

Capital Punishment

WESTERN AUSTRALIA

ANNO TRIGESIMO QUARTO

VICTORIÆ REGINÆ

No. 15

An Act to provide for carrying out of Capital Punishment within Prisons. [*Assented to 2nd January, 1871.*]

WHEREAS it is expedient that capital punishments should be carried into effect within prisons: Be it enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

1. This Act may be cited for all purposes as 'The Capital Punishment Amendment Act 1871.' Short title
2. Judgment of death to be executed on any prisoner sentenced after the passing of this Act on any information, indictment, or inquisition, shall be carried into effect within the walls of the prison, in which the offender is confined at the time of execution. Judgment of death to be executed within walls of prison
3. The Sheriff charged with the execution, and the Gaoler and Surgeon of the prison, and such other officers of the prison as the Sheriff requires, shall be present at the execution. Any Justice of the Peace, Minister of Religion, and such relatives of the prisoner, or other persons, as it seems to the Sheriff or the Visiting Justices of the prison proper to admit within the prison for the purpose, may also be present at the execution. Sheriff, &c., to be present
4. As soon as may be after judgment of death has been executed on the offender, the Surgeon of the prison shall examine the body of the offender, and shall ascertain the fact of death, and shall sign a certificate thereof, and deliver the same to the Sheriff. The Sheriff, and the Gaoler, and such Justices and other persons present (if any) as the Sheriff requires or allows, shall also sign a declaration to the effect that judgment of death has been executed on the offender. Surgeon to certify death: and declaration to be signed by Sheriff, &c.
5. The Coroner of the district in which the prison is situate wherein judgment of death is executed on any offender, shall, within twenty-four hours after the execution, hold an inquest on the body of the offender, and the jury at the inquest shall inquire into and ascertain the identity of the body, and whether judgment of death was duly executed on the offender; and the inquisition shall be in duplicate, and one of the originals shall be delivered to the Sheriff. No officer of the prison, or prisoner confined therein, shall in any case be a juror on the inquest. Coroner's inquest on body
6. The Colonial Secretary shall from time to time make such rules and regulations to be observed on the execution of judgment of death in every prison as he may from time to time deem expedient for the purpose, as well of guarding against any abuse in such execution as Power of Colonial Secretary to make rules, &c., to be observed on execution of

Capital Punishment

- judgment of death also of giving greater solemnity to the same, and of making known without the prison walls the fact that such execution is taking place.
- Such rules to be laid before the Legislature 7. All such rules and regulations shall be laid upon the table of the Legislative Council within six weeks after the making thereof, or if the Legislature be not then sitting within fourteen days after the next meeting thereof.
- Penalty for signing false certificate, &c. 8. If any person knowingly and wilfully signs any false certificate or declaration required by this Act, he shall be guilty of a misdemeanour, and on conviction thereof shall be liable, at the discretion of the Court, to imprisonment for any term not exceeding two years, with or without hard labour and with or without solitary confinement.
- Certificate, &c., to be sent to Colonial Secretary, and exhibited on or near entrance to prison 9. Every certificate and declaration and the duplicate of the inquisition required by this Act, shall in each case be sent with all convenient speed by the Sheriff to the Colonial Secretary, and copies of the same several instruments shall, as soon as possible, be exhibited, and shall for twenty-four hours at least be kept exhibited on or near the principal entrance of the prison within which judgment of death is executed.
- Provisions as to duties and powers of Sheriff, &c., extended 10. The duties and powers by this Act imposed on or vested in the Sheriff may be performed by and shall be vested in his Under-Sheriff or other lawful deputy acting in his absence and with his authority, and any other officer charged in any case with the execution of judgment of death. The duties and powers by this Act imposed on or vested in the Gaoler of the prison may be performed by and shall be vested in the Deputy-Gaoler (if any) acting in his absence and with his authority, and (if there is no officer of the prison called the Gaoler) by the Governor, Keeper or other chief officer of the prison and his deputy (if any) acting as aforesaid. The duties and powers by this Act imposed on or vested in the Surgeon may be performed by and shall be vested in the Chief Medical Officer of the prison (if there is no officer of the prison called the Surgeon).
- Forms in Schedule 11. The forms given in the Schedule to this Act, with such variations or additions as circumstances require, shall be used for the respective purposes in that Schedule indicated and according to the directions therein contained.
- Saving clause as to legality of execution 12. The omission to comply with any provision of this Act shall not make the execution of judgment of death illegal in any case where such execution would otherwise have been legal.
- General saving 13. Except in so far as is hereby otherwise provided, judgment of death shall be carried into effect in the same manner as if this Act had not been passed.

FREDK. A. WELD,
GOVERNOR AND COMMANDER-IN-CHIEF.

Capital Punishment

THE SCHEDULE

CERTIFICATE OF SURGEON

I, A.B., the Surgeon [*or as the case may be*] of the [*describe prison*] hereby certify that I this day examined the body of C.D., on whom judgment of death was this day executed in the [*describe same prison*], and that on that examination I found that the said C.D. was dead.

Dated this day of 18 .

(Signed) A.B.

DECLARATION OF SHERIFF AND OTHERS

We, the undersigned, hereby declare that judgment of death was this day executed on C.D. in the [*describe prison*], in our presence.

Dated this day of 18 .

Signed, E.F., Sheriff.

L.M., Justice of the Peace.

G.H., Gaoler of

&c., &c.
