

T A S M A N I A.

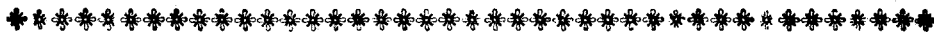


1873.

ANNO TRICESIMO-SEPTIMO

VICTORIÆ REGINÆ,

No. 13.



AN ACT to regulate the Office and Duty of A.D. 1873.
Coroner in *Tasmania*. [31 October, 1873.]

WHEREAS it is expedient to regulate the office and duty of PREAMBLE.
Coroner in *Tasmania* :

Be it therefore 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 :—

1 In this Act, unless the context otherwise determines—

Interpretation.

“Constable” includes a Superintendent of Police.

“Medical Practitioner” and “Practitioner” mean a legally qualified
Medical Practitioner.

2 It shall be lawful for the Governor, from time to time, by Com-
mission under his hand, to appoint such and so many persons as he
sees fit as and to be Coroners of *Tasmania* and its Dependencies.

Governor may
appoint Coroners
by Commission,
who shall hold
office during
pleasure.

Every person appointed a Coroner of *Tasmania* and its Dependencies
shall hold office during pleasure only, and may be removed from office
by the Governor.

[26 Vict. No. 13,
ss. 1, 2, 3.]

Every person appointed a Coroner by Commission under the hand
of the Governor before the 20th day of *October*, 1862, shall be
deemed and taken to have been duly appointed such Coroner to all
intents and purposes whatsoever.

Persons appointed
before 20 Oct.,
1862, to be
deemed duly
appointed.

Coroners Act, 1873.

A.D. 1873.

Coroner may hold Inquests on fires.

[22 Vict. No. 16.]

If Coroner refuse to hold Inquest, application may be made to Supreme Court for a rule to show cause.

[23 & 24 Vict. c. 116, s. 5.]

Coroner being a Medical Practitioner not to hold Inquest in certain cases.

How jurors to be summoned.

Persons exempted from serving on jury.

[4 Vict. No. 7, s. 4.]

Jury to consist of Seven persons.

[4 Vict. No. 7, s. 2.]

3 When any property, real or personal, is burnt or damaged by fire, under circumstances leading to the suspicion that the same has been unlawfully set on fire, any Coroner may hold an Inquest for the purpose of ascertaining the cause and origin of such Fire.

4 If any Coroner refuses or wilfully neglects to hold an Inquest in any case when such Inquest ought to be held, it shall be lawful for Her Majesty's Attorney-General to apply to the Supreme Court, or during vacation to a Judge thereof, for a Rule calling on such Coroner to show cause why he should not hold such Inquest; and if after due service of such Rule good cause is not shown against it, it shall be lawful for the Court or Judge to make such Rule absolute, with or without payment of costs, as to such Court or Judge seems meet; and the Coroner, upon being served with such Rule absolute, shall obey the same, and hold such Inquest upon pain of being liable to an attachment in case of refusal or neglect.

No Coroner, being a Medical Practitioner, shall be competent or compellable to hold an Inquest upon the body of any person whom he may have attended professionally in such person's last illness or at the time of death.

5 Whenever any Coroner issues his Precept for summoning a Jury for the purpose of holding an Inquest, the Constable to whom the same is directed shall forthwith summon Twelve men of the age of Twenty-one and not exceeding Sixty years to attend and serve as Jurors on such Inquest; and a true list of the names of all the Jurors who have been summoned to attend such Inquest shall be returned to the Coroner by such Constable.

Every Summons to any such Juror shall be in the form in the Schedule (1), and be signed by such Constable, and delivered to every such Juror or left at his usual place of abode.

6 The following persons shall not be liable to be summoned or to serve as Jurors at any Coroner's Inquest—

Any Member of the Executive Council or of the Parliament of *Tasmania*; the Clerk of the Executive Council or any Officer of the said Parliament.

The Private Secretary to the Governor.

Any Judge of the Supreme Court, or the Recorder or Chairman of any Court of General or Quarter Sessions of the Peace, or any Ministerial Officer of either of those Courts.

Any Commissioner of a Court of Requests.

Any Clergyman or Officer in the Army or Navy on full pay, or any practising Barrister or Attorney, Physician, Surgeon, or Apothecary.

Any Coroner.

Any officer or person employed in the Customs, or any Sheriff's officer or gaoler.

Any person above the age of Sixty years.

7 Every Coroner's Jury shall consist of Seven persons chosen by the Coroner out of those who have been duly summoned pursuant to this Act.

Coroners Act, 1873.

8 If at any Inquest the Coroner's jury finds that any person has wilfully set on fire any property real or personal, it shall be lawful for the Coroner, in any case in which an offence cognizable upon information filed in the Supreme Court has thereby been committed, to exercise the like authority in respect to his apprehension, bail, committal, or otherwise, as in the case of persons charged with murder or manslaughter.

A.D. 1873.

Coroner may commit persons found wilfully setting property on fire in certain cases.

9 In every case in which a Coroner's jury finds a verdict of Manslaughter against any person, it shall be lawful for the Coroner before whom the Inquest was taken to accept bail, if he thinks fit, with good and sufficient sureties for the appearance of the person so charged with the offence of Manslaughter at the next Session of Oyer and Terminer and General Gaol Delivery of the Supreme Court, to be held at the place nearest to where such Inquest was holden; and thereupon such person, if in custody of any constable, or in any Gaol under a warrant of commitment issued by such Coroner, shall be discharged therefrom.

In cases of manslaughter, the Coroner may admit the persons charged to bail. [22 Vict. c. 33, s. 1.]

10 In every case in which any Coroner admits any person to bail as aforesaid he shall cause recognizances to be taken in the form in the Schedule (2), and give a notice thereof to every person so bound, and shall transmit such recognizances, together with the depositions taken upon such Inquest, forthwith to Her Majesty's Attorney-General or other Officer duly appointed to prosecute all crimes, misdemeanors, and offences cognizable in the Supreme Court; and the like fees shall be paid upon entering into such recognizance as are payable in the case of any person entering into a like recognizance before a Justice of the Peace.

Recognizances to be taken and forwarded with depositions to Attorney-General. [22 Vict. c. 33, s. 2.]

11 So much of Section Eleven of *The Magistrates Criminal Procedure Act* as relates to giving in evidence the depositions of witnesses in certain cases shall be applicable to the depositions of witnesses taken before a Coroner in any case where the person afterwards tried shall have been present during the examination of such witness; and the provision contained in Section Twenty-three of the said Act shall be applicable to the case of any person committed to take his trial upon the verdict of a Coroner's jury.

Sects. 11 and 23 of 19 Vict. No. 9, applicable in certain other cases.

12 Whenever it appears to the Coroner that the deceased person was not at or immediately before his death attended by some Medical Practitioner, it shall be lawful for such Coroner to issue a summons in the form in the Schedule (3) for the attendance, as a witness at the Inquest, of such Medical Practitioner in actual practice as resides nearest to the place where such Inquest is holden; but where the deceased person was attended by a Medical Practitioner, the Coroner shall issue a summons for his attendance only, or if the deceased was attended by more than one such practitioner, then the Coroner shall summon the first in attendance.

Attendance of medical witnesses at Inquests. [1 Vict. No. 14, s. 1.]

If any dead body upon which an Inquest is afterwards held was, at or immediately after death, viewed or examined by any Medical Practitioner, then the Coroner holding such Inquest shall summon such Practitioner to give evidence at such Inquest.

13 It shall be lawful for the Coroner, either in such summons as aforesaid, or by an order or orders in writing given at any time before the termination of the Inquest, to direct any Medical Practitioner or

Post mortem examinations. [1 Vict. No. 14, s. 2.]

Coroners Act, 1873.

A.D. 1873.

Practitioners as he thinks fit, to make a *post mortem* examination or examinations of the body of the deceased, either with or without an analysis of the contents of the stomach or intestines.

If in any case it appears to the Coroner 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 person shall not be allowed to make or assist at any such examination or analysis, although he shall in every such case be allowed to be present thereat.

Additional medical evidence.
[*Ib.*, s. 3.]

14 Whenever it appears to the Coroner, or to a majority of the jury at any Inquest, that the cause of death has not been satisfactorily explained by the Medical Practitioner or Practitioners examined in the first instance, the Coroner shall forthwith summon some other Practitioner or Practitioners to be examined as a witness or witnesses at such Inquest, and shall direct him or them to make a *post mortem* examination of the body of the deceased, with or without such analysis as aforesaid, whether such an examination has been previously made or not.

And where such additional evidence is called 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.

Deodands and forfeiture of chattels moving and causing death, abolished.
[9 & 10 Vict. c. 62]

15 There shall be no forfeiture of any chattels for or in respect of the same having moved to or caused the death of man; and no Coroner's jury sworn to inquire, upon the sight of any dead body, how the deceased came by his death, shall find any forfeiture of any chattel which may have moved to or caused the death of the deceased, or any deodand whatsoever; and it shall not be necessary in any inquisition to allege the value of the instrument which caused the death of the deceased, or to allege that the same was of no value.

Christian burial not to be forbidden, and property not to be forfeited by verdict of *felo de se*.
[N.S.W. 25 V. No. 15, 4 G. 4, c. 52.]

16 Upon the finding by any Coroner's jury of a verdict of *felo de se* against any person, it shall not be lawful for the Coroner, or any other person whomsoever, to forbid the rites of Christian burial at the interment of such person, nor shall any forfeiture or escheat to the Crown of any real or personal property belonging to such person take place by reason of such verdict, any law, statute, or custom to the contrary notwithstanding.

Inquisitions to be recorded in Supreme Court.

17 Every Inquisition taken by any Coroner shall be forwarded to the Registrar of the Supreme Court, to be enrolled and recorded therein.

Inquisitions not to be quashed on account of technical defects.
[6 & 7 Vict. c. 83, s. 2.]

18 No Inquisition found upon or by any Coroner's Inquest shall be quashed, stayed, or reversed for want of the averment therein of any matter unnecessary to be proved, nor for the omission of the words "with Force and Arms," or of the words "against the Peace," or of the words "against the form of the Statute," nor for the omission or insertion of any other words or expressions of mere form or surplusage, nor for the insertion of the words "upon their Oath" instead of the words "upon their Oaths," nor for omitting to state the time at which the offence was committed when time is not of the essence of the offence, nor for stating the time imperfectly, nor because any person or persons mentioned in

Coroners Act, 1873.

any such Inquisition is or are designated by a name of office or other descriptive appellation, instead of his, her, or their proper name or names, nor by reason of the non-insertion of the names of the Jurors in the body of any such Inquisition, or of any difference in the spelling of the names of any of the Jurors in the body of any such Inquisition and the names subscribed thereto, nor because any Juror or Jurors has or have set his or their mark or marks to any such Inquisition instead of subscribing his or their name or names thereto, nor because any such mark or marks is or are unattested, provided the name or names of such Juror or Jurors is or are set forth, nor because any Juror or Jurors has or have signed his or their Christian name or names by means of an initial or partial signature only and not at full length, nor because of any erasures or interlineations appearing in any such Inquisition, unless the same is proved to have been made therein after the same was signed, nor for want of a proper venue where the Inquest appears or purports to have been taken by a Coroner of or for *Tasmania*, nor for or by reason of any such Inquisition not being duly sealed or written upon parchment, nor because the Coroner and Jury did not all view the body at one and the same instant, provided they all viewed the body at the first sitting of the Inquest; and in all or any of such cases of technical defect as are hereinbefore mentioned it shall be lawful for the Supreme Court or any Judge thereof, if the Court or Judge thinks fit, upon the occasion of any such Inquisition being called in question before such Court or Judge, to order the same to be amended in any of the respects aforesaid, and the same shall forthwith be amended accordingly.

A.D. 1873.

19 If any Medical Practitioner having been duly summoned to give evidence at any Inquest does not attend in obedience to such Summons, or if any such Practitioner having been served with an Order to make any *post mortem* examination does not obey such Order, every Practitioner so offending shall, if such Summons or Order was served upon him in sufficient time for him to obey the same, be liable to a penalty not more than Twenty Pounds.

Medical Practitioner neglecting to obey summons or order liable to penalty.
[1 V. No. 14, s. 6.]

20 If any Constable fails or neglects to execute any precept directed to him by any Coroner, or if any person having been duly summoned as a Juror, or if any person, not being a Medical Practitioner, having been duly summoned to give evidence upon any Coroner's Inquest, shall not, after being openly called three times, appear and serve as such Juror, or appear and give evidence on such Inquest, every person so offending shall be liable to forfeit and pay a penalty not exceeding Forty Shillings.

Constable failing to execute precept, &c., and jurors and witnesses failing to attend, liable to penalty.
[4 V. No. 7, s. 3.]

Nothing herein contained shall be construed to affect any power now by Law vested in the Coroner for compelling any person to appear and give evidence before him on any Inquest or other proceeding, or for punishing any person for contempt of Court in not so appearing and giving evidence or otherwise.

21 There shall be paid to the Coroner holding any Inquest a sum of One Pound, and over and above such payment a further sum of Sixpence per mile for every mile which such Coroner is obliged to travel for the purpose of holding such Inquest in going from and returning to his usual place of residence; and when any Coroner is engaged more than One day in holding any Inquest, there shall be paid to him a further sum of One Pound for every day after the first during

Payment of Coroner's Fees.
[26 V. No. 13, s. 4.]

Coroners Act, 1873.

A.D. 1873. which he is so engaged over and above the sum of Sixpence per mile payable to such Coroner as aforesaid.

[29 V. No. 8,
s. 177.]

The sums of money above mentioned shall, where any Inquest is held in any Rural Municipality, be paid to such Coroner out of the Municipal Fund of such Municipality, and where the Inquest is not held in a Municipality the said sums of money shall be paid out of the General Revenue.

Coroner to be paid a sum for travelling in certain cases where Inquisition is not taken.

22 If any Coroner is compelled in the discharge of his office to travel from his usual place of abode for the purpose of taking an Inquisition, but which in the exercise of his discretion he deems to be unnecessary and declines to take, there shall be paid to such Coroner, in manner hereinbefore provided, the sum of Sixpence per Mile hereinbefore made payable to every Coroner who is obliged to travel for the purpose of holding any Inquest: but no sum shall be paid under this Section unless the Municipal Council of the Rural Municipality, or the Colonial Secretary, as the case may be, is satisfied of the necessity of such Coroner's travelling as aforesaid.

Rates of remuneration payable to Medical Witnesses.
[1 V. No. 14, s. 4]

23 When any Medical Practitioner has attended as a witness at any Inquest he shall be entitled to receive the sum of One Guinea, and (in addition thereto) for making any *post mortem* examination the sum of Two Guineas, and if the place of his residence is more than Ten miles distant from the place where the Inquest is held, then he shall be entitled to a sum of One Shilling for every mile of such extra distance in addition: but no sum of money shall be paid for making any *post mortem* examination without the Coroner's previous direction.

No Medical Officer appointed to attend any Public Hospital, Gaol, or other Public Building, shall be entitled to any remuneration under this Section in respect of any death happening in such Hospital, Gaol, or Building.

Coroner to give Certificate of amount of remuneration payable.
[1 V. No. 14, s. 5.]

24 The Coroner shall, upon demand, give to every Medical Practitioner attending as aforesaid a Certificate under his hand, of the amount of remuneration payable to such Practitioner, stating therein, in words at length, the name of the deceased person, and the cause of death, when known, and the day and place of holding the Inquest, distinguishing the sums payable for attendance, for making the *post mortem* examination, if any, and for extra distance respectively.

Recovery of penalties.

25 All penalties imposed or made payable by this Act shall be recovered in a summary way before any two Justices of the Peace in the mode prescribed by *The Magistrates Summary Procedure Act*.

Repeal of existing Acts.

26 The Acts set forth in the Schedule (4) shall, to the extent therein specified, be hereby repealed; but such repeal shall not affect anything duly done, or any liability accrued before the commencement of this Act.

Short title.

27 This Act may be cited as "The Coroners Act, 1873."

Coroners Act, 1873.

SCHEDULE.

A.D. 1873.

(1.)

Sect. 6.

TASMANIA }
TO WIT. }

To

By virtue of a Precept under the hand and seal of Esquire, one of the Coroners for *Tasmania* and its Dependencies, you are hereby summoned personally to be and appear before him as a Juryman on the day of at of the clock in the noon precisely, at in *Tasmania* aforesaid, then and there to enquire in Her Majesty's behalf touching the death of and further to do and execute such other matters and things as shall be then and there given you in charge, and not to depart without leave.

Hereof fail not at your peril.

Dated this day of

Constable.

(2.)

Sect. 10.

FORM OF RECOGNIZANCE.

TASMANIA }
TO WIT. }

BE IT REMEMBERED, that on the day of 187, of of personally came before me, one of Her Majesty's Coroners for *Tasmania* and its Dependencies, and severally acknowledged themselves to owe to our Lady the Queen the several sums following; that is to say, the said the sum of Pounds, and the said and the sum of Pounds each, to be made and levied of their several goods, chattels, and lands respectively, to the use of our said Lady the Queen, her heirs and successors, if he the said fails in the condition hereunder written.

CONDITION.

THE Condition of the above-written Recognizance is such, that whereas a verdict of Manslaughter has been found against the said by a Jury empannelled to inquire how and by what means came by [his] death: If therefore the said shall appear at the next Session of Oyer and Terminer and General Gaol Delivery of the Supreme Court of *Tasmania*, to be holden at and there surrender himself and plead to any Information that may be filed against by Her Majesty's Attorney-General or other Officer duly appointed for that purpose, and take his trial upon the same, and not depart the said Court without leave, then the said Recognizance to be void, or else to stand in full force and virtue.

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

Coroner for *Tasmania* and its Dependencies

(3.)

Sect. 13.

FORM OF SUMMONS TO MEDICAL WITNESS.

Coroner's Inquest at on the body of

By virtue of this my Order as Coroner for *Tasmania* and its Dependencies, you are required to appear before me and the Jury at on the day of 187, at of the clock, to give evidence touching the cause of Death of •[and then add, when the witness is required to make or assist at a post mortem examination] and make, or assist in making, a post mortem examination of the body, with [or without] an analysis [as the case may be] and report thereon at the said Inquest.

(Signed)

Coroner.

To

Coroners Act, 1873.

A.D. 1873.

(4.)

Sect. 27.

ACTS to be repealed.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>	<i>Extent of Repeal.</i>
1 Vict. No. 14.	An Act to provide for the Attendance of Medical Witnesses at Inquests.	The whole.
4 Vict. No. 7.	An Act to provide for the Attendance of Jurors on Coroner's Inquests.	The whole.
22 Vict. No. 16.	An Act to empower Coroners to hold Inquests on Fires.	The whole.
26 Vict. No. 13.	An Act to provide for the Appointment, Removal, and Payment of Coroners in <i>Tasmania</i>	The whole.
29 Vict. No. 8.	An Act for the Government of Rural Municipalities.	So much of Section 177 as provides that the expenses of holding Inquests within any Municipality shall be borne and defrayed by such Municipality out of the Municipal Fund of such Municipality.