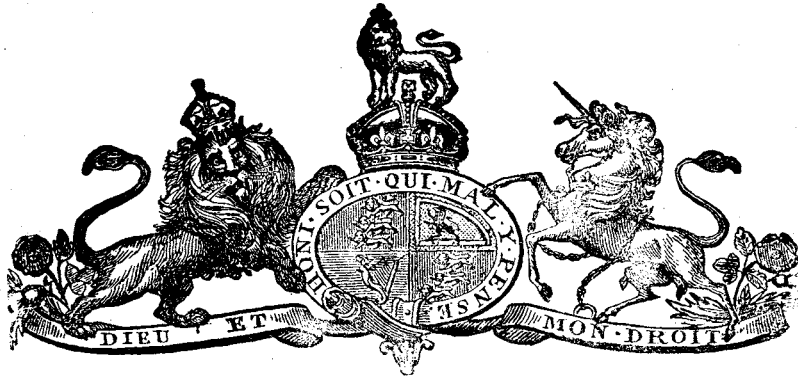


TASMANIA.



1909.

ANNO NONO

EDWARDI VII. REGIS,

No. 33.

ANALYSIS.

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| <ul style="list-style-type: none"> <li>1. Short title and incorporation.</li> <li>2. Commencement.</li> <li>3. Inquests to be held by Coroner only.<br/>Except when jury considered desirable by Coroner or requested by relative or ordered by Attorney-General or Solicitor-General.<br/>Amendment of Principal Act where inquest before Coroner and jury.</li> <li>4. Powers of Coroner when sitting alone.</li> <li>5. Admissibility of depositions.</li> <li>6. Practice and procedure.<br/>Forms may be altered.</li> <li>7. Inquest may be opened on <i>Sunday</i> for purpose of viewing and examining the body.</li> <li>8. When view on inquest not necessary.</li> </ul> | <ul style="list-style-type: none"> <li>9. Clause 23 of Principal Act re-enacted.</li> <li>10. When inquest to be held.</li> <li>11. Coroner may order payment of expenses of witnesses.</li> <li>12. Clerk of Peace to pay certified expenses.</li> <li>13. Payment of jurors.</li> <li>14. Repeal and re-enactment of Section 20 of the Principal Act.</li> <li>15. Coroner may fine jurors or witnesses for non-attendance at inquest.<br/>Power to remit fine.</li> <li>16. Procedure if fine not paid.<br/>Fine recoverable in a summary way.</li> <li>17. Power to punish for contempt.</li> <li>18. Saving of powers by law vested in Coroner.</li> </ul> |
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AN ACT to amend "The Coroners' Act, 1873." [22 December,] 1909. A.D. 1909.

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:—

1 This Act may be cited for all purposes as "The Coroners Act, 1909," and shall be read and incorporated with "The Coroners Act, 1873," hereinafter called the Principal Act. Short title and incorporation. 37 Vict. No. 13.

*Coroners.*

A.D. 1909

Commencement.

Inquests to be held by Coroner only.

Cf. 3 Ed. VII. No. 1828. and ss. 2 &amp; 3 (Vict.). Cf. No. 25 of 1904, s. 2 (N.S.W.).

Except where jury considered desirable by Coroner or requested by relative or ordered by Attorney-General or Solicitor-General.

Amendment of Principal Act where inquest before Coroner and jury.  
Cf. *ibid.*

**2** This Act shall come into force on the First day of *January*, One thousand nine hundred and ten.

**3**—(1.) After the commencement of this Act all inquests heretofore by law required to be held before a Coroner and a jury shall, subject to the provisions of Subsection (2.) of this section, be held before a Coroner sitting alone.

(2.) An inquest shall as heretofore be held before a Coroner and a jury—

- i. If the Coroner considers it desirable to have a jury :
- ii. If a relative or friend of a deceased person, touching whose death an inquest is about to be held, makes a request in writing for a jury :
- iii. If the Attorney-General or Solicitor-General of *Tasmania*, in any specified case, directs that the inquest shall be held before a Coroner and a jury ;

and for the purposes of any inquest so to be held before a Coroner and a jury, the provisions of the Principal Act are hereby amended and qualified as follows :—

- (a) Seven jurors shall be summoned instead of Twelve ;
- (b) Upon receiving the Coroner's precept or a telegram from the Coroner instructing him to do so the constable to whom the precept or telegram is directed shall summon the jury, either by verbal command and production of the precept or telegram or by service of summons ;
- (c) Section Seven of the Principal Act is hereby repealed, and the following substituted therefor :—  
“ **7** The Coroner's jury at any inquest shall consist of not less than Four nor more than Six persons, chosen by the Coroner out of those who have been summoned ; and the concurrence of Four jurors at any such inquest shall be sufficient ;”
- (d) In case the whole of the jury if it consists of not more than Four jurors, or at least Four of the jurors if the jury consist of more than Four, do not agree and return a verdict after deliberating 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 shall be eligible to serve upon such new inquest.

Powers of Coroner when sitting alone.  
N.S.W., s. 3.

**4**—(1.) A Coroner when sitting alone, under the powers conferred by this Act, may do and perform all such acts and things at or in relation to any inquest held before him as might before the commencement of this Act have been done and performed by him or by a jury ; and may declare a verdict or finding as to the matter inquired into. Such verdict or finding shall have the same force and effect as the

*Coroners.*

verdict or finding of a Coroner's jury had before the commencement of this Act, and any reference in any Act to a verdict or finding of a Coroner's jury shall be deemed to apply also to the verdict or finding of a Coroner sitting alone. A.D. 1909.

(2.) A Coroner may, on a finding or verdict by himself, exercise all such powers and authorities, make all such orders, and direct all such things to be done as he might, before the commencement of this Act, have exercised or made or directed to be done on the verdict or finding of a jury; and he shall, subject to the provisions of this Act, perform the same duties and be subject to the same liabilities and obligations as before the commencement of this Act.

**5** Depositions taken at an inquest held before a Coroner sitting alone shall, on the trial of any person, be as admissible in evidence as if such depositions had been taken at an inquest held before a Coroner and a jury. Admissibility of depositions. *Ibid.* (N.S.W.), s. 4.

**6** The practice and procedure at and in relation to inquests held before a Coroner sitting alone shall, so far as possible, and subject to the provisions of this Act, be according to the practice and procedure obtaining before the commencement of this Act at and in relation to inquests held before a Coroner and a jury. All forms may be altered to meet the case of an inquest held without a jury. Practice and procedure. *Ibid.* (N.S.W.), s. 5. Forms may be altered.

**7** It shall be lawful for a Coroner, if he thinks it expedient to do so, to open an inquest upon a *Sunday* concerning the death of any person, and proceed with the same for the purpose of viewing, examining, or making a *post mortem* examination of the body, and thereupon the body may be interred, and the Coroner may adjourn the said inquest to any subsequent day for the further investigation of the matter. Inquest may be opened on *Sunday* for purpose of viewing and examining the body. Cf. 27 Vict. No 1, s. 1 (W.A.). Cf. 47 and 48 Vict. No. 332, s. 7 (S.A.).

**8** Notwithstanding any law or custom to the contrary it shall not be necessary for the Coroner or the jury on any inquest to view the body of any deceased person unless the Coroner deems it advisable to do so. When view on inquest not necessary.

**9** Section Twenty-three of the Principal Act is hereby repealed, and the following substituted therefor:—

“**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 ordered by the Coroner the sum of Two Guineas; and if the place of his residence is more than One mile from the place where the inquest is held, then he shall be entitled to a sum of Two Shillings for every mile, or part of a mile, of such extra distance in addition.”

**10** An inquest of death is hereby declared to be necessary, and a Coroner shall hold an inquest where there is in his opinion reasonable cause to suspect that the deceased person has died— When inquest to be held.

1. Either a violent or an unnatural death: or

2 Edw. VII. No. 60, s. 6 (N.Z.).

Clause 23 of Principal Act re-enacted.

## Coroners.

A.D. 1909.

ii. A sudden death of which the cause is unknown: or

iii. In prison, or in such place or under such circumstances as to require an inquest in pursuance of any Act.

Coroner may order payment of expenses of witnesses.

**11** It shall be lawful for a Coroner, upon the request of any person who has attended as a witness at any inquest, if the Coroner thinks fit so to do, to grant a certificate to such person of the amount of compensation which the Coroner may deem reasonable for his expenses, trouble, and loss of time therein; such compensation to be computed at a rate not exceeding the rate of compensation for the time being allowed by the Supreme Court for the attendance of witnesses before such Court in criminal cases.

Clerk of Peace to pay certified expenses.

**12** Upon production of any such certificate to the Clerk of the Peace at *Hobart* or *Launceston* it shall be lawful for such Clerk of the Peace, out of the moneys received by him for that purpose, to pay to the person named in such certificate, or authorised by endorsement thereon to receive the same, the sum of money in such certificate mentioned, and the same shall be allowed in the accounts of such Clerk of the Peace accordingly.

Payment of jurors.

**13** Every juror attending at an inquest shall for every day he actually serves upon the jury be entitled to receive for his services the sum of Five Shillings, and if his place of residence is more than Three miles distant by the nearest practicable road from the place where the inquest is held, he shall be entitled to receive an additional sum of Sixpence for every mile of such extra distance by such road coming, and the like sum for returning; and such sums shall be paid in the like manner as witnesses for the Crown in criminal cases are now paid their expenses, and shall be paid out of moneys to be provided by Parliament.

Repeal and re-enactment of Section 20 of the Principal Act.

**14** Section Twenty of the Principal Act is hereby repealed, and the following substituted therefor, namely:—

“**20** If any constable fails or neglects to execute or obey any precept or lawful command directed or given to him by any coroner he shall, upon conviction in a summary way, be liable to a penalty not exceeding Forty Shillings.”

Coroner may fine jurors or witnesses for non-attendance at inquest.

**15** Where a person duly summoned or commanded to attend—

i. As a juror: or

ii. As a witness, not being a medical practitioner subject to the provisions of Section Nineteen of the Principal Act—

at any inquest, fails or neglects to attend at the time and place specified in such summons, or commanded, or at the time and place to which the inquest has been adjourned, the coroner may cause such person to be openly called Three times to appear and serve as a

*Coroners.*

juror, or to appear and give evidence at the inquest, as the case may be, and upon the non appearance of such person the Coroner may impose upon such person a fine not exceeding Forty Shillings. A.D. 1909.

Provided always that the Coroner may in his discretion remit any such fine if it is proved to his satisfaction that the non-appearance of such person as a juror or witness was unavoidable. Power to remit fine.

**16**—(1.) In default of payment of any such fine as aforesaid, the Coroner may in his discretion— Procedure if fine not paid.

- i. Commit the person so making default to any gaol for any period not exceeding Fourteen days unless the fine be sooner paid : or
- ii. Make out and sign a certificate stating—
  - (a) The name, residence, and occupation of the person so making default ;
  - (b) The amount of the fine imposed ; and
  - (c) The cause of the fine—

and transmit the said certificate to the clerk of petty sessions acting at the nearest police-office or place of holding petty sessions.

(2.) In every case where a certificate has been transmitted as aforesaid 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 part of the fines imposed by justices in petty sessions at the said police-office or place of holding petty sessions. Fine recoverable in a summary way.

**17**—(1.) If any person—

- i. Insults the Coroner during the holding of any inquest : or
- ii. Wilfully interrupts the proceedings of the court or the inquiry : or
- iii. Obstructs or assaults any person in attendance at such inquest : or
- iv. Refuses without reasonable excuse to serve as a juror : or
- v. Refuses without lawful excuse to answer a question put to him as a witness : or
- vi. Refuses or neglects to obey any lawful order of the Coroner : or
- vii. Wilfully prevaricates in giving evidence—

Power to punish for contempt.

he shall be guilty of contempt of court, and the Coroner may punish any such person in a summary way by imprisonment in any goal for any time not exceeding One calendar month, or by imposing upon such person a fine not exceeding the sum of Twenty Pounds.

(2.) If such fine is not forthwith paid, the Coroner may commit such person to any goal for any term not exceeding One calendar month, unless the fine be sooner paid.

(3.) Nothing herein contained shall be construed to affect or limit any authority now vested by law in any Coroner to punish or repress contempt of court.

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*Coroners.*

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A.D. 1909.

Saving of powers  
by law vested in  
Coroner.

**18** Nothing in the Principal Act or this Act contained shall be construed to affect any power now by law vested in any Coroner for compelling any person to appear as a juror, or 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 as a juror, or in not so appearing and giving evidence, or otherwise.