

This Bill was reported on by the Joint Statutes Revision Committee, 26th November, 1897, when before the Legislative Council.

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed as now printed, is transmitted to the HOUSE of REPRESENTATIVES for its concurrence.
Legislative Council,
3rd December, 1897.

Hon. W. C. Walker.

CORONERS.

ANALYSIS.

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A BILL INTITULED

AN ACT to consolidate and amend the Law relating to Coroners. Title.

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

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1. The Short Title of this Act is "The Coroners Act, 1897." Short Title.

It shall form part of and be read together with "The Justices of the Peace Act, 1882" (hereinafter called "the principal Act"), and shall come into operation on the first day of July, one thousand eight hundred and ninety-eight.

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2. (1.) Every Stipendiary Magistrate shall by virtue of his office be a Coroner under this Act. Magistrates to be Coroners.

(2.) In the event of the Stipendiary Magistrate being at any time unable to act as Coroner the jurisdiction and powers by this Act conferred upon him as Coroner, except as hereinafter provided, may be exercised by any Justice, and the fact that such Justice exercises the same shall be sufficient evidence of his authority so to do. Justice may exercise powers in case of absence.

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3. In any of the following cases, that is to say,—

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(1.) Whenever any person is killed or drowned or dies suddenly, or dies in prison, or in any hospital, or in any house registered as an infants' home under "The Infant Life Protection Act, 1896," or whilst detained in any lunatic asylum; or Constable to report to Magistrate when death or fire occurs.

- (2.) Whenever any movable or immovable property of any description is destroyed or damaged by fire under circumstances that appear to call for investigation,—
any constable or other person having knowledge or information thereof shall report the same to the Stipendiary Magistrate for the time being exercising jurisdiction near to the place where such death or fire occurred. 5
- Report to be filed. 4. Such report shall be in the prescribed form, and shall be filed (without fee) in the Magistrate's Court.
- When death occurs in prison, &c., report to be filed before burial. 5. (1.) In the case of the death of any person, if the death has occurred in any such prison, hospital, house, or lunatic asylum as aforesaid, it shall be the duty of the officer or person in charge thereof to file such report before the body is buried, and (except in cases where for sanitary reasons burial becomes necessary) to delay or prevent the burial of the body until the Coroner authorises its burial by warrant in the form prescribed. 10 15
- Coroner to hold inquiry. (2.) If any such officer or person commits any breach of this section he is liable to a penalty not exceeding *twenty-five* pounds. 20
- Preliminary investigation. 6. Upon the receipt of such report the Coroner shall have jurisdiction to inquire concerning the cause and manner of the death of such person, or, as the case may be, the cause and origin of such fire. 25
7. (1.) The Coroner shall first make a preliminary informal investigation into the circumstances attending such death or fire in such manner as he thinks fit.
- (2.) If, as the result of such preliminary investigation, the Coroner is of opinion that a formal inquiry is necessary he shall proceed to hold such formal inquiry as hereinafter directed.
- (3.) If, as the result of such preliminary investigation, the Coroner is of opinion that a formal inquiry is unnecessary he shall— 30
- (a.) If a Stipendiary Magistrate, record a memorandum to that effect on the report, and thereafter it shall not be incumbent upon him to proceed to hold a formal inquiry;
- (b.) If not a Stipendiary Magistrate, forthwith transmit the report with a memorandum of such opinion, and his reasons therefor, to a Stipendiary Magistrate having jurisdiction in the Magistrate's district within which such death or fire occurred, whereupon it shall be the duty of such Stipendiary Magistrate to record a memorandum upon the report directing either that a formal inquiry need not, or that a formal inquiry shall, be held, and to return the report to the Coroner, whose duty it shall then be to obey such direction. 35 40
- Time and place for holding inquiry. 8. If after such preliminary investigation as aforesaid the Coroner is of opinion that a formal inquiry should be held, then such inquiry may be held on such day of the week (not excluding Sunday), and in such Courthouse, police-station, hospital, public morgue, or other building or place of a public nature, as the Coroner deems convenient. 45
- No inquiry in licensed premises. 9. No such inquiry shall be held in any licensed premises within the meaning of "The Licensing Act, 1881," and every provision of that Act, and of any amendment thereof, that is in any way in con- 50

flict with this section is hereby modified or repealed in so far as such conflict exists.

10. Every inquiry under this Act—

- 5 (1.) Shall be deemed to be a judicial proceeding within the meaning of section one hundred and thirteen of "The Criminal Code Act, 1893;" and
- 10 (2.) Shall be held as nearly as may be in the manner prescribed by the principal Act in the case of an indictable offence, all the provisions of which Act shall, *mutatis mutandis*, apply accordingly.

Inquiry to be a judicial proceeding, and to be held as if under "The Justices of the Peace Act, 1882."

11. In addition to the provisions of the principal Act relating to the summoning and examination of witnesses, the following special provisions shall apply in every case where the inquiry relates to the death of any person:—

Special provisions where inquiry relates to a death.

15 (1.) It shall not be necessary for the Coroner to view the body, but he may do so if he thinks fit.

(2.) The Coroner may, by warrant under his hand in the prescribed form, authorise and direct the body to be buried, or exhumed, as he thinks expedient.

Warrant to bury.

20 (3.) The Coroner shall cause to be summoned as witnesses one or more of the legally qualified medical practitioners (if any) who attended the deceased at or shortly before his death, and also, if in his opinion additional evidence is required, such other medical practitioners, and also such competent analysts or other skilled persons, as he deem necessary.

Medical witnesses.

25 (4.) In such summons as aforesaid, or by order in writing in the prescribed form made at any time before the final close of the inquiry, the Coroner may direct any such practitioner, analyst, or other skilled person, to make a *post mortem* examination of the body of the deceased, and an analysis of anything that it is deemed expedient to analyse:

Post mortem.

30 Provided any practitioner who attended the deceased at or shortly prior to his death shall be allowed to be present at every such *post mortem* examination and analysis, but shall not be allowed to take any part therein.

35 (5.) The result of every such *post mortem* examination and analysis shall be stated in writing and signed by the witness making the same.

40 (6.) If any person refuses or neglects to obey any such direction or order as aforesaid he is liable to a penalty not exceeding *twenty* pounds.

12. If at any stage of any inquiry under this Act the Coroner is of opinion that suspicion is cast upon any person, as being in any way criminally responsible for the death or fire forming the subject-matter of the inquiry, he may issue a warrant in the prescribed form for such person's arrest, and may in his discretion either commit him to prison or admit him to bail, pending the final result of the inquiry.

Issue of warrant for arrest of suspected person.

50 13. (1.) If at the close of any such inquiry the Coroner is of opinion that there is evidence to show that any person has committed any crime or offence, he may in the prescribed form direct a

Coroner may direct prosecution of any person.

prosecution of such person, and, where necessary, issue a warrant for his arrest, and shall commit him or hold him to bail to take his trial for such crime or offence, in like manner and with the like consequences in all respects as if the Coroner were acting as a Stipendiary Magistrate on the hearing of an information under the provisions of the principal Act relating to indictable offences. 5

Provided that if the Coroner is not a Stipendiary Magistrate, then, in lieu of himself directing a prosecution, he shall forward the depositions, together with his finding thereon, to the nearest available Stipendiary Magistrate, who after considering the same may, if he thinks fit, direct a prosecution in like manner as if he were himself the Coroner before whom such inquiry was held, and the fact that any Stipendiary Magistrate directs any such prosecution shall be sufficient evidence of his authority so to do. 10

Procedure thereon.

(2.) The direction to prosecute shall, with the Coroner's finding, be affixed to the depositions. 15

Deposit of depositions when no prosecution directed.

14. The depositions taken in every inquiry which does not result in a prosecution being directed shall, together with the Coroner's finding, be deposited in the Magistrate's Court nearest to the place where the inquiry is held, or in such other Court as the Coroner directs. 20

Powers of Coroner.

15. For the purposes of every inquiry held under this Act, and the proceedings thereon, the Coroner shall, subject to the provisions of section *thirteen* hereof, have all the powers of a Stipendiary Magistrate on the hearing of an information for an indictable offence under the principal Act, and the provisions of that Act shall, *mutatis mutandis*, apply accordingly. 25

Regulations.

16. (1.) The Governor, by Order in Council, may from time to time make regulations for any of the following purposes:—

(a.) Making rules and forms of procedure to be adopted, and fixing fees to be paid under this Act; 30

(b.) Directing the mode in which shall be done anything which in this Act is expressed to be prescribed;

(c.) And generally for any other purpose which he deems necessary in order to give full effect to this Act. 35

(2.) Any such regulation may provide for a penalty not exceeding *five* pounds for the breach thereof.

(3.) All such regulations shall be gazetted.

Forms.

17. The forms specified or referred to in the *First* Schedule hereto may be used for the purposes of this Act, but the Governor in Council may from time to time alter the same or prescribe other forms as he thinks fit 40

Police to assist at inquiry.

18. It shall be the duty of the police to assist at every investigation and inquiry held under this Act.

Fees payable to medical witnesses.

19. There shall be payable to medical witnesses and other skilled persons, for the matters specified in the *Second* Schedule hereto, such fees, not exceeding those therein specified, as the Governor in Council from time to time prescribes: Provided always,— 45

(1.) That no fee shall be paid for any *post mortem* examination, or analysis, unless the same has been made by the previous direction of the Coroner; and also 50

(2.) That where the death has happened at any public hospital, gaol, or other public building, no fee shall be paid to any medical officer appointed with salary to attend such hospital, gaol, or building.

5 20. All fees and other moneys expended under this Act shall be paid out of moneys appropriated by Parliament for that purpose. Fees to be paid out of moneys appropriated.

21. The Acts specified in the *Third* Schedule are hereby repealed to the extent therein mentioned, and all appointments of Coroners or Deputy Coroners made thereunder are hereby revoked: Repeal.

10 Provided that all proceedings commenced thereunder and pending at the time of the coming into operation of this Act shall be continued and completed thereunder in like manner as if those Acts were not repealed nor those appointments revoked. Saving.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

FORMS.

Report as to Death (or Fire).

Sec. 4.

Under "The Coroners Act, 1897."

PURSUANT to the provisions of the above-mentioned Act, I, A.B., of [Address and occupation], hereby report that—

[If a death:] I am informed and believe that, on or about the day of , 1 , one [Full name and sex] was killed [or drowned, or died suddenly, or in the prison, or in the hospital, or in the house registered as an infants' home under "The Infant Life Protection Act, 1896," or whilst detained in the lunatic asylum] at [place].

[If a fire:] A fire occurred at [place], on or about the day of , 1 , whereby property was destroyed or damaged, and I am informed that such fire occurred under circumstances calling for inquiry.]

Dated at , this day of , 1 .

A.B.

Warrant to Bury (or Exhume) Body.

Sec. 11, subsec. 2.

Under "The Coroners Act, 1897."

I HEREBY authorise and direct that the body of [Name], now lying dead at [place], be buried [or exhumed].

Dated at , this day of , 1 .

C.D., Coroner

[or Justice of the Peace, acting as Coroner].

Order to make Post mortem Examination, &c.

Sec. 11, subsec. 4.

Under "The Coroners Act, 1897."

YOU are hereby ordered to make a *post mortem* examination of the body of [Name], now lying dead at [place, or as the case may be].

Dated at , this day of , 1 .

C.D., Coroner

[or Justice of the Peace, acting as Coroner].

Depositions of Witnesses.

Under "The Coroners Act, 1897."

DEPOSITIONS of witnesses severally taken and acknowledged on behalf of the Crown at [Place of inquiry], on this day of , 1 , before [Name], Coroner [or Justice of the Peace acting as Coroner], touching the death, at of a man [woman, or male or female child] known by the name of [Full name].

[Or, a fire that occurred at (place), on the day of , 1 , whereby property was damaged (or destroyed) as follows, to wit: .]

[Name of witness], being duly sworn [or having duly affirmed], saith that [Set out evidence].

The foregoing depositions of [*Full names of all witnesses*], written on pages of paper, numbered consecutively from one to _____, and by me affixed together, were taken and sworn [*or affirmed*] before me at [*Place of inquiry*] on the

day of _____, 1 _____ day of _____, 1 _____
Dated at _____, this _____ day of _____, 1 _____
C.D., Coroner
[*or Justice of the Peace, acting as Coroner*].

Sec. 13.

Direction to Prosecute.

Under "The Coroners Act, 1897."

As the result of the inquiry held at [*place*], on [*date*], by me as Coroner touching [*subject-matter of inquiry*], I direct that [*Full name*], be prosecuted for [*crime or offence*].

Dated at _____, this _____ day of _____, 1 _____
C.D., Coroner
[*or Justice of the Peace, acting as Coroner*].

Sec. 14.

Coroner's Finding.

Under "The Coroners Act, 1897."

As the result of the inquiry held at [*place*], on [*date*], by me as Coroner touching [*subject-matter of inquiry*], I find as follows [*Set out finding*].

Dated at _____, this _____ day of _____, 1 _____
C.D., Coroner
[*or Justice of the Peace, acting as Coroner*].

[*For subpoenas, recognisances, warrants of apprehension and commitment, &c., the forms for the time being prescribed under the principal Act may be used, with all such alterations as are necessary in order to adapt them to the purposes of this Act.*]

SECOND SCHEDULE.

Sec. 19.

SCALE OF FEES PAYABLE TO MEDICAL WITNESSES AND OTHER SKILLED PERSONS.

	£	s.	d.
For attending and giving evidence, when not required to make a <i>post mortem</i> examination	1	1	0
For making a <i>post mortem</i> examination or analysis by the previous direction of the Coroner, and attending to give evidence of the result ...	3	3	0
And, in addition to the above fees, when such witness resides more than <i>three miles</i> from the place where the inquiry is held, a further fee by way of mileage (one way) at the rate per mile of	0	1	0

THIRD SCHEDULE.

ACTS REPEALED.

- 1867, No. 16.—The Coroners Act, 1867. The whole.
1885, No. 25.—The Coroners Act 1867 Amendment Act, 1885. The whole.
1888, No. 20.—The Coroners Act Amendment Act, 1888. The whole.
1893, No. 56.—The Criminal Code Act, 1893. In part, namely, section 342, and subsection (2) of section 385.