

No. III.

MEDICAL WITNESSES
AT INQUESTS.

An Act to provide for the attendance of Medical Witnesses at Coroners' Inquests and Inquiries held by Justices of the Peace. [13th June, 1838.]

Preamble.
6 & 7 Wm. IV. c. 89
passed 1836.

WHEREAS an Act was passed in England in the sixth and seventh year of His late Majesty's reign intituled "*An Act to provide for the attendance and remuneration of Medical Witnesses at Coroners' Inquests*" and it is expedient to extend the several provisions of the said Act to this Colony in the manner hereinafter mentioned

Medical Witnesses at Inquests.

mentioned Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That after the passing of this Act 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 shall appear to the Coroner Justice or Justices (as the case may be) that the deceased person was not at or immediately before his death attended by any legally qualified Medical Practitioner it shall be lawful for such Coroner Justice or Justices to issue a summons for the attendance as a witness at such Inquest or Inquiry of some legally qualified Medical Practitioner in actual practice who shall reside near to the place where such Inquest or Inquiry is holden but that 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.

Attendance of Medical Witnesses.

Coroner or Justice may summon any qualified medical witness in case where deceased was unattended before or at the time of death.

Deceased having been attended before or at the time of death Coroner or Justice to summon the party who gave such attendance only.

2. And be it enacted That it shall be lawful for the Coroner Justice or Justices either in such summons as aforesaid or by an order in writing at any time before the termination of the Inquest or Inquiry to 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 (as the case may be) 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.

Coroner or Justices may order a *post mortem* examination either with or without an analysis of contents of stomach or intestines.

Death partly or entirely caused by improper or negligent treatment of Medical Practitioner he shall not be allowed to perform or assist at any such examination.

3. And be it enacted That whenever it shall appear 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 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 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 Practitioner or Practitioners whom they wish to attend and in that case such Practitioner or Practitioners shall be summoned and no other.

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

Majority of Jury desiring such additional evidence and naming any particular party—that party only shall be summoned.

4. And be it enacted That 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 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 his residence shall be more than ten miles distant from the place where the Inquest or Inquiry is holden then such Practitioner shall be entitled to a sum of one shilling for every mile of such extra distance in addition Provided that no remuneration shall be paid for the performance of any *post mortem* examination instituted without the previous direction of the Coroner Justice or Justices (as the case may be) Provided also that where the death shall have happened in any public

Remuneration to Medical Witnesses.

For evidence one guinea. *Post mortem* examination two guineas.

One shilling for every mile beyond ten.

No remuneration for unauthorized examination.

Death happening in public buildings

Intestates' Estates.

Medical Officer
attending not entitled
to remuneration.

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
to forfeit and pay
not less than three
nor more than twenty
pounds.

5. And be it enacted That where any such summons or order of any Coroner Justice or Justices 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 to be recovered in a summary way before any two Justices of the Peace unless he shall at the hearing of the case shew a good and sufficient excuse for such neglect to the satisfaction of such Justices 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 an Act of the Governor and Council passed in the fifth year of the reign of his late Majesty King William the Fourth intituled "*An Act to regulate summary proceedings before Justices of the Peace.*"

Proceedings &c.
under this section to
be in manner
provided by
5 Gul. 4 No. 22.
