

[STATUTES REVISION COMMISSION.]

CRIMINALS' EXECUTION.

THIS Bill consolidates the existing law on this subject. Although intended to be supplementary to the Criminal Code, it is not dependent on that measure becoming law, but may be proceeded with as a separate enactment.

If the Criminal Code should be passed, the provisions of this Bill could easily be inserted in it.

No change has been suggested by us; the only new matter being a clause shown in italics respecting prisons appointed to be prisons where executions may take place.

A. J. JOHNSTON.
W. S. REID.

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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,
31st July, 1883.

[STATUTES REVISION COMMISSION.]

CRIMINALS EXECUTION.

ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Form of sentence in cases of high treason. 3. Disposition of body of person executed. 4. Sentence of death not to be carried out until intimation of Governor's pleasure. 5. Sheriffs to carry out sentence of death. 6. Gaoler to deliver to Sheriff on demand criminal condemned to death. 7. Execution not to be public. 8. Appointment of prisons and places for execution. Saving of existing appointments. 9. Sheriff and officers of prison to witness execution. | <ol style="list-style-type: none"> 10. Medical officer to sign a certificate, and witnesses a declaration. 11. Body not to be buried within eight hours, and to be viewed. 12. Inquest to be held on the body. 13. Penalty for subscribing false certificate or declaration. 14. Certificate and declaration to be kept as record of Supreme Court, and to be gazetted. 15. Governor in Council in special cases may appoint any time and place for execution. 16. Repeal. Schedules. |
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A BILL INTITULED

AN ACT for consolidating the Law relating to the Execution of Title.
Criminals.

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

1. The Short Title of this Act is "The Criminals Executions Act, Short Title.
1883."

2. In all cases including treason, where any person is condemned
10 of death, the sentence shall be that such person shall be taken to the place
of execution, and there hanged by the neck until such person is dead. Form of sentence in cases of high treason. 1870, No. 1, s. 3.

3. Whenever sentence of death is pronounced by any Court or
Judge, such Court or Judge shall not, either in or by such sentence or
at any time, make any order for the disposition or burial of the body
of the person on whom the sentence is to be executed; Disposition of body of person executed. 1882, No. 32, s. 3.

15 The body of any person on whom sentence of death is carried
into execution shall be buried either within the prison or place where
such execution shall have taken place, or in such other place as the
Governor may direct, either as to the particular case or generally
as to all executions in the prison where such execution shall have
20 been had.

4. Whenever sentence of death is pronounced by any Court or
Judge, it shall be the duty of the Sheriff of the district in which the
execution is to take place to carry out such sentence, but he shall
not proceed to execute the same till he has received an intimation
25 of the Governor's pleasure with respect to such sentence. Sentence of death not to be carried out until intimation of Governor's pleasure. 1882, No. 32, s. 2.

Sheriffs to carry out sentence of death. 1863, No. 19, s. 2.

5. Such Sheriff shall, within seven days after receiving a notice that the Governor will not interfere with such sentence, carry out the same.

Gaoler to deliver to Sheriff on demand criminal condemned to death. *Ib.*, s. 3.

6. Every Gaoler or other person in whose custody any criminal condemned to death may be is hereby authorized and required to deliver such criminal to such Sheriff on his demand; and the liability of such Gaoler or other person delivering such criminal shall cease on such delivery, and *such criminal* shall thenceforth be deemed to be in the legal custody of the Sheriff. 5

Execution not to be public. 1858, No. 10, s. 1.

7. Except as hereinafter provided, sentence of death passed upon any person shall be carried into execution within the walls or the enclosed yard of some prison, or within some other enclosed place. 10

Appointment of prisons and places for executions. *Ib.*, s. 2.

8. The Governor shall from time to time, by notice gazetted, appoint such prisons and other places as he may think proper *to be prisons or places where executions may take place*; and may revoke such appointments, and, if he thinks fit, appoint other places in lieu thereof. 15

Saving of existing appointments.

All appointments so made and subsisting at the passing of this Act shall be deemed to have been made under this Act.

Sheriff and officers of prison to witness execution. *Ib.*, s. 3.

9. The Sheriff, the Gaoler, any of the officers of the prison whose attendance the Sheriff may require, and a medical practitioner shall be present at every such execution, together with any Justices of the Peace and ministers of religion who may desire to attend, and such military and police guard, and also such other male adult spectators not exceeding ten unless under permission from the Governor, as the Sheriff may think fit to admit, but no other persons whatsoever. 20

Medical officer to sign a certificate and witnesses a declaration. *Ib.*, s. 4.

10. Every one of the persons aforesaid who attend or are present at any such execution shall continue and remain within the walls or enclosed yard of the prison or other enclosed place until the sentence has been carried into execution and completed according to law, and until the medical practitioner has signed a certificate in the Form numbered I. in the *First Schedule* to this Act; 30

And the Sheriff, Gaoler, and other officers of the prison, and also such other of the persons present as may think fit, shall, before their departure from the prison or place of execution, subscribe a declaration according to the Form numbered II. in the said Schedule. 35

Body not to be buried within eight hours, and to be viewed. *Ib.*, s. 5.

11. The body of any person on whom the sentence of death is carried into execution as aforesaid shall not be buried or removed from the prison or place where such execution takes place within eight hours next after such execution, and every person who shall within that time produce to the Gaoler or other person in charge of the body an order from a Justice of the Peace requiring such Gaoler or other person to admit the bearer of such order to view the body of such person shall be admitted by such Gaoler accordingly. 40

Inquest to be held on the body. *Ib.*, s. 6.

12. Whenever any execution takes place, it shall be the duty of the Sheriff to give notice thereof forthwith to a Coroner, not being the Sheriff carrying out the execution, or, in the absence of any such Coroner, to a Justice of the Peace, who shall, as soon as conveniently may be, hold an inquest upon the body of the person upon whom the sentence of death is executed; 45

And the jury, which shall not include any of those who witnessed the execution, on such inquest shall inquire and find whether such sentence was duly carried into effect on the body of the person condemned to execution. 50

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13. Any person who shall subscribe any certificate or declaration as aforesaid, knowing the same to be false or to contain any false statement, shall be deemed guilty of a crime, and, being thereof lawfully convicted, shall be liable to be sentenced to penal servitude for any term not exceeding six years.

Penalty for subscribing false certificate or declaration. 1858, No. 10, s. 7.

14. Every such certificate and declaration as aforesaid shall be forthwith transmitted by the Sheriff to the Registrar of the Supreme Court for the district within which such execution has taken place, and shall be kept in his office as a record of the said Court, and shall be gazetted.

Certificate and declaration to be kept as record of Supreme Court and to be gazetted. *Ib.*, s. 8.

15. The Governor in Council may, in any special case in which the circumstances may appear to render it expedient, direct that sentence of death passed upon any person as aforesaid shall be carried into execution at some particular time and place within the colony, to be in such order set forth, and shall in every such case make such provisions for carrying the sentence into execution as may be necessary.

Governor in Council in special cases may appoint any time and place for execution. *Ib.*, s. 10.

16. The Acts and parts of an Act enumerated in the *Second* Schedule hereto are hereby repealed.

Repeal.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

FORM No. I.

Certificate.

I, A.B., the Medical Officer in attendance at the execution of C.D., at the prison of [or at the place of execution at], do hereby certify and declare that I have this day witnessed the execution of the said C.D. at the said prison; and I do further certify and declare that the said C.D. was, in pursuance of the sentence of the Supreme Court, hanged by the neck until his body was dead.

Given under my hand this day of , in the year one thousand eight hundred and , at the prison of [or at the place of execution at].

FORM No. II.

Declaration.

WE do hereby testify and declare that we have this day been present when the extreme penalty of the law was carried into execution on the body of C.D., convicted at the criminal session of the Supreme Court held at , on the day of last [instant], and sentenced to death, and that the said C.D. was, in pursuance of the said sentence, hanged by the neck until his body was dead.

Dated this day of , in the year one thousand eight hundred and , at the prison of [or at the place of execution at].
 , Sheriff. , Justice of the Peace.
 , Gaoler. , Other spectators.
 , Warder.

SECOND SCHEDULE.

ACTS REPEALED.

- 1858, No. 10.—The Execution of Criminals Act, 1858.
- 1863, No. 19.—The Sheriffs Act Amendment Act, 1863. In part—namely, sections 2 and 3.
- 1870, No. 1.—The Punishment of High Treason Act, 1870.
- 1882, No. 32.—The Criminal Law Act, 1882.