

1927

## c 127 Crown Witnesses Act

Ontario

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## CHAPTER 127.

## The Crown Witnesses Act.

**1.** In this Act,—Interpre-  
tation.

- (a) "Judge" shall mean and include the judge presiding at any sittings of the Supreme Court, the court of general sessions of the peace, the county or district court judge's criminal court, and magistrates presiding in courts for the summary trial of indictable offences under the Criminal Code and a police magistrate or justice of the peace holding a preliminary inquiry. "Judge."
- (b) "Trial" shall include a preliminary inquiry before a police magistrate or justice of the peace. 1926, c. 36, s. 2. "Trial."

**2.**—(1) The judge may grant to any person who attends at the instance of the Crown to give evidence, an order for the payment of such sum as seems reasonable and sufficient to compensate the witness for his costs and charges in attending as such witness; but such sum shall not exceed the amount payable in civil cases in the Supreme Court. Compensation to Crown witnesses in certain cases for attendance on prosecution or trial.

(2) The judge may include in his order such sum in addition to ordinary witness fees as he may deem reasonable and sufficient to compensate any witness by whom a plan has been prepared or any other article furnished or work done for use at the trial for his costs and charges in preparing such plan or other article or doing such work. Compensation to witnesses.

(3) A special fee may be paid to an expert witness upon the fiat of the Attorney-General. 1926, c. 36, s. 3. Special fee.

**3.** Where a bill of indictment has not been preferred, or where the trial has not been proceeded with, the judge may make a similar order in favour of any person who, in his opinion, *bona fide* attended the court in obedience to a recognition or subpoena, or at the instance of the Crown. 1926, c. 36, s. 4. Or where no indictment preferred or trial had.

**4.**—(1) The order shall not be made except on a certificate by the counsel for the Crown, and by the Crown attorney or his representative containing the particulars necessary in the affidavit required in civil cases to entitle a party to disbursements to witnesses, and shall be to the like effect, but the judge may require further evidence. Certificate whereon order to be made.

When certificate unnecessary.

(2) When the Crown attorney is not present at a preliminary inquiry before a police magistrate, or justice of the peace, no certificate shall be necessary. 1926, c. 36, s. 5.

Order, how made out and to whom directed.

**5.** The order shall be prepared by the proper officer of the court and shall be directed to the treasurer of the county in which the offence was committed or was supposed to have been committed; or, if the offence was committed or was supposed to have been committed in a city, or in a town separated for municipal purposes from the county, the order shall be directed to the treasurer of the city or town. 1926, c. 36, s. 6.

Payment by the treasurer.

**6.** The treasurer to whom the order is directed shall forthwith, out of the funds of the municipality in his hands, pay to each of the witnesses named the amount stated in the certificate, on his signing a receipt therefor in person. 1926, c. 36, s. 7.

Payment by a treasurer on whom order is not made.

**7.** Where the trial takes place in a county other than the county in which the offence was committed the treasurer of the county in which the trial takes place, if applied to by the witness, shall forthwith pay the money in the first instance out of the funds of the municipality in his hands, and shall forthwith be reimbursed by the treasurer to whom the order is directed. 1926, c. 36, s. 8.

Re-imbusement by Province of one-third.

**8.** One-third of the amount paid to witnesses under this Act shall be repaid to the municipality out of the Consolidated Revenue Fund, except as is hereinafter mentioned. 1926, c. 36, s. 9.

Idem; in full where witnesses sent from unorganized districts.

**9.** In respect of witnesses in cases sent from the unorganized districts for trial in any county the expenses of the witnesses shall be repaid in full out of the Consolidated Revenue Fund. 1926, c. 36, s. 10.

Witness in cases tried in unorganized districts.

**10.** The like fees shall be paid out of the Consolidated Revenue Fund to witnesses attending a sitting of any court held in any unorganized district, and shall be so paid under such regulations as the Lieutenant-Governor in Council may prescribe. 1926, c. 36, s. 11.

On recovery from prosecutor or defendant, the municipality to be repaid.

**11.** Where witness fees paid under the provisions of this Act are, by virtue of the judgment of the court, afterwards recovered from the prosecutor or defendant, the same shall be repaid to the municipality, and one-third accounted for by the municipality to the Crown. 1926, c. 36, s. 12.

Fee to Crown attorney in respect of certificate.

**12.** The Crown attorney shall be entitled to receive from the corporation of the county in which the court is held a fee of \$1, in respect of every prosecution or trial on which

a witness is examined, which sum shall be over and above his other costs and charges and shall cover the costs, charges and expenses of and incidental to the certificate, or the inquiry whether a certificate should be granted.

(2) One-third of such fee shall be repaid to the corporation out of the Consolidated Revenue Fund. 1926, c. 36, s. 13. Re-imbursement.

**13.** In the case of an information, action, or other legal proceeding by or on behalf of the Crown, for the prosecution of rights, claims or demands of His Majesty against any person for the use of Ontario, or for the recovery of the possession of any land, deeds or personal property whereto His Majesty claims to be entitled for the use of Ontario, the witnesses shall be entitled to be paid the like witness fees as are payable in actions between subject and subject. 1926, c. 36, s. 14. Witness fees payable on prosecution of claims etc., by His Majesty.

**14.** Nothing herein shall entitle a witness to require payment of any sum previous to the determination by adjournment or otherwise at the court of the prosecution or trial at which he attends as a witness. 1926, c. 36, s. 15. Compensation not payable before determination of the case.

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