

THE ACTS
OF
THE PARLIAMENT
OF
TASMANIA
1957

CORONERS.

No. 1 of 1957.

AN ACT to consolidate and amend the law relating to coroners. [3 April 1957.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.

PRELIMINARY.

1—(1) This Act may be cited as the *Coroners Act 1957*. Short title and commencement.
(2) This Act shall commence on a date to be fixed by proclamation.

2—(1) The Imperial Acts that are specified in the first Repeal. schedule, to the extent therein mentioned and if and so far as they are in force in this State, are repealed.

(2) The Acts that are specified in the second schedule are repealed.

Interpretation.

4 Geo. V No. 36, s. 3.

- 3** In this Act, unless the contrary intention appears—
- “Attorney-General” includes any officer who is appointed to prosecute persons on indictment;
- “body” includes a portion of a human body;
- “medical practitioner” means a medical practitioner who is registered under the *Medical Act 1955*;
- “public morgue” means—
- (a) a morgue provided by the State and declared by the Minister, by notice in the *Gazette*, to be a public morgue; and
 - (b) a municipal morgue.

PART II.

APPOINTMENT, TENURE, AND REMUNERATION OF CORONERS.

Appointment and tenure of office of coroners.

Ibid., s. 5.

- 4** The Governor may, by commission under his hand, appoint fit persons to be coroners having jurisdiction throughout the State, and holding their offices during the Governor's pleasure.

Oaths to be taken.

Ibid., s. 6.

- 5**—(1) A coroner shall, before acting, take and subscribe before a justice the oath of allegiance and the judicial oath prescribed by the *Promissory Oaths Act 1869*.

(2) A justice before whom an oath is subscribed under this section shall forthwith forward it to the Registrar of the Supreme Court to be recorded therein.

Fees, &c.

- 6** A coroner shall be paid such fees, allowances, and expenses as may be prescribed.

PART III.

JURISDICTION OF CORONERS.

Jurisdiction.

Cf. 4 Geo. V No. 38, ss. 8 & 9.
50 & 51 Vict. c. 71, s. 3.
No. 24 of 1920 (W.A.), s. 6.

- 7**—(1) Where a coroner is informed that the dead body of a person is lying within the State and—

(a) there is reasonable cause to suspect that that person has died—

- (i) a violent or unnatural death; or
- (ii) a sudden death of which the cause is unknown;

(b) that person has died—

- (i) in prison;
 - (ii) while detained in a hospital within the meaning of the *Mental Hospitals Act 1858* or an institution within the meaning of the *Mental Deficiency Act 1920*;
- or

(iii) in such a place or in such circumstances as to require an inquest under any Act; or

(c) the Attorney-General has directed an inquest into the death of that person,

the coroner has jurisdiction to inquire into, and shall inquire into, the manner and cause of that person's death.

(2) Where property of any kind has been destroyed or damaged by fire, and—

(a) the Attorney-General has directed a coroner to inquire into the fire;

(b) the owner of the property or an insurer thereof against fire has requested a coroner to inquire into the fire and the Attorney-General has approved of the request; or

(c) the Fire Brigades Commission of Tasmania or the Rural Fires Board has requested a coroner to inquire into the fire,

the coroner has jurisdiction to inquire, and shall inquire, into the cause and origin of the fire.

(3) A coroner shall, if directed by the Attorney-General, inquire into any matter not mentioned in subsection (1) of this section into which he has jurisdiction to inquire.

(4) A coroner has, in respect of all inquests, all the powers, authority, and jurisdiction that belong by the common law to the office of a county coroner, except so far as they are varied by, or are inconsistent with, this Act.

(5) No person may be arraigned upon the finding or verdict of an inquest and no such finding or verdict may include a finding that a person is guilty of a crime, felony, or misdemeanor.

(6) Nothing in subsection (5) of this section prevents a finding that a person did an act for which he may be prosecuted on indictment or otherwise if it is relevant to the purpose of the inquest.

8 No coroner, being a medical practitioner, is competent or compellable to hold an inquest upon the body of a person whom he attended professionally at or immediately before that person's death or during his last illness.

Coroner being medical practitioner not to hold inquests in certain cases.

4 Geo. V No. 38, s. 8.

PART IV.

INQUESTS AND INQUISITIONS.

9—(1) A coroner may make an inquest without a jury unless—

Inquest to be held by coroner only: Exceptions.

(a) the coroner considers it desirable to have a jury;

(b) the Attorney-General directs the coroner to hold the inquest with a jury; or

Ibid., ss. 11 & 18, III & V.

(c) in the case of an inquest of death, a relative or friend of the deceased person touching whose death the inquest is about to be held makes a request in writing to the coroner for a jury, and the request is made before the opening of the inquest.

(2) If a coroner opens an inquest without a jury and within forty-eight hours of the opening, or such further time as the coroner may allow, the coroner receives—

(a) a direction from the Attorney-General to hold the inquest with a jury; or

(b) a request as provided in paragraph (c) of subsection (1) of this section for a jury,

he shall discontinue the inquest already begun and begin afresh with a jury.

(3) The finding of a coroner at an inquest made without a jury has the same effect, for all purposes, as the verdict of a jury.

(4) The depositions taken at an inquest without a jury are, on a trial of a person, as admissible in evidence as if taken at an inquest with a jury.

Inquests may be opened on a Sunday.
Ibid., s. 12.

10 A coroner, if he thinks it expedient to do so, may on a Sunday open an inquest concerning the death of a person, for the purpose of viewing, examining, or making a post-mortem examination of the body, and having done so may order the body to be interred, and shall adjourn the inquest.

View of body, when necessary.
Ibid., s. 13.

11 There shall not, on any inquest of death, be a view of the body of the deceased unless—

(a) the coroner deems a view advisable; or

(b) a view is ordered by the Supreme Court or a judge under section fifteen.

Proceedings at inquest of death.
Ibid., s. 14
(3), (4).

12—(1) Where an inquest is held into the death of a person, the coroner or the jury, as the case may be, shall find, if the evidence so allows—

(a) who the deceased was; and

(b) how, when, and where the deceased came by his death.

(2) The coroner or the jury, as the case may be, shall also inquire of, and so far as is practicable find, the particulars for the time being required by the *Registration of Births and Deaths Act 1895* to be registered concerning the death.

(3) The coroner, after the termination of an inquest of death, shall, within eight days after the finding thereat, himself or by an agent authorized in writing, in compliance with the *Registration of Births and Deaths Act 1895*, inform the Registrar of Deaths whose duty it is by law to register the death of the particulars required by that Act to be registered concerning the death, or such of those particulars as could be ascertained, and also of the finding or verdict at the inquest, specifying the time and place of holding the inquest.

13 When an inquest is held touching the death of an infant in the care or charge of a person licensed in respect of a nursing home under the *Infants' Welfare Act 1935*—

Inquests upon the death of infants in certain nursing homes.

Ibid., s. 14 (5) & s. 28 v.

- (a) the coroner or the jury, as the case may be, shall inquire, not only into the immediate cause of death, but also into all such circumstances as may throw light upon the treatment and condition of the infant during life, and into such other matters as, in the opinion of the coroner, require investigation in the interests of public justice; and
- (b) the coroner shall report the cause of death to the Attorney-General, making such remarks in his report as he thinks fit with respect to the matter.

14—(1) Where a coroner knows of a dead body lying in the State and has reason to suspect that—

Post-mortem examination without inquest.

- (a) it is the body of a person who has died a sudden death of which the cause is unknown; or
- (b) it is the body of a still-born child,

Cf. 4 Geo. V No. 38, s. 40 (2), and 16 & 17 Geo. 5, c. 59, s. 21.

and he is of the opinion that a post-mortem examination may prove that no inquest ought to be held, he may direct any medical practitioner, whom, if an inquest were held, he would be entitled under section thirty to summon as a medical witness, or may request any other medical practitioner, to make a post-mortem examination of the body and to report the result thereof to him in writing.

(2) For the purposes of a post-mortem examination under subsection (1) of this section, the coroner, and any person directed or requested by him to make the examination, has the like powers, authorities, and immunities as if the examination were a post-mortem examination directed by the coroner at an inquest upon the body of the deceased.

(3) If, as a result of a post-mortem examination under subsection (1) of this section, the coroner is satisfied that no inquest ought to be held he shall send to the Registrar of Deaths whose duty it is by law to register the death a certificate under his hand stating the cause of death as disclosed by the report, and the Registrar shall thereupon register the death as prescribed in the *Registration of Births and Deaths Act 1895*.

(4) A coroner shall, together with a certificate under subsection (3) of this section, send to the Registrar of Deaths such particulars required by the Registrar for registering the death as are known to the coroner.

(5) Nothing in this section authorizes a coroner to dispense with an inquest in any case where there is reasonable cause to suspect that the deceased has died—

- (a) a violent death;
- (b) an unnatural death;
- (c) in prison; or
- (d) in such a place or in such circumstances as to require an inquest under any Act other than this Act.

Powers of
Supreme
Court in
respect of
inquests.

4 Geo. V No.
38, ss. 17 &
52.

15—(1) Where a coroner refuses or neglects to hold an inquest that ought to be held, the Supreme Court may, on an application made by, or under the authority of, the Attorney-General, order the coroner to hold an inquest at such time and place and in such manner as it thinks fit and may make such order as to the costs of and incidental to the application as it thinks fit.

(2) Where an inquest has been held by a coroner, the Supreme Court may, on an application made by, or under the authority of, the Attorney-General, if it is satisfied that by reason of fraud, rejection of evidence, irregularity of proceedings, insufficiency of inquiry, or for any reason the Court deems sufficient, it is necessary or desirable in the interests of justice that another inquest should be held—

(a) quash the inquisition on that inquest, and order a better inquest; and

(b) make such order as to the costs of and incidental to the application as it thinks fit.

(3) The Supreme Court may order that a better inquest under subsection (2) of this section shall be held either by the same coroner or by another coroner, and another coroner ordered to hold the inquest has, for that purpose, the same powers and jurisdiction as, and shall be deemed to be, the coroner who held the former inquest.

(4) This section does not affect the jurisdiction of the Supreme Court in respect of inquests under section three of the *Australian Courts Act 1828*.

(5) Upon a better inquest ordered as mentioned in subsection (2) or subsection (4) of this section, if the case is one of death, it is not necessary to view the body unless the Supreme Court or a judge so orders, but the inquest shall be held in like manner in all other respects as any other inquest under this Act.

(6) If a coroner fails to comply with the provisions of this Act with respect to the transmission of inquisitions, or to the taking and transmission of depositions and recognizances, the Supreme Court, on the application of the Attorney-General, may, in a summary manner, impose such fine upon the coroner as to the Court seems fit.

(7) The jurisdiction of the Supreme Court under subsections (1) and (2) of this section may be exercised by a judge in chambers.

(8) The judges may make rules of court for the purposes of this section in the same manner as they may make rules of court in respect of the jurisdiction mentioned in subsection (4) of this section.

Committal for
trial.

Cf. 10 Geo. V
No. 55, s. 81.

16—(1) If in the opinion of the coroner the evidence taken at an inquest touching a death or a fire is sufficient to put a person on trial for murder, manslaughter, instigating or aiding suicide, causing the death of a child before birth, infanticide, arson, or unlawfully setting fire to property, or raises a strong or probable presumption that a person is guilty

of any such offence, he shall order that person to be committed to take his trial for the offence before the Supreme Court and may, and in the case of murder shall, issue his warrant for the apprehension and commitment of that person, if and so far as no such warrant has already been executed.

(2) Where, except for murder, a coroner orders the commitment of a person under this section he may, if he thinks fit, accept bail with good and sufficient sureties for the appearance of the person so charged at the next criminal sittings of the Supreme Court at which the trial is to be.

(3) When a person has been given bail under subsection (2) of this section, he shall, if he is in the custody of a police officer or bailiff or other officer of the coroner's court or in a gaol under a warrant of commitment issued by the coroner, be discharged therefrom.

(4) If at any time before the trial the coroner is of opinion that the accused person ought to be admitted to bail he shall certify on the back of the warrant of commitment his consent to that person's being bailed, stating also the amount of bail which ought to be required.

(5) A justice attending or being at the gaol where the accused person is in custody may, on production of a certificate under subsection (4) of this section, admit the accused person to bail accordingly as provided in subsection (2) of this section.

(6) If a person confesses at an inquest to a crime for which he might be committed for trial under this section, the coroner shall ask him clearly and distinctly if he is guilty of the crime, describing it as in an indictment therefor, and if he answers that he is guilty his latter confession shall be set forth in the inquisition and he shall be dealt with thereon as nearly as practicable as if he had pleaded guilty to the crime under section eighty-three of the *Justices Procedure Act 1919*.

17 A coroner who commits a person for trial under section sixteen may bind by recognizance all persons who know or declare anything material touching the offence for which the person is committed to appear at the next criminal sittings of the Supreme Court at which the trial is to be, then and there to give evidence against the person committed.

Power to bind witnesses by recognizance.
4 Geo. V No. 38, s. 22.
Cf. 7 Geo. 4, c. 64, s. 4.

18—(1) A warrant of commitment issued, and recognizance of bail taken, under section sixteen are for the purposes of the prosecution or discharge of the person committed or held to bail and the enforcement of the recognizance, equivalent to an ordinary commitment or holding to bail by a justice.

Coroner's commitment, &c., to be proceeded upon as upon commitment by a justice.
Ibid., s. 24.

(2) The Attorney-General may dispose of or proceed in the case in all respects as if the charge had been primarily investigated before the justice and the justice had committed the accused or held him to bail to take his trial.

19 Proceedings shall not be taken for, or in connection with, the forfeiture of deodands.

Deodands abolished.
Ibid., s. 26.
Cf. 9 & 10 Vict., c. 62.

Power of person interested in an inquest to attend and examine witnesses.
Ibid., s. 27.

20—(1) At an inquest a person who, in the opinion of the coroner, has a sufficient interest in the subject or result of the inquest, may personally or by counsel examine and cross-examine witnesses, according to the law and practice of coroners' inquests.

(2) With respect to a coroner's inquest on the body of a person whose death may have been caused by an explosion or accident—

- (a) in a mine; or
- (b) at any works,

within the meaning of the *Mines and Works Regulation Act 1915*, the inspector of mines for the district, the widow or a relative of the deceased, the owner or manager of the mine or works, and a representative of the miners' association for the district shall be deemed, for the purposes of this section, to have a sufficient interest in the subject or result of the inquest.

Custody of inquisitions, &c.

Ibid., s. 28
& s. 52.

21—(1) At the conclusion of an inquest the coroner shall forthwith transmit the inquisition and every recognizance taken before him, with the depositions of witnesses and the statements, if any, of any accused person, to the Attorney-General for safe custody.

(2) Every inquisition shall be forwarded by the Attorney-General to the Registrar of the Supreme Court to be filed therein.

Cases of murder, manslaughter, infanticide, or fire-raising.

11 & 12 Geo.
5, c. 30, s. 20.

22—(1) If on an inquest touching a death or a fire the coroner is informed before he has pronounced his finding or the jury have given their verdict that some person has been charged before examining justices with the murder, manslaughter, or infanticide of the deceased, with the arson, or with unlawfully causing the fire, as the case may be, he—

- (a) shall, in the absence of reason to the contrary, adjourn the inquest until after the conclusion of the criminal proceedings;
- (b) may, if he thinks fit, discharge the jury; and
- (c) shall inform the Attorney-General in writing of the inquest and its adjournment and the cause thereof.

(2) After the conclusion of the criminal proceedings the coroner may, subject to subsection (3) of this section, resume the adjourned inquest if he is of the opinion that there is sufficient cause to do so.

(3) If in the course of the criminal proceedings a person has been charged on indictment, then upon the resumed inquest the inquisition shall not contain any finding which is inconsistent with the determination of a matter by the result of those proceedings.

(4) Where a coroner resumes an inquest which has been adjourned in accordance with this section and in which the jury has been discharged, the coroner shall proceed in all respects as if the inquest had not previously begun, and the provisions of this Act apply accordingly as if the resumed inquest were a fresh inquest.

(5) If, having regard to the criminal proceedings, the coroner decides not to resume an inquest touching a death, he shall send to the Registrar of Deaths whose duty it is by law to register the death a certificate stating the result of the criminal proceedings and the particulars necessary for the registration of the death, so far as they have been ascertained at the inquest, and the Registrar shall thereupon register the death as prescribed in the *Registration of Births and Deaths Act 1895*.

(6) It is the duty of the clerk to the examining justices before whom a person is charged with murder, manslaughter, or infanticide or under Chapter XXXI of the *Criminal Code* to inform a coroner who is holding an inquest touching the death or the fire, as the case may be, of the making of the charge and of the committal for trial or discharge, as the case may be, of the person charged, and it is the duty of the Attorney-General to inform the coroner of the result or discontinuance of any proceedings therein upon the committal, if any, and of any appeal upon conviction.

(7) For the purposes of this section—

- (a) the expression "the criminal proceedings" means the proceedings before justices and before the Supreme Court, if the accused person is committed for trial, or before any court by which an appeal from the conviction of that person is heard; and
- (b) criminal proceedings shall not be deemed to be concluded until no further appeal can be made in the course thereof without an extension of time by the Court of Criminal Appeal or without special leave of the High Court of Australia or of Her Majesty in Council.

(8) Where a coroner decides not to resume an inquest adjourned in accordance with this section, he shall so inform the Attorney-General in writing.

PART V. CORONERS' JURIES.

23—(1) Where an inquest is to be taken and made by jurors, the coroner shall instruct a police officer to summon persons to attend and serve as jurors on the inquest.

Coroner's instructions where jury required.

4 Geo. V No. 38, s. 30.

(2) An instruction under this section may be given by—

- (a) a precept issued under the hand of the coroner;
or
- (b) a telegram despatched by the coroner,

and directed to the police officer.

(3) A police officer has the same rights, powers, liabilities, and immunities when acting on a received telegram under the date stamp of a telegraph office under the control of the Postmaster-General of the Commonwealth and purporting to have been sent by a coroner as if he had a precept issued under the hand of that coroner to the same effect.

Police officer
to summon
jurors.
Ibid., s. 31.

24—(1) A police officer who is instructed as provided by section twenty-three shall, or in his absence any other police officer may, forthwith summon to attend and serve as jurors on the inquest seven persons qualified and liable to serve as jurors under the *Jury Act 1899*.

(2) The method of summoning a person so to serve may be—

(a) by a verbal command and the production to him of the coroner's precept or telegram; or

(b) by service upon him of a juror's summons signed by a police officer.

(3) Service of a juror's summons shall be effected—

(a) by delivering it to; or

(b) by leaving it at the usual place of abode of, the person to whom it is addressed.

Persons dis-
qualified from
serving as
jurors in the
case of min-
ing fatalities.
Ibid., s. 33.

25—(1) Where an inquest is held by a coroner with a jury on the body of a person whose death may have been caused by an explosion or accident in a mine or at any works, no person who has a personal interest in, or is employed in or in the management of, the mine or works is qualified to serve on the jury.

(2) In this section, the expressions "mine" and "works" respectively have the meanings respectively assigned to them in the *Mines and Works Regulation Act 1915*.

Persons dis-
qualified from
serving as
jurors where
death
occurs in
prison.
Ibid., s. 34.

26 Where an inquest is held by a coroner with a jury on the body of a prisoner who has died within a prison or gaol, no person who is—

(a) an officer of;

(b) a prisoner in; or

(c) a person engaged in any kind of trade or dealing with,

the prison or gaol is qualified to serve on the jury.

Constitution
of jury.
Ibid., s. 36.

27—(1) The jury at an inquest shall consist of not less than four persons or more than six persons, chosen by the coroner out of those who have been summoned to attend and serve as jurors thereat.

(2) With respect to an inquest of the class referred to in section twenty-five, whenever practicable one-half of the jurors shall be miners.

Discharge of
jury on fail-
ure to find a
verdict.
Ibid., s. 37.

28 If the jury do not agree and return a verdict after deliberating for two hours, the coroner may then discharge the jury, and thereupon may proceed anew to hold an inquest as if no inquest had been commenced, but none of the jurors so discharged are qualified to serve upon the new inquest.

Payment of
jurors.
Ibid., s. 38.

29 A juror who attends at an inquest is entitled to receive compensation as provided by section sixty-one of the *Jury Act 1899*.

PART VI.

WITNESSES AND EVIDENCE.

Division I—Medical witnesses, post-mortems, and remuneration.

30—(1) Where it appears to a coroner that a deceased person was not, at or immediately before his death, attended by a medical practitioner, the coroner may issue a summons for the attendance as a witness at the inquest of some medical practitioner in actual practice who resides near to the place where the inquest is held.

Power of coroner to summon qualified medical witnesses.

Ibid., s. 39.
Cf. 6 & 7 Gul. 4, c. 89, s. 1.

(2) Where the deceased person was, at or immediately before his death, attended by a medical practitioner, the coroner shall issue a summons for that medical practitioner's attendance.

(3) Where the deceased person was so attended by more medical practitioners than one, the coroner may cause all or any of them to be summoned.

(4) Where the body of the deceased person was, at or immediately after death, viewed or examined by a medical practitioner, the coroner shall issue a summons for that medical practitioner's attendance.

(5) A medical witness who is summoned in pursuance of this section may be asked to give evidence as to how, in his opinion, the deceased came to his death.

31 A coroner, either in a summons under section thirty or by an order in writing, may at any time before the end of an inquest direct a medical practitioner in actual practice, as he thinks fit, to make a post-mortem examination of the body of the deceased, with or without an analysis of the contents of the stomach or intestines, and to report thereon at the inquest.

Post-mortem examinations.

Ibid., s. 40
(1).
Cf. 6 & 7 Gul. 4, c. 89, s. 1.

32 If, during the course of an inquest, it appears to the coroner (whether sitting alone or with a jury) or to a majority of the jury, if any, that the cause of death has not been satisfactorily explained by the medical practitioner or medical practitioners or other witnesses examined in the first instance, the coroner may—

Additional medical evidence.

Ibid., s. 41.
Cf. 6 & 7 Gul. 4, c. 89, s. 2.

(a) forthwith summon some other medical practitioner or medical practitioners in actual practice to be examined as a witness or as witnesses at the inquest; and

(b) direct him or them to make a post-mortem examination of the deceased, with or without an analysis of the contents of the stomach or intestines, whether such an examination has been previously made or not.

Person guilty of negligent treatment not entitled to take part in post-mortem.

Ibid., s. 42.
Cf. 6 & 7 Gul.
4, c. 89, s. 1.

33 If in any case it appears to a coroner that the death of a deceased person was probably caused partly or entirely by the improper or negligent treatment of a medical practitioner or other person, that medical practitioner or other person shall not be allowed to make or assist at the post-mortem examination of the deceased, but he shall be allowed to be present thereat.

Remuneration and expenses to medical witnesses.

Ibid., s. 43.
Cf. 6 & 7 Gul.
4, c. 89, s. 8.

34 Where a medical practitioner has attended at an inquest in obedience to a summons under section thirty or section thirty-two or has made a post-mortem examination of a body and made a report thereon as provided in section fourteen, section thirty-one, or section thirty-two, he is entitled to such remuneration and expenses as may be prescribed, unless he has acted in pursuance of a special agreement with Her Majesty to perform post-mortem examinations and make reports and give evidence thereof, in which case he is entitled to such remuneration and expenses as have been stipulated for in the agreement.

Power of coroner to direct external examination of body.

Ibid., s. 43A.

35 Where a coroner is empowered to direct a post-mortem examination to be made and in the opinion of the coroner an external examination of the body is sufficient, he may direct accordingly, and the medical practitioner is entitled to be paid the prescribed fee for an examination so directed, together with the prescribed travelling expenses, if any.

Division II—General.

Power of coroner to summon a person as a witness.

Ibid., s. 45.

36—(1) A coroner may issue a summons to a person whose evidence he may deem necessary to attend an inquest at a time and place named in the summons, and then and there to give evidence and be examined, and the coroner, either in that summons or by an order in writing, may direct a person to produce at the inquest whatever things in his custody, possession, or control the coroner thinks ought to be produced.

(2) A coroner may bind by recognizance a person appearing before him as a witness to attend and give evidence at any continuation of an inquest upon an adjournment.

Justice empowered to take evidence.

No. 2248 of 1935 (S.A.),
s. 212.

37—(1) At the request of a coroner holding or about to hold an inquest, a justice may take the statement upon oath of a person who is able to give information relevant to the inquest.

(2) A statement so taken shall be subscribed by the justice and may be received in evidence at the inquest.

(3) For the purpose of taking a statement under this section, section twenty-one and sections fifty-one to fifty-five of the *Justices Procedure Act 1919* and any relevant rules thereunder apply as if the taking of the statement were the hearing of a complaint.

(4) Where this Act requires or permits the summoning of a medical practitioner as a witness a statement of that person may be taken under this section and, if it is, there is no obligation to summon as a witness the person by whom the statement is made.

(5) A person may be summoned as a witness notwithstanding that he has made a statement under this section.

38—(1) On an inquest evidence may be given by affidavit, but the coroner, if he thinks just cause exists for doing so, may summon the person making an affidavit to attend before him as a witness for further examination or cross-examination.

Evidence by affidavit.
Ibid., s. 216.

(2) An affidavit under this section may be subscribed and sworn before a police officer or a person authorized by law to take affidavits.

(3) Notwithstanding any other provision of this Act, there is no obligation to summon as a witness a person whose affidavit is received under this section.

39—(1) A coroner may, upon the request of a person who has attended as a witness at an inquest, other than a medical witness, if the coroner thinks fit so to do, allow that person the amount of compensation that the coroner may deem reasonable for his expenses, trouble, and loss of time therein at a rate not exceeding the rate of compensation allowed by the Supreme Court for the attendance of witnesses in criminal cases.

Payment of witnesses, &c.
4 Geo. V No. 38, s. 46.

(2) The Minister may pay compensation for his expenses, trouble, and loss of time therein to any person who has made a statement under section thirty-seven or an affidavit under section thirty-eight, at a rate not exceeding that mentioned in subsection (1) of this section.

PART VII.

OFFENCES, PENALTIES, AND FINES.

40—(1) Where a person who has been duly summoned or commanded to attend at an inquest as a juror or witness fails or neglects to attend at the time and place specified in the summons, or commanded, or at the time and place to which the inquest has been adjourned, the coroner may cause that person to be openly called three times to appear and serve as a juror, or to appear and give evidence at the inquest, as the case may be, and upon the non-appearance of that person the coroner may impose upon that person a fine not exceeding ten pounds.

Power of coroner to punish defaulting jurors and witnesses.
Ibid., s. 47.
Cf. 6 Geo. 4, c. 50, s. 53.

(2) The coroner may, in his discretion, remit any fine imposed under this section if it is proved to his satisfaction that the non-appearance of the person as a juror or witness was unavoidable.

Warrant
against
defaulting
witness.
Ibid., s. 48.

41 Upon the non-attendance at an inquest of a person who has been duly summoned or ordered to attend as a witness thereat, the coroner may issue a warrant to apprehend and bring that person before him, at a time and place to be therein mentioned, to give evidence and be examined touching the matter that is the subject of the inquest.

Powers of
coroner on
default in
payment of
fines.

Ibid., ss. 48,
49.
Cf. 6 Geo. 4,
c. 50, s. 53.

42—(1) On default in payment of a fine imposed under section forty, the coroner shall make out and sign a certificate stating—

- (a) the name, residence, and occupation of the person making default;
- (b) the amount of the fine imposed; and
- (c) the cause of the fine,

and transmit the certificate to the clerk of petty sessions acting at the nearest place of holding petty sessions.

(2) Where a certificate has been transmitted to a clerk of petty sessions under this section, the payment of the fine shall be enforced, and the fine shall be levied and recovered in a summary way, and subject to the like provisions and penalties in all respects, as if the fine had been imposed by justices in petty sessions at the nearest place of holding petty sessions.

Forfeiture of
recog-
nizances.
50 & 51 Vict.,
c. 71, s. 50
(5).

43 Where a recognizance is forfeited at an inquest held before a coroner, the coroner shall proceed in like manner under section forty-two as if he had imposed a fine under section forty upon the person forfeiting that recognizance, and the provisions of section forty-two apply accordingly.

Power to
punish for
contempt.

4 Geo. V No.
88, ss. 50, 51.

44—(1) If a person—

- (a) insults the coroner during the holding of an inquest;
- (b) wilfully interrupts the proceedings of the court or the inquiry;
- (c) obstructs or assaults a person in attendance at the inquest;
- (d) refuses without lawful or reasonable excuse to serve as a juror;
- (e) refuses without lawful excuse to answer a question put to him as a witness;
- (f) refuses or neglects to obey a lawful order of the coroner; or
- (g) wilfully prevaricates in giving evidence,

he is guilty of contempt of court, and the coroner may punish him summarily by committing him to a gaol for one month, or by a fine of fifty pounds.

(2) If a fine imposed under this section is not paid forthwith, the coroner may at his discretion—

- (a) commit the person upon whom the fine is imposed to gaol for one month, unless the fine is sooner paid; or
- (b) proceed as provided in section forty-two.

45 Where any summons or order of a coroner issued or made under or by virtue of this Act has been served personally on, or if not personally served on has been received by, a medical practitioner to whom it was directed, or has been left at his usual residence or office, in sufficient time for him to obey it and he does not obey that summons or order, he is liable to a penalty of fifty pounds unless at the hearing of the complaint he shows a good and sufficient excuse for his neglect.

Medical witnesses neglecting to obey summons or order.

Ibid., s. 53.
Cf. 6 & 7
Gul. 4, c. 89,
s. 6.

46 A police officer shall execute or obey all precepts and lawful commands directed or given to him by a coroner.

Police officers to obey coroner.

Cf. *ibid.*, s. 54.

PART VIII.

MISCELLANEOUS.

47—(1) If a dead body is found or a case of sudden, violent, or apparently unnatural death or death in unusual or suspicious circumstances occurs, any person who knows of the finding of the dead body or knows of, or becomes acquainted with, the death shall forthwith give notice thereof to a coroner, justice, or police officer unless that person is reasonably satisfied that the matter has been or will be so notified by another person.

Notice of inquirable deaths.

No. 24 of 1920 (W.A.), s. 46.

Penalty: Ten pounds.

(2) A justice or police officer to whom notice under subsection (1) of this section is given shall forthwith inform a coroner thereof.

48—(1) A coroner may order a dead body to be removed to and from a public morgue as and when he deems its removal to be necessary for the purpose of any inquest or post-mortem examination.

Use of public morgues.

Cf. 26 Geo. V No. 43, s. 57 VII, VIII.

(2) The cost of the removal of a dead body to or from a public morgue pursuant to this section or to or from any other place under the order of the coroner or as authorized or ratified by him shall be deemed to be part of the cost of the inquest or examination and is payable accordingly.

49—(1) The licensee of a hotel or public-house shall, at the request of a coroner or police officer, receive into the hotel or public-house, or upon the premises occupied therewith, any dead body that is brought thereto for the purpose of an inquest, and if he refuses to receive the dead body he is liable to a fine of five pounds.

Hotel and public-house keepers to receive dead bodies upon request.

4 Geo. V No. 38, s. 56.

(2) This section does not apply in a case where the hotel or public-house is situated within a distance of twenty miles from a public morgue.

Prisoner may be brought up before coroner.
Ibid., s. 57.

50—(1) Where a prisoner is detained in a gaol under sentence, or awaiting trial, or on remand for an offence, or for any other lawful cause, and an inquest is pending at which it is deemed necessary that the prisoner should be present, the coroner before whom the inquest is to be held may issue an order for bringing up the prisoner before him, and the gaoler shall comply therewith.

(2) A prisoner who is brought up on an order under this section shall be deemed to be in the legal custody of the police officer or gaoler having the temporary custody of the prisoner and acting under the order.

(3) The coroner shall, in due course, cause a prisoner who is brought up under this section to be returned to his former custody.

Warrant for burial or cremation.
Ibid., s. 28 IV.

51—(1) If a coroner holds or is about to hold an inquest on a body, or having received the report of a post-mortem examination held under section fourteen decides not to hold an inquest on a body, he may, if he thinks fit, issue a warrant in duplicate under his hand authorizing—

(a) the burial; or

(b) the burial or cremation,

of the body.

(2) Where a coroner has issued a warrant under this section the body to which the warrant relates may be buried, notwithstanding anything contained in the *Registration of Births and Deaths Act 1895* to the contrary, but if it is buried the person having charge of the funeral shall deliver one copy of the warrant to the Registrar of the district within the meaning of that Act within seven days next after the burial.

Penalty: Ten pounds.

Body of infant dying in registered nursing home not to be buried without coroner's certificate for burial.
Ibid., s. 59.

52 The body of an infant who dies while in the care or charge of a person licensed under the *Infants' Welfare Act 1935* in respect of a nursing home, shall not (unless the infant is the child of that person) be buried without a warrant for burial issued under section fifty-one.

Saving of jurisdiction in relation to coroner, and of powers, &c.
Ibid., s. 60.

53—(1) Nothing in this Act in any manner prejudices, affects, or limits—

(a) the jurisdiction of the Supreme Court, or of a judge, in relation to, or over, a coroner or his duties; or

(b) any power that, at the commencement of this Act, is by law vested in a coroner to compel a person to appear as a juror, or to appear and give evidence before him on an inquest or other proceeding, or to punish a person for contempt of court in not so appearing and giving evidence, or to punish a person who is guilty of, or to repress, contempt of court.

(2) A principle or rule of law, practice, or procedure, or existing usage, or custom shall, notwithstanding the repeal of any enactment by this Act, remain in full force except where, and so far as, it is inconsistent with this Act.

54 All fees and moneys payable to a person under this Act shall, on the warrant of the Attorney-General, be paid by the Treasurer from moneys provided by Parliament for the purpose.

Payment of fees, &c.
Ibid., s. 61.

55—(1) The Governor may make regulations for the purposes of this Act.

Regulations.
Ibid., s. 65.

(2) Without prejudice to the generality of subsection (1) of this section, the regulations may provide for—

- (a) the practice and procedure at, or preliminary or incidental to, coroners' inquests and the recording of proceedings therein;
- (b) the taking and giving of security by or to coroners;
- (c) the summoning and attendance of jurors and witnesses at inquests;
- (d) the manner in which things done in the course of, or as preliminary or incidental to, coroners' inquests may be proved in any legal proceedings;
- (e) the conduct of post-mortem examinations;
- (f) the forms to be used for the purposes of this Act; and
- (g) the fees and charges to be taken or made for the purposes of this Act.

THE FIRST SCHEDULE.

(Section 2.)

IMPERIAL ACTS REPEALED.

Session and Chapter.	Title or reference.	Extent of repeal.
3 Edw. 1, c. 9	Statute of Westminster the first. " <i>Et purce qe la pees</i> " [And forasmuch as the Peace].†	The whole chapter, so far as it relates to coroners.
3 Edw. 1, c. 10	Statute of Westminster the first. " <i>Et purceo qe petitz gentz</i> " [And forasmuch as mean persons].	The whole chapter.
4 Edw. 1, stat. 2	<i>De Officio Coronatoris</i> [The Office of the Coroner].	The whole statute except the clauses beginning " <i>De thesauro invento</i> " [A Coroner also ought]‡, " <i>De wrecco maris</i> " [Concerning Wreck of the Sea], and " <i>Si autem aliquis</i> " [If any be suspected].

† The words in brackets in this column are the translations appearing in the Statutes at Large.

‡ The words in brackets in this column are the opening words of the clauses as translated in the Statutes at Large.

Session and Chapter.	Title or reference.	Extent of repeal.
1 Edw. 3, stat. 2, c. 17	<i>"Item le Roi comaunde qe les viscontes"</i> [Also the King commandeth, That the Sheriffs].	The whole chapter, so far as it relates to coroners.
14 Edw. 3, stat. 1, c. 8	<i>"Et come en ascuns temps"</i> [Also whereas sometime].	The whole chapter, so far as it relates to coroners.
28 Edw. 3, c. 6 ..	<i>"Item ordene est et establi qu touz coroners"</i> [Also it is ordained and accorded, That all coroners].	The whole chapter.
23 Hen. 6, c. 9.	<i>"Item le Roi considerant lez graunde perjurie"</i> [Also, The King, considering the great Perjury].	The whole chapter, so far as it relates to coroners.
3 Hen. 7, c. 1*	<i>"First, the King our said Sovereign Lord remembereth"</i> .	From the clause beginning "And over that it is ordained" to the end of the clause beginning "And if any Coroner be remiss".
1 Hen. 8, c. 7	<i>For Coroners.</i>	The whole chapter.
25 Geo. 2, c. 29	<i>An Act for giving a proper Reward to Coroners for the due Execution of their Office; and for the Amoval of Coroners upon a lawful conviction for certain Misdemeanors.</i>	The whole Act.
58 Geo. 3, c. 95	<i>An Act to regulate the Election of Coroners for Counties.</i>	The whole Act.
6 Geo. 4, c. 50	<i>The Juries Act 1825.</i>	Section 53.
7 Geo. 4, c. 64	<i>The Criminal Law Act 1826.</i>	Section 4 and, so far as they relate to coroners, sections 5 and 6.

* Second paragraph of c. 1 in Ruffhead.

THE SECOND SCHEDULE.

(Section 2.)

TASMANIAN ACTS REPEALED.

Year and number of Act.	Title.
4 Geo. V No. 38 ..	<i>Coroners Act 1913.</i>
11 Geo. V No. 7 ..	<i>Coroners Act 1920.</i>
16 Geo. V No. 14 ..	<i>Coroners Act 1925.</i>
5 Geo. VI No. 65 ..	<i>Coroners Act 1941.</i>