

Act No. 8, 1898.

CORONERS'.

An Act to consolidate the Enactments relating to Coroners' Inquests, and to Magisterial Inquiries into the cause of death. [27th July, 1898.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

Preliminary.

Short title.

Repeal of Acts.

First Schedule.

1. This Act may be cited as the "Coroners' Act 1898."

2. The Acts mentioned in the First Schedule to this Act are to the extent therein specified hereby repealed.

Bail of persons charged with manslaughter—Copies of depositions.

Coroner may admit to bail persons charged with manslaughter.

24 Vic. No. 18, s. 1.

3. (1) Where a coroner's inquisition charges a person with the offence of manslaughter the coroner before whom the inquest was taken may if he think fit accept bail by recognizance with good and sufficient sureties for the appearance of the person charged to take his trial for such offence at such Court and on such day as the Attorney-General specifies under his hand by indorsement on the recognizance and thereupon the person charged if in the custody of any officer of the Coroner's Court or in any gaol under any warrant of commitment for such offence shall be discharged therefrom.

The Attorney-General shall give to the person charged and his sureties notice of the Court and day so specified.

(2) The coroner shall cause the recognizance to be taken in the form of the Second Schedule hereto and shall give notice of the recognizance to every person bound thereby.

(3) The coroner shall return the recognizance to the proper officer of the court before whom the person charged is to be tried.

(4) The coroner shall transmit a true copy of the depositions of the witnesses certified under his hand to the Attorney-General.

4. A person committed or held to bail by a coroner shall (in every case where he would be entitled to copies of depositions had he been committed or held to bail by a justice of the peace) be entitled to have from the person for the time being having custody of the depositions copies thereof upon payment of such sum not exceeding fourpence per folio of ninety words as the Judges of the Supreme Court from time to time determine.

The

Second Schedule.

Ibid. s. 2.

Recognizance to be returned to Court.
Ibid. s. 2.

Copy depositions to Attorney-General.
Ibid. s. 3.

Person charged entitled to depositions.
Ibid. s. 3, and

14 Vic. No. 43, s. 3.

Coroners'.

The sum payable at the time of this Act coming into force shall continue to be payable until the said Judges otherwise determine.

*Verdict of *felo-de-se* abolished.*

5. The verdict of *felo-de-se* is hereby abolished: Provided that 39 Vic. No. 22, s. 1, nothing in this section shall affect the law with respect to attempts to commit suicide.

Inquests on persons executed.

6. Whenever any person is executed the coroner for the district 46 Vic. No. 17, in which the execution takes place shall as soon after as is practicable ^{s. 391.} hold an inquest on the body and the jury on such inquest shall inquire and find whether the sentence was duly carried into execution.

Attendance of medical witnesses at inquests and inquiries into cause of death.

7. (1) Whenever, upon the summoning or holding of any coroner's inquest or upon the holding of any inquiry by a justice or justices of the peace touching the death of any person it appears to the coroner justice or justices that the deceased person was not at or immediately before his death attended by any legally qualified medical practitioner such coroner justice or justices may issue a summons for the attendance as a witness at such inquest or inquiry of some legally qualified medical practitioner in actual practice who resides near to the place where such inquest or inquiry is holden.

(2) Where the deceased person was attended by any such practitioner the coroner justice or justices shall issue a summons for his attendance only or if the deceased was attended by more than one such practitioner the coroner justice or justices may cause all or any of them to be summoned at his or their discretion.

8. The coroner justice or justices either in such summons or by an order in writing at any time before the termination of the inquest or inquiry may direct any legally qualified medical practitioner to perform a post mortem examination of the body of the deceased either with or without an analysis of the contents of the stomach or intestines:

Provided that if in any case it appear to the coroner justice or justices 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.

9. Whenever it appears to the coroner or to a majority of the jury at any such inquest or to the justice or justices or a majority of them at any such inquiry that the cause of death has not been satisfactorily

Coroner or justice
may summon any
qualified medical
witness.

1 Vic. No. 3, s. 1.

Coroner or justices
may order a post
mortem examination
Ibid. s. 2.

Ibid. s. 2.

Where death caused
by improper
treatment.

Additional medical
evidence in certain
cases.

Ibid. s. 3.

Coroners'.

satisfactorily explained by the practitioner or practitioners examined in the first instance at such inquest or inquiry the coroner justice or justices 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 an examination has been previously performed or not :

Where majority of jury desire such evidence.

Provided that where such additional evidence is at the instance of the majority of the jury such majority may name to the coroner any particular practitioner or practitioners whom they wish to attend and in that case such practitioner or practitioners shall be summoned and no other.

Remuneration to medical witnesses.
1 Vic. No. 3, s. 4.

10. When any legally qualified medical practitioner attends at an inquest or inquiry in obedience to any such summons he shall for such attendance and for giving evidence at such inquest or inquiry be entitled to receive the remuneration of one guinea and (in addition thereto) for the making of any such post mortem examination the remuneration of two guineas and if the place of such practitioner's residence is more than ten miles distant from the place where the inquest or inquiry is holden then he shall be entitled to a sum of one shilling for every mile of such extra distance in addition :

Death happening in public hospital.

Provided that where the death has happened in any public 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.

Medical witnesses neglecting to attend.
Ibid. s. 5.

11. Where any such summons or order of any coroner justice or justices is served upon any medical practitioner to whom the same is directed or is left at his usual residence in sufficient time for him to obey the same and he nevertheless does not obey such summons or order he unless at the hearing of the case he shows a good and sufficient excuse for such neglect to the satisfaction of such justices shall for such neglect forfeit and pay a penalty or sum of not less than three nor more than twenty pounds to be recovered in a summary way before any two justices of the peace. And every proceeding under this section shall be had before such justices and every such penalty be awarded levied and distributed and the party convicted be entitled to appeal in the manner respectively provided by the Acts in force for the time being regulating summary proceedings before justices of the peace.

Procedure.

Power of coroners to hold inquests into the cause and origin of fires.

Coroners may hold inquests on fires.
24 Vic. No. 10, s. 1.
47 Vic. No. 3, ss. 6 (vii), 20.

12. (1) When any property is destroyed or damaged by fire if—
(a) the coroner having or exercising jurisdiction at the place where such fire happens or
(b) the fire brigade's board for the metropolitan district whenever the fire happens within that district or
(c)

Coroners'.

(c) the fire brigade's board for any borough or municipal district to which the Fire Brigades Act 1884 has been extended whenever such fire happens within such borough or municipal district consider it a fit case for inquiry such coroner shall hold an inquest into the cause and origin of such fire.

(2) If upon any such inquest the coroner's jury find that any person has wilfully set such property on fire and if an indictable offence has thereby been committed the coroner may exercise the like authority in respect to the apprehension examination bail committal or otherwise of such person as in the case of persons charged with murder or manslaughter.

(3) The mode of procedure in the summoning of jurors and witnesses and otherwise shall be the same upon inquests into the cause and origin of fires as upon inquests in cases of death and all laws applicable to inquests in cases of death and to the quashing of inquisitions thereupon for sufficient cause by the proper officer or jurisdiction in this behalf shall extend and apply to inquests into the cause and origin of fires and inquisitions thereupon.

SCHEDULES.

FIRST SCHEDULE.

Section 2.

Regnal Year and Number.	Title or Short Title.	Extent of Repeal.
1 Vic. No. 3 ..	An Act to provide for the attendance of medical witnesses at coroners' inquests and inquiries held by justices of the peace.	The whole Act.
14 Vic. No. 43 ..	An Act to adopt and apply certain Acts of Parliament passed for facilitating the performance of the duties of justices of the peace and for protecting them from vexatious actions and to prevent persons convicted of offences from taking undue advantage of mere defects or errors in form.	So much of sec. 3 as is applicable to proceedings before coroners.
24 Vic. No. 10 ..	An Act to empower coroners to hold inquests concerning fires.	The whole Act.
24 Vic. No. 18 ..	The "Coroners' Bail for Manslaughter Act of 1861"	The whole Act.
25 Vic. No. 15 ..	The "Law of Felo-de-se Amendment Act of 1862" ..	The whole Act.
39 Vic. No. 22 ..	An Act to amend the law respecting verdicts of Felo-de-se.	The whole Act.
46 Vic. No. 17 ..	The "Criminal Law Amendment Act of 1883" ..	Section 391.
47 Vic. No. 3 ..	The "Fire Brigades Act, 1884"	In s. 6 (vii) all the words following the word "Coroners."
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SECOND

Banks and Bank Holidays.

Section 3 (2).

SECOND SCHEDULE.

BE it remembered that on the day of in the year of Our Lord
 A.B. of [labourer] L.M. of [grocer] and N.O. of
 [butcher] personally came before me one of Her Majesty's coroners for 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 L.M. and N.O.
 the sum of each of good and lawful money of Great Britain to be made and
 levied of their goods and chattels lands and tenements respectively to the use of Our
 said Lady the Queen Her Heirs and Successors if he the said A.B. fail in the condition
 hereunder written.

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

J.S.
 Coroner.

CONDITION.

The condition of the above-written recognizance is such that whereas a verdict of
 manslaughter has been found against the said A.B. by a jury empanelled to inquire how
 and by what means came by [his] death if therefore the said A.B. shall
 appear at the Court and at the time to be hereon indorsed by the Attorney-General for
 the Colony and of which the said A.B. L.N. and N.O. shall have notice there and then
 surrender himself into the custody of the keeper of the gaol there and plead to such
 inquisition or any information which may be duly filed against him for the said 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.