

Hon. Mr. Webb

CORONERS

ANALYSIS

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A BILL INTITULED

Title.	AN ACT to consolidate and amend 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:—	5
Short Title and commencement.	1. (1) This Act may be cited as the Coroners Act 1951.	
	(2) This Act shall come into force on the first day of April, nineteen hundred and fifty-two.	10

Appointment of Coroners

Appointment of Coroners. 1908, No. 30, s. 2	2. (1) The Governor-General may from time to time by warrant under his hand appoint fit persons to be Coroners to exercise jurisdiction throughout New Zealand.	15
	(2) Every Coroner shall hold office during the pleasure of the Governor-General.	
	(3) Every Coroner shall retire from office on attaining the age of seventy-two years.	
Coroners to take oaths. See Reprint of Statutes, Vol. I, p. 1015 1908, No. 30, s. 3	3. Every Coroner shall take the oath of allegiance and the judicial oath set forth in the Promissory Oaths Act 1908, before any Justice.	20

Functions and Powers of Coroners

Functions of Coroners.	4. (1) The principal functions of a Coroner shall be to inquire, in accordance with the provisions of this Act, into the manner of death of any person in any case where this Act requires that the death be reported to a Coroner.	25
See Reprint of Statutes, Vol. II, p. 351	(2) Every Coroner shall, for the purpose of exercising any of the powers, functions, or duties conferred or imposed on him by this Act, have the same powers, privileges, authorities, and immunities as are possessed by a Justice exercising his jurisdiction under the Justices of the Peace Act 1927, and in particular shall have power to issue summonses for and warrants to enforce the attendance of witnesses at an inquest or inquiry under this Act, to maintain order at any such inquest or inquiry, to administer oaths, to examine witnesses, to punish for contempt, and to adjourn any proceedings before him from time to time and from place to place.	30 35 40

5. (1) A Coroner shall hold an inquest in each case where he is informed that a person is dead and there is reasonable cause to suspect that the person—

When Coroner
to hold
inquest.
1908, No. 30,
s. 5

- 5 (a) Has died either a violent or an unnatural death;
or
(b) Has died while detained in a prison; or
(c) Has died in such a place or under such circumstances that, in accordance with the provisions of any enactment other than this Act, an
10 inquest is required to be held.

(2) A Coroner shall hold an inquest where he is informed that any person has died a sudden death of which the cause is unknown:

15 Provided that in any such case the Coroner may decide, in accordance with section *six* of this Act, not to hold an inquest.

(3) Where a Coroner is informed that a person has died while detained in a Borstal institution, or while a patient within the meaning of the Mental Defectives Act
20 1911, or while committed to the care of the Superintendent of Child Welfare under the Child Welfare Act 1925, or while an inmate of a children's home under Part I of the Child Welfare Amendment Act 1927, or while an inmate of an Inebriates Home or a Reformatory
25 Home under the Reformatory Institutions Act 1909, or while in such a place or in such circumstances that, in accordance with the provisions of any enactment other than this Act, notice of the death is required to be given to a Coroner, the Coroner shall hold an inquest if he
30 considers an inquest to be necessary or desirable:

See Reprint
of Statutes,
Vol. V, p. 743
Ibid., Vol. III,
p. 1091
Ibid., p. 1113
Ibid., Vol. VIII,
p. 3

Provided that nothing in this subsection shall be deemed to authorize a Coroner to dispense with an inquest in any case to which subsection *one* or subsection *two* of this section applies.

35 (4) It shall be the duty of any person finding a person lying dead, or having knowledge of the death of any person in any of the circumstances set forth in the foregoing provisions of this section, to report the death to a constable, who shall thereupon report the death to
40 a Coroner.

(5) After a constable has reported the death to a Coroner in accordance with subsection *four* of this section, the police shall make such inquiries as may be necessary for the purposes of this Act or as may be directed by the Coroner. 5

Inquest need not be held in certain circumstances. Cf. Coroners (Amendment) Act 1926, s. 21 (U.K.)

6. (1) Where any sudden death of which the cause is unknown is reported to a Coroner and he is of opinion that further inquiries or a *post mortem* examination may prove an inquest to be unnecessary, he may direct any inquiries he thinks proper to be made and may authorize any registered medical practitioner to hold a *post mortem* examination of the body and to report the result thereof to him in writing. 10

(2) Where the Coroner, as a result of the *post mortem* examination or of inquiries made by him, is satisfied that the death was due to natural causes and did not take place in such place or in such circumstances as to necessitate the holding of an inquest in accordance with the requirements of any enactment, he may decide not to hold an inquest. 15 20

(3) If, in accordance with this section, a Coroner decides not to hold an inquest he shall, in the prescribed form, notify the Secretary for Justice of his decision.

Powers of Justice where no Coroner available.

7. (1) Where a death occurs in such circumstances that the death should be reported to a Coroner in accordance with the provisions of section *five* of this Act and no Coroner is available to act, the death may be reported by a constable to a Justice who shall thereupon in respect of the death have the following powers and functions:— 25 30

(a) To authorize a *post mortem* examination and generally to exercise the powers and functions of a Coroner under section *ten* of this Act: 30

(b) To open an inquest:

(c) To hear and record evidence of identification: 35

(d) To authorize the burial of the body: 35

(e) To adjourn any inquest opened by him under this section. 35

(2) Where an inquest has been opened by a Justice under this section, the inquest shall be completed by a Coroner in all respects as if the death had been originally reported to him: 40

Provided that the Coroner may act upon any evidence already given before the Justice in all respects as if it were given before the Coroner.

8. Where a Coroner has reason to believe that a death has occurred in such circumstances that an inquest ought to be held and, because the body has been destroyed or cannot be recovered, an inquest cannot be held except by virtue of the provisions of this section, he may report the facts to the Attorney-General, and the Attorney-General may, if he considers it desirable so to do, direct an inquest to be held in respect of the death, and an inquest shall be held accordingly by the Coroner making the report or such other Coroner as the Attorney-General may direct, and the provisions of this Act shall, with the necessary modifications, apply to any such inquest.

Inquest where body destroyed or irrecoverable. 1930, No. 11, s. 3

9. Whether or not an inquest is being held, the Coroner may require any medical practitioner who has recently attended the person into whose death the Coroner is inquiring, to supply him with a report relating to the deceased person.

Coroner may require medical report.

10. (1) The Coroner may at any time before the termination of the inquest authorize any registered medical practitioner, other than a medical practitioner who, to the knowledge of the Coroner, has attended the deceased person immediately prior to his death, to perform a *post mortem* examination of the body of the deceased person.

Coroner may authorize *post mortem* examination. 1908, No. 30, s. 13

(2) Any medical practitioner who has attended the deceased person immediately prior to his death shall be entitled to be present at the examination. The Coroner may, if he thinks it necessary, have notice served on any such medical practitioner requiring him to attend the *post mortem* examination or to submit a report for the assistance of the person holding the *post mortem* examination.

(3) Upon application being made to him, the Coroner may permit any other person to be represented by a medical practitioner as an observer at any such *post mortem* examination.

(4) The Coroner may authorize an analyst or a pathologist to make an analysis and report in any case where an inquest is held.

(5) For the purposes of this section and of sections *six* and *nine* of this Act the Coroner may give such directions as he thinks fit as to the disposal or removal of the body of any person whose death has been reported to him under this Act, and any person who fails to comply with any such direction or who does any act to hinder or prevent any such direction being complied with commits an offence and shall be liable on summary conviction to imprisonment for a term not exceeding one month or to a fine not exceeding one hundred pounds.

Coroner may order burial of body.
1930, No. 11,
s. 4

11. A Coroner, by writing under his hand and in the prescribed form, may at any time order the burial of the body of any person whose death has been reported to him under this Act.

The Inquest

Purpose of inquest.

12. An inquest shall be conducted by the Coroner for the purpose of establishing—

- (a) The fact that a person has died;
- (b) The identity of the deceased person;
- (c) When, where, and how the death occurred.

Inquest to be before Coroner alone.
1908, No. 213,
ss. 2, 4

13. (1) All inquests shall be held before a Coroner alone.

(2) Any inquest may, at the direction of the Coroner, be held concurrently with any other inquiry or judicial proceedings.

Date and place of inquest.

14. Where an inquest is to be held the Coroner shall fix the date, time, and place of the inquest, and shall give notice thereof to the senior officer of police in the place where the inquest is to be held, who shall give notice of the date, time, and place of the inquest to such persons as he thinks fit, or as the Coroner directs.

View of body.

15. (1) Subject to the provisions of section *eight* of this Act, no inquest shall be concluded unless the Coroner is satisfied that the body in respect of which the inquest is being held has been viewed by some person giving evidence at the inquest.

(2) Where an inquest or an inquiry under this Act is held by a Coroner it shall not be necessary for the Coroner to view the body in respect of which the inquest or inquiry is held.

5 16. (1) Subject to the provisions of this Act, the room in which an inquest is held shall be open to the public: Hearing in public.

10 Provided that if the Coroner considers it desirable in the interests of justice, decency, or order, he may exclude all or any persons from the whole or any part of the proceedings at the inquest, or may prohibit the publication of any part of the evidence given at the inquest.

15 (2) The Coroner may direct that any witness not yet heard at an inquest shall go and remain outside the place of hearing until required to give evidence.

20 17. (1) The Coroner shall at the inquest examine on oath all persons who tender their evidence respecting the facts in issue and all other persons whom he thinks it expedient to examine. Coroner to examine witnesses on oath.

(2) At any inquest any person who, in the opinion of the Coroner, has a sufficient interest in the subject or result of the inquest may attend personally or by counsel, and may examine and cross-examine witnesses. 1908, No. 213, s. 7

25 (3) When any inquest is held in respect of the death of any person who was at the date of his death a member of any industrial union registered under the Industrial Conciliation and Arbitration Act 1925, a representative of that industrial union shall be deemed See Reprint of Statutes, Vol. III, p. 939

30 to have a sufficient interest, within the meaning of this section, in the result of the inquest.

(4) In all proceedings under this Act the Coroner may admit any evidence that he thinks fit, whether or not the same is otherwise admissible in a Court of Law, See Reprint of Statutes, Vol. III, p. 939

35 but no evidence shall be admitted by the Coroner for the purposes of the inquest unless in his opinion the evidence is necessary for the purpose of establishing any of the matters referred to in section *twelve* of this Act.

40 (5) The Coroner shall put into writing the evidence admitted by him at the inquest and the depositions of each witness giving evidence at the inquest shall be read over to and signed by him and by the Coroner.

Evidence at
a distance.

18. (1) Where in the opinion of the Coroner it is necessary or expedient to have the evidence of some person taken at a place other than where he intends to hold or is holding an inquest, the Coroner may, by writing under his hand, appoint some other Coroner or, if no Coroner is available, a Justice, to take the evidence of that person. 5

(2) The Coroner or Justice so appointed shall have, for the purpose of any such examination, the same powers under this Act as if he were himself conducting the inquest, and shall appoint a time and place for taking the evidence, and cause notice to be given to any persons in accordance with the direction of the Coroner holding the inquest. 10

(3) Any persons notified in accordance with subsection *two* of this section and any other person so permitted by the Coroner or Justice taking the evidence may attend personally or by counsel, and may examine and cross-examine witnesses in the same manner and to the same extent as if the proceedings were an inquest. 15 20

(4) The evidence of any witness so examined shall be reduced to writing, read over to the witness and signed by him and by the Coroner or Justice before whom it is taken, and forwarded by him to the Coroner holding the inquest, who may receive and act upon any such evidence in all respects as if it had been given before him at the inquest. 25

Witness
neglecting
to attend.
1908, No. 30,
s. 17

19. Every witness on whom any summons is served, either personally or by leaving the same at his residence with an inmate appearing to be above the age of fourteen years, in sufficient time for the witness to obey the same, who fails without good and sufficient excuse to obey any such summons, and every medical practitioner who is directed by a Coroner to attend a *post mortem* examination or to furnish a report in accordance with this Act, and who neglects or refuses to obey any such summons, direction, or order, commits an offence and shall be liable on summary conviction to a fine not exceeding *twenty* pounds. 30 35

20. (1) If at an inquest, the Coroner is informed before he has given his finding that some person has been charged with causing the death in respect of which the inquest is being held and in the opinion of the Coroner the result of the charge may have a material bearing on the inquest, he shall adjourn the inquest until after the conclusion of the criminal proceedings.

Procedure where person charged with offence.

Cf. Coroners (Amendment) Act 1926, s. 20 (U.K.)

(2) After the conclusion of the criminal proceedings the Coroner may, subject as hereinafter provided, resume the adjourned inquest.

(3) If, having regard to the result of the criminal proceedings, the Coroner decides not to resume the inquest, he shall, in the prescribed form, notify the Secretary for Justice of his decision.

(4) For the purposes of section *thirty-one* of the *Births and Deaths Registration Act 1951* a decision of a Coroner under subsection *three* of this section not to hold an inquest shall be deemed to be the finding of the Coroner and the provisions of that section shall, in any such case, apply accordingly.

1951, No.

(5) Nothing in this section shall be deemed to prevent an inquest being held concurrently with criminal proceedings under the Justices of the Peace Act 1927, but in any such case the Coroner shall not give his finding until after the conclusion of the criminal proceedings.

See Reprint of Statutes, Vol. II, p. 351

(6) For the purposes of this section, the expression "the criminal proceedings" means the proceedings before examining justices and before any Court to which the accused person is committed for trial or before which an appeal from the conviction of that person is heard, and criminal proceedings shall not be deemed to be concluded until no further appeal can, without an extension of time being granted by the Court of Appeal, be made in the course thereof.

21. (1) Subject to the provisions of this Act, where it appears to the Coroner at the commencement or in the course of an inquest that the circumstances are such that it appears possible that death may have been self inflicted, he may direct that no report, or no further report, of the proceedings shall be published until after he has made his finding.

Inquests where death was self inflicted.

(2) Where the Coroner finds that the death was self inflicted, no report of the proceedings of the inquest shall, without the authority of the Coroner, be published other than the name, address, and occupation of the deceased person, the fact that an inquest has been held, and that the Coroner has found that the death was self inflicted. 5

Coroners
order
prohibiting
publication
of evidence
subject to
review by
Magistrate.

22. (1) Where under section *sixteen* or section *twenty-one* of this Act a Coroner makes an order or gives a direction prohibiting or restricting the publication of any evidence at an inquest, any person affected by the order or direction may apply to a Magistrate for a review thereof. 10

(2) The Magistrate may, in his absolute discretion, and on such grounds as he thinks fit, either approve, reverse, or modify the order or direction of the coroner, and any decision given by the Magistrate shall be final and binding on all persons. 15

(3) Where an application is made to a Magistrate under this section in respect of an order or direction of a Coroner, the order or direction shall remain in full force and effect until the decision of the Magistrate in respect of the application is made. 20

(4) Nothing in this section shall apply to any order or direction made or given by a Coroner who is also a Magistrate. 25

Inquest may be
completed by
a Coroner other
than Coroner
who commenced
the inquest.

23. Where a Coroner has commenced to hold an inquest and dies or is incapacitated by illness, absence, or other sufficient cause from completing the inquest, the inquest may be completed by some other Coroner who may act upon any evidence already given at the inquest in all respects as if it were given before him. 30

Finding of
Coroner at
inquest.

24. (1) After considering all the evidence before him at the inquest the Coroner shall give his finding and shall sign a certificate in the prescribed form.

(2) The certificate, together with all depositions of witnesses taken at the inquest and a certificate of the registration of the death, shall be transmitted by the Coroner to the Secretary for Justice. 35

Miscellaneous

Police to assist
at inquests
and inquiries.

25. It shall be the duty of the police to assist at all inquests, inquiries, and investigations under this Act. 40

26. (1) Where in respect of any death the Supreme Court, on application made by or under the authority of the Attorney-General, is satisfied either—

Supreme Court may in certain cases order inquest to be held.

5 (a) That a Coroner refuses or neglects to hold an inquest which ought to be held; or

1930, No. 11, s. 2

10 (b) Where an inquest has been held by a Coroner, whether before or after the passing of this Act, that, by reason of fraud, rejection of evidence, irregularity of proceedings, insufficiency of inquiry, discovery of new facts or evidence, or otherwise, it is necessary or desirable in the interests of justice that another inquest should be held,—

15 the Court may order an inquest to be held in respect of the death; and where an inquest has already been held, may quash the finding of the Coroner.

(2) Subject to the order of the Supreme Court, any such inquest may be held by the same Coroner or any other Coroner.

20 (3) On any such inquest, unless the Supreme Court otherwise orders, all depositions taken on any former inquest in respect of the said death shall be deemed to have been taken on the new inquest.

25 (4) Except as otherwise provided by this section, any such inquest shall be held in the same manner as any other inquest.

30 27. (1) Where an inquest has been concluded and it is shown to the satisfaction of the Attorney-General that the finding is defective or erroneous in whole or in part, the Attorney-General may direct that the inquest be re-opened before the Coroner who held the inquest or some other Coroner.

Inquest may be re-opened.

35 (2) The Coroner so directed to re-open an inquest may conduct such inquiries as may appear necessary to him or as may be directed by the Attorney-General and the Coroner may accept such of the findings and of the evidence given at the previous inquest as appear to him to be correct.

40 (3) At the conclusion of the re-opened inquest the Coroner shall give his finding in the manner provided by section *twenty-four* of this Act and any such finding shall for all purposes replace the finding previously given.

Protection of
witnesses and
counsel.

28. Every witness attending and giving evidence at any inquest or inquiry held under this Act and every counsel appearing before a Coroner shall have the same privileges and immunities as witnesses and counsel in Courts of Law.

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Penalty for
unlawful
publication of
proceedings.

29. Every person who publishes—

(a) A report of any proceedings in contravention of this Act; or

(b) Any question or inquiry at any inquest which the Coroner—

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(i) Has forbidden or disallowed; or

(ii) Has warned the witness he is not obliged to answer, and has ordered shall not be published,—

commits an offence, and shall be liable on summary conviction to imprisonment for a term not exceeding one month or to a fine not exceeding one hundred pounds.

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Inquests may
be held on
licensed
premises.
1908, No. 30,
s. 23

30. (1) Every holder of a publican's licence shall, at the request of any Justice or constable, receive into the premises specified in the licence the dead body of any person brought to the said premises for the purpose of any inquest or inquiry under this Act.

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(2) Any publican who refuses to receive any such body for the purpose aforesaid commits an offence and shall be liable on summary conviction to a fine not exceeding twenty pounds.

25

(3) The provisions of this section shall not apply in any case where the licensed premises are situate within a distance of ten miles from any morgue, mortuary, reception room, or funeral director's premises where suitable provision is made for the reception of a dead body.

30

Inquests may
be held on
Sundays.

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

35

Ibid., s. 27
Fees and
allowances.

32. Salaries, fees, and travelling allowances shall be paid, in accordance with regulations under this Act, to every Coroner or Justice performing any function under this Act, to any witness attending an inquest, and to any registered medical practitioner, analyst, or pathologist giving evidence at an inquest, or performing any function under this Act.

40

33. (1) The Governor-General may from time to time, by Order in Council, make regulations for any purpose for which regulations are contemplated or required by this Act, and may make all such other regulations as he thinks necessary or expedient for the purpose of giving effect to the provisions of this Act and for the due administration thereof.

Regulations.

(2) All regulations made under this Act shall be laid before Parliament within twenty-eight days after the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the commencement of the next ensuing session.

34. Section sixty-eight of the Mental Defectives Act 1911 is hereby amended by omitting from subsection two the words "to the Coroner whose residence is nearest to the institution", and substituting the words "to the constable in charge of the nearest police station".

Consequential amendment.
See Reprint of Statutes, Vol. V, p. 771

35. (1) The enactments specified in the Schedule to this Act are hereby repealed.

Repeals and savings.

(2) All Orders in Council, orders, warrants, appointments, findings, verdicts, regulations, registers, records, instruments, and generally all acts of authority that originated under any of the enactments hereby repealed, and are subsisting or in force at the commencement 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.

(3) All references in any other Act to the verdict or finding of a Coroner's jury shall be deemed to apply to the finding of a Coroner given in accordance with this Act.

(4) All matters and proceedings commenced under any such enactment and pending or in progress at the commencement of this Act may be continued and completed under this Act.

Schedule.**SCHEDULE****ENACTMENTS REPEALED**

- 1908, No. 30—
The Coroners Act 1908. (Reprint of Statutes, Vol. II, p. 32).
- 1908, No. 213—
The Coroners Amendment Act 1908. (Reprint of Statutes, Vol. II, p. 40).
- 1920, No. 18—
The Coroners Amendment Act 1920. (Reprint of Statutes, Vol. II, p. 42).
- 1930, No. 11—
The Coroners Amendment Act 1930. (Reprint of Statutes, Vol. II, p. 43).
- 1937, No. 38—
The Statutes Amendment Act 1937: Section 4.
- 1942, No. 18—
The Statutes Amendment Act 1942: Section 3.
- 1945, No. 22—
The Coroners Amendment Act 1945.
- 1949, No. 18—
The Fire Services Act 1949: Section 82.