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c 70 Coroners Act

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CHAPTER 70

The Coroners Act

1. The Lieutenant-Governor in Council may appoint one or more coroners for any municipality or provisional judicial district. 1948, c. 17, s. 1.

2.—(1) The Lieutenant-Governor in Council may appoint a coroner for Ontario, to be known as supervising coroner, who shall act in an advisory capacity to coroners and who shall have such other powers and perform such other duties as may be prescribed by the regulations.

(2) In lieu of fees the supervising coroner shall be paid out of the Consolidated Revenue Fund such salary as may be fixed by the Lieutenant-Governor in Council. 1948, c. 17, s. 2.

3.—(1) The Lieutenant-Governor in Council may appoint a coroner, to be known as chief coroner, for any city having a population of more than 100,000 who shall have control over the coroners for the city and who shall have such other powers and perform such other duties as may be prescribed by the regulations.

(2) In lieu of fees every chief coroner shall be paid half-yearly by the corporation of the city such salary as may be fixed by the Lieutenant-Governor in Council, and the Corporation of the City of Toronto shall be reimbursed out of the Consolidated Revenue Fund to the extent of one-third of such salary, and the corporation of any other city having a chief coroner shall be reimbursed out of the Consolidated Revenue Fund to the extent of one-half of such salary. 1948, c. 17, s. 3.

4. A certified copy of the Order in Council appointing a coroner shall be sent by the Inspector of Legal Offices to the clerk of the peace of the county or district in which the coroner is to act, and shall be filed by him in his office. 1948, c. 17, s. 4.

5. The Attorney-General may in writing direct any coroner to act in any designated municipality or provisional judicial district in addition to the municipality or provisional judicial
district for which he was appointed, and a coroner to whom such direction is given shall have the same powers and perform the same duties within the designated municipality or provisional judicial district as a coroner appointed for the designated municipality or provisional judicial district. 1948, c. 17, s. 5.

6. The Attorney-General or the Crown attorney for the district may in writing direct any magistrate in a provisional judicial district to act as a coroner for the district and a magistrate to whom such direction is given shall have the same powers and perform the same duties within the district as a coroner appointed for the district. 1948, c. 17, s. 6.

7.—(1) Every practitioner, funeral director or embalmer and every person occupying a house in which a deceased person was residing, who has reason to believe that the deceased person died as a result of violence or misadventure or by unfair means or as a result of negligence or misconduct or malpractice on the part of others, or from any cause other than disease or under such circumstances as may require investigation, shall immediately notify a coroner having jurisdiction in the place where the body of the deceased person is, of the facts and circumstances relating to the death.

(2) The notice required by subsection 1 shall be given in every case where such practitioner, funeral director, embalmer or occupant is aware that the deceased had been suffering from disease or sickness and had not been treated or attended by a legally qualified medical practitioner. 1948, c. 17, s. 7.

8. Where there is reason to believe that a deceased person died in any of the circumstances mentioned in section 7, the body of the deceased person shall not be embalmed or cremated and no chemical shall be applied to it externally or internally and no alteration of any kind shall be made thereto until the coroner so directs. 1948, c. 17, s. 8.

9. Every person who fails to comply with section 7 or 8 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than $500 or to imprisonment for a term of not more than six months, or both. 1948, c. 17, s. 9.

10.—(1) Where a coroner is informed that there is within his jurisdiction the body of a deceased person and that there is reason to believe that the deceased person died in any of the circumstances mentioned in section 7, he shall issue his
warrant to take possession of the body and shall view the
body and make such further investigation as may be required
to enable him to determine whether or not an inquest is neces-
sary.

(2) The coroner may, with the consent of the Crown attorney, employ experts to assist him in the investigation.

(3) After the issue of the warrant no other coroner shall issue a warrant or interfere in the case, except under the in-
structions of the Attorney-General or the Crown attorney or
where it is otherwise provided in the regulations. 1948,
c. 17, s. 10.

11.—(1) Where a death occurs at a place that is difficult for the coroner who has issued his warrant to take possession of the body to attend, he may, with the consent of the Crown attorney, authorize and direct a legally qualified medical practitioner, magistrate or member of the Ontario Provincial Police Force to take possession of the body, view the body and make such further investigation as may be required to enable the coroner to determine whether or not an inquest is necessary and to report to him.

(2) Upon receipt of the report the coroner shall proceed as if he himself had viewed the body and made the investigation. 1948, c. 17, s. 11.

12.—(1) Where the coroner determines that an inquest is unnecessary he shall issue his warrant to bury the body, and shall forthwith transmit to the Crown attorney a statutory declaration setting forth briefly the result of the investigation and the grounds on which the warrant has been issued, and shall also forthwith transmit to the division registrar a notice of the death in the form prescribed by The Vital Statistics Act.

(2) Notwithstanding that the matters mentioned in sub-
section 1 have taken place, the Attorney-General or the Crown attorney may direct the coroner who decided that an inquest was unnecessary, or some other coroner, to hold an inquest upon the body, and the coroner to whom such direction is given shall forthwith issue his warrant for an inquest and hold the same accordingly. 1948, c. 17, s. 12.

13. Where the coroner determines that an inquest is neces-
sary, he shall issue his warrant for the holding of an inquest,
and shall forthwith transmit to the Crown attorney a statu-
tory declaration setting forth briefly the result of the investi-
gation and the grounds upon which he determined that an inquest should be held. 1948, c. 17, s. 13.
14. No inquest shall be held unless the Attorney-General, the Crown attorney or the supervising coroner directs the holding thereof or consents thereto, or unless the holding of the inquest is required by this or any other Act of the Legislature or by any Act of the Parliament of Canada. 1948, c. 17, s. 14.

15. Where a coroner has issued his warrant to take possession of a body within his jurisdiction and it appears that the death resulted from any of the circumstances mentioned in section 7 and that such circumstances occurred at a place beyond his jurisdiction, he shall take possession of the body and shall view the body and make such further investigation as may be required to enable him to determine whether or not an inquest is necessary, and where he determines that an inquest is necessary he may, with the consent of the Crown attorney, at any time during the course of the proceedings, transfer the inquest to a coroner having jurisdiction at such place and the inquest shall be conducted by such coroner as though the body was within his jurisdiction and he had issued the warrant; but the coroner issuing the warrant may take evidence to prove the fact of death, the identity of the body and the post mortem examination of the body, and such evidence shall be transmitted to and received by the coroner holding the inquest as part of the proceedings before him. 1948, c. 17, s. 15; 1948, c. 87, s. 1.

16. Where a coroner has reason to believe that a death has occurred in circumstances that warrant the holding of an inquest but, owing to the destruction of the body in whole or in part or to the fact that the body is lying in a place from which it cannot be recovered, or that the body has been removed from Ontario, an inquest cannot be held except by virtue of this section, he may report the facts to the Attorney-General and the Attorney-General may direct an inquest to be held touching the death, in which case an inquest shall be held by the coroner making the report or by such other coroner as the Attorney-General may direct, and the law relating to coroners and coroners' inquests shall apply with such modifications as may be necessary in consequence of the inquest being held otherwise than on or after a view of the body. 1948, c. 17, s. 16.

17. Where the Attorney-General has reason to believe that a death has occurred in Ontario in circumstances that warrant the holding of an inquest, he may direct any coroner to hold an inquest and the coroner shall hold the inquest into the death in accordance with this Act whether or not his commission extends to the place where the death occurred or
where the body is located and whether or not he or any other coroner has viewed the body, made any investigation, held any inquest or done any other act in connection with the death. 1948, c. 17, s. 17.

18.—(1) Where a person has been charged with a criminal offence arising out of a death, an inquest touching the death shall be held only upon the direction of the Attorney-General.

(2) Where during an inquest any person is charged with a criminal offence arising out of the death, the coroner shall discharge the jury and close the inquest, and shall then proceed as if he had determined that an inquest was unnecessary, provided that the Attorney-General may direct that the inquest be re-opened. 1948, c. 17, s. 18.

19.—(1) No coroner shall conduct an inquest upon the body of a person whose death has occurred on a railway or at a mine or other work that he owns in whole or in part or that is owned or operated by a company in which he is a shareholder, or in respect of which he is employed as medical attendant or in any other capacity by the owner thereof, or under any agreement or understanding, direct or indirect, with the employees thereof.

(2) Where a coroner conducts an inquest in violation of this section, he shall incur a penalty of not less than $100 and not more than $500, to be sued for and recovered by anyone in any court of competent jurisdiction.

(3) It shall be sufficient for the plaintiff in any such action to allege that the defendant is indebted to him in the sum claimed and the particular inquest for which the action is brought and that the defendant has acted in violation of this Act.

(4) The action shall be commenced within one year after the inquest was held and shall be tried by a judge without a jury. 1948, c. 17, s. 19.

20.—(1) Where a coroner has ordered an inquest upon the body of a person who has met death by violence in a wreck, the coroner may take charge of the wreckage and place one or more constables in charge thereof so as to prevent persons from disturbing the wreckage until the jury at the inquest has viewed the same, or the coroner has made such examination as he deems necessary.

(2) The jury or coroner, as the case may be, shall view the wreckage at the earliest moment possible. 1948, c. 17, s. 20.
21. Where an inmate of a county or district home for the aged dies, the superintendent or other officer in charge shall immediately give notice of the death to a coroner and the coroner shall investigate the circumstances of the death and if, as a result of such investigation he is of opinion that an inquest ought to be held he shall issue his warrant and hold an inquest upon the body. 1948, c. 17, s. 21.

22. Where a prisoner in a gaol, reformatory, industrial farm or lock-up dies, the gaoler, superintendent or keeper thereof shall immediately give notice of the death to a coroner, and the coroner shall issue his warrant and hold an inquest upon the body. 1948, c. 17, s. 22.

23.—(1) The coroner may, by his warrant, at any time before the termination of the inquest, direct that a post mortem examination of the body be made by a legally qualified medical practitioner and that an analysis be made of the blood, urine, or the contents of the stomach and intestines or that such other special examination or analysis be made as the circumstances warrant.

(2) Where no inquest is held, no post mortem examination or analysis shall be made without the consent in writing of the Attorney-General, the Crown attorney or the supervising coroner. 1948, c. 17, s. 23.

24.—(1) Every coroner before holding an inquest shall notify the Crown attorney of the time and place at which it is to be held and the Crown attorney may, and if directed by the Attorney-General shall, attend the inquest and may examine or cross-examine the witnesses.

(2) The Attorney-General may be represented at any inquest by counsel in addition to or in lieu of the Crown attorney and such counsel shall have the same powers as the Crown attorney under subsection 1. 1948, c. 17, s. 24.

25.—(1) The coroner shall summon such persons to attend an inquest as he deems advisable or as may be specified by the Crown attorney or the counsel for the Attorney-General.

(2) In addition to any other powers which he may possess a coroner shall have the same power to issue summonses to witnesses, to enforce their attendance and to punish for non-attendance or refusing to give evidence as is possessed by the Supreme Court.

(3) A fine imposed for non-attendance or refusal to give evidence shall not, in the case of a medical practitioner, exceed $40, and in the case of any other witness shall not exceed $10.
(4) A witness shall be deemed to have objected to answering any question upon the ground that his answer may tend to criminate him or may tend to establish his liability to a civil proceeding at the instance of the Crown, or of any person, and the answer so given shall not be used or be receivable in evidence against him in any trial or other proceeding against him thereafter taking place, other than a prosecution for perjury in giving such evidence. 1948, c. 17, s. 25.

26.—(1) The number of jurymen to be summoned to serve juries on an inquest shall be five and where less than five of the jurymen so summoned appear at the time and place appointed for the inquest, the coroner may direct a constable to name and appoint so many persons then present or who can be found as will make up a jury of five. 1948, c. 17, s. 26 (1).

(2) Where a person duly summoned to serve as a juror does not attend, the coroner may impose upon him a fine of not more than $20. 1948, c. 17, s. 26 (2), amended.

(3) Where an inquest is held in a provisional judicial district, the coroner with the consent in writing of the Crown attorney may hold the inquest without a jury. 1948, c. 17, s. 26 (3).

27. A person shall not be qualified to serve as a juror unless he is named in the voters' list of the municipality and marked therein as qualified to serve as a juror, nor shall a person who has acted as a juror at an inquest act in a similar capacity within one year. 1948, c. 17, s. 27.

28. An officer, employee or inmate of a home for the aged, hospital, mental hospital, charitable institution, jail, reformatory, industrial farm or lock-up shall not be qualified to serve as a juror at an inquest upon the body of a person who died therein. 1948, c. 17, s. 28.

29. It shall not be necessary for a jury to view the body upon which an inquest is being held if the coroner, with the consent in writing of the Crown attorney, directs that the viewing of the body is to be dispensed with. 1948, c. 17, s. 29.

30. A verdict or finding may be returned by a majority of the jurors sworn. 1948, c. 17, s. 30.

31. A summons to a juror or to a witness may be served by personal service or by sending it by prepaid registered mail addressed to the usual place of abode of the person summoned. 1948, c. 17, s. 31.
32.—(1) The evidence upon an inquest or any part of it, with the consent in writing of the Crown attorney, may be taken in shorthand by a stenographer who may be appointed by the coroner, and who before acting shall make oath that he will truly and faithfully report the evidence, and where evidence is so taken it shall not be necessary that it be read over to or signed by the witness, but it shall be sufficient if the transcript is signed by the coroner and is accompanied by an affidavit of the stenographer that it is a true report of the evidence.

(2) It shall not be necessary to transcribe the evidence taken by a stenographer unless the Attorney-General or Crown attorney orders it to be done or unless any other person requests a copy of the transcript and pays to the stenographer the fees therefor. 1948, c. 17, s. 32.

33. A coroner may, and if required by the Crown attorney shall, employ a person to act as interpreter at an inquest, and such person may be summoned to attend the inquest and before acting shall make oath that he will truly and faithfully translate the evidence. 1948, c. 17, s. 33.

34. A coroner may appoint such persons as constables as he deems necessary for the purpose of assisting him in an inquest, and before acting every such constable shall make oath that he will faithfully perform his duties. 1948, c. 17, s. 34.

35. The coroner shall forthwith, after an inquest, return the verdict or finding, and every recognizance taken before him, with the evidence where the Attorney-General or Crown attorney has ordered it to be transcribed, and the exhibits, to the Crown attorney. 1948, c. 17, s. 35.

36. The municipality or provisional judicial district for which a coroner is appointed or in which he is directed to act shall provide him with,

(a) necessary stationery, forms and postage;

(b) a suitable place for holding inquests; and

(c) a suitable place for holding post mortem examinations,

but if a suitable place is not provided, the coroner may procure a suitable place and the cost thereof, when approved by the Crown attorney and certified by the coroner, shall be paid by the treasurer of such municipality or provisional judicial district. 1948, c. 17, s. 36.
37.—(1) Coroners' fees and mileage allowances for holding investigations and inquests shall be those set out in Schedule A, provided that where the Attorney-General is of opinion that the prescribed fees are insufficient having regard to the special circumstances of any investigation or inquest, he may approve a larger fee to any coroner.

(2) Crown attorney's fees and expenses for attending inquests shall be those set out in The Administration of Justice Expenses Act.

(3) Constables' fees and mileage allowances for services rendered in connection with an inquest shall be those set out in The Administration of Justice Expenses Act.

(4) Witnesses' and jurors' fees and mileage allowances attending inquests shall be those set out in Schedule B.

(5) Stenographers' fees for services rendered in connection with an inquest shall be upon the scale appointed for short-hand writers under The County Judges Act, and when certified by the coroner shall be paid in the same manner as witness fees.

(6) Interpreters' fees for services rendered at an inquest shall be such as are deemed reasonable by the Crown attorney and when certified by the coroner shall be paid in the same manner as witness fees.

(7) The fees for post mortem examinations and analyses shall be those set out in Schedule C. 1948, c. 17, s. 37.

38.—(1) The coroner shall render the account for his fee and mileage allowance for holding an investigation or inquest to the treasurer of the jurisdiction responsible for the payment of the expenses of the administration of justice in which the investigation or inquest is held, and when the account has been audited by the county board of audit, or where the investigation or inquest is held in a provisional judicial district, by the Auditor of Criminal Justice Accounts, the treasurer shall pay the amount specified therein.

(2) The Crown attorney's account for his fee and expenses for attending an inquest and a constable's account for his fee and travelling expenses for services rendered in connection with an inquest shall be rendered and paid in the manner provided in The Administration of Justice Expenses Act.
(3) The coroner shall give to every witness and juror entitled to a fee and mileage allowance and to every stenographer and interpreter entitled to a fee an order on the treasurer of the jurisdiction responsible for the payment of the expenses of the administration of justice in which the inquest is held, for the payment thereof, and upon presentation of the order the treasurer, if satisfied of the correctness thereof, shall pay the amount specified therein.

(4) A legally qualified medical practitioner shall render his account for his fee,

(a) for any post mortem examination or analysis under item 1 or 2 of Schedule C, to the treasurer of the jurisdiction responsible for the payment of the expenses of the administration of justice in which the investigation or inquest is held, and when the account has been audited by the county board of audit or, when the investigation or inquest was held in a provisional judicial district, by the Auditor of Criminal Justice Accounts, the treasurer shall pay the amount specified therein; or

(b) for any examination or analysis under item 3 of Schedule C, in the manner provided in The Administration of Justice Expenses Act. 1948, c. 17, s. 38.

39. Where an investigation or inquest is held by a coroner in a provisional judicial district, the cost thereof shall be payable by the treasurer of the district as provided in section 38 and when the accounts therefor have been audited by the Auditor of Criminal Justice Accounts the cost shall be paid out of such moneys as may be appropriated therefor by the Legislature as part of the expenses of the administration of justice of the district. 1948, c. 17, s. 39.

40. Where an investigation or inquest is held by a coroner in that part of Ontario having county organization, the cost thereof shall be payable as provided in section 38 by the treasurer of the jurisdiction responsible for the payment of the expenses of the administration of justice in which the investigation or inquest was held, and when the accounts therefor have been audited by the county board of audit and the Auditor of Criminal Justice Accounts, the jurisdiction that paid the same shall be reimbursed out of such moneys as may be appropriated therefor by the Legislature for the coroner’s fee and mileage allowance, for the constable’s fee and mileage allowance and for three-fifths of the fee for any examination or analysis under item 3 of Schedule C. 1948, c. 17, s. 40.
41. Where an investigation or inquest is held and it is found that the cause of death did not arise in the jurisdiction responsible for the payment of the expenses of the administration of justice in which the investigation or inquest was held, the cost thereof shall on demand be repaid by the treasurer of the jurisdiction in which the cause of death arose. 1948, c. 17, s. 41.

42. Where a fine is imposed by a coroner under this Act, it shall be payable forthwith, and if it is not so paid the coroner may commit the person so failing to pay to gaol for a period of not more than 10 days. 1948, c. 17, s. 42.

43. In proceedings under this Act it shall not be necessary for any person to affix a seal to any document, and no document shall be invalidated by reason of the lack of a seal even though the document purports to be sealed. 1948, c. 17, s. 43.

44. The Lieutenant-Governor in Council may make regulations,

(a) prescribing the powers and duties of the supervising coroner;

(b) prescribing the powers and duties of chief coroners;

(c) prescribing the forms required for carrying out this Act. 1948, c. 17, s. 44.
SCHEDULE A

Coroners

1. For all services in an investigation where no inquest is held, a fee of $10.00.
2. For all services where an inquest is held in part, a fee of $15.00.
3. For all services where an inquest is held and completed, a fee of $25.00.
4. For every mile necessarily travelled in connection with an investigation or inquest, a mileage allowance of 15 cents a mile.

1948, c. 17, Sched. A.

SCHEDULE B

Witnesses and Jurors

1. For every day of attendance of a witness or juror who resides within the city, town, village or township in which the inquest is held, a fee of $1.50.
2. For every day of attendance of a witness or juror who resides outside the city, town, village or township in which the inquest is held, a fee of $2.00.
3. For every day of attendance of a legally qualified medical practitioner as a medical practitioner, a fee of $5.00.
4. For every day of attendance of an expert witness such fee, not exceeding $15.00, as the coroner deems proper or such greater fee as the Attorney-General may approve.
5. For preparing a plan, furnishing any article or doing any work for use at an inquest, in addition to the fee to which the witness would ordinarily be entitled, such special fee as the coroner may deem proper and the Crown attorney may approve.
6. For every mile necessarily travelled one way from witness' or juror's residence to where the inquest is held, a mileage allowance of 15 cents a mile, provided that where the inquest is held in a city in which the witness or juror resides, the mileage allowance shall be 75 cents.

1948, c. 17, Sched. B.

SCHEDULE C

Post Mortem Examinations, etc.

1. For a post mortem examination, a fee of $25.00.
2. For an analysis of the contents of the stomach and intestines, a fee of $25.00.
3. For any examination or analysis other than those mentioned in items 1 and 2, such fee as is authorized under The Administration of Justice Expenses Act.
4. The amount of any fee under this Schedule may be increased by 15 cents for every mile necessarily travelled in connection with an examination or analysis.

1948, c. 17, Sched. C; 1949, c. 17, s. 1.