CORONERS ACT, 1935.

No. 2248 of 1935.

An Act to consolidate and amend the law relating to Coroners.

[*Assented to* 19*th December*, 1935.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

PART I.

PART I.

PRELIMINARY AND ADMINISTRATION.

Short title.

1. This Act may be cited as the " Coroners Act, 1935 ".

Repeal.

2. The Coroners Act, 1884, The Coroners Act Amendment Act, 1889, and The Coroners Act Further Amendment Act, 1907, are hereby repealed.

Arrangement.

3. The provisions of this Act are arranged as follows :—

PART I.—Preliminary and administration.

PART II.—Jurisdiction and powers.

PART III.—Inquests and inquisitions.

PART IV.—General.

Interpretation.

4. In this Act except where inconsistent with the context—

" coroner " includes a deputy coroner :

" medical practitioner " means a legally qualified medical practitioner registered under the Medical Practitioners Act, 1919.

Appointment of City Coroner.

Cf. 332, 1884, s. 3 (part).

5. (1) The Governor shall appoint a City Coroner, and may appoint a deputy City Coroner.

(2) The City Coroner and the deputy City Coroner—

(*a*) shall be paid such remuneration as is fixed by the Governor from time to time ; and

(*b*) shall hold office for such term as is fixed by the Governor at the time of appointment, or if no such term is fixed, shall hold office during the pleasure of the Governor.

(3) Unless otherwise directed by the Governor, the provisions of any Act relating to the public service shall not apply to the City Coroner or to the deputy City Coroner.

(4) Every inquest in connection with a death or a fire which occurs, or on a dead body which is found, within ten miles of the General Post Office at Adelaide shall, when practicable, be taken by the City Coroner or the deputy City Coroner.

Appointment of other coroners.

6. (1) The Governor may appoint a coroner for any town or district distant more than ten miles from the General Post Office at Adelaide and he may appoint a deputy for any such coroner.

(2) The provision of any Act relating to the public service shall not apply to any such coroner or deputy.

(3) Every inquest in connection with a death or fire which occurs in, or on a body found within, any such town or district, shall, when practicable, be taken by the coroner appointed for the town or district or his deputy.

Justices to be coroners.
Cf. 332, 1884, s. 3 (part).

7. Every justice shall be a coroner.

Payment of coroners.
Cf. 332, 1884, ss. 27 and 28.

8. (1) Every coroner (other than the City Coroner or the deputy City Coroner) may be paid by the Treasurer upon the authorisation of the Attorney-General the sum of one guinea for any inquest held by him and a payment at the rate of sixpence for every mile which the coroner has been obliged to travel from his usual place of residence for the purpose of holding the inquest or for attending at any adjournment thereof.

(2) The Treasurer may upon the authorisation of the Attorney-General pay a travelling allowance at the rate aforesaid to any coroner (other than the City Coroner or the deputy City Coroner) who shows to the satisfaction of the Attorney-General that he has been compelled in the discharge of his office to travel from his usual place of residence for the purpose of holding an inquest but which, in the exercise of his discretion, he deemed to be unnecessary and declined to hold.

Regulations.

9. (1) The Governor may make regulations—

(*a*) prescribing the duties of the City Coroner or other coroners :

(*b*) prescribing witness and qualifying fees and travelling expenses and other expenses incurred in connection with inquests :

(c) for the regulation of the practice and procedure relating to inquests :

(d) amending or revoking the regulations contained in the first schedule :

(e) providing forms either in addition to or in substitution for the forms in the second schedule :

(f) prescribing any other matter which it may be necessary or convenient to prescribe to carry out this Act.

(2) Until amended or revoked the regulations in the first schedule shall be in force.

PART II.

PART II.

JURISDICTION AND POWERS.

Jurisdiction of coroner.
Cf. 382, 1884, s. 4.
Cf. U.K., 50 & 51, Vict., c. 71, s. 3.

10. (1) When a coroner is informed that—

(a) there is reasonable cause to suspect that any person within the State has died a violent or unnatural death, or has died a sudden death of which the cause is unknown ; or

(b) any person within the State has died in prison or while detained in any hospital for the insane or in such place or under such circumstances as require an inquest under any Act,

the coroner shall have jurisdiction to inquire whether the death has occurred and into the manner and cause of the death of such person.

Cf. U.K., 51 & 52, Vict., c. xxxviii.

(2) Every coroner shall have jurisdiction to inquire into the cause and origin of any fire whereby the life of man or beast has been lost or endangered, or whereby any land or chattels or any other valuable effects have been endangered, destroyed, or damaged—

(a) if he is of opinion that the inquiry should be held ; or

(b) if the Attorney-General directs him to hold an inquest ; or

(c) if a request is made pursuant to section 72 of the Fire Brigades Act, 1936, or section 27 of the Bush Fires Act, 1933.

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s. 10 (2). The expression "section 72 of The Fire Brigades Act, 1913," altered to "section 72 of the Fire Brigades Act, 1936," pursuant to the Acts Republication Act, 1934.

11. (1) Where, after considering any information as to any death or fire, the coroner deems an inquest unnecessary, he shall forward to the Attorney-General a notice stating that he deemed an inquest unnecessary, and the reason for coming to that opinion.

Procedure where inquest deemed unnecessary. Cf. 332, 1884, s. 6 (part).

(2) Nothing in this section shall be deemed to give any discretion to a coroner to hold an inquest or not where pursuant to any law the coroner is required to hold an inquest.

12. Every coroner shall have in respect of all inquests all the powers, authority, and jurisdiction which belong to the office of a coroner in England except so far as inconsistent with this Act.

Powers of coroner. Cf. 332, 1884, s. 4.

13. No coroner being a medical practitioner shall be competent or compellable to hold an inquest upon the body of any person whom he attended professionally at or immediately before such person's death or during his last illness.

Special provision as to medical practitioner acting as coroner.

14. An inquest concerning the death of any person may be commenced or held on a Sunday if in the opinion of the coroner that course is necessary or desirable.

Inquests on Sundays. 332, 1884, s. 7.

15. Where it appears to a coroner that there is grave suspicion that any person whose body has been buried has died a violent or unnatural death, or a sudden death of which the cause is unknown, the coroner may, with the consent of the Attorney-General, issue his warrant for the exhumation of the body, for the purpose of holding an inquest thereon.

Exhumations. 332, 1884, s. 5. Cf. U.K., 20 & 21. Vict., c. 81, s. 25.

PART III.

INQUESTS AND INQUISITIONS.

16. It shall not be necessary for the coroner on any inquest of death to view the body of the deceased or on any inquest of fire to view the scene of the fire, unless the coroner deems it advisable to do so.

View of body. Cf. W.A., 24, 1920, s. 10. Cf. U.K., 16 & 17, Geo. 5, c. 59, s. 14.

s. 12. COMYN v. WILLSHIRE (1875) 9 S.A.L.R. 161; 4 Austn. Digest 313. Held that a coroner has power to fine for contempt and to commit on default of payment. *Semble*, that a coroner's court is a court of record.

Abolition of coroner's juries.
Cf. U.K., 16 & 17, Geo. 5, c. 59, s. 13.

17. Inquests shall be held by a coroner without a jury.

Rights of appearance before coroner.
Cf. 332, 1884, s. 17.

18. (1) At any inquest any person who in the opinion of the coroner has a sufficient interest in the subject or result of the inquest—

(*a*) may attend personally or by counsel; and

(*b*) may examine and cross-examine witnesses: Provided that such examination and cross-examination is in the opinion of the coroner relevant to the subject of the inquest, and is conducted according to the law and practice of coroners' inquests.

(2) The coroner shall not be bound to observe the rules of procedure and evidence applicable to proceedings before a court of law, but no witness shall be compelled to answer any question which criminates him or tends to criminate him of any felony, misdemeanour, or offence.

Inquests on death.
Cf. U.K., 50 & 51, Vict., c. 71, s. 4 (1).

19. Where an inquest concerning the death of any person is held—

(*a*) the coroner shall examine on oath touching the death all persons whom he thinks fit to examine and who tender their evidence or who in the opinion of the coroner are able to give any relevant evidence respecting the facts:

(*b*) after hearing the evidence the coroner shall give his decision or finding and certify it by an inquisition in writing setting forth so far as such particulars have been proved—

(i.) who the deceased was;

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

Cf. U.K., 50 & 51, Vict., c. 71, s. 4 (3).

(iii.) if he came by his death by murder or manslaughter or negligent driving of a motor vehicle the persons, if any, found to have been guilty of that offence.

Inquests on fires.

20. (1) Where an inquest concerning a fire is held the coroner shall examine on oath touching the cause and origin of the fire all persons whom he thinks it expedient to examine and who tender their evidence or who, in the opinion of the coroner, are able to give any relevant evidence respecting the facts.

(2) After hearing the evidence the coroner shall give his decision or finding and certify it by an inquisition in writing setting forth so far as has been proved, the cause and origin

of the fire, and also if he finds that any offence punishable in the Supreme Court was committed in connection with the fire, the persons (if any) found to have been guilty of that offence.

Depositions. 332, 1884 s. 19. Cf. U.K., 50 & 51, Vict., c. 71, s. 4 (2).

21. (1) Every coroner upon any inquest by or before him taken shall put into writing or cause to be put in writing the evidence given before him or so much thereof as is material.

(2) The depositions so taken shall be read over to or by and signed by the witnesses respectively who have been examined, and the coroner shall subscribe the same.

(3) The depositions so taken shall on the trial of any persons be admissible in evidence in the like manner and to the same extent as are depositions taken on the preliminary hearing by a justice of an indictable offence.

General powers of coroner. Cf. U.K., 50 & 51, Vict., c. 71, s. 5. Cf. U.K., 16 & 17, Geo. 5, c. 59, s. 25.

22. (1) Subject to this Act, a coroner shall have all the powers conferred upon a justice by the Justices Act, 1921, in respect of the preliminary hearing of an indictable offence and all the provisions of the Justices Act, 1921, relating or applicable to such proceedings before a justice shall, *mutatis mutandis*, apply to inquests.

(2) Where a coroner's inquisition charges any person with the commission of any offence he shall have the like powers and duties as to committing that person for trial as might be exercised by a justice if he were charged before the justice.

Provision as to suicide. 332, 1884, s. 25. Cf. U.K., 45 & 46, Vict., c. 19.

23. (1) The verdict of *felo de se* is hereby abolished.

(2) It shall not be lawful for a coroner to forbid the rites of Christian burial at the interment of any person who has committed suicide or died by his own act, 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.

Medical witnesses. 332, 1884, s. 11 (part) Cf. W.A., 24, 1920, s. 38. Cf. U.K., 50 & 51, Vict., c. 71, s. 21.

24. In any inquest concerning the death of any person, the coroner may summon as a witness any medical practitioner who attended the said person whether at or immediately before his death or otherwise.

Post-mortem examinations. Cf. 332, 1884, s. 11 (part). W.A., 24, 1920, s. 40. Cf. U.K., 50 & 51, Vict., c. 71, s. 21 (2). Cf. U.K., 16 & 17, Geo. 5, c. 59, s. 22.

25. (1) The coroner may either in such summons as aforesaid or by an order in writing at any time before the termination of the inquest direct any medical practitioner to make a post-mortem examination of the body of the deceased with or without any analysis of the contents of the stomach or intestines or other organs: Provided that if it appears to the coroner that the death of the deceased was or might have been caused

PART III.

partly or entirely by the improper treatment of a medical practitioner or other person, that medical practitioner or other person shall not be allowed to perform or assist at any such post-mortem examination or analysis.

Cf. U.K., 16 & 17, Geo. 5, c. 59, s. 21.

(2) If a coroner thinks it advisable to have a post-mortem examination made of—

(*a*) a body of any person who has died and the cause of whose death is unknown or is in doubt; or

(*b*) a body respecting which a doubt exists whether it is that of a still-born child,

to assist him in deciding whether or not an inquest ought to be held he may at any time and without holding an inquest by order in writing direct any medical practitioner to make a post-mortem examination of the body and to report thereon to the coroner.

PART IV.

PART IV.

GENERAL.

Coroners offending against Act.

332, 1884, s. 24. Cf., U.K., 50 & 51, Vict., c. 71, ss. 8, 9.

26. If any coroner offends in anything contrary to the true intent and meaning of the provisions of this Act, the Supreme Court may, upon proof of the offence, in a summary way inflict such fine on the coroner as the court thinks fit.

Enforcement of coroner's order

27. (1) On default in payment of any fine imposed pursuant to this Act or any power conferred pursuant to section 22, the coroner may 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 the court of summary jurisdiction nearest to where such person resides.

(2) In every case in which a certificate has been transmitted to a clerk of a court of summary jurisdiction in pursuance of this section the payment of the fine imposed shall be enforced as if the fine had been imposed by the court of summary jurisdiction.

PART IV.

Duty to notify discovery of dead body.

Cf. 332, 1884, s. 6. Cf. U.K., 37 & 38, Vict., c. 88, ss. 10 and 11.

28. Whenever any dead body is found or any case of sudden violent or apparently unnatural death occurs, any person knowing or becoming acquainted with the death or knowing of any dead body being found shall forthwith give notice thereof to the member of the police force in charge of the nearest police station, and in default thereof shall be guilty of an offence punishable summarily and liable to a penalty not exceeding ten pounds.

Place for holding of inquests.

Cf. 922, 1907, s. 8.

29. (1) Inquests shall, wherever possible and convenient, be be held at court houses, police stations, or other buildings the property of the Government.

(2) Nothing in this section shall prevent an inquest being held in any building or place.

Returns by coroner.

Cf. 332, 1884, s. 23.

30. A coroner, before whom an inquest is held, shall make to the Attorney-General a return certified by the coroner showing—

(*a*) the names of all the witnesses examined at the inquest:

(*b*) an account of all sums of money ordered or authorised to be paid on account of the inquest:

(*c*) in the case of a coroner, other than the City Coroner or the Deputy City Coroner, the number of miles he was compelled to travel from his usual place of residence to hold the inquest and the number of days during which the inquest or any adjournment continued.

Forms.

31. The forms in the second schedule and any other forms prescribed by regulation may be used in proceedings under this Act to which they are applicable and shall be valid and sufficient.

Moneys to be voted by Parliament.

32. The moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament for those purposes.

SCHEDULES.

THE FIRST SCHEDULE.

REGULATIONS.

Witnesses.

1. If in the opinion of the coroner holding any inquest it is expedient to pay any witness for his attendance at the inquest or for qualifying himself to give evidence at the inquest, the coroner may sign an order authorising the payment to the witness of such sum of money as to the coroner shall seem reasonable but not exceeding the rate allowed at the Adelaide Police Court for the attendance of witnesses before that court.

2. The fees to be paid to any medical practitioner for attending at any inquest shall be in the discretion of the coroner but shall not exceed the sum of one guinea and a half for each day's attendance.

3. The fees to be paid to any medical practitioner for making any post-mortem examination shall be two guineas:

Provided that—

(*a*) no remuneration shall be paid for the performance of any post-mortem examination made without the previous direction of the coroner:

(*b*) when the death has happened in or at a public hospital or a prison or a mental hospital or other institution no medical officer appointed at a salary or other remuneration to attend the public hospital, prison, or mental hospital shall be entitled to such remuneration.

4. In addition to any other fee paid to a witness the coroner may in his discretion sign an order authorising the payment to any witness of a reasonable sum for railway fare or other mode of conveyance not exceeding per mile one way one shilling.

5. The coroner may in his discretion allow such fee as he shall consider reasonable to any professional, scientific, or expert witness for qualifying to give evidence and shall sign an order authorising the payment of the fee, but the fee shall not exceed the sum of one guinea and a half for each day's attendance.

THE SECOND SCHEDULE.

FORMS.

Summons to a Witness.

South Australia, } Whereas I am informed that you can give evidence on behalf of His
to wit. } Majesty touching the death of (or a certain fire): Now by virtue of my office, and in His Majesty's name, I charge and command you personally to be and appear before me at at o'clock in the noon, then and there to be examined and give evidence on His Majesty's behalf before me and my inquest touching the premises.

Given under my hand and seal this day of one thousand nine hundred and .

To

(L.S.) , Coroner.

Summons for the Attendance of a Medical Witness.

Coroner's inquest at touching the death of

By virtue of this my order as coroner you are required to appear before me at on the day of at o'clock of the noon, to give evidence touching the cause of death of (Add the following if necessary, and make or assist a post-mortem examination of the body of the said and report thereon at the said inquest.)

To

(L.S.) , Coroner.

Warrant against a Witness for Contempt of Summons.

South Australia, to wit. } Whereas I have received credible information that of can give evidence on behalf of His Majesty touching the death of (or a certain fire): And Whereas the said having been duly summoned to appear and give evidence before me and my inquest touching the premises at the time and place in the said summons specified, of which oath hath been duly made before me, hath refused and neglected so to do, to the great hindrance and delay of justice, these are therefore, by virtue of my office, in His Majesty's name to charge and command you, or one of you, without delay to apprehend and bring before me, one of His Majesty's coroners for the said State, now sitting at aforesaid, by virtue of my said office, the body of the said that he may be dealt with according to law, and for so doing this is your warrant.

Given under my hand and seal this day of one thousand nine hundred and

To

(L.S.) , Coroner.

Police constable, and all constables and peace officers of the said State.

Oath of Witnesses.

The evidence which you shall give at this inquest on behalf of our Sovereign Lord the King touching the death of A.D. (or a certain fire), shall be the truth, the whole truth, and nothing but the truth—So help you God.

Oath of Interpreter.

You shall well and truly interpret unto the several witnesses here produced on behalf of our Sovereign Lord the King, touching the death of , (or a certain fire), the oath that shall be administered unto them, also the questions and demands which shall be made to the witnesses by the court concerning the matter of this inquiry, and you shall well and truly interpret the answers which the witnesses shall thereunto give according to the best of your skill and ability—So help you God.

Affirmation by Persons Refusing from Conscientious Motives to Be Sworn upon the Coroner being Satisfied of the Sincerity of such Objections.

I, A.B., do solemnly, sincerely, and truly affirm and declare that the taking of any oath is, according to my religious belief, unlawful; and I do also solemnly, sincerely, and truly affirm and declare that the evidence I shall give touching the death of (or a certain fire), shall be the truth, the whole truth, and nothing but the truth.

Warrant of Commitment.

To , constable, and to the keeper of the at in the State of South Australia:

South Australia, to wit. } Whereas by an inquisition taken before me, one of His Majesty's coroners for the said State, the day and year undermentioned, touching the death of C.D., (or as to the cause and origin of a certain fire), A.B. stands charged that he feloniously and wilfully did

These are therefore, by virtue of my office, in His Majesty's name to charge and command you or any of you forthwith safely to convey the body of the said A.B. to His Majesty's gaol at ; and these are, likewise by virtue of my said office, in His Majesty's name, to will and require you, the said keeper, to receive the body of the said A.B. into your custody, and him safely keep in the said gaol until he shall be thence discharged by due course of law, and for your so doing this shall be your warrant.

Given under my hand and seal at , in the said State, this day of , one thousand nine hundred and .

(L.S.) , Coroner.

Warrant of Commitment for Contempt of Court.

To and to all constables and peace officers of the State of South Australia and to the keeper of the gaol at .

South Australia, to wit. } Whereas upon an inquiry this day made before me, Justice of the Peace, one of His Majesty's coroners for the said State, at , touching the death of , how and by what means he came to his death (or touching the cause and origin of a certain fire) one A.B. did unlawfully and wilfully insult me, the said coroner, when in attendance at my said inquest (or did unlawfully and wilfully interrupt the proceedings of my said inquest, *or otherwise*), and I did therefore adjudge the said A.B. for his said offence to be imprisoned in the gaol at for the space of : These are therefore to command you, the said , and you the said constables and peace officers, to take the said A.B. and him safely convey to the gaol aforesaid, and there to deliver him to the keeper thereof, together with this precept; and I do hereby command you, the said keeper, to receive the said A.B. into the said gaol, and there to imprison him for the space of and for so doing this shall be your sufficient warrant.

Given under my hand and seal this day of one thousand nine hundred and .

(L.S.) , J.P., Coroner

Deposition of Witness.

South Australia, to wit. } The examination of , of taken and acknowledged on behalf of our Sovereign Lord the King, touching the death of (or a certain fire) at the house of , at on the day of , one thousand nine hundred and , before me, , one of His Majesty's coroners for the said State, on an inquisition then and there taken.

This deponent saith—

Warrant to Bury.

South Australia, to wit. } To the constables of the State of South Australia, and to all others whom it may concern:

Whereas, I, with my inquest, the day and year hereunder written, have made inquiry respecting the death of I.D. of who died at on and have proceeded therein according to law: These are therefore to certify that you may lawfully permit the body of the said I.D. to be buried, and for so doing this shall be your warrant.

Given under my hand and seal, the day of .

(L.S.) , Coroner.

Warrant to Take Up a Body Interred.

South Australia, to wit. } To and all constables of South Australia, and to all others whom it may concern:

Whereas complaint hath been made unto me, one of His Majesty's coroners for the State of South Australia, that on the day of the body of one G.R. was privately and secretly buried in in the said State; and that the said G.R. died not of a natural but violent death: And whereas no notice of the violent death of the said G.R. hath been given to any of His Majesty's coroners for the said State whereby, on His Majesty's behalf, an inquisition might have been taken touching the death of the said G.R. before his interment, as by law required: These are therefore, by virtue of my office, in His Majesty's name to charge and command you that you may forthwith cause the body of the said G.R. to be taken up and safely conveyed to in the said State that I, with my inquest, may proceed therein according to law.

Given under my hand and seal the day of .

(L.S.) , Coroner.

said G.R. to be taken up and safely conveyed to in the said State that I, with my inquest, may proceed therein according to law.

Given under my hand and seal the day of .

(L.S.) Coroner.

Coroner's Certificate where an Inquest is Deemed Unnecessary.

South Australia, to wit, } To all constables of South Australia, and to all others whom it may concern:

I, the undersigned, , being one of His Majesty's Justices of the Peace, and a coroner for the State of South Australia, having made inquiry respecting the death of , of , who died at on the day of , do hereby certify that there is not, in my opinion, any necessity for holding an inquest upon the body of the said , and that the body of the said may be buried.

Given under my hand this day of , one thousand nine hundred and .

J.P., Coroner.

(The age, occupation, and last known place of abode of the deceased is to be indorsed on this certificate when possible.)

Coroner's Certificate where an Inquest on a Fire is deemed Unnecessary.

To all constables of the State of South Australia, and to all others whom it may concern:

I, the undersigned, , being one of His Majesty's Justices of the Peace for the State of South Australia, having made inquiries respecting the cause or origin of a fire which occurred at on the day of , one thousand nine hundred and , do hereby certify that there is not, in my opinion, any necessity for holding an inquest upon the said fire at .

Given under my hand the day of , one thousand nine hundred and .

J.P., Coroner.

Authority to Perform Post-mortem.

Whereas I am informed that a dead body believed to be that of now lies at , now by virtue of my office and in His Majesty's name, I charge and command you personally to make a post-mortem examination of the said body and report thereon to me.

Given under my hand this day of one thousand nine hundred and .

To Dr.

, Coroner.

Other proceedings may be in the like forms as before justices of the peace, *mutatis mutandis*.