroner for whom he is Deputy.

When Justice may hold inquest. Ibid, sec. 12

8. Where it is fit that an inquest should be held, and no Coroner or Deputy Coroner entitled to act is present to hold such inquest, it shall be lawful for any Justice to hold such inquest, with full authority in respect thereof to exercise all the powers, authorities, and jurisdiction vested in Coroners:

Provided that no Justice shall so act until the expiration of twenty-four hours next after the death of any person, or the discovery of a body, or the occurrence of a fire, as the case may be.

Coroner's jury. Ibid, sec. 10

9. Every inquest held by any Coroner shall be taken and made by jurors of the same description as have hitherto been used and accustomed to make such inquests, and such jurors shall be summoned either verbally or by precept by the Coroner.

Number of jurors. 1885, No. 25, sec. 2

10. At any inquest the number of jurors shall be not less than four nor more than six, and the concurrence of four jurors in the verdict of the jury shall be sufficient.

11. If any man who has been duly summoned and returned to serve as a juror upon any inquest before a Coroner fails, after being openly called three times, to appear and serve as a juror, the Coroner shall impose on him a fine not exceeding five pounds.

Non-attendance of juror.
1867, No. 16, sec. 10

12. Where upon the summoning or holding of any inquest touching the death of any person it appears to the Coroner that the deceased person was not at or immediately before his death attended by any legally qualified medical practitioner, the Coroner may issue a summons for the attendance as a witness at such inquest of some legally qualified medical practitioner in actual practice who resides near to the place where such inquest is held; but, where the deceased person was attended by any such practitioner, the Coroner shall issue a summons for his attendance, or, if the deceased was attended by more than one such practitioner, the Coroner may cause all or any of them to be summoned, at his discretion.

Coroner may summon medical witnesses.
Ibid, sec. 21

13. (1.) The Coroner, either in such summons as aforesaid or by an order in writing, may at any time before the termination of the inquest direct any legally qualified medical practitioner to perform a *post-mortem* examination of the body of the deceased.

Coroner may order a *post-mortem* examination.
Ibid, sec. 22

(2.) If it appears to the Coroner that the death of the deceased person was probably caused partly or entirely by the improper or negligent treatment of any medical practitioner or other person, then such practitioner or other person shall not be allowed to perform or assist at any such examination or analysis, but shall be allowed to be present thereat.

14. (1.) Where upon an inquest it appears to the Coroner or to a majority of the jury that the cause of death has not been satisfactorily explained by the medical practitioners examined in the first instance at such inquest, the Coroner shall forthwith cause some other legally qualified medical practitioner to be summoned as a witness, and shall direct him to perform a *post-mortem* examination, with or without such analysis as aforesaid, whether such examination has been previously performed or not.

Additional medical evidence.
Ibid, sec. 23

(2.) Where such additional evidence is required by a majority of the jury, it shall be lawful for such majority to name to the Coroner any particular legally qualified medical practitioner whom they wish to attend, and in that case such practitioner shall be summoned, and no other.

15. (1.) Where upon an inquest it appears to the Coroner or to a majority of the jury that the cause of death has not been satisfactorily accounted for, the Coroner may of his own motion, or shall if required by a majority of the jury, forthwith cause a competent analyst to be summoned as a witness; and if, upon the examination of such analyst, it appears to the Coroner or to a majority of the jury that an analysis is required, the Coroner shall direct forthwith the said analyst or some other competent skilled person to make an analysis.

Coroner may order an analysis.
1888, No. 20, sec. 5

(2.) The fee payable for any such analysis shall be of such amount as the Minister of Justice, upon consideration of all the circumstances, fixes as fair and reasonable.

16. (1.) Where any legally qualified medical practitioner has attended at an inquest in obedience to any such summons as aforesaid, he shall, for such attendance and for giving evidence at such

Remuneration to medical witnesses.
1867, No. 16, sec. 24

inquest, be entitled to remuneration according to the scale of fees to medical witnesses specified in the Second Schedule hereto.

(2.) No remuneration shall be paid for the performance of any *post-mortem* examination instituted without the previous direction of the Coroner.

(3.) Where the death occurred in any hospital, prison, or other public building, no medical officer appointed with salary to attend such hospital, prison, or building shall be entitled to any such remuneration.

Medical witness neglecting to attend. 1867, No. 16, sec. 25

17. Every medical practitioner on whom any such summons or order of a Coroner as aforesaid is served, either personally or by leaving the same at his usual residence, in sufficient time for him to obey the same, who fails without good and sufficient excuse to obey such summons or order is liable to a fine not exceeding twenty pounds and not less than three pounds.

When view not necessary. 1902, No. 60, sec. 6

18. It shall not be necessary for the Coroner or the jury on any inquest to view the body of any deceased person where it appears, on the certificate of some duly qualified medical practitioner, that the deceased died of any infectious disease, or where, in the opinion of the Chief Health Officer, danger to the health of the jury might result from such view.

Copy of depositions to be sent to Attorney-General. 1893, No. 56, sec. 342

19. (1.) The Coroner before whom any inquisition of murder or manslaughter is found, whether charging any person or not, shall, as soon as conveniently may be, send a copy of such inquisition, together with a copy of all depositions taken before him, to the Attorney-General, who may thereupon institute an inquiry and take such steps as he deems desirable.

Coroner's warrant of apprehension.

(2.) If the Coroner issues a warrant for the apprehension of the person against whom the inquisition is found, it shall be a warrant to take such person before a Justice, who may deal with him as though such warrant had been issued by a Justice upon an information duly laid before him.

Deodands abolished. 1867, No. 16, sec. 9
1893, No. 56, sec. 343

20. There shall be no forfeiture of any chattel for or in respect of the same having moved to or caused the death of man.

Coroner's fees, mileage, &c. 1867, No. 16, sec. 26
1888, No. 20, sec. 3

21. In respect of every inquest there shall be paid to the Coroner holding the same, and to the person employed to summon the jury (not being a paid servant of the Government), such sums as the Governor by Order in Council from time to time appoints, but not exceeding in respect of any matter mentioned in the Second Schedule hereto the amount specified to be payable in such Schedule:

Provided that the Governor may, by any such Order in Council, prescribe that the actual travelling-expenses of a Coroner in holding an inquest may be paid in lieu of mileage fees in any case, at the discretion of the Minister of Justice.

Payment to jurors on inquests. 1899, No. 14, sec. 3

22. Every person who is summoned and duly attends and serves as a juror at any inquest held before a Coroner shall be entitled to be paid for each day's service the sum of eight shillings if he serves for more than four hours in the day, and the sum of four shillings if he serves for not more than four hours in the day.

Inquests to be held in publichouses. 1867, No. 16, sec. 17
1904, No. 37, sec. 10

23. Every holder of a publican's license shall, at the request of any Justice or constable, receive into the house mentioned in such license, or upon the premises occupied therewith, any dead

body brought to such house for the purpose of an inquest being held thereon; and for every dead body so received he shall be paid a fee of one pound; and if he refuses to receive such dead body for the purpose aforesaid he shall be liable to a fine not exceeding five pounds:

Provided that this section shall not apply in any case where the licensed premises are situate within a distance of three miles from any public morgue, or from any hospital dead-house deemed to be a public morgue under the provisions of "The Public Health Act, 1908."

24. No Medical Officer to any lunatic asylum or licensed house for the reception of lunatics, or to any prison, shall be competent whilst holding such office to act as Coroner at any inquest on the body of any lunatic dying at such asylum or licensed house, or on the body of any prisoner dying or being executed at such prison.

Partial dis-qualification of Coroners.
1838, No. 20, sec. 2

25. The finding upon any inquest held by a Deputy Coroner or Justice shall not be invalid by reason merely that such Deputy or Justice was not in the particular case authorised by this Act to hold such inquest, and any such finding shall have the same force and effect as if the Deputy or Justice was authorised by this Act to hold the inquest.

Deputy or Justice acting when not authorised.
1867, No. 16, sec. 20

26. No proceeding taken under this Act shall take away or affect, or be deemed to take away or affect, the right of any person to sue for and recover compensation for or in respect of any damage or injury occasioned by the reckless or negligent use of fire.

Rights of action not affected.
Ibid, sec. 19

27. It shall be lawful to hold any inquest upon Sunday whenever, in the opinion of the Coroner, it is expedient to hold the same on that day.

Inquests may be held on Sundays.
1838, No. 20, sec. 6

28. All fees payable under this Act shall be paid by the Minister of Finance from moneys to be appropriated by Parliament out of the Consolidated Fund.

Payment of fees.
1867, No. 16, sec. 27
1839, No. 14, sec. 3

29. The forms in the Third Schedule hereto, or forms to the like effect, shall be deemed sufficient, and may be used in all proceedings by and before Coroners.

Schedule of forms.
1867, No. 16, sec. 18

SCHEDULES.

FIRST SCHEDULE.

ENACTMENTS CONSOLIDATED.

- 1867, No. 16.—“The Coroners Act, 1867.”
 1885, No. 25.—“The Coroners Act 1867 Amendment Act, 1885.”
 1888, No. 20.—“The Coroners Act Amendment Act, 1888.”
 1893, No. 56.—“The Criminal Code Act, 1893”: Sections 342 and 343.
 1899, No. 14.—“The Payment of Jurors Act, 1899”: Section 3.
 1902, No. 60.—“The Public Health Amendment Act, 1902”: Section 6.
 1904, No. 37.—“The Public Health Amendment Act, 1904”: Section 10

SECOND SCHEDULE.

FEES PAYABLE UNDER THIS ACT.

Sections 16, 21.

1867, No. 16, Third
Schedule.

- To the Coroner, Deputy, or Justice holding any inquest under this Act—for every inquest, £2 2s. And, in addition thereto, mileage for every inquest held at a distance exceeding one mile from the residence of the person holding the same, per mile (one way), 1s. 6d.
 To the person employed to summon a jury (not being a paid servant of the Government), any sum not exceeding 12s.
 To a medical witness, for attending and giving evidence, when not required to make a *post-mortem* examination, £1 1s.
 For making a *post-mortem* examination, when required so to do by the Coroner or Justice holding the inquest, and attending to give evidence of the result, £3 3s.
 And, in addition to the above fees, where the residence of such medical witness is more than two miles distant from the place where the inquest is held, mileage (one way) at the rate per mile of 1s. 6d.

THIRD SCHEDULE.

Section 23.
Ibid, Second
Schedule.

(1.) OATH TO BE ADMINISTERED TO THE FOREMAN OF THE JURY.

You shall diligently inquire, and true presentment make on behalf of our Sovereign Lord the King, how and in what manner A. D. [or a person unknown, *as the case may be*], here lying dead, came to his death [or what was the cause and origin of the fire by which (*Describe the property*) was destroyed or damaged], and of such other matters relating to the same as shall be lawfully required of you according to the evidence. So help you God.

(2.) OATH TO BE ADMINISTERED TO THE REST OF THE JURORS.

SUCH oath as A. F., the foreman of this inquest, hath for his part taken you and each of you shall well and truly observe and keep on your parts respectively. So help you God.

(3.) OATH TO BE ADMINISTERED TO WITNESSES.

THE evidence you shall give to this inquest on behalf of our Sovereign Lord the King, touching the death of A. D. [or touching the origin of the fire in question on this inquest] shall be the truth, the whole truth, and nothing but the truth. So help you God.

(4.) RECOGNISANCE OF JURORS AT AN ADJOURNED INQUEST.

You acknowledge yourself severally to owe to our Sovereign Lord the King the sum of _____ pounds, to be levied on your goods and chattels, lands, and tenements for His Majesty's use, upon condition that if you and each of you do personally appear here again [*or at* _____] on _____ next, being the _____ day of _____, at _____ o'clock, then and there to make further inquiry on behalf of our said Sovereign Lord the King touching the death of A. D. [*or touching the origin of the fire on the premises of* _____ *or the property of* _____, *as the case may be*] then this recognisance to be void, or else to remain in full force. Are you content?

(5.) RECORD OF LAST-MENTIONED RECOGNISANCE.

BE it remembered that [*Names of jurors in full*], of _____, in New Zealand, who were duly sworn and charged to inquire on behalf of our Sovereign Lord the King touching the death of [*Name of deceased*], whose body they have had in view [*or otherwise as the case may be*], severally acknowledge to owe to our said Sovereign Lord the King, the sum of _____ pounds each to be levied for the use of His Majesty on the several goods and chattels, lands, and tenements of any of them who shall make default in the following condition: The condition of this recognisance is such that if each of the above bounden persons shall appear personally at _____, on _____, at _____ o'clock in the _____ noon, precisely, then and there to make further inquiry touching the death of the said [*deceased, or as the case may be*], then this recognisance to be void, or else to remain in full force as against any of the said persons who shall not so appear.

Taken and acknowledged this _____ day of _____, 19____, at _____, before
me—

A. C., Coroner.

(6.) PROCLAMATION OF ADJOURNMENT.

ALL manner of persons who have anything more to do at this Court before the Coroner may depart home at this time, and give their evidence here again [*or at* _____] on _____ next, the _____ day of _____, 19____, at _____ o'clock. God save the King.

(7.) PROCLAMATION AT ADJOURNED MEETING.

ALL manner of persons who have anything more to do at this Court before the Coroner on this inquest now to be taken, and adjourned over to this time and place, draw near and give your attendance. And you, gentlemen of the jury, who have been empanelled and sworn upon this inquest to inquire touching the death of A. D. [*or otherwise as the case may be*], severally answer to your names, and save your recognisances.

(8.) WARRANT TO BURY A BODY AFTER A VIEW.

New Zealand,)
To wit.)

WHEREAS an inquisition has been this day held upon view of the body of R. F., now lying dead at _____: These are therefore to certify that you may lawfully permit the body of the said R. F. to be buried. And for so doing this shall be your warrant.

Given under my hand, this _____ day of _____, 19____.

To _____ (Signed) A. C., Coroner.

Section 19 (2).

(9.) WARRANT OF APPREHENSION.

To the Constables of _____, in New Zealand, and to all other constables in
New Zealand.

New Zealand, }
To wit. }

WHEREAS upon an inquisition taken before me, one of His Majesty's Coroners [or Deputy Coroner for A. C. one, &c., or before me, a Justice, acting as one of His Majesty's Coroners, *as the case may be*], this _____ day of _____, 19____, at _____, on view of the body of A. D., then and there lying dead, it appeared from the verdict of the jury that there was just cause to believe that one E. F., late of _____, in New Zealand [*Profession, trade, or calling of defendant*] was guilty of the wilful murder of the said A. D. [*or otherwise as the case may be*]: These are therefore, by virtue of my office, in His Majesty's name, to command you, the said constables, and every of you, without delay, to apprehend on the charge of the said murder [*or as the case may be*], and forthwith take the said E. F. before a Stipendiary Magistrate, or a Justice of the Peace, to answer to the said charge, and to be further dealt with according to law.

Given under my hand, this _____ day of _____, 19____.

(Signed) _____ A. C., Coroner.