

any Mariner or Seaman shall be hereafter convicted under and by virtue of any Laws now in force or that may be hereafter in force in this Province for the regulation of Seamen, to commit such Mariner or Seaman to the said Lock up House instead of the County Gaol, if such Justice shall find it necessary and advisable so to do: Provided always, that no such Mariner or Seaman shall remain or be longer confined in the said Lock up House than forty eight hours, and if such Seaman or Mariner be subject and liable to longer confinement, then to be conveyed to the County Gaol, and all charges to be defrayed by the Ship Master or person so confining said Mariner or Seaman.

but not detained therein more than 48 hours.

CAP. XXVI.

An Act relating to the Office of Coroner in this Province.

Passed 19th March 1841.

I. **B**E it enacted by the Lieutenant Governor, Legislative Council and Assembly, That from and after the passing of this Act, whenever upon the summoning or holding of any Coroner's Inquest, it shall appear to the Coroner that the deceased person was attended at his death or during his last illness, by any legally qualified Medical Practitioner, it shall be lawful for the Coroner to issue his order for the attendance of such Practitioner as a witness at such Inquest: and if it shall appear to the Coroner that the deceased person was not attended at or immediately before his death by any legally qualified Medical Practitioner, it shall be lawful for the Coroner to issue such order for the attendance of any legally qualified Medical Practitioner, being at the time in actual practice in or near the place where the death has happened; and it shall be lawful for the Coroner either in his order for the attendance of the Medical witness, or at any time between the issuing of such order and the termination of the Inquest, to direct the performance of a *Post Mortem* examination, with or without an analysis of the contents of the stomach or intestines, by the Medical witness or witnesses, who may be summoned to attend to any Inquest: Provided, that if any person shall state upon oath before the Coroner, that in his or her belief the death of the deceased individual was caused, partly or entirely by the improper or negligent treatment of any Medical Practitioner or other person, such Medical Practitioner or other person shall not be allowed to perform or assist at the *Post Mortem* examination of the deceased.

Coroner may order the attendance of a Medical Practitioner upon any Inquest;

May also direct the performance of a *Post Mortem* examination.

Medical Practitioner in attendance on deceased not to perform or assist at the examination in certain cases.

II. And be it further enacted, That whenever it shall appear to the greater number of Jurymen sitting at any Coroner's Inquest, that the cause of death has not been satisfactorily explained by the evidence of the Medical Practitioner, or other witness or witnesses who may be examined in the first instance, such greater number of the Jurymen are hereby authorized and empowered to name to the Coroner in writing, any other legally qualified Medical Practitioner or Practitioners, as a witness or witnesses, and for the performance of a *Post Mortem* examination, with or without an analysis of the contents of the stomach or intestines, whether such an examination has been performed before or not: and if the Coroner, having been thereunto required, shall refuse to issue such order, he shall be deemed guilty of a misdemeanor, and shall be punishable in like manner as if the same was a misdemeanor at Common Law.

Jurymen may name any other Medical Practitioner as a witness, and for the performance of a *Post Mortem* examination.

III. And be it further enacted, That when any legally qualified Medical Practitioner has attended upon any Coroner's Inquest, in obedience to any such order as aforesaid of the Coroner, the said Practitioner shall for such attendance be entitled

Remuneration of Medical Practitioners,

payable from the
County funds.

entitled to receive such remuneration or fee as is mentioned in the Table marked A in the Schedule hereunto annexed, which shall be paid to him out of the Public Funds of the County or City and County in which such Inquest was taken, by the Treasurer of such County or City and County, on the order of the Coroner to him for that purpose directed.

No fee to be given
for any Post Mor-
tem examination
instituted without
previous direction.

IV. Provided nevertheless and be it further enacted, That no order of payment shall be given, or fee or remuneration paid to any Medical Practitioner for the performance of any *Post Mortem* examination which may be instituted without the previous direction of the Coroner.

Medical Officer in
attendance on any
public institution
not entitled to any
fee at inquests on
persons dying
in the institution.

V. Provided also and be it further enacted, That when any Inquest shall be holden on the body of any deceased person who has died in any Public Hospital or Infirmary or any building or place belonging thereto, or used for the reception of the patients thereof, or who has died in any County or other Lunatic Asylum, Alms House and Work House, or in any Public Infirmary or other Public Medical Institution, whether the same be supported by endowments or by voluntary subscriptions, then and in such case nothing herein contained shall be construed to entitle the Medical Officer, whose duty it may have been to attend the deceased person as a Medical Officer of such Institution as aforesaid, to the fees or remuneration herein provided, except for a *Post Mortem* examination and attending to give evidence thereon, if he shall have been required by the Coroner to perform the same agreeably to the provisions of this Act.

Exception.

Medical Officer
being served with
order to attend at
any Inquest and
neglecting,

VI. And be it further enacted, That when any order for the attendance of any Medical Practitioner as aforesaid shall have been personally served upon such Practitioner, or where any such order not personally served shall have been received by any Medical Practitioner in sufficient time for him to have obeyed any such order, and in every case where any Medical Practitioner has not obeyed such order, he shall for such neglect or disobedience forfeit the sum of five pounds, upon complaint thereof made by the Coroner or any two of the Jury, before any two Justices having jurisdiction in the Parish or place where the Inquest under which the order issued was held, or in the Parish where such Medical Practitioner resides; provided such complaint be made within one month from the time of holding such Inquest, and such two Justices are hereby required upon such complaint to proceed to the hearing and adjudication of such complaint; and if such Medical Practitioner shall not shew to the said Justices a good and sufficient cause for not having obeyed such order, to enforce the said penalty by distress and sale of the offender's goods, in the same manner as they are empowered to proceed by the Act of Assembly, intituled "An Act to facilitate summary proceedings before Justices of the Peace, and the execution of Warrants by Constables."

Penalty.

Complaint to be
made within one
month, and if
cause be not
shewn penalty to
be enforced.

After Inquest a
permissive War-
rant for burial to
be granted.

VII. And be it enacted, That immediately after any Coroner's Inquest shall be completed it shall be the duty of the Coroner to grant a permissive Warrant for the burial of the deceased, which Warrant shall be delivered to any of the relatives or friends of the deceased who may be present, and shall take charge of the burial, and if none be present, or no one undertake the duty and the dead body shall be within the City of Saint John, or within five miles of the Alms House of the Towns of Portland, Fredericton, Saint Andrews or any other Town or Parish having an established Alms House within the same, it shall be sent to the dead House of such establishment under the charge of the Constable attending at the taking of the Inquest, and delivered to the keeper thereof, accompanied by a permissive Warrant to be by the said Constable delivered to or left at the residence of the Overseers of the Poor of the Parish where the body may be found, or to any one of them,

How burial to be
effected when no
friends of the de-
ceased appear to
take charge.

them, whose duty it shall be to bury the deceased in the same manner as if the deceased had died a pauper, unless otherwise directed by the Coroner; should the distance be beyond that limit, the Warrant shall direct the Constable to bury the body in a decent manner, using proper economy, and render an account of the costs and charges thereof to the Coroner, which with the Constables fees for burying the same, shall be paid to the said Constable by the Overseers of the Poor of the Parish, wherein the body may have been found, on the order of the Coroner, who shall state that the charge is reasonable and proper.

VIII. And be it enacted, That whenever it may appear to the Coroner from circumstances that the holding of an Inquest is not necessary, or when any two Justices of the Peace of any County or City and County, in which any person may have died under circumstances rendering it doubtful as to the necessity of taking an Inquest do certify to the Coroner, that he would be justified in granting a permissive Warrant for burial without holding an inquisition, the Coroner may forthwith issue his Warrant for that purpose in the manner hereinbefore mentioned, without proceeding to take an inquisition; provided that nothing in this Act contained shall be construed to prevent any Coroner from taking an inquisition in any case in which he may deem it necessary.

IX. And be it further enacted, That for every Inquest which a Coroner shall take on view of the body of any person who may die or be found dead within his County or City and County, and for all proceedings consequent thereon, such Coroner and other officers and persons for taking and attending such Inquest shall receive and be paid the fees mentioned in the Table marked (A) in the Schedule hereunto annexed, which shall be paid to such Coroner and other officers and persons out of the Public Funds of the County or City and County in which such Inquest shall be held, and that the Coroner out of the same fund shall be repaid all monies necessarily advanced or paid by him in the taking such Inquest; Provided always before any such fees or charges shall be paid, the Coroner shall make up an account of the same, and shall present such account at any General Session of the Peace for the County or City and County of which he is Coroner; the Justices of which General Sessions shall at such Sessions pass an order for the payment of the same.

X. And be it enacted, That in the event of the Coroner being absent from the District or unable to attend from sickness or other justifiable cause, that any two of Her Majesty's Justices of the Peace for the County or City and County are hereby authorized and required to act in the place and stead of such Coroner, so far as the provisions of this Act apply to his judicial capacity, and entitled to the same fees as hereinafter provided for the Coroner.

TABLE A.

To every Coroner for taking and returning an inquisition, swearing Jurors, binding Witnesses by recognizance and issuing all Subpcenas and Warrants, consequent thereon the fee or remuneration shall be £2 0 0

Travel from his residence to the place where the body may be, going and coming per mile, 0 0 6

Printer's account for printing blank forms of Inquisition, Recognizances, Subpcenas, &c. to be repaid the Coroner,

To the Surgeon or Physician on *Post Mortem* examinations, viz:

To every legally qualified Medical Practitioner for attending to give evidence under the provisions of this Act at any Coroner's Inquest whereat no *Post Mortem* examination has been made by such Practitioner, the fee or remuneration shall be 1 0 0

For

A Permissive Warrant for burial may be granted in certain cases without an Inquest.

Fees for taking Inquests to be set in table marked A.

Coroner to make up an account.

In the absence of the Coroner any two Justices of the Peace are authorized to act.

Fee Table--A.

For making the *Post Mortem* examination of the deceased either with or without analysis of the contents of the stomach or intestines, and for attending to give evidence thereon, the fee or remuneration shall be

	2	0	0
To the Jury for attending and making inquisition, each Juryman,	0	2	6
To the Constable for summoning the Jury on Inquest,	0	2	6
For attendance,	0	2	6
Serving any order or permissive Warrant or Subpcena, each	0	1	0
If required to attend at the burial,	0	2	6

CAP. XXVII.

An Act to authorize the appointment of Commissioners to lay out a Street or Highway through the Town of Chatham, and to establish and regulate Public Landings in the said Town.

Passed 19th March 1841.

Preamble.

WHEREAS from a recent Survey of the Street or Highway through the Town of Chatham, it appears that the same in many cases departs wholly from the original record thereof, and that buildings have been erected on the recorded line, the removal of which would cause much inconvenience, annoyance and expence: And whereas the Commissioners of Highways have experienced great difficulty in preventing encumbrances thereon, from the bounds of the said Street or Highway not being properly defined: And whereas from the buildings and erections in the said Town, a sufficient space is not left to enable the Commissioners of Highways to lay out and record a Street or Highway through the said Town of the width of four rods as by Law is required: And whereas great inconvenience has arisen to the public in consequence of the several Landings in the said Town being obstructed; for remedy whereof,

Commissioners to be appointed to lay out a Street.

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That it shall and may be lawful for the Lieutenant Governor to appoint three or more fit persons Commissioners to lay out a Street or Public Highway through the Town of Chatham, commencing at Coulson's Slip, so called, and terminating at Saint Andrew's Church.

Directions for laying out the Streets.

used by
the c. 24

II. And be it further enacted, That it shall be the duty of the said Commissioners in laying out the said Street or Highway to adhere to the line of road as at present used through the said Town and commonly called Water Street, and to make the same as wide and strait as practicable, not in any case interfering with buildings or the private rights of individuals.

A Return for record to be made to the Clerk of the Peace.

III. And be it further enacted, That the said Commissioners shall forthwith after laying out the said Street or Highway make a return thereof in writing under their hands into the Office of the Clerk of the Peace for the County of Northumberland, who shall enter the same in the book kept for the purpose of recording Roads or Highways; which return shall distinctly designate the marks, bounds and lines by which the said Street or Highway may be known and ascertained; and whatsoever the said Commissioners shall do according to the powers given them in this Act being so entered shall be valid and good to all intents and purposes whatsoever, and the said Street or Highway when so laid out and entered as aforesaid, shall be deemed and used as a public Street or Highway for the use and benefit of the public, in as ample and full a manner as if the same had been laid out and recorded under and pursuant to the provisions and regulations of an Act made and passed in the fifth year of the Reign of His late Majesty King William the Fourth, intituled "An Act to repeal all the Laws now in force for regulating, laying out and repairing Highways and Roads, and for appointing Commissioners and Surveyors of Highways in the several Towns and Parishes

Acts of Commissioners declared valid.

5 W. 4, C. 2.