

New Zealand.

ANNO TRICESIMO PRIMO

V I C T O R I Æ R E G I N Æ .

No. 16.

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

[10th October 1867.]

WHEREAS it is expedient to consolidate and amend the laws Preamble.
relating to Coroners

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

1. The Short Title of this Act shall be "The Coroners Act 1867." Short Title.

2. Upon the commencement of this Act the Act of the Imperial Parliament mentioned in the first Schedule hereto shall to the extent to which the same is therein expressed to cease to operate shall cease to operate or to have any force or effect in the Colony and upon the commencement of this Act the Acts of the General Assembly mentioned in the said first Schedule to the extent to which the same are therein expressed to be repealed shall be respectively repealed but nothing herein contained shall in anywise affect any act or thing lawfully done or proceedings taken or commenced at the time of the commencement of this Act. Repeal clause.

3. From and after the commencement of this Act Coroners in the Colony of New Zealand shall be appointed as provided by this Act and not otherwise Provided always that all Coroners heretofore duly appointed under any Ordinance Act or Acts for the time being in force in the said Colony and acting as Coroners at the time of the commencement of this Act shall be deemed to have been duly appointed under this Act and to have jurisdiction throughout the Colony. Acting Coroners to continue.

4. It shall be lawful for the Governor in the name and on behalf of Her Majesty from time to time by warrant under his hand to appoint fit persons to be Coroners within the Colony of New Zealand and such Coroners shall have jurisdiction throughout the Colony and shall hold their offices during the Governor's pleasure. The Governor may appoint Coroners.

5. Every Coroner hereafter to be appointed shall before acting as such take an oath well and faithfully to execute the duties of his office which oath any Justice of the Peace is hereby authorized to administer. Coroners before acting to take oath.

6. It shall be lawful for the Governor at any time to appoint a fit and proper person being a Justice of the Peace of the Colony to be Deputy to any Coroner to act in the case of the illness or unavoidable absence of any Coroner from his usual place of residence and such Deputy shall during the time he shall so act have all the powers jurisdiction privileges and emoluments and shall perform all the duties and be subject to the responsibilities of the Coroner. Deputy may be appointed to act for Coroner in case of absence or illness.

7. In the case of such illness or absence the Deputy of the Coroner shall act as such from such day as the Coroner or in case of illness When Deputy to act.

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incapacitating him to do so his medical attendant shall certify under his hand to the Deputy Coroner that he is ill and unable to perform his duties or that he is about to be absent from his usual place of residence and such Deputy Coroner shall cease to act as such on the day on which he shall receive from the Coroner a certificate under his hand to the effect that he has resumed his duties.

Powers of Coroners.

8. Every Coroner shall by virtue of his office be a Justice of the Peace for New Zealand and shall after taking the oath of office hereby directed have jurisdiction to inquire concerning the manner of the death of any person who is slain or drowned or who dies suddenly or in prison or while detained in any lunatic asylum and whose body shall be lying dead and to inquire into the cause and origin of any fire whereby any building ship or merchandise or any stack of corn pulse or hay or any growing crop shall be destroyed or damaged Every such Coroner may issue his warrant for the apprehension and commitment of any person who shall be found by the jury upon any such inquisition to have wilfully set on fire any building ship or other property and shall have in respect to all inquiries in this section mentioned all the powers authority and jurisdiction which now belong by law to the office of a Coroner in England except so far as the same may be varied by or shall be 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 of the Peace has by any law now or hereafter to be in force in the case of like offences committed in any Court before him.

Deodands abolished.

9. It shall not be lawful for any Coroner's jury sworn to make inquiry upon the sight of any dead body how the deceased came by his death to find any forfeiture of any chattel which may have moved to or caused the death of the deceased or any deodand whatsoever.

Coroner's juries.

10. Every inquest or inquiry taken by or before any Coroner by virtue of his office shall be taken and made by jurors of the same number and description as have been used and accustomed to make such inquests or inquiries before the coming into operation of this Act and such jurors shall be summoned either verbally or by precept by such Coroner If any man having been duly summoned and returned to serve as a juror upon any such inquest or inquiry before a Coroner shall not after being openly called three times appear and serve as a juror the Coroner is hereby authorized and required to impose a fine upon every man so making default as he shall think fit not exceeding five pounds.

Jurors may be fined for non-attendance.**Limit of duty.**

11. No Coroner shall be required to hold any inquest at a greater distance than twenty miles from his residence nor shall any Coroner's Deputy be required to hold any inquest at a greater distance than twenty miles from the residence of the Coroner for whom he is Deputy.

Cases in which Justice of the Peace may hold inquest.

12. Whenever it shall be fit that any inquest should be held and no Coroner or Deputy of any Coroner shall be present within twenty-four hours to hold such inquest it shall in every such case be lawful for any Justice of the Peace to hold such inquest with full authority in respect of the same to exercise all the powers jurisdiction and authorities vested in Coroners.

In cases of manslaughter &c. Coroners may admit person charged to bail.

13. In every case in which a Coroner's jury shall have found a verdict of manslaughter against any person or that any person has wilfully set on fire any building ship or other property it shall be lawful for the Coroner before whom the inquest was taken to accept bail if he shall think fit with good and sufficient sureties for the appearance of the person so charged with either of the offences aforesaid at the next Circuit Court of the Supreme Court or sitting of said

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Court for trial of criminal cases or at such other Court at which the trial is by law to be had and thereupon such person if in custody of any constable or bailiff or other officer of the Coroner's Court or in any gaol under a warrant of commitment issued by such Coroner shall be discharged therefrom. If at any time before the trial such Coroner be of opinion that the accused person ought to be admitted to bail he shall certify on the back of the warrant of commitment his consent to such accused person being bailed stating also the amount of bail which ought to be required and any Justice attending or being at the gaol where such accused person is in custody may on production of such certificate admit such accused person to bail in manner herein mentioned.

14. In every case in which any Coroner shall admit any person to bail he shall cause recognizances to be taken in the form in the second Schedule to this Act and give a notice thereof to every person so bound and shall transmit such recognizances to the proper officer of the Court in which the trial of such person is to be had in like manner as the documents hereinafter mentioned.

Recognizances to be taken.

15. Every Coroner upon any inquisition before him taken whereby any person shall be charged with manslaughter or murder or as an accessory to murder before the fact or with having wilfully set on fire any building or other property shall put in writing the evidence given to the jury before him or so much thereof as shall be material and the deposition so taken shall be read over to and signed by the witnesses respectively who shall have been examined and such Coroner shall have authority to bind by recognizance all such persons as know or declare anything material touching the said offence to appear at the next Circuit Court of the Supreme Court or sitting of such Court for trial of criminal cases or at such other Court at which the trial is by law to be had then and there to prosecute or give evidence against the party charged and every such Coroner shall certify and subscribe the same evidence and all such recognizances and also the inquisition before him taken and shall transmit the same to the same officer and in the same manner as if the charge had been primarily investigated before such Coroner acting as a Justice of the Peace and he had as such Justice committed the accused and held him to bail to take his trial and such depositions shall be receivable in evidence in the like cases in which depositions taken upon the hearing of charges so investigated would be receivable.

Duty of Coroner when crime found by jury.

16. Every finding by the jury at a Coroner's Inquest shall have such force and effect as an indictment found by a Grand Jury and as such a finding would have in England and the practice and procedure upon the arraignment of any person thereon and in pleading thereto and on the trial of any person thereon and in all other matters and things relating thereto shall be the same as now is in England so far as the English practice pleading and procedure is or are applicable to New Zealand.

Finding &c. of Coroner's jury to be proceeded upon as upon commitment by a Justice.

17. Every holder of a publican's license under any law now or hereafter in force relating to publican's licenses shall at the request of any Justice of the Peace or officer or constable of police receive into the house mentioned in such license or upon the premises occupied therewith any dead body that may be brought to such house for the purpose of an inquest being held thereon and for every dead body so received he shall be paid the sum of one pound out of any money which may be appropriated for such purpose and if he shall refuse to receive such dead body for the purpose aforesaid he shall on conviction thereof before any Justice of the Peace forfeit and pay any sum not exceeding five pounds.

Inquests to be held in public-houses.

18. The forms contained in the second Schedule hereto shall be

Schedule of forms.

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deemed sufficient and may be used in all proceedings by and before Coroners.

Rights of action not affected by this Act.

19. 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.

Inquisition valid though Deputy or Justice act when in accordance with the sixth seventh and twelfth sections Deputy or Justice ought not to have acted.

20. Notwithstanding that any Deputy Coroner or Justice of the Peace shall act as Coroner and as such have held any inquest when or at such place or at such time or under such circumstances as in accordance with the provisions in the sixth seventh and twelfth sections of this Act such Deputy or Justice ought not to have so acted or held such inquest the finding upon such inquest shall have the same force and effect and shall be as valid as if a Coroner had acted or held such inquest.

Coroner or Justice may summon any qualified medical witnesses.

21. Whenever upon the summoning or holding of any Coroner's inquest touching the death of any person it shall appear to the Coroner that the deceased person was not at or immediately before his death attended by any legally qualified medical practitioner such Coroner may issue a summons for the attendance as a witness at such inquest or inquiry of some legally qualified medical practitioner as aforesaid in actual practice who shall reside near to the place where such inquest or inquiry is holden but where the deceased person was attended by any such practitioner the Coroner shall issue a summons for his attendance only 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.

6 and 7 Wm. IV. c. 89 s. 1.

Coroner or Justices may order a *post mortem* examination.

22. The Coroner either in such summons as aforesaid or by an order in writing may at any time before the termination of the inquest or inquiry direct any legally qualified medical practitioner to perform a *post mortem* examination of the body of the deceased Provided that if in any case it appear to the Coroner that the death of such 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 although he shall in every such case be allowed to be present thereat.

Ib. s. 1.

Additional medical evidence in cases where the cause of death is not satisfactorily explained by first examination.

23. Whenever it shall appear to the Coroner or to a majority of the jury at any such inquest at any such inquiry that the cause of death has not been satisfactorily explained by the practitioner or practitioners examined in the first instance at such inquest or inquiry the Coroner shall forthwith cause any other legally qualified practitioner or practitioners to be summoned as a witness or witnesses at such inquest or inquiry and shall direct him or them to perform a *post mortem* examination with or without such analysis as aforesaid whether such examination shall have been previously performed or not Provided that where such additional evidence is at the instance of a majority of the jury it shall be lawful for such majority to name to the Coroner any particular legally qualified medical practitioner or practitioners whom they wish to attend and in that case such practitioner or practitioners shall be summoned and no other.

Ib. s. 2.

Remuneration to medical witnesses.

24. When any legally qualified medical practitioner has attended at an inquest or inquiry in obedience to any such summons as aforesaid he shall for such attendance and for giving evidence at such inquest or inquiry be entitled to remuneration according to the scale of fees to medical witnesses specified in the third Schedule hereto Provided that no remuneration shall be paid for the performance of any *post mortem* examination instituted without the previous direction of the Coroner Provided also that where the death shall have happened in any public

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hospital gaol or other public building no medical officer appointed with salary to attend such hospital gaol or building shall be entitled to any such remuneration.

25. Where any such summons or order of any Coroner as aforesaid shall have been served upon any medical practitioner to whom the same was directed or shall have been left at his usual residence in sufficient time for him to obey the same and he shall nevertheless not obey such summons or order he shall for such neglect forfeit and pay a penalty or sum of not less than three pounds nor more than twenty pounds to be recovered in a summary way before any two Justices unless he shall at the hearing of the case show a good and sufficient excuse for such neglect to the satisfaction of such Justices.

Medical witnesses neglecting to attend to forfeit and pay a penalty.

26. 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) the fees respectively specified in the third Schedule hereto.

Fees to Coroner and person summoning jury.

27. The several fees and sums of money hereinbefore in this Act directed to be paid and received shall be paid by the Colonial Treasurer and the fees and payments of money in respect of each inquest shall be charged against the Province within which such inquest shall be held.

Fees how to be paid and charged.

28. Whenever upon the termination of any inquest held under this Act a verdict of wilful murder shall have been returned and in all other cases when it shall appear to the Coroner holding the inquest that it would be proper that a further investigation into the circumstances attending the matter giving occasion for such inquest should take place it shall be the duty of such Coroner to cause a copy of the evidence taken on such inquest to be forwarded forthwith to the nearest Resident Magistrate who shall thereupon cause such investigation as may appear to him to be proper or necessary to be forthwith made.

When Coroner to forward copy of evidence to nearest Resident Magistrate.

29. The word "Coroner" where used in this Act save where there is something in the context repugnant thereto or inconsistent therewith shall include Deputy Coroner and also a Justice of the Peace acting as Coroner.

Interpretation.

30. This Act shall come into operation on the first day of November one thousand eight hundred and sixty-seven which day is herein referred to as the commencement of this Act.

Commencement of Act.

FIRST SCHEDULE.

Number of Act.	Title or Short Title.	Extent to which Acts are to cease to operate or are repealed.
7 Geo. IV. c. 64	An Act for improving the administration of criminal justice in England	Sections four five and six.
21 and 22 Vict. No. 2	An Act to declare the laws of England so far as applicable to the circumstances of the Colony to have been in force therein on and after the fourteenth day of January one thousand eight hundred and forty	So far as the Act declares to be in force in New Zealand the fourth fifth and sixth sections of the 7 Geo. IV. c. 64.
21 and 22 Vict. No. 7	An Act to regulate the appointment and duties of Coroners in the Colony of New Zealand	The whole.
24 Vict. No. 19	An Act for bringing into operation within the Colony certain Acts of the Imperial Parliament	So far as the same extends and applies to the Colony the 22 Vict. c. 33.
28 Vict. No. 6	An Act to amend "The Coroners' Act 1858"	The whole.

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SECOND SCHEDULE.

FORMS.

RECOGNIZANCE IN CASE OF A PERSON AGAINST WHOM A VERDICT IS FOUND AND WHO IS ADMITTED TO BAIL.

BE it remembered that on the day of in the year of our Lord
 A. B. of [*labourer*] C. D. of [*grocer*] and E. F. of [*butcher*]
 personally came before me a Coroner of New Zealand [*or Deputy Coroner or a Justice
 of the Peace acting as a Coroner of New Zealand as the case may be*] and severally
 acknowledged themselves to owe to our Lady the Queen the several sums following (that
 is to say)—The said A. B. the sum of and the said C. D. and E. F. the sum
 of each of good and lawful money to be made and levied of their goods and
 chattels lands and tenements respectively to the use of our Lady the Queen her heirs
 and successors if he the said A. B. fail in the condition endorsed.

Taken and acknowledged the day and year first above mentioned at before
 me.

J. G. Coroner

Condition Endorsed.

The condition of the within written recognizance is such that whereas a verdict of
 manslaughter [*or otherwise as the case may be*] has been found against the said A. B. by
 a jury empanelled to inquire how or by what means came by death
 [*or otherwise according to the facts*] if therefore the said A. B. shall appear at the next
 Circuit Court of the Supreme Court [*or sitting of the Supreme Court for trial of criminal
 cases*] to be holden at on the day of and there surrender himself into
 the custody of the gaoler there and plead to an information against him for such offence
 and take his trial upon the same and not depart the said Court without leave then the
 said recognizance shall be void or else the same shall stand in full force and virtue.

OATH TO BE ADMINISTERED TO THE FOREMAN OF THE JURY.

You shall diligently inquire and true presentment make on behalf of our Sovereign
 Lady the Queen 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.

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.

OATH TO BE ADMINISTERED TO THE WITNESSES.

THE evidence you shall give to this inquest on behalf of our Sovereign Lady the Queen
 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.

RECOGNIZANCE OF JURORS AT AN ADJOURNED INQUEST.

You acknowledge yourselves severally to owe to our Sovereign Lady the Queen the
 sum of pounds to be levied on your goods and chattels lands and tenements for
 Her Majesty's use upon condition that if you and each of you do personally appear here
 again [*or at an adjourned place*] on next being the day of at
 o'clock then and there to make further inquiry on behalf of our said Lady the
 Queen touching the death of R. F. of whose body you have had the view [*or touching
 the origin of the fire on the premises of or the property of as the case may
 be*] then this recognizance to be void or else to remain in full force Are you content?

RECORD OF LAST-MENTIONED RECOGNIZANCE.

BE it remembered that [*names of jurors in full*] of in the Colony of New
 Zealand who were duly sworn and charged to inquire on behalf of our Sovereign Lady
 the Queen 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 Lady
 the Queen the sum of pounds each of good and lawful money to be levied for the use
 of Her 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 recognizance is such that if each of the above bounden persons
 shall appear personally at [*naming place*] on [*naming day*] at [*hour*] o'clock in the
 noon precisely then and there to make further inquiry touching the death of the said
 [*deceased*] then this recognizance 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 at [*place*] before me.

(*Signature*)

Coroner.

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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 attendance here again [*or at the adjourned place*] on next being the day of at o'clock God save the Queen.

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 R. F. [*or otherwise as the case may be*] severally answer to your names and save your recognizances.

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 is your warrant.

Given under my hand and seal this day of 186
(Signed) A. C. Coroner.

To

WARRANT OF APPREHENSION AND COMMITMENT.

To the constables of in the Colony of New Zealand and to all other peace officers in the said Colony and also to the keeper of the gaol at in the said Colony.

New Zealand }
To Wit. }

WHEREAS by an inquisition taken before me one of Her Majesty's Coroners [*or Deputy Coroner for A. B. one &c. or before me a Justice of the Peace acting as one of Her Majesty's Coroners as the case may be*] this day of at in the said Colony on view of the body of A. B. then and there lying dead one C. D. late of in the said Colony [*profession trade or calling of defendant*] stands charged with the wilful murder of the said A. B. [*or otherwise as the case may be*] These are therefore by virtue of my office in Her Majesty's name to charge and command you the said constables and peace officers and every of you without delay to apprehend and forthwith convey the body of the said C. D. to the gaol at and safely to deliver the same to the keeper of the said gaol And these are likewise by virtue of my office in Her Majesty's name to will and require you the said keeper to receive the body of the said C. D. into your custody and him safely to keep in the said gaol until he shall be thence discharged by due course of law and for your so doing this shall be your warrant.

Given under my hand and seal this day of one thousand eight and sixty-

(Signed) Coroner.

WARRANT TO EXHUME A BODY FOR THE PURPOSE OF AN INQUEST.

To the trustees and keeper of the cemetery.

New Zealand }
To Wit. }

WHEREAS complaint hath been made to me one of Her Majesty's Coroners for the Colony of New Zealand [*or to me as Deputy Coroner for A. B. one &c. or to me as a Justice of the Peace acting as one of Her Majesty's Coroners as the case may be*] that on the day of the body of one was buried in the cemetery of in the said Colony and that the said died not of a natural but violent death [*or otherwise as the case may be*] and whereas no notice thereof hath been given to any of Her Majesty's Coroners whereby on Her Majesty's behalf an inquisition might have been taken on view of the body of the said before interment as by law is required These are therefore by virtue of my office in Her Majesty's name to charge and command you that you forthwith cause the body of the said to be taken up and safely conveyed to in the said Colony that I with my inquest may have a view thereof and proceed therein according to law Hereof fail not as you will answer the contrary at your peril.

Given under my hand and seal this day of A.D. 186

Coroner.

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THIRD SCHEDULE.
FEES PAYABLE UNDER THIS ACT.

	£	s.	d.
To the Coroner Deputy or Justice holding any inquest under this Act—			
For every inquest	2	2	0
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) ..	0	1	6
To the person employed to summon a jury (not being a paid servant of the Government) any sum not exceeding ...	0	12	0
To a Medical Witness—			
For attending and giving evidence when not having been required to make a <i>post mortem</i> examination ...	1	1	0
For making a <i>post mortem</i> examination when required so to do by the Coroner or Justice of the Peace holding such inquest and attending to give evidence of the result ...	3	3	0
And in addition to the above fees where the residence of such medical witness shall be more than two miles distant from the place where the inquest or inquiry is held mileage (one way) at the rate per mile of ...	0	1	6
To the holder of a publican's license into whose house or premises occupied therewith shall be received any dead body for the purpose of an inquest ...	1	0	0

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