

Hon. Mr. Pitt.

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:—

1. (1.) The Short Title of this Act is “The Coroners Act, 1904”; Short Title.  
and it shall form part of and be read together with “The Justices of the Peace Act, 1882” (hereinafter called “the principal Act”).

(2.) This Act shall come into operation on the first day of January, one thousand nine hundred and *five*.

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

(2.) In the event of the 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 *whom the Coroner may appoint to act in his stead*, 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.

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

(a.) Whenever any person is killed or drowned or dies suddenly, or dies in prison, or in any hospital or institution under “The Hospitals and Charitable Institutions Act, 1885,” or in any hospital under “The Mental Diseases Act, 1904,” or in any house registered as an infants’ home under “The Infant Life Protection Act, 1896”; or Constable to report to Magistrate when death or fire occurs.

(b.) 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 Magistrate for the time being exercising jurisdiction near to the place where such death or fire occurred.

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 occurring in any such prison, hospital, institution, or house 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 prescribed form.

(2.) Every such officer or person who commits any breach of this section is liable to a fine not exceeding *twenty-five* pounds.

Coroner to hold inquiry.

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 the fire.

Preliminary investigation.

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 investigation, he 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,—

(a.) If a 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; or

(b.) If not a Magistrate, forthwith transmit the report with a memorandum of such opinion, and his reasons therefor, to a Magistrate having jurisdiction in the place where the death or fire occurred, whereupon it shall be the duty of the 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.

Time and place for holding inquiry.

8. If after such preliminary investigation 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, but no such inquiry shall be held in any premises licensed under "The Licensing Act, 1881."

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

9. Every inquiry under this Act—

(a.) Shall be deemed to be a judicial proceeding within the meaning of section one hundred and thirteen of "The Criminal Code Act, 1893"; and

*Struck out.*

(b.) 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.

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

Special provisions where inquiry relates to a death.

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

(b.) 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.

10 (c.) 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

15 such competent analysts or other skilled persons, as he deems necessary.

Medical witnesses.

(d.) In such summons, 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.

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*Post mortem.*

(e.) Any medical 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.

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

30 (g.) Every person who fails to obey any such direction or order is liable to a fine not exceeding *twenty* pounds.

11. If at any stage of an 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.

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Issue of warrant for arrest of suspected person.

40 12. (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 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

45 consequences in all respects as if the Coroner were acting as a Magistrate on the hearing of an information under the provisions of the principal Act relating to indictable offences:

Coroner may direct prosecution of any person.

50 Provided that if the Coroner is not a Magistrate, then, in lieu of himself directing a prosecution, he shall forward the depositions, together with his finding thereon, to the nearest available 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 Magistrate directs any such prosecution shall be sufficient evidence of his authority so to do.

(2.) The direction to prosecute shall, with the Coroner's finding, be affixed to the depositions. 5

Deposit of depositions when no prosecution directed.

13. The depositions taken in every inquiry that 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. 10

Powers of Coroner.

14. For the purposes of every inquiry held under this Act, and the proceedings thereon, the Coroner shall, subject to the provisions of section *twelve* hereof, have all the powers of a 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. 15

Regulations.

15. (1.) The Governor may, by Order in Council gazetted, from time to time make regulations, —

(a.) Prescribing rules and forms of procedure to be adopted, and fixing fees to be paid under this Act; 20

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

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

(2.) Any such regulation may provide for a fine not exceeding *five* pounds for the breach thereof. 25

Police to assist at inquiry.

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

Fees payable to medical witnesses.

17. (1.) There shall be payable to medical witnesses and other skilled persons, for the matters specified in the *First* Schedule hereto, such fees, not exceeding those therein specified, as the Governor in Council from time to time prescribes. 30

(2.) No fee shall be paid for any *post mortem* examination, or analysis, unless the same was made by the previous direction of the Coroner. 35

(3.) Where the death occurred at any public hospital, gaol, or other public building, no fee shall be paid to any salaried medical officer appointed to attend such hospital, gaol, or building.

Fees to be paid out of moneys appropriated.

18. All fees and other moneys expended under this Act shall be paid out of moneys appropriated by Parliament for that purpose. 40

Repeal.

19. The enactments specified in the *Second* Schedule hereto are hereby repealed to the extent therein mentioned, and all appointments of Coroners or Deputy Coroners made thereunder are hereby revoked: 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 enactments were not repealed nor those appointments revoked. 45

Saving.

*New Clauses.*

5 A. (1.) Every inquest taken by or before any Coroner by virtue of his office shall be taken and made by jurors, not exceeding six; and such jurors shall be summoned either verbally or by precept by such Coroner. Coroner's jury.

(2.) The concurrence of four jurors at any such inquest shall be sufficient.

10 B. Every man who, having been duly summoned and returned to serve as a juror upon any such inquest before a Coroner, fails, after being openly called three times, to appear and serve as a juror is liable to a fine not exceeding *five* pounds. Non-attendance of juror.

SCHEDULES. Schedules.

## FIRST SCHEDULE.

SCALE OF FEES PAYABLE TO MEDICAL WITNESSES AND OTHER SKILLED PERSONS.		Section 17.
	£ 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</i> miles 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	

## SECOND SCHEDULE.

## ENACTMENTS REPEALED.

Section 19.

1867, No. 16.—“The Coroners Act, 1867.”

1881, No. 21.—“The Licensing Act, 1881”: Section 136.

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”: Section 342, and subsection (2) of section 385.

~~1899, No. 14.—“The Payment of Jurors Act, 1899.” Section 3.~~

1902, No. 60.—“The Public Health Amendment Act, 1902”: Section 6.