

1967

VICTORIA.



ANNO SEXTO DECIMO

ELIZABETHÆ SECUNDÆ REGINÆ

No. 7651.

An Act to consolidate and amend the Law relating to Juries, to amend the *Coroners Act* 1958, the *County Court Act* 1958, the *Crimes Act* 1958 and the *Evidence Act* 1958, and for other purposes.

[19th December, 1967.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

Short title.

1. (1) This Act may be cited as the *Juries Act* 1967.

Commencement.

(2) This section and sub-section (3) of section 2 shall come into operation on the day this Act receives the Royal Assent and the other provisions of this Act shall come into operation on a day or the respective days to be fixed by proclamation or successive proclamations of the Governor in Council published in the *Government Gazette*.

Division into Parts.

(3) This Act is divided into Parts as follows :—

- Part I.—Liability for Jury Service ss. 4–6.
- Part II.—Jury Districts and Jury Lists ss. 7–9.
- Part III.—Pre-selection of Jurors ss. 10–13.
- Part IV.—Summoning of Jurors ss. 14–30.

Part

Part V.—Proceedings upon Trial, &c., ss. 31–51.

Part VI.—Pools of Jurors ss. 52–57.

Part VII.—Compensation of Jurors ss. 58–64.

Part VIII.—Offences and Penalties ss. 65–71.

Part IX.—General ss. 72–75.

2. (1) The Acts mentioned in Schedule 1 to the extent thereby expressed to be repealed or amended are hereby repealed or amended accordingly. Repeal and amendment.
Schedule 1.

(2) Except as in this Act expressly or by necessary implication provided—

(a) all persons things and circumstances appointed or created by or under the repealed Acts, or existing or continuing under such Acts immediately before the commencement of this Act, shall under and subject to this Act continue to have the same status operation and effect as they respectively would have had if such Acts had not been so repealed ;

(b) in particular and without affecting the generality of the foregoing paragraph such repeal shall not disturb the continuity of status operation or effect of any proclamation jurors' roll order rule application appointment exemption award notice claim certificate fee warrant summons writ precept liability or right made granted given fixed issued accrued incurred or acquired or existing or continuing by or under such repealed Acts before the commencement of this Act but notwithstanding anything in this Act a notice served on the Chief Electoral Officer under the *Juries Act* 1958 by a woman cancelling her liability to serve as a juror shall have no further force or effect after the commencement of Part III.

(3) The jurors' books for the several jury districts in force immediately before the commencement of this sub-section shall notwithstanding anything to the contrary in any Act and notwithstanding any redivision of electoral districts for the Legislative Assembly or division or redivision into subdivisions of any electoral district or any alteration of boundaries of any jury district continue to be in force in respect of the assize sessions and county court towns to which the jury districts relate until the commencement of Part III. Present jurors' books to continue in force until commencement of Part III.

3. In this Act unless inconsistent with the subject-matter or context— Interpretation.
No. 6281 s. 3.

“Additions” used in reference to any juror means “Additions.”
description as to residence and profession trade or occupation of such person.

“Card”

"Card."	"Card" includes paper or other similar material.
"Civil inquest."	"Civil inquest" means trial of any issue or inquiry of damages before a court of civil jurisdiction.
"County Court town."	"County Court town" means every place at which sittings of the County Court are held which is not a Supreme Court or sessions town.
"Court."	"Court" includes Supreme Court court of general sessions of the peace and County Court and also judge or chairman of any such court.
"Criminal inquest."	"Criminal inquest" means trial before a court of criminal jurisdiction of any issue joined upon an indictment for any indictable offence.
"Indictment."	"Indictment" includes information inquisition and presentment.
"Inquest."	"Inquest" includes both criminal and civil inquests.
"Prescribed."	"Prescribed" means prescribed by the regulations.
"Prothonotary."	"Prothonotary" means the prothonotary of the Supreme Court and includes a deputy of the prothonotary.
"Questionnaire."	"Questionnaire" means the questionnaire referred to in section 10.
"Sessions town."	"Sessions town" means every place at which a court of general sessions of the peace is held which is not a Supreme Court town.
"Sheriff."	"Sheriff" means the sheriff of Victoria a deputy or a person acting in place of the sheriff pursuant to section 72.
"Supreme Court town."	"Supreme Court town" includes the city of Melbourne and every place which may for the time being be fixed as a place at which sittings of the Supreme Court are to be held.
"Trial."	"Trial" includes inquiry.
"View."	"View" includes inspection, and "viewers" includes inspectors.
"Viewers."	

PART I.—LIABILITY FOR JURY SERVICE.

Persons
qualified and
liable to serve
as jurors.
Comp.
No. 6281 s. 4.
Schedule 2.

4. (1) Subject to this section and section 5 every person enrolled as an elector for the Legislative Assembly shall be qualified and liable to serve as a juror.

(2) Any person referred to in Schedule 2 is disqualified from serving as a juror.

Schedule 3.

(3) Any person referred to in Schedule 3 is ineligible to serve as a juror.

(4) Any

(4) Any person who is or is a member of a class referred to in Schedule 4. Schedule 4 is entitled as of right to be excused from serving as a juror if he claims to be excused in accordance with the provisions of this Act.

(5) Any person may pursuant to the provisions of this Act be excused for good reason from serving as a juror.

5. (1) No person—

(a) who is engaged in the business of liability insurance (that is to say the insurance or indemnity of persons against liabilities to which they may be subject by law); or

(b) who is employed in any capacity by a person or company carrying on the business of liability insurance otherwise than as an agent—

shall serve as a juror on any civil inquest.

(2) Any such person summoned to serve as a juror for a civil inquest who fails to inform the court that he is so engaged or employed shall be guilty of an offence against this Act.

Penalty : \$200 or in default imprisonment for 50 days.

6. No want of qualification or ineligibility if not submitted before the juror is sworn shall afterwards form a sufficient reason for impeaching any verdict.

Certain persons connected with insurance not to act as civil jurors.

No. 6281 s. 8.

Verdict not to be impeached by want of qualification or ineligibility of juror.

No. 6281 s. 7.

PART II.—JURY DISTRICTS AND JURY LISTS.

7. (1) There shall be a jury district for every Supreme Court town sessions town and County Court town.

(2) The jury district for Melbourne shall be the area comprising the electoral districts or subdivisions thereof for the Legislative Assembly set forth in Schedule 5.

(3) The jury district for every other such town shall consist of the electoral subdivisions of electoral districts for the Legislative Assembly set forth in Schedule 6.

(4) Whenever any town is constituted a Supreme Court town sessions town or County Court town the Governor in Council by proclamation published in the *Government Gazette*—

(a) shall declare which electoral districts or subdivisions for the Legislative Assembly shall form the jury district for that town; and

(b) may amend or vary Schedules 5 and 6 in order to exclude an electoral district or subdivision from a jury district where that electoral district or subdivision is declared under this sub-section to form part of a new jury district.

(5) Where

Jury districts.
No. 6281 s. 10.

Schedule 5.

Schedule 6.

(5) Where a proclamation has been made under paragraph (b) of sub-section (4) the Governor in Council may by proclamation published in the *Government Gazette* amend or vary Schedules 5 and 6 in order to include in a jury district an electoral district or subdivision which was excluded from that jury district by the first-mentioned proclamation.

Preparation of
jury lists.
Comp.
No. 6281 s. 11.

8. (1) The sheriff shall from time to time notify the Chief Electoral Officer of the number of persons that in his estimate will be required for jury service for any jury district for the next ensuing period of not more than fifteen months nor less than six months as he sees fit.

(2) The Chief Electoral Officer shall as soon as practicable after being so notified select at random from the electoral rolls for the subdivisions of the electoral districts for the Legislative Assembly in that jury district such number of persons apparently qualified and liable to serve as jurors in that district as is so required.

(3) The Chief Electoral Officer shall forthwith on completion of the selection at random pursuant to sub-section (2) send a list of the persons selected and their additions in respect of each jury district to the sheriff and each such list shall be the jury list for that district until a new list has been prepared in accordance with the provisions of this Act notwithstanding any alteration in the boundaries of the district during the period for which such list has been issued.

(4) Nothing in this Act shall require the Chief Electoral Officer to include in any jury list—

- (a) any woman until he has been given notice in writing by the Attorney-General that he is to include women in the next jury list prepared for any specified district ; or
- (b) any person who apparently resides more than twenty miles from the court house at which he would be required to serve.

Re-definition
of jury
districts.
No. 6281
s. 10.

9. (1) If pursuant to the powers contained in *The Constitution Act Amendment Act* 1958 or any other Act any electoral district for the Legislative Assembly is at any time redivided into subdivisions the Governor in Council may by proclamation published in the *Government Gazette* make such alterations in Schedules 5 and 6 as are necessary because of such redivision and Schedules 5 and 6 shall to the extent specified in such proclamation be deemed to be amended accordingly as from the date specified in such proclamation.

(2) If

(2) If pursuant to the powers contained in *The Constitution Act Amendment Act 1958* or any other Act a redivision of the State into electoral districts for the Legislative Assembly is adopted or is deemed to be adopted and such electoral districts are divided into subdivisions the Governor in Council may by proclamation published in the *Government Gazette* determine which of such new electoral districts or subdivisions thereof shall comprise the jury district for each Supreme Court town sessions town and County Court town and Schedules 5 and 6 shall be deemed to be amended accordingly as from the date specified in such proclamation.

(3) Whenever a new jury district is declared under this Part the Chief Electoral Officer shall on the request in writing of the sheriff prepare forthwith a jury list for that district in accordance with the provisions of this Act and shall forward the list to the sheriff.

Chief Electoral Officer to prepare jury lists for new districts. No. 6281 s. 16.

(4) On the receipt of any such jury list from the Chief Electoral Officer the sheriff shall deal therewith in accordance with the provisions of this Act.

PART III.—PRE-SELECTION OF JURORS.

10. (1) For the purpose of determining the qualification and liability of persons to serve as jurors the sheriff shall from time to time cause to be sent by post to as many persons selected at random from the jury list as he thinks necessary for the purposes of this Act a questionnaire in the prescribed form together with an envelope addressed to the sheriff with postage paid or payable by the sheriff.

Sheriff to pre-select jurors.

(2) A questionnaire shall be addressed to a person at the address recorded in the jury list and the sheriff shall take or cause to be taken such questionnaire together with a copy of a list of persons to whom questionnaires are to be sent signed by the sheriff, to a post office and the person in charge of such post office or a person authorized in that behalf shall (subject to and under any law of the Commonwealth) compare the name and address on the questionnaire with the name and address on the copy of the list and on being satisfied that they are the same shall forward the questionnaire to its address by post and shall return such copy to the person from whom he received it duly stamped with the stamp of the post office.

(3) The production of such stamped copy shall be proof that a questionnaire has been delivered at the address of each person named therein on the day on which in the ordinary course of post it would have been delivered unless it appears that it was returned as undelivered, and any questionnaire so delivered at the post office and not returned as undelivered shall be deemed to have been delivered.

(4) Subject

(4) Subject to and under any law of the Commonwealth any such questionnaire which is not delivered shall be returned to the sheriff by the person in charge of the post office endorsed with the reason for non-delivery.

(5) A person shall within seven days of receipt of a questionnaire complete it in the manner specified therein and return it to the sheriff.

Sheriff to
determine
qualification
and liability
of persons to
serve as jurors.

11. (1) The sheriff shall on receipt of a completed questionnaire from any person determine the qualification and liability of that person to serve as a juror.

(2) The sheriff shall, on receiving from any person a completed questionnaire and a current certificate of exemption from serving as a juror granted to him under section 13 of this Act or under any corresponding previous enactment or sufficient evidence of the grant thereof, determine in accordance with the terms of that certificate that such person is ineligible or excused as of right from serving as a juror.

(3) Any person may claim in his reply to a questionnaire that he ought to be excused by reason of illness or incapacity or any other matter of special urgency or importance from serving as a juror during the whole or any part of the period for which the jury list is current and the sheriff on being satisfied by proof on oath or by affidavit or statutory declaration that there is good reason may if he thinks fit excuse such person for the whole or any part of the period for which the jury list is current, and shall make a record thereof.

(4) The sheriff shall give notice in writing by post to any person whom he determines—

(a) is disqualified ineligible or entitled to be excused from serving as a juror ; or

(b) is qualified and liable to serve as a juror and whose claim to be disqualified ineligible or entitled to be excused he has not accepted.

(5) Any person aggrieved by a determination of the sheriff of which he has received notice under sub-section (4) may appeal against the determination within seven days of receipt of the notice from the sheriff.

(6) An appeal made under sub-section (5) shall be lodged with the sheriff and shall be determined subject to and in accordance with the rules by a Judge of the Supreme Court or by a Judge of the County Court.

(7) The

(7) The sheriff shall on determining the qualification and liability of any person to serve as a juror cause to be recorded in respect of that person that he is—

- (a) liable ;
- (b) disqualified ;
- (c) ineligible ;
- (d) excused as of right ; or
- (e) excused for good reason.

(8) The persons recorded as liable to serve as jurors under sub-section (7) shall be the persons from whom the sheriff shall from time to time select jurors under section 20.

12. No claim to be excused as of right if not submitted in reply to the questionnaire shall afterwards constitute a sufficient reason for excusing any person from serving as a juror during the currency of the jury list.

Claim to be excused as of right to be submitted in reply to questionnaire.

13. (1) On proof on oath or by affidavit or statutory declaration to the satisfaction of the sheriff by a person whom he has recorded as liable for service as a juror—

Excuse of jurors for special reasons and exemption from jury service in certain cases.
No. 6281 s. 9.

- (a) that such person ought to be excused from service as a juror by reason of any illness or incapacity or any other matter of special urgency or importance ; and
- (b) that the reason upon which such person relies did not exist at the date when he returned the questionnaire—

the sheriff may if he thinks fit at any time before such person is required by his summons to attend in any court, excuse such person from serving as a juror for the whole or any part of the period of the currency of the jury list.

(2) On proof on oath or by affidavit or statutory declaration to the satisfaction of the court in which a person is summoned to attend and serve as a juror—

- (a) that such person has not applied to the sheriff to be excused as aforesaid but that there was good reason for his failure to apply or has applied and the sheriff has not excused such person ; and
- (b) that such person ought to be excused from attendance by reason of any illness or incapacity or any other matter of special urgency or importance—

the court may at any time if it thinks fit excuse such person from attendance for the whole or any part of the current sittings of the court and the court shall direct the sheriff to make a record thereof.

(3) Notwithstanding

(3) Notwithstanding the provisions of this Part, where it appears to the court to be just and reasonable so to do, the court may determine that a person shall not serve as a juror during the whole or any part of the current sittings of the court.

(4) At the conclusion of any inquest which has required the attendance of jurors for a lengthy period the court may determine that the jurors shall be entitled to be excused as of right from serving as jurors for such ensuing period not exceeding ten years as the court specifies and the court shall notify the sheriff who shall issue to those jurors a certificate of exemption accordingly.

PART IV.—SUMMONING OF JURORS.

Civil juries.
No. 6281 s. 17.
No. 6230 s. 70.

14. (1) Subject to sections 16 and 17—

(a) a civil inquest in the Supreme Court shall be had by a jury of six ; and

(b) a civil inquest in the County Court shall be had by a jury of four.

Criminal juries.

(2) Every criminal inquest shall be had by a jury of twelve.

Fees for civil
juries.
No. 6281 s. 19.

15. (1) The party entering any civil case for trial by a jury of six in the Supreme Court shall pay to the prothonotary as fees for jurors the sum of \$72 and if for trial by a jury of twelve the sum of \$144 or if the sum of \$72 has already been paid the additional sum of \$72.

No. 6230 s. 70.

(2) A party requiring a civil case to be tried by a jury of four in the County Court shall pay to the registrar or assistant registrar of the court the sum of \$48 and if by a jury of six the sum of \$72 or if the sum of \$48 has already been paid the additional sum of \$24.

(3) On the second and every subsequent day of the trial of any civil case there shall be paid to the sheriff or such officer of the court as is prescribed by the party who required such case to be tried by such jury at or before the opening of the court on each such day the amount required to pay the fees for jurors for that day.

(4) If any sum referred to in sub-section (3) is not so paid then the court shall unless such sum is paid by any other party discharge the jury and proceed to finish the hearing of the trial and determine it without a jury notwithstanding that it commenced with a jury.

(5) No

(5) No fees shall be payable when a jury is required in any civil case in consequence of the order of the court otherwise than on the application of any party to the case.

(6) Fees for jurors shall be payable at such time and in such manner as are prescribed.

16. (1) The party entering any civil case for trial by a jury in the Supreme Court may enter it for trial by a jury of twelve, and the trial shall be had before such jury ; and if one party enters such case for trial by a jury of six the other party may also procure the trial to be had by a jury of twelve upon giving notice to the opposite party of his intention within one day after notice of trial and upon paying to the prothonotary the sum of \$72 for additional fees for jurors, and the case shall be entered or if already entered shall be transferred for trial accordingly ; and the court may at any time order that the trial shall be had by a jury of twelve upon such terms as it thinks fit.

As to juries of twelve in civil cases. No. 6281 s. 20.

(2) The party who procures any trial to be had by a jury of twelve shall pay all the expenses occasioned thereby, and shall have no further allowance upon taxation of costs than if the trial had been had by a jury of six, unless the judge before whom the trial has been held certifies upon the record that the case was proper for a jury of twelve.

Costs where trial by jury of twelve procured in civil cases.

17. Whenever pursuant to the *County Court Act 1958* a jury has been required to try any action, four jurors or (when any party to the action so requires) six jurors shall be impanelled and sworn and shall sit apart from the judge in like manner as a jury in the Supreme Court.

Juries of six in County Court. No. 6230 s. 70.

18. Where a settlement is made before the hearing of a civil case in respect of which any party has paid fees for jurors and that party has notified the sheriff in writing of the settlement not later than ten o'clock in the morning on the third day before the day fixed for the hearing of the case, the sheriff shall cause the amount of those fees less 25 per centum thereof, to be refunded to that party.

Refund of jury fees.

19. (1) No precept shall be required to be issued by any officer for the summoning of jurors for the trial of inquests in any court.

No precept required.

(2) Every court shall continue to exercise the power it exercised or possessed before the commencement of this Act of making an order for the return of jurors for any inquest or for amending or enlarging any panel, and such jurors shall be summoned in such manner as the court making such order directs.

Oral precept for jury. No. 6281 s. 22.

20. (1) The

Preparation
of panels.
Comp.
No. 6281
s. 23.

20. (1) The sheriff shall as often as necessary prepare panels of persons from which juries may be struck for inquests in each court in every jury district.

(2) The panel for each court shall contain the names and additions of persons selected at random from those persons previously selected pursuant to Part III. and liable to serve as jurors in the jury district for that court.

(3) Where the number of persons previously selected pursuant to Part III. is insufficient to complete the panel for a court the sheriff shall cause to be selected at random from the jury list additional persons to complete that panel.

(4) The sheriff shall as often as necessary ascertain from the proper officer of each court within the jury district for Melbourne the requirements from time to time of that court for jurors for the trial of inquests.

Copies of
panels to be
made.
No. 6281 s. 25.

21. (1) For the purposes of this Act the sheriff shall cause to be made a sufficient number of copies of every panel.

(2) Subject to this Act the sheriff or any of his officers shall not make known to any person the names in any panel from which the jury is to be struck in any inquest.

(3) A copy of every panel from which the jury is to be struck in every criminal inquest shall be forwarded to the Chief Commissioner of Police not later than 21 days before the day appointed for the holding of the inquest, and the Chief Commissioner of Police shall make such inquiries as he sees fit as to whether any person disqualified under section 4 from serving as a juror is named on such panel and shall report the result of those inquiries to the sheriff.

(4) Notwithstanding anything in this section—

(a) where at a sittings of any court juries will be struck for civil inquests only the sheriff shall cause to be available for inspection at his office until the termination of those sittings a copy of the panel from which the juries will be struck ;

(b) where juries will be struck for both criminal and civil inquests from the same panel—

(i) no jury shall be struck for a civil inquest until all juries for criminal inquests have been impanelled ;

(ii) the sheriff shall when all juries for criminal inquests have been impanelled cause to be available for inspection at his office until the termination of the sittings a copy of the panel from which the juries for civil inquests will be struck ; and

(iii) a copy

- (iii) a copy of the panel referred to in sub-paragraph (ii) shall not contain the name of a person who has served as a juror in a criminal inquest at those sittings.

(5) A copy of a panel available for inspection under this section shall be delivered to any person on payment of such sum not exceeding \$2 as is fixed by order of the Governor in Council published in the *Government Gazette*.

22. A copy of the panel from which the jury will be struck, with the full name and additions of every juror, shall be given to any person informed against for treason or misprision of treason ten days before his arraignment.

List of jurors to be given to persons accused of treason.
No. 6281 s. 18.

23. (1) When each panel has been completed the sheriff shall issue a summons in the prescribed form to every juror named therein.

Summons to jurors.
No. 6281 s. 26.

(2) Every such summons shall be addressed to the juror at the address recorded in the jury list and the sheriff shall not less than ten days before the day on which the juror is to attend take or cause to be taken such summons together with a copy of the panel signed by the sheriff to a post office and the person in charge of such post office or a person authorized in that behalf shall (subject to and under any law of the Commonwealth) compare the name and address on the summons with the name and address on the copy of the panel and on being satisfied that they are the same shall forward the summons to its address by post and shall return such copy to the person from whom he received it duly stamped with the stamp of the post office.

(3) The production of such stamped copy of the panel shall be proof that any summons mentioned therein has been delivered at the address of the juror on the day on which in the ordinary course of post it would have been delivered unless it appears that it was returned as undelivered, and any summons so delivered at the post office and not returned as undelivered shall be deemed to be duly served.

(4) Subject to and under any law of the Commonwealth any such summons which is not delivered shall be returned to the sheriff by the person in charge of the post office endorsed with the reason for non-delivery.

24. (1) Notwithstanding anything in this Act the Attorney-General may direct either generally or in any particular case that summonses to jurors for criminal inquests shall be served by a member of the police force.

As to service of summonses by police.
No. 6281 s. 27.

(2) Any

(2) Any summons so directed to be served shall be delivered to the member of the police force by whom it is to be served not less than ten days before the day on which the juror is to attend and shall be deemed to be duly served if delivered not less than seven days before the day on which the juror is to attend, to the juror personally at the address shown on it, or, if such juror is absent from such address, by leaving the summons with some person apparently an inmate at such address and apparently not less than sixteen years of age.

Duties of
police serving
summons.
No. 6281 s. 28.

25. (1) A member of the police force who serves any summons on a juror shall complete a list (hereinafter referred to as a summons list) in the prescribed form with particulars of the name and additions of any such juror and the date of service of the summons or the reason for non-delivery thereof and send by post or deliver the summons list to the sheriff.

(2) A summons list shall on production thereof be *prima facie* evidence of the fact that the names and additions of the jurors in such summons list were those endorsed on the summonses from which the summons list was made and of the other facts stated in the summons list.

(3) Except for the purpose of carrying into effect the provisions of this Act or in answer to any question which he is legally compellable to answer every member of the police force who wilfully communicates or makes known to any person whomsoever any information or matter whatsoever relating to jurors which has come to his knowledge in carrying out his duties under this section or under any other provision of this Act relating to the service of summonses on jurors in criminal inquests shall be guilty of an offence against this Act.

Penalty : \$200 or in default imprisonment for 50 days.

Jurors who
do not
attend when
summoned
remain liable
for service.
No juror
liable to serve
again during
currency of
jury list.

26. (1) Any juror who does not attend when summoned shall remain liable for service as a juror.

(2) A juror who has attended when summoned shall not be liable for further service as a juror in the period for which the jury list is current.

Jurors in the
panel to try
issues.
No. 6281 s. 29.

27. Subject to this Act the jurors in the panel shall be the jurors to try all issues upon inquests at the sittings to which they are summoned, and all such proceedings may be taken before such juries in like manner and with the like consequences as before any jury summoned in pursuance of any writ or precept before the commencement of this Act ; and on any trial no assessment of costs or damages by way of costs shall be made.

Mode of
obtaining view
No. 6281 s. 30.

28. (1) The court on the application of any party in any civil inquest if it is of opinion that a view before trial would conduce to the better determination of the question in dispute

may

may make an order for a view of any place or property commanding the sheriff to have a sufficient number of jurors at a time and place to be named in the order.

(2) The sheriff shall cause a jury to be struck from such jurors, the parties being entitled to challenge for cause and peremptorily in like manner in all respects as is herein prescribed in cases of juries for the trial of civil inquests, and shall cause the jury when so struck to view such place or property at some time to be fixed in the order, and the sheriff or some officer approved by the court and two persons appointed by the court and named in the said order shall show such jurors the place or property in question, and no other person shall accompany such viewers.

(3) The party applying for a view shall before or at the time of making the application file an affidavit stating the place at which the view is to be had and the distance from the sheriff's office, and if a view is ordered a sum for the expenses of the view to be fixed by the sheriff, or by the court if the party making the application is dissatisfied with the amount fixed by the sheriff, shall be deposited with the sheriff; and the surplus after payment of expenses of the view including the expenses of the sheriff jurors and other persons shall be returned; and if such sum is not sufficient the deficiency shall be paid upon demand to the sheriff by the party applying.

Costs of view.

29. The sheriff by endorsement on the order shall certify that the view has been had as commanded with the viewers named in the endorsement; and upon the day upon which the trial commences shall deliver the order with the endorsement thereon to the proper officer for the purpose of such viewers being called as jurors.

Proceeding upon order for view.
No. 6281 s. 31.

30. The sheriff shall summon the viewers to attend on the day fixed for the trial and the viewers shall attend accordingly and shall after taking the usual oaths form the jury in the case and for the purposes of section 44 in case of the death or illness of a viewer the trial shall be deemed to have commenced when the view was had.

Viewers to form the jury.
No. 6281 s. 32.

PART V.—PROCEEDINGS UPON TRIAL, ETC.

31. (1) Upon the day named in the summonses to jurors for the attendance of the jurors the sheriff shall in open court deliver the copy of the panel to the proper officer and furnish the names, or subject to this section the names with the additions, of the jurors written on separate cards to enable names to be selected at random and such officer shall put the cards in a box to be used as herein described.

Sheriff to deliver panel with cards.
No. 6281 s. 33.

(2) In

(2) In the case of every civil inquest the names with additions of all the jurors on the panel shall be furnished and written as aforesaid.

(3) Subject to sub-section (4) in the case of a criminal inquest the names and occupations only of all the jurors on the panel shall be furnished and written as aforesaid.

(4) In the case of a criminal inquest where there are on the panel two or more persons of the same name and occupation the names of those persons with additions shall be furnished and written as aforesaid.

Calling of jury.
No. 6281 s. 34.

32. The officer on delivery of the panel shall call aloud the names of the jurors (but unless in any particular case the court otherwise directs not their additions) one after another, and the officer shall make a note of those who answer to their names.

Mode of
selecting jury
in criminal
cases.
No. 6281 s. 36.

33. On any criminal inquest the officer shall draw cards out of the box at random and call aloud the names and occupations of the jurors and where supplied their places of residence from each card until the full number of jurors appear and remain approved as indifferent ; and if before the full number of jurors has been impanelled all the cards have been drawn out of the box the cards of those jurors who by those suing for the Queen are ordered to stand aside shall be returned to the box and shall be redrawn and thereafter those suing for the Queen shall not be entitled to order them to stand aside but may still challenge for cause ; and the twelve jurors so drawn appearing and approved shall be the jury to try the issues on the said inquest.

Peremptory
challenges in
criminal
inquests.
No. 6281 s. 37.

34. (1) Every person arraigned shall be admitted to challenge jurors peremptorily if for any treason or felony for which that person is liable to be sentenced to death to the number of twenty, and if for any other felony or misdemeanour to the number of eight, and every peremptory challenge above those numbers shall be void.

Proper time
for challenging
in criminal
inquests.

(2) In all criminal inquests every challenge shall be made as the juror comes to take his seat and before he takes it.

Assistance by
legal
practitioner
in making
challenge.

(3) On the application of any person arraigned the court shall permit a legal practitioner who represents such person or the clerk of such legal practitioner to assist such person in making any challenge.

Peremptory
challenges in
civil inquests.
No. 6281 s. 38.

35. In all civil inquests the parties shall each be admitted to challenge peremptorily a number equal to one-half of the number of jurors to be impanelled and every peremptory challenge above that number shall be void.

36. For

36. For the purpose of a peremptory challenge in a civil inquest several plaintiffs or defendants who are represented at the inquest by the same legal practitioner shall be deemed to be one plaintiff or defendant (as the case may be) but where several plaintiffs or defendants who are not represented by the same legal practitioner do not consent to join in their challenges each shall be permitted to exercise a right of peremptory challenge to the number and in the manner herein provided.

Where several do not join in their challenges in civil cases.
No. 6281 s. 39.

37. (1) In all civil inquests except where otherwise provided in this Act upon the calling on of the cause for trial the officer of the court shall draw cards at random out of the box and shall call out the name written thereon until the number of jurors required has been obtained after allowing for all challenges for cause which have been upheld, when the officer shall deliver a list of them in writing to the plaintiff who may strike therefrom a number of names equal to one-half the number to be impanelled and the list so reduced shall then be delivered to the defendant by whom an equal number of names may also be struck therefrom, or if the plaintiff or the defendant does not strike out such number or strikes out a greater number than he is entitled then the officer shall strike out or reinstate a number of names sufficient to comply with the provisions of this Act in respect of the plaintiff or the defendant; and the jurors whose names remain upon such list shall be the jurors for the trial of the issues upon the inquest.

Striking of jury for civil inquest.
No. 6281 s. 40.

(2) In this section "plaintiff" includes petitioner and in this and the last preceding section "defendant" includes respondent.

38. In any inquest any challenge to a juror for cause shall be tried by the judge or chairman of general sessions before whom the jury for the trial of that inquest is being impanelled and no juror in respect of whom a challenge has been upheld shall serve in that inquest.

Determination of challenges for cause.
No. 6766 s. 2.

39. Nothing in this Act shall deprive the Crown or any person of the same right of challenge for cause as would exist if this Act had not been passed and on a criminal inquest a member of the grand jury which returned the true bill may be challenged for cause.

Saving of right of challenge for cause.
No. 6281 s. 60.

40. If no objection is made on behalf of the Queen or any party the same jurors who have previously tried the issues on any inquest may try the issues on any other inquest without their names having been returned to the box and redrawn, or the names of some of those jurors may at the request of both parties be withdrawn and others be drawn in their stead, and the issues tried by the jury so formed and so on as often as is required.

Same jury may try several issues.
No. 6281 s. 41.

Either party
may pray a
tales.

No. 6281 s. 42.

41. In every case where the inquest is likely to remain untaken for default of jurors, the court upon request made on behalf of the Queen or any party shall command the sheriff to name so many persons of the jury district duly qualified and liable to serve as jurors then present or who can be found as shall make up the full number of jurors ; and the sheriff shall add their names and additions to the panel, and they shall be deemed to have been included in the panel and shall be subject to challenge for cause or peremptorily.

Criminal
inquests not
to remain
untaken by
reason of
standing aside
by the Crown.

No. 6281 s. 43.

42. No criminal inquest shall remain untaken notwithstanding it is alleged by those suing for the Queen that any of the jurors of those inquests are not indifferent, but they shall assign a cause certain for their challenge which shall be tried under section 38 ; and the inquests shall be taken as it is found if the challenges are true or not.

Swearing
of jury.
Comp. No 6281
s. 34, Sch. 7.
Schedule 7.

43. (1) Subject to sub-section (2) the jurors shall on being impanelled be sworn in open court to the effect of the form in Schedule 7 applicable to the case.

(2) The court may direct that jurors shall be sworn when their names are called by the officer pursuant to section 32 and the officer shall as each juror is sworn make a minute thereof on the panel and jurors who have been sworn shall not need to be resworn unless required by either party or those suing for the Queen or the person arraigned.

Sheriff
authorized to
administer
oaths.
No. 6281 s. 62.

(3) The sheriff shall be a person duly authorized to administer oaths under Division two of Part IV. of the *Evidence Act* 1958 and subject to that Division may administer such oaths as appear to him to be proper for the purposes of this Act.

Mode of
pleading
affirmation in
lieu of oath.
No. 6281 s. 35.

(4) In setting out legal proceedings it shall not be necessary to specify that any particular persons who acted as jurors made affirmation instead of oath but it may be stated that they so acted as if they had made oath.

Power to
continue trials
notwith-
standing
jury reduced
in number.
No. 6281 s. 44.

44. In the event of the death or illness of any juror or of the death or dangerous illness of any near relative of a juror during any inquest, except for a felony for which the accused is liable to be sentenced to death, the court shall have power if it thinks fit to direct that the trial shall proceed with a number of jurors reduced in no case to less than ten where twelve jurors were originally impanelled or five where six jurors were originally impanelled and the verdict of such remaining jurors shall be a sufficient verdict.

Power to
court to order
view during
trial.
No. 6281 s. 45.

45. In any inquest the court may at any time before the verdict order a view of any place or property by the jury and such view shall be had accordingly, and in any civil inquest the court may direct to what amount and by whom in the first instance the expenses of such view shall be paid.

46. (1) In

46. (1) In any criminal inquest where the jurors after six hours' deliberation are unable to agree on their verdict they may be discharged from giving a verdict.

Where jurors cannot agree.
No. 6281 s. 46.

(2) In any civil inquest in the Supreme Court where all the jurors after three hours' deliberation are unable to agree on their verdict the decision of five-sixths may be taken as the verdict of all ; and if after six hours' deliberation five-sixths are unable to agree on their verdict such jurors may be discharged from giving a verdict.

(3) In any such case proceedings may thereupon be taken anew as if no trial had been commenced, and any such civil or criminal inquest may be commenced forthwith or during the same sittings as the court discharging such jury thinks fit to order.

47. In any civil inquest in the County Court the verdict of a majority of the jurors shall be received in the same manner as a unanimous verdict, but where the jury has remained six or more hours in deliberation and the majority do not agree as to the verdict to be given such jury may be discharged by the court from giving any verdict and the action set down for rehearing at such time as the judge may appoint, with a jury if either of the parties wish a jury, otherwise without a jury.

Verdict of jurors in County Court.
No. 6230 s. 70.

48. (1) Subject to sub-section (3) the card of any juror whose name has been called but who has not been impanelled for the inquest shall forthwith be returned to the box, and the cards of the jurors impanelled shall be kept apart until a verdict has been given or until such jurors are discharged, when the cards shall be returned to the box for further use as long as any inquest remains to be taken.

Return of cards to box.
No. 6281 s. 47.

(2) Subject to sub-section (3) if before the jurors in any inquest have brought in their verdict or been discharged any other inquest is brought on to be tried the court may order that a sufficient number of cards for the trial of such other inquest be drawn from the residue in the box and before the cards of such jurors have been returned.

Proceedings in another case after retirement of jury.

(3) At any sittings of a court where juries will be struck for both criminal and civil inquests from the same panel, when all juries for criminal inquests have been impanelled the cards of the jurors shall be replaced with cards for jurors who may serve in a civil inquest.

Cards for jurors where juries for criminal and civil inquests struck from same panel.

49. (1) No juror shall be compelled to attend inquests for more than three consecutive court days, unless on the last of those days any inquest commenced has not been concluded, or unless the court in special circumstances otherwise orders.

Attendance of jurors.
No. 6281 s. 48.

(2) At

(2) At any sittings of a court where it appears that the number of jurors in attendance exceeds the number required at those sittings, the court may direct that a specified number of those jurors be discharged.

(3) Where a court gives a direction under sub-section (2) the jurors to be discharged shall be selected at random.

Payment of
jurors.
No. 6281 s. 49.
Schedule 8.

50. Every juror who has been summoned and has attended (whether he has actually served or not) shall be entitled to receive compensation at the rate mentioned in Schedule 8; and every talesman who has been added to any panel and has served shall be entitled to receive the same compensation for such service as if his name had been originally written on the panel; and no juror except in cases wherein a view under this Part or Part IV. is had shall be allowed to take more than the compensation aforesaid, and in no case shall any juror under any pretence whatever receive any sum by way of remuneration from the parties or any of them.

Jurors to be
allowed
fire or other
means of
heating and
refreshments.
No. 6281 s. 50.

51. Jurors after having been impanelled may in the discretion of the court be allowed at any time before giving their verdict the use of a fire or other means of heating when out of court, and may be permitted by the court to have reasonable refreshment, such refreshment to be procured at the expense of the Crown.

PART VI.—POOLS OF JURORS.

Provision for
institution of
systems of
pools of
jurors for
inquests at
Melbourne.
No. 6466 s. 3.

52. (1) Notwithstanding anything to the contrary in any other Part of this Act or in any other Act or rule of law or practice, systems of pools of jurors for the trial of civil and criminal inquests in the Supreme Court, in the County Court and in the court of general sessions of the peace at Melbourne may from time to time be instituted as hereinafter provided, to the intent that persons summoned as jurors to any such pool shall be liable to serve as jurors in any inquest in any of the courts to which the pool relates.

(2) The provisions of sub-section (2) of section 19, section 40, section 41, sub-section (2) of section 48 and paragraphs (b) and (d) of sub-section (1) of section 68 shall not apply to or in relation to any pool of jurors or any juror summoned to any pool.

Pools of jurors
for inquests in
Supreme Court
No. 6466 s. 3.

53. (1) A system of pools of jurors for all inquests in the Supreme Court at Melbourne or for any class or classes of those inquests may be instituted by direction to the sheriff under the hand of the Chief Justice.

(2) A system

(2) A system of pools of jurors for all inquests in the County Court at Melbourne or in the court of general sessions of the peace at Melbourne or in both of those courts or for any class or classes of those inquests may be instituted by direction to the sheriff under the hand of the chairman of judges of the County Court.

Pools of jurors for inquests in County Court or court of general sessions.

(3) A system of pools of jurors for all or any class or classes of inquests referred to in sub-section (1) together with all or any class or classes of inquests referred to in sub-section (2) may be instituted by direction to the sheriff under the hands of the Chief Justice and the chairman of judges of the County Court.

Pools of jurors for inquests in Supreme Court, County Court and court of general sessions.

54. The sheriff shall cause notice of every such direction to be published in the *Government Gazette* and the system shall commence to operate as specified in the direction and shall continue to operate until discontinued as hereinafter provided.

Publication and effect of direction for institution of pool.
No. 6466 s. 3.

55. Any system so instituted may be discontinued by a further direction given in the same manner as that by which the system was instituted, and the sheriff shall cause notice of any such further direction to be published in the *Government Gazette* and the system shall cease to operate as specified in the further direction.

Discontinuance.
No. 6466 s. 3.

56. (1) The Governor in Council may from time to time upon the recommendation of the Chief Justice make, subject to disallowance by Parliament, rules for or with respect to pools of jurors and in particular, without limiting the generality of the foregoing, for or with respect to—

Rules relating to pools.
No. 6466 s. 3.

(a) the preparation of panels of such jurors and the inspection and dealing with such panels ;

(b) the place for the assembly of jurors summoned to any pool ;

(c) the general control management and operation of any pool of jurors, including—

(i) the allocation, by the judge or sheriff who is for the time being in charge of the pool, of a sufficient number of jurors from the pool to enable a jury to be impanelled therefrom in any inquest in any court to which the pool relates ;

(ii) the impanelling and swearing, before a judge or chairman of general sessions (as the case may require) who is for the time being in charge of the pool, of a jury for any inquest in any such court ;

(iii) the

- (iii) the selection, before the judge or sheriff who is for the time being in charge of the pool, of the jurors necessary to constitute a jury for any civil inquest in any such court subject to their being sworn as jurors before the judge in that court ;
- (d) the return of jurors to the pool upon the conclusion of any inquest for which they have been impanelled ;
- (e) the discharge of jurors from attendance at any pool ; and
- (f) such modifications of the provisions of Parts III., IV., V. and VIII. of this Act as are necessary or expedient in respect of the application of those Parts to or in relation to any pool of jurors or any juror summoned to any such pool but such modifications shall incorporate and preserve the principles and procedures provided in those Parts.

(2) Any such rules may make provision in respect only of one or more classes of pools or inquests or may make different provision in respect of different classes of pools or inquests or according to different circumstances.

(3) The provisions of Parts III., IV., V. and VIII. of this Act apply to and in relation to any pool of jurors or any juror summoned to any such pool subject to such modifications of those provisions as are provided in the rules.

Effect of
allocation
of jurors
at pool.
No. 6466 s. 3.

57. (1) Where any rule made under this Part provides for the allocation from a pool, by the judge or sheriff for the time being in charge of the pool, of a number of jurors to enable a jury to be impanelled therefrom for any inquest in any court, the jurors allocated in accordance with the rule for any such inquest shall constitute the panel for the impanelling of the jury for that inquest in the court, and the provisions of this Act shall apply accordingly.

Effect of
impanelling
of jury at
pool.

(2) Where any rule made under this Part provides for the impanelling and swearing, before a judge or chairman of general sessions for the time being in charge of a pool, of a jury for any inquest in any court, all proceedings in any such inquest in respect of and preliminary to the impanelling and swearing of the jury including, without limiting the generality of the foregoing, the appearance of the parties and (where applicable) the indictment, arraignment and plea may be made had or taken and the jury may be impanelled and sworn before the judge or chairman in charge of the pool, and anything done or omitted to be done in respect of those proceedings by or before or in relation to the said judge or chairman shall have the same

force

force and effect in all respects as if done or omitted to be done by or before or in relation to the court or the judge or chairman of the court by which the inquest was directed or appointed to be tried.

(3) Where any rule made under this Part provides for the selection, before the judge or sheriff for the time being in charge of the pool, of jurors to constitute the jury for any civil inquest in any court subject to their being sworn as jurors before the judge in that court, all proceedings in any such inquest in respect of and preliminary to the selection of the jurors including, without limiting the generality of the foregoing, the appearance of the parties may be made had or taken and the jurors may be selected before the said judge or sheriff, and anything done or omitted to be done in respect of those proceedings by or before or in relation to the said judge or sheriff shall have the same force and effect in all respects as if done or omitted to be done by or before or in relation to the court or the judge of the court by which the inquest was appointed to be tried.

Effect of selection of jurors for a civil inquest at pool.

PART VII.—COMPENSATION OF JURORS.

58. In this Part unless inconsistent with the context or subject-matter—

Interpretation.
No. 6466 s. 3.

“Board” means the Workers Compensation Board.

“Board.”

59. (1) If any juror suffers personal injury arising out of or in the course of service as a juror compensation shall be paid as hereinafter provided.

Compensation in respect of injury to juror.
No. 6766 s. 4.

(2) An injury shall be deemed to arise out of or in the course of a juror's service as a juror if the injury occurs—

(a) while the juror—

(i) is pursuant to any summons or other lawful direction in attendance at a pool of jurors or at any court or place ; or

(ii) having been so present at any pool of jurors court or place on any day is on that day temporarily absent therefrom during any ordinary adjournment of the court or with the express permission of the court or the sheriff and does not during such absence voluntarily subject himself to any abnormal risk of injury ; or

(b) while the juror is travelling between his place of residence or his place of business or employment and the pool court or place at which he is required to attend as a juror, and not during or after any break in the juror's journey which the Board having regard to all the circumstances considers would ordinarily have materially added to the risk of injury.

(3) For

(3) For the purposes of this section service as a juror includes attendance by any person at a pool of jurors or at any court or place pursuant to a summons to attend as a juror notwithstanding that the person so attending is not qualified and liable to serve as a juror and notwithstanding that upon or after so attending he is excused by the court or the sheriff from further attendance or that he is not sworn as a juror or that he does not act as a juror in any inquest but does not include such attendance by any person who has wilfully made any untrue or misleading statement in completing a questionnaire in respect of which he has been recorded as liable to serve as a juror.

(4) All payments of compensation under this Part shall be paid out of the Consolidated Revenue which is hereby to the necessary extent appropriated accordingly.

(5) The persons to whom or for whose benefit compensation shall be payable shall be those persons to whom or for whose benefit compensation would be payable under the *Workers Compensation Act* 1958 if the juror were a worker within the meaning of that Act and the personal injury were caused in his employment arising out of or in the course of the employment.

(6) All claims for compensation under this section shall be made to the Board in accordance with rules made by the Board pursuant to this Part.

(7) The nature amount and limits of the compensation, the time at which and the period during which compensation is payable, the manner of payment or application of compensation, the circumstances in which payments of compensation shall cease or be reviewed or altered and all other matters relating to compensation shall be determined by the Board or in such manner as the Board directs and the Board's determinations and directions shall be final and without appeal.

(8) In making any determination or giving any direction in relation to any matter referred to in sub-section (5) the Board shall so far as practicable be guided by reference to the applicable provisions of the *Workers Compensation Act* 1958 governing the corresponding matter in that Act :

Provided that—

- (a) no person shall be debarred from compensation in respect of personal injury caused to any juror by reason only that such juror was not at the relevant time a worker within the meaning of the *Workers Compensation Act* 1958 ; and

(b) for

- (b) for the purpose of assessing compensation the average weekly earnings of a juror shall be computed by the Board by reference to his employment by any employer or employers during the relevant period before the accident or (if he was not then working under any contract of service) upon such basis as in the opinion of the Board is best calculated to give the appropriate compensation for his loss of earning capacity, but so that any relevant maximum limits imposed by the *Workers Compensation Act 1958* shall not be exceeded.

(9) Where compensation is paid under this Part such payment shall have the same legal effects as follow from the payment of compensation under the *Workers Compensation Act 1958*.

60. Where a person is entitled to compensation otherwise than pursuant to the provisions of this Part in respect of personal injury there shall be payable to that person the amount (if any) by which the amount of compensation in respect of that injury determined under this Part exceeds the amount to which that person is so entitled.

Compensation where compensation otherwise payable.
No. 6766 s. 4.

61. In all proceedings before the Board and generally in regard to claims for compensation and the payment of compensation under this Part the Insurance Commissioner under the *Workers Compensation Act 1958* shall represent the State of Victoria and shall, subject to rules made by the Board pursuant to this Part, have the same powers rights and authorities as an employer has under the said Act in regard to the corresponding matter relating to a worker under the said Act.

Insurance Commissioner to represent State of Victoria and to have powers of employer.
No. 6766 s. 4.

62. (1) Where the Insurance Commissioner represents the State of Victoria in any proceedings before the Board under this Part he shall be entitled to such amount as the Board thinks proper for his costs and expenses in that behalf.

Insurance Commissioner entitled to costs and expenses.
No. 6766 s. 4.

(2) Upon production of the certificate of the Board such amount shall be paid out of the Consolidated Revenue which is hereby to the necessary extent appropriated accordingly and shall, when received by the Insurance Commissioner, be paid into the State Accident Insurance Fund.

Amount to be paid from Consolidated Revenue.

63. (1) For the purpose of conducting any proceedings under this Part and generally of giving effect to the provisions of this Part the Board shall have all the same powers and authorities, so far as applicable, as it has in the exercise of its jurisdiction and powers under the *Workers Compensation Act 1958*.

Powers of Board in respect of proceedings, &c.
No. 6766 s. 4.

(2) In

(2) In arriving at any determination under this Part the Board shall be guided by the real justice of the matter without regard to legal forms and solemnities.

Power to
make rules.

(3) The Board may make rules for any purpose for which this Part requires or authorizes rules to be made and generally for the purpose of carrying into effect the provisions of this Part relating to compensation.

Mode of
payment, &c.,
of amounts of
compensation
awarded.
No. 6766 s. 4.

64. (1) All amounts of compensation awarded by the Board under this Part shall be paid by the Treasurer of Victoria upon the certificate of the Board.

(2) Where the Board has made an award of compensation which will not be immediately payable to the person or persons entitled to the benefit thereof the Board may by its certificate direct the payment of the amount of the award into the custody of the Board.

(3) Any moneys so paid into the custody of the Board shall be held invested or otherwise dealt with by the Board for the benefit of the person or persons entitled thereto in the same manner as nearly as possible as are moneys paid to the custody of the Board pursuant to the *Workers Compensation Act 1958*.

PART VIII.—OFFENCES AND PENALTIES.

Neglect of
duties under
this Act.
No. 6281 s. 51.

65. (1) Every person who without lawful excuse the onus of proof of which shall lie upon him omits or refuses to do or to permit the doing of any act or thing in the manner or at or within the time or interval prescribed by or under this Act shall be guilty of an offence against this Act.

Penalty : \$30 or in default imprisonment for 7 days.

Wilful
falsification
of records, &c.

(2) Every person who without lawful excuse the onus of proof of which shall lie upon him at any time causes any alteration omission insertion or misdescription in any records summons list panel card or other document required or prepared for the purposes of this Act shall be guilty of an offence against this Act.

Penalty : \$200 or in default imprisonment for 50 days.

(3) Every person who wilfully makes any untrue or misleading statement in completing a questionnaire shall be guilty of an offence against this Act.

Penalty : \$60 or in default imprisonment for 14 days.

Correction of
records, &c.

(4) One of the justices before whom any person is convicted of an offence under sub-section (1) or (2) shall forthwith certify it to the sheriff who shall make the necessary correction according to such certificate.

66. Every

66. Every person to whom any question is lawfully put by the court or the sheriff or by any member of the police force under this Act who refuses to answer or does not truly answer such question shall be guilty of an offence against this Act.

Refusal to answer questions to be an offence.
No. 6281 s. 52.

Penalty : \$60 or in default imprisonment for 14 days.

67. The Supreme Court may in a summary way impose such fine as is thought fit upon any person exercising any duty under this Act or performing any function under this Act who without lawful excuse the onus of proof of which shall lie upon him—

Wilful offences by persons under this Act.
No. 6281 s. 53.

- (a) causes any alteration omission insertion or misdescription in or falsely certifies to the correctness of any record of jurors summons list panel or card ;
- (b) subtracts destroys or permits any person to have access to any such record of jurors summons list panel or card ;
- (c) omits or refuses to do or to permit the doing of any act or thing in the manner or at or within the time prescribed by or under this Act for the doing thereof ;
- (d) excuses any person from serving or from being summoned to serve on juries ;
- (e) places upon any panel or return the name of any person whose name is not included among the persons liable to serve as jurors for the jury district of a court ;
- (f) wilfully records the appearance of any person summoned to serve as a juror who did not appear ;
or
- (g) directly or indirectly takes or receives any money or reward or any promise of or contract for money or reward for excusing or under the pretence of excusing any person from being summoned to serve or from serving as a juror.

68. (1) Any court may in a summary way impose such fine as is thought fit—

Penalty for non-attendance as juror and personation.
No. 6281 s. 54.

- (a) upon any person who having been duly summoned to attend as a juror in such court does not attend in pursuance of such summons, or having been thrice called does not answer to his name ;
- (b) upon any talesman who being present and having been called does not appear, or wilfully withdraws himself from the presence of the court ;

(c) upon

- (c) upon any person who personates or attempts to personate any juror whose name is on any jury panel for the purpose of sitting as such juror ;
- (d) upon any viewer who having been duly summoned makes default and does not attend ; or
- (e) upon any juror who receives or takes from any person whomsoever any sum whatever beyond the scale allowed by this Act under pretence of fees or remuneration for attending a trial :

Provided that where a fine has been imposed by any court upon a person for non-attendance as a juror in such court if at any time within 21 days after the imposition of such fine such person satisfies the court that by any accident and not by any fault or direct or indirect action or connivance of his own he was not aware that any jury summons had been delivered at his place of residence as described in the jury list or that he was unable to attend through illness or other good cause the court may remit the fine and such fine shall not be enforced.

(2) Any court may in a summary way impose a fine not exceeding \$200 and in default imprisonment for 50 days, or imprisonment for 50 days, upon any person who having been duly impanelled as a juror in such court does not attend : Provided that if at any time within 21 days after the imposition of such penalty such person satisfies the court that he was unable to attend through illness or other good cause the court may remit the penalty and such penalty shall not be enforced.

Restriction on
newspapers
publishing
names and
additions of
impanelled
jurors on
criminal
inquests.

No. 6281 s. 55.

69. (1) Every person—

- (a) who is registered as the proprietor printer or publisher of a newspaper ; or
- (b) who prints publishes exhibits sells circulates distributes or gives away or causes to be printed published exhibited sold circulated distributed or given away any newspaper—

containing (whether in a report of the proceedings of a court or otherwise howsoever) the name and additions or the name or additions or the likeness or other similar pictorial representation of any juror impanelled for any criminal inquest—

- (i) shall be guilty of a contempt of court and may be punished accordingly by the court ; or
- (ii) shall be liable to a penalty of not less than \$20 nor more than \$200 on the information of any person who with the authority of the Attorney-General sues for the same in any court of competent jurisdiction.

(2) A corporation

(2) A corporation may be guilty of and liable for any offence against this Act ; and any person being a chairman member of the governing body director manager secretary or officer of a corporation which is guilty of an offence against this Act shall be deemed to have committed the offence and (without affecting any liability of the corporation or of any other individual therefor) shall be liable accordingly, unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

Penalties, &c.
in case of
bodies
corporate.

(3) Nothing in this section shall apply to the publication of information with regard to any proceedings under this section whether for contempt of court or for a penalty.

Saving.

70. Every person who is guilty of the offence of embracery and every juror who wilfully or corruptly consents thereto shall be respectively proceeded against and be punished by fine and imprisonment in like manner as every such person or juror might have been before this Act came into force.

Embracery
punished.
No. 6281 s. 56.

71. Any fine imposed under this Act may be enforced in accordance with the provisions of section 439 (except sub-section (2)) of the *Crimes Act 1958* as if it were a fine for an indictable offence and as if—

Enforcement
of fines.

- (a) the reference in that section to the *Crimes (Amendment) Act 1964* were a reference to this Act ;
- (b) in paragraph (a) of sub-section (1) of that section—
 - (i) after the words “ Supreme Court ” there were inserted the words “ County Court ” ; and
 - (ii) after the word “ Prothonotary ” there were inserted the words “ the Registrar ” ;
- (c) in paragraph (b) of sub-section (1) of that section after the word “ Prothonotary ” there were inserted the words “ the Registrar ” ;
- (d) in sub-section (4) of that section—
 - (i) after the words “ Supreme Court ” (where twice occurring) there were inserted the words “ County Court ” ; and
 - (ii) after the word “ Prothonotary ” there were inserted the words “ the Registrar ” ;
- (e) in sub-section (6) of that section after the word “ Prothonotary ” there were inserted the words “ the Registrar ” ; and
- (f) in sub-section (7) of that section after the expression “ Deputy clerk of the peace ” there were inserted the expression ‘ and “ Registrar ” has the same meaning as in the *County Court Act 1958* ’.

PART IX.—GENERAL.

Clerk of the
peace, &c.
may be
ordered to
act for
sheriff.
No. 6281 s. 57.

72. (1) The Governor in Council may on the recommendation of the chairman of judges of the County Court for the time being order that the clerk of the peace of any court of general sessions or his deputy or the registrar of the County Court shall with respect to such court do and perform in the place of the sheriff all such acts and things as the sheriff is by this Act authorized or required to do or perform, and may revoke any such Order.

Sheriff may
appoint
deputy.

(2) The sheriff may with the consent of the Chief Justice appoint and from time to time remove one or more deputies who shall discharge such of the duties required by this Act to be discharged by the sheriff as are specified in the appointment.

Juries
*de ventre
inspiciendo*
abolished.
No. 6281 s. 58.
Regulations.

73.^(a) No jury *de ventre inspiciendo* shall be impanelled or sworn.

74. (1) The Governor in Council may make regulations for or with respect to—

- (a) prescribing forms for the purposes of this Act ; and
- (b) preventing persons related by blood or marriage from sitting on the same jury.

No. 6281 s. 59.

(2) The judges of the Supreme Court are hereby empowered from time to time to make rules not inconsistent with this Act for or with respect to any matter or thing which may be necessary for the purpose of carrying into effect the several provisions of this Act.

(3) A proclamation under section 7 or 9 shall be deemed to be a statutory rule subject to disallowance by Parliament.

This Act to
apply to
clerks as well
as sheriffs.
No. 6281 s. 61.

75. (1) Where any award or order for returning a jury for any trial is directed to any person or persons other than the sheriff that person or persons shall have free access to the records of jurors and cards aforesaid and shall execute and obey the said award or order in the same manner as the sheriff is by this Act required to execute and obey the same, and shall do and perform all such other acts and duties in reference thereto as the sheriff is by this Act required to do and perform and be subject and liable to the same penalties forfeitures and proceedings as the sheriff in the like case would be subject and liable to by virtue of this Act.

(2) Every court shall continue to have the same power to appoint clerks or other persons to act in place of the sheriff as it had before the commencement of this Act.

SCHEDULES.

(a) The provisions of section 58 (2) of the *Juries Act 1958* No. 6281, granting power to the court to direct an inquiry relating to a female on a capital conviction are now contained in S. 473 (2) of the *Crimes Act 1958* No. 6231.

SCHEDULES.

SCHEDULE 1.

Section 2.

PART I.

Number of Act.	Title of Act.	Extent of Repeal.
6281	<i>Juries Act 1958</i>	The whole
6387	<i>Supreme Court Act 1958</i>	Item in twelfth Schedule relating to fee for copy of jury panel
6466	<i>Juries (Amendment) Act 1958</i>	The whole
6489	<i>Sessional Acts Revision Act 1958</i>	Item in Schedule relating to <i>Juries (Amendment) Act 1958</i>
6505	<i>Statute Law Revision Act 1959</i>	Item in Schedule relating to <i>Juries (Amendment) Act 1958</i>
6766	<i>Juries (Amendment) Act 1961</i>	The whole
6844	<i>Juries (Fees) Act 1961</i>	The whole
6961	<i>Statute Law (Further Revision) Act 1962</i>	Item in Schedule relating to <i>Juries Act 1958</i>
6986	<i>Insurance Commissioner (Costs and Expenses) Act 1963</i>	Section 3
7187	<i>Juries (Women Jurors) Act 1964</i>	The whole
7503	<i>Juries Act 1966</i>	The whole
7522	<i>Supreme and County Courts (Sittings) Act 1967</i>	Sub-section (3) of section 2

PART II.

1. The *Coroners Act 1958* is hereby amended as follows :—

Act No. 6227.

- (a) For sub-section (2) of section 21 there shall be substituted the following sub-section :—

“(2) The provisions of sections 4 (except sub-section (5)) and 6 and Schedules 2, 3 and 4 of the *Juries Act 1967* shall with any necessary modifications apply as if re-enacted in this Act.”;

- (b) In sub-section (3) of section 21 for the words “exempt from service” there shall be substituted the words “not liable to serve” ;
- (c) In sub-section (4) of section 21 for the words “exempt from service” there shall be substituted the words “not liable to serve” ;
- (d) In section 24 for the words “such rate as may be determined by a responsible Minister of the Crown” there shall be substituted the words “the rate at which a juror is entitled to receive compensation pursuant to the provisions of the *Juries Act 1967* and such additional compensation as may be determined by the Minister” ; and
- (e) Section 25 shall be repealed.

2. The *County Court Act 1958* is hereby amended as follows :—

Act No. 6230.

- (a) In paragraph (a) of sub-section (1) of section 21 the word “precepts” shall be repealed ;
- (b) Sub-section (3) of section 68 shall be repealed ;
- (c) In section 69 the words “issue all precepts and” shall be repealed ; and
- (d) For section 70 there shall be substituted the following section :—

“70. Where a jury has given a verdict judgment shall be entered in accordance with the verdict, subject to the provisions of reservation of judgment new trials and nonsuit herein contained.”

SCHEDULE

SCHEDULE 1—*continued*.Act No. 6231
s. 473.3. The *Crimes Act* 1958 is hereby amended as follows :—

In section 473—

(i) after the expression “ 473 ” there shall be inserted the expression “ (1) ” ;
and

(ii) at the end of the section there shall be inserted the following sub-section :—

“(2) In case a female upon a capital conviction alleges or there is otherwise reason to suppose that she is pregnant, the court shall direct that one or more medical practitioners be sworn to inquire whether she is with child of a quick child, and if after due inquiry it is reported that she is with child of a quick child the court shall not pronounce sentence of death but in lieu thereof the court shall sentence her to be kept in strict custody in such place and in such manner as to the court seems fit until the Governor's pleasure is known, and thereupon the Governor may by Order direct that she be kept in safe custody during the Governor's pleasure in the place designated in the Order or in such other place as a person or authority designated in the Order may from time to time determine.”

Act No. 6246
s. 100.4. The *Evidence Act* 1958 shall be amended as follows :—

In sub-section (2) of section 100 for the words “ I swear by Almighty God so to do ” there shall be substituted the words “ I swear by Almighty God to do so ”.

Section 4.

SCHEDULE 2.

PERSONS DISQUALIFIED FROM SERVING AS JURORS.

1. Any person who has been—

(a) convicted of treason ;

(b) convicted of felony ; or

(c) convicted of one or more misdemeanours and sentenced to imprisonment for a term or terms in the aggregate of not less than three years—

but any conviction for an offence in respect of which a free pardon has been granted shall be disregarded.

2. Any person who at any time within the last preceding five years—

(a) has been imprisoned ; or

(b) has been on parole—

but there shall be disregarded—

(i) all sentences of imprisonment served during that period if together they do not exceed a period of three months ;

(ii) any imprisonment incurred as a result of failure to pay a fine ; and

(iii) any imprisonment in respect of a conviction for an offence in respect of which a free pardon has been granted.

3. Any person who is bound by a recognizance entered into after conviction for any offence.

4. Any person who is subject to a probation order made by a court.

5. Any person who has been declared bankrupt and has not obtained a discharge.

Section 4.

SCHEDULE 3.

PERSONS INELIGIBLE TO SERVE AS JURORS.

1. Any person who is or has at any time within the last ten preceding years been—

(a) a judge of the Supreme Court or of the County Court or the holder of any other judicial office ;

(b) a duly qualified legal practitioner ;

(c) employed by a duly qualified legal practitioner in connexion with the practice of the law ;

SCHEDULE

SCHEDULE 3—continued.

- (d) a minister of religion, monk, nun or other vowed member of a religious community ;
 - (e) in receipt of a salary provision for which is or was made in the annual appropriations of the Attorney-General ;
 - (f) the Chief Commissioner of Police the Director-General of Social Welfare or the Chief Electoral Officer ;
 - (g) employed under the direction and control of the Chief Commissioner of Police or the Director-General of Social Welfare or in the Police Department or under the direction and control of the Chief Electoral Officer ;
 - (h) an honorary probation officer ;
 - (i) a justice of the peace ;
 - (j) employed as a Government shorthand writer licensed court reporter or in connexion with any court recording service.
2. Any person who—
- (a) is unable adequately to see hear or speak ;
 - (b) is intellectually defective or mentally ill within the meaning of the *Mental Health Act 1959* ;
 - (c) is an infirm person within the meaning of the *Public Trustee Act 1958* ;
 - (d) is unable to read or write ;
 - (e) has an inadequate knowledge of the English language.

SCHEDULE 4.

Section 4.

PERSONS ENTITLED AS OF RIGHT TO BE EXCUSED FROM SERVING AS JURORS.

1. Officers and servants of the household of, and the Official Secretary to, the Governor.
2. The permanent heads of all State Government Departments.
3. The Commissioners, members and secretaries of all statutory corporations.
4. The members of the Public Service Board, Police Service Board and Teachers' Tribunal.
5. The Auditor-General.
6. Medical practitioners, dentists and pharmaceutical chemists registered under the *Medical Act 1958*.
7. Masters and teachers in State schools or schools registered under the *Education Act 1958*.
8. Masters and crews of trading vessels.
9. Pilots holding a licence or certificate under the *Marine Act 1958*.
10. Airline pilots and crews regularly engaged on international flights.
11. Members and officers of the Legislative Assembly.
12. Members and officers of the Legislative Council.
13. Mayors, presidents, councillors, town clerks and secretaries of municipalities.
14. Persons over the age of sixty-five years.
15. Women.
16. Persons who are so physically handicapped as to be unable to perform the duties of jurors without undue hardship.
17. Persons who reside more than 20 miles from the court house at which they would be required to serve.
18. Persons who hold current certificates of entitlement to be excused as of right on account of lengthy jury service.

SCHEDULE

Section 7.

SCHEDULE 5.

STATE ELECTORAL DISTRICTS OR SUBDIVISIONS THEREOF
COMPRISING THE MELBOURNE JURY DISTRICT.

Albert Park.
Balwyn.
Bennettswood.
Bentleigh.
Box Hill
Brighton.
Broadmeadows.
Brunswick East.
Brunswick West.
Camberwell.
Caulfield.
Coburg.
Deer Park.
Essendon.
Footscray.
Glenhuntly.
Glen Iris.
Greensborough—Subdivision of Rosanna.
Hawthorn.
Heatherton—Subdivisions of Clayton East and Heatherton.
Ivanhoe.
Kew.
Malvern.
Melbourne.
Mentone—Subdivision of Mentone.
Mitcham.
Moonee Ponds.
Moorabbin.
Northcote.
Oakleigh.
Prahran.
Preston.
Reservoir.
Richmond.
St. Kilda.
Sandringham.
Sunshine.
Syndal.
Williamstown.

SCHEDULE

SCHEDULE 6.

Section 7.

Supreme Court, Sessions or County Court Town.	Subdivisions Comprising Jury District.			
Ararat	Ararat			
Bairnsdale	Bairnsdale			
Ballaarat	Lucknow			
	Ballaarat			
	Ballaarat East			
	Ballaarat North			
	Ballaarat West			
	Creswick			
	Gong Gong			
	Learmonth			
	Sebastopol			
	Warrenheip			
Bendigo	Bendigo			
	Eaglehawk			
	Golden Square			
	Marong			
	Raywood			
	Sandhurst East			
	Strathfieldsaye			
	Beeac			
	Colac			
	Belmont North			
Colac	Drysedale			
	Geelong			
	Geelong North			
	Geelong West			
	Newtown and Chilwell			
	South Barwon			
	Hamilton			
	Horsham			
	Horsham South			
	Kerang			
Kerang	Korumburra			
	Leongatha			
	Avoca			
	Carisbrook			
	Maryborough			
	Mildura			
	Red Cliffs			
	Morwell			
	Newborough			
	Yallourn			
Sale	Maffra			
	Sale			
	Stratford			
	Shepparton			
	Tatura			
	Wangaratta			
	Drouin			
	Trafalgar			
	Warragul			
	Warragul North			
Warrnambool	Allansford			
	Koroit			
	Warrnambool			

Section 43.

SCHEDULE 7.

FORM OF SWEARING OF JURORS.

Criminal
inquest.

"You and each of you swear by Almighty God that you will faithfully try the issues between Our Sovereign Lady the Queen and all persons brought before you or any of you and give a true verdict according to the evidence."

Civil inquest.

"You and each of you swear by Almighty God that you will faithfully try the issues and assess the damages in all causes that may be brought before you or any of you for trial or inquiry and give a true verdict according to the evidence."

SCHEDULE 8.

Section 50.

RATES OF COMPENSATION OF JURORS.

	\$	c
Except as hereinafter provided, for each day of attendance at the court ..	6.00	
For each day beyond six days of service as a juror in any case ..	12.00	
Travelling expenses (other than of jurors residing within the jury district of Melbourne), for every mile of distance beyond five miles by the shortest practicable route between the juror's residence and the court, one way only	0.20	