1927

c 123 Coroners Act

Ontario
CHAPTER 123.

The Coroners Act.

INTERPRETATION.

1. In this Act "Coroner" shall include associate coroner. "Coroner." 1926, c. 33, s. 2.

PART I.

APPOINTMENT OF CORONERS.

GENERALLY.

2.—(1) The Lieutenant-Governor in Council may appoint one or more coroners for the whole or any part of every county, city, town, provisional judicial district and provisional county.

(2) Subsection 1 shall not apply to the Cities of Toronto or Hamilton.

(3) Notwithstanding anything contained in the commission of a coroner, the Attorney General may in writing, signed by him, direct a coroner appointed for any part of Ontario (including a chief coroner or coroner for the City of Toronto or the City of Hamilton), to act in any other part of Ontario, and any coroner to whom such direction is given shall have the same jurisdiction and powers within the territory in which he is so directed to act as a coroner appointed under subsection 1 for the same territory.

(4) At the request of the Attorney General or Crown attorney for the district, every police magistrate in a provisional judicial district shall have power to conduct an inquest within his territorial jurisdiction upon the body of any person whose death has apparently been caused by violence or by unfair means, or in consequence of culpable or negligent conduct of others, or under such circumstances as require investigation, and shall for such purpose have all the power given by law to coroners. 1926, c. 33, s. 3.
COlTOSERS. See. 3 (1).

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SPECIAL PROVISIONS AS TO THE CITIES OF TORONTO AND HAMILTON.

Chief coroners for Toronto and Hamilton.

3.—(1) The Lieutenant-Governor in Council may appoint a coroner to be called the Chief Coroner for the City of Toronto and a coroner to be called the Chief Coroner for the City of Hamilton and such number of associate coroners in each city as may be deemed proper.

(2) An associate coroner, subject to such regulations as the Lieutenant-Governor in Council may prescribe, shall perform all the duties and exercise all the powers of a coroner.

(3) Except the Chief Coroner, every coroner and associate coroner appointed for the County of York, including the City of Toronto, and for the County of Wentworth, including the City of Hamilton, shall have, exercise and perform within the City of Toronto and within the City of Hamilton respectively only such powers and duties as are assigned by the regulations to an associate coroner.

(4) Each of the said Chief Coroners shall be paid in lieu of all fees by the corporation of the city half-yearly such salary as may be fixed by the Lieutenant-Governor in Council and the corporation of the City of Toronto and the corporation of the City of Hamilton shall be respectively reimbursed out of the Consolidated Revenue Fund to the extent of one-half such respective salaries. 1926, c. 33, s. 4.

NOTICE OF APPOINTMENT.

4. A copy of the Order in Council appointing a coroner shall be sent 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. 1926, c. 33, s. 5.

PART II.

INQUEST ON DEATH.

DISQUALIFICATION OF CORONER.

5. A coroner shall not conduct an inquest upon the body of any person whose death has been caused at or on a railway, mine or other work, whereof he is the owner, or part owner, or which 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 at or on such work. 1926, c. 33, s. 6.
DUTY OF CORONER ON INFORMATION OF DEATH.

6.—(1) Every practitioner, undertaker or embalmer and every person occupying a house in which a deceased person was residing, who has reason to believe that the deceased died as a result of violence, or misadventure, or by unfair means or from any cause other than disease, or as a result of negligence or misconduct or malpractice on the part of others, or under such circumstances as require investigation, shall immediately notify the 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, undertaker or embalmer or occupant is aware that the deceased had been suffering from disease or sickness and had not been treated or attended by a duly qualified medical practitioner.

(3) 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 died as the result of violence or misadventure or by unfair means or from any cause other than disease or as the result of negligence or misconduct or malpractice on the part of others or under such circumstances as require investigation, he shall issue his warrant to take possession of the body, and shall view the body and make such further enquiry as may be required to satisfy himself whether or not an inquest is necessary.

(4) The coroner may with the sanction of the Crown attorney employ an expert to assist him in the inquiry.

(5) After the issue of such warrant no other coroner shall issue a warrant or interfere in the case, except under the instructions of the Attorney General or the Crown attorney. 1926, c. 33, s. 7.

(Note.—No burial permit shall be given and embalming shall not take place without coroner's permission. See Vital Statistics Act, Rev. Stat. c. 78).

7. If, after making such enquiry, the coroner deems it necessary that an inquest should be held, he shall issue his warrant for the holding of an inquest, and shall forthwith transmit to the Crown attorney a statutory declaration, setting forth briefly the result of such enquiry, and the grounds upon which he deems it necessary that an inquest should be held. 1926, c. 33, s. 8.

8. When the death is believed to be the result of violence, misadventure or other matters occurring at a place beyond the jurisdiction of the coroner he may with the consent of the Crown attorney issue the warrant for the inquest return.
able before the coroner having jurisdiction at such place and
the inquest shall be conducted by such coroner as though the
death had taken place in 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 evi­
dence shall be transmitted to and received by the coroner hold­
ing the inquest as part of the proceedings before him. 1926,
c. 33, s. 9.

9.—(1) If, after viewing the body and making such en­
quiry, the coroner deems an inquest unnecessary he shall
issue his warrant to bury the body, and shall forthwith
transmit to the Crown attorney a statutory declaration, set­
ing forth briefly the result of such enquiry 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 such declaration, the Attorney Gen­
eral or the Crown attorney may direct the coroner making
the same, or some other coroner having jurisdiction, 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. 1926, c. 33, s. 10.

10. If the coroner declares an inquest to be unnecessary,
and an inquest is not held by him, he shall be entitled for his
services to a fee of $5 and mileage at the rate of twenty cents
per mile for every mile necessarily travelled by him, and
such fee and mileage shall be paid in the same manner and
upon the same conditions as the fees of a coroner in a case in
which an inquest is held. 1926, c. 33, s. 11.

WHEN INQUEST COMPULSORY.

11. Where the death of any person appears to have been
causd in the construction or operation of any railway, street
railway or electric railway the Crown attorney, subject to the
provisions of section 5, shall direct a coroner having jurisdic­
tion in the locality to hold an inquest upon the body of the
person so dying, and the coroner shall issue his warrant and
hold an inquest accordingly. 1926, c. 33, s. 12.

(Note.—As to deaths in mines, see section 160 of The Mining

12.—(1) Where a coroner has ordered an inquest upon
the body of a person who has met death by violence in the
wreck of a building, bridge, structure, embankment or railway
train, the coroner may take charge of all wreckage and place a
constable or constables in charge thereof so as to prevent
persons from disturbing such wreckage until the jury at the
inquest has viewed the same, or the coroner where there is no
jury has made such examination as he deems necessary.

(2) The coroner shall have power to swear in such special
constables as may be necessary for such purposes.

(3) The jury or coroner as the case may be shall view such
wreckage at the earliest moment possible. 1926, c. 33, s. 13.

13.—(1) Where an inmate of a house of refuge or house
of industry dies, the superintendent, or other officer in charge,
shall immediately give notice of such death to the Crown
attorney.

(2) On receipt of such notice the Crown attorney shall
enquire into the facts, and if, as a result of such enquiry, he is
of opinion that such death took place under circumstances
requiring an investigation, he shall direct a coroner having
jurisdiction to hold an inquest upon the body of the deceased
person, and the coroner shall issue his warrant, and hold an
inquest accordingly. 1926, c. 33, s. 14.

14. Where a prisoner in a gaol, prison, house of correc-
tion, reformatory or lock-up dies, the warden, gaoler, keeper or
prisoner, superintendent thereof shall immediately give notice of such
death to the coroner, and the coroner shall issue his warrant, and hold an
inquest upon the body. 1926, c. 33, s. 15.

POWERS AND DUTIES OF CROWN ATTORNEY OR COUNSEL
FOR ATTORNEY GENERAL.

15.—(1) Every coroner, before holding an inquest, shall notify the Crown attorney of the time and place of holding
the same, and the Crown attorney may, and if directed by the
Attorney General shall, attend the inquest and may examine
or cross-examine the witnesses thereat, and the coroner shall
summon such witnesses as the Crown attorney directs.

(2) The Attorney General may be represented by counsel at any inquest, and such counsel shall have the same powers
as the Crown attorney has under subsection 1. 1926, c. 33, s. 16.

WITNESS FEES AND MILEAGE.

16. Every person who attends an inquest on summons, or witnesses
on the request of the Crown attorney, to give evidence, or who
attends an inquest, gives evidence, shall be entitled to $1 for every day of such
attendance, and mileage, at the rate of fifteen cents per mile
for each mile necessarily travelled from his last place of resi-
dence to the place where the inquest is held, one way; and
the amount payable to witnesses shall be certified by the
coroners, who shall make his order for the payment thereof.
1926, c. 33, s. 17.
17.—(1) The coroner may, at any time before the termination of the inquest, by his warrant, direct a post mortem examination to be made by a medical practitioner, with or without an analysis of the contents of the stomach and intestines.

(2) A post mortem examination shall not be made without the consent in writing of the Crown attorney unless an inquest is actually held.

(3) Every medical practitioner making a post mortem examination shall make a report thereon in writing upon a form approved by the Lieutenant-Governor in Council which shall be supplied by the coroner.

(4) No fees shall be paid to a medical practitioner for a post mortem examination unless such report is made and contains the particulars required by the form or satisfactorily accounts for their absence. 1926, c. 33, s. 18.

18. The coroner may, with the sanction of the Crown attorney, summon one or more, but not exceeding three, persons for the purpose of giving expert evidence, and any person so summoned shall be paid for his attendance in addition to his actual travelling expenses such fees as the coroner may certify to be reasonable not exceeding $15 a day, and such fees and expenses shall be paid on the order of the coroner in the same manner as the other expenses of witnesses. 1926, c. 33, s. 19.

19.—(1) The coroner may issue his warrant for the attendance before him or at the inquest of the legally qualified medical practitioner, if any, who attended the deceased at his death, or during his last illness, or of any other legally qualified medical practitioner, in or near the place where the death occurred, but he shall not without the consent of the Crown attorney order the attendance of more than one medical practitioner.

(2) A legally qualified medical practitioner shall be entitled for each attendance in obedience to any such order to $5 and mileage at the rate of twenty cents per mile for every mile necessarily travelled, and for a post mortem examination without an analysis of the contents of the stomach or intestines he shall be entitled to a fee of $15, and if with such analysis to an additional fee of $25.

(3) The number of miles so travelled shall be proved by the statutory declaration of the medical practitioner. 1926, c. 33, s. 20.
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JURY.

20. — (1) The number of jurors to be summoned to serve on an inquest shall be not less than seven nor more than twelve.

(2) An inquisition may be found by a majority of the jurors sworn. 1926, c. 33, s. 21.

21. Where an inquest is held in a provisional judicial district the coroner may, with the consent of the Crown attorney, hold the inquest without a jury. 1926, c. 33, s. 22.

22. 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. 1926, c. 33, s. 23.

23. An officer, employee or inmate of a house of refuge, house of industry, hospital, asylum, or charitable institution, gaol, prison, house of correction, reformatory or lock-up, shall not be qualified to serve as a juror at an inquest upon the body of any person whose death occurred therein. 1923, c. 33, s. 24.

24. — (1) Every juror serving at an inquest shall be entitled to $1 for every day upon which such inquest is held and, is continued for not more than four hours, and where the time occupied by an inquest on any day exceeds four hours $1 in addition for each such day, and mileage at the rate of ten cents per mile for each mile necessarily travelled from his place of residence to the place where the inquest is held.

(2) Subject to the provisions of section 27 the amount to be paid to jurors shall be certificated by the coroner, who shall make his order for payment thereof. 1926, c. 33, s. 25.

25. It shall not be necessary for a jury to view the body upon which an inquest is being held when the coroner, with the consent in writing of the Crown attorney, directs that the viewing of the body shall be dispensed with. 1926, c. 33, s. 26.

PAYMENT OF EXPENSES.

26. The coroner shall give to every person entitled to fees, charges, mileage or other expenses in connection with an inquest an order on the treasurer of the county, or of the city or separated town in which an inquest is held, or in the case of an inquest in a provisional judicial district (save where held in a city) upon the treasurer of the district, for the payment thereof, and upon presentation of the order the treasurer shall pay the amount named therein. 1926, c. 33, s. 27.
EXPENSES OF INQUEST WHEN CAUSE OF DEATH TAKES PLACE OUTSIDE CITY OR TOWN.

27. Where an inquest is held upon the body of a person who has died in a county, city or separated town, and the jury find that the cause of death did not arise within such county, city or town, the coroner shall make an order for the payment of the fees, charges and expenses in connection with such inquest on the treasurer of the county, city or town in which the inquest is held, who shall thereupon pay the same; and the amount so paid shall, on demand, be repaid by the treasurer of the county, city or separated town in which the matter causing the death is found to have arisen or taken place. 1926, c. 33, s. 28.

ANNUAL RETURNS.

28.—(1) Every coroner shall on or before the 15th day of January in each year make a return to the Attorney General for the year ending on the 31st day of December next preceding, containing,—

(a) every case in which after investigation by him an inquest was deemed unnecessary; and

(b) every case in which an inquest was held by him, with the findings of the jury thereon.

(2) The return shall as far as possible show the name, place of residence and occupation of the deceased, the place of death, and the cause of death as found by the coroner on such investigation, or by the jury at the inquest.

(3) The return shall be in the form prescribed by the Lieutenant-Governor in Council which shall be furnished to all coroners. 1926, c. 33, s. 29.

FEES OF CORONERS.

29.—(1) The fees and expenses to be allowed and paid to a coroner holding an inquest upon a death shall be those set forth in Schedule A, and shall be payable, in the first instance, by the city or county, and the city or county shall be recouped for the same out of the Consolidated Revenue Fund.

(2) On the recommendation of the Attorney General an additional allowance may be made to a coroner holding an inquest, where in the opinion of the Attorney General such fees are an insufficient remuneration, having regard to the difficulties of travelling and other special circumstances. 1926, c. 33, s. 30.
PART III.

PROVINCIAL CORONERS.

30.—(1) The Lieutenant-Governor in Council may appoint provincial coroners, each of whom shall be by virtue of his appointment a coroner for every county, provisional county and provisional judicial district for the purpose of,—

(a) holding fire inquests;

(b) holding investigations in cases of maiming or suspected poisoning of horses, cattle and other domestic animals; and

(c) holding an investigation in any case in which there is in his opinion reason to believe that property has been destroyed or damaged by the wilful or malicious use of explosives.

(2) Except where otherwise expressly provided a provincial coroner when holding an inquest or investigation shall have all the powers of a coroner.

(3) Where a fire has occurred whereby any building or any moveable property has been wholly or in part consumed or damaged, and it appears to a provincial coroner that there is reason to believe that the fire was the result of culpable or negligent conduct or design, or occurred under such circumstances as require investigation, he may hold an inquest as to the cause or origin of the fire, and may summon a jury for that purpose, or may dispense with a jury as he may deem expedient.

(4) Where a provincial coroner within whose jurisdiction a fire has occurred, whereby any building, or any moveable property, has been wholly or in part consumed or damaged, receives,—

(a) a requisition in writing signed by the agent of an insurance company setting forth the facts as far as known, and stating that there is reason to believe that the fire was the result of culpable or negligent conduct or design, or occurred under such circumstances as, in the interests of justice and for the due protection of property, require investigation; and requiring the coroner to hold an inquiry into the cause and origin of the fire; together with a statutory declaration that the statements made in the requisition are true to the knowledge of the person making the declaration; or
(b) a resolution passed by the council of the city, town, village or township in which the fire took place, that there are strong special and public reasons why an investigation should be held into the cause and origin of the fire and stating such reasons; and

(c) an undertaking, on the part of the insurance company or council, to pay the expenses of the inquiry, he may, with the consent of the Attorney General or the Crown attorney, issue his warrant for summoning not less than seven nor more than twelve of the householders resident in the vicinity of the fire to hear the evidence that may be adduced concerning the same, and to render a verdict under oath according to the facts, or he may hold the inquest without a jury.

(5) A provincial coroner with the consent of the Attorney General may hold an inquest or investigation without receiving any requisition and the expense of and incidental to such investigation shall be borne and paid in the same manner as in the case of an inquest upon the body of a deceased person. 1926, c. 33, s. 31.

FEES OF CORONER.

Where an inquest is held by a provincial coroner in respect of a fire the provincial coroner shall be entitled to the sum of $10, and should the enquiry extend beyond one day, then to $10 per diem for each of two days thereafter and no more. 1926, c. 33, s. 32.

PAYMENT OF EXPENSES.

The insurance company or municipal council requiring the inquest shall alone be responsible for the expenses of and attending the same, and the fees, mileage and other charges shall be certified by the provincial coroner, who shall give his order in writing upon the company or the treasurer of the municipality, as the case may be, for payment thereof to the persons entitled thereto, and the same shall be payable accordingly. 1926, c. 33, s. 33.

The expenses consequent upon an adjournment of an inquest shall not be chargeable against or payable by the insurance company or municipal council requiring the investigation unless the provincial coroner has certified under his hand why and for what purpose in his opinion an adjournment took place or became necessary. 1926, c. 33, s. 34.
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WHO TO BE PARTIES TO INVESTIGATION.

34.—(1) A director or officer of any fire insurance company interested, or the assured, or any person claiming under a policy of insurance, or any person prejudicially affected by any of the evidence adduced may attend personally or by counsel any investigation held under this Part as party thereto, and may, with the provincial coroner’s consent, examine, cross-examine or re-examine witnesses, as the case may be.

(2) The provincial coroner shall summon such witnesses as he may deem necessary and as may be required by any party to the investigation. 1926, c. 33, s. 35.

DISQUALIFICATIONS.

35. A provincial coroner who is a director or officer of the insurance company, or who is interested in any way, shall not hold an investigation under this Part, nor shall any such director or officer or any other interested person act for the coroner as clerk, reporter or otherwise in taking down or recording the depositions or evidence. 1926, c. 33, s. 36.

PART IV.

GENERAL PROVISIONS.

APPLICATION.

36. This Part shall apply to every inquest and investigation held by a coroner or by a provincial coroner under the authority of this Act or of any other Act or law in force in Ontario. 1926, c. 33, s. 37.

37.—(1) 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.

(2) 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. 1926, c. 33, s. 38.

38.—(1) The evidence upon an inquest or any part of it, with the sanction 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 such evidence.

(2) The fees payable to stenographers for services rendered shall be upon the scale appointed for stenographers under The County Judges Act and shall be certified by the coroner and paid in the same manner as witness fees.

(3) The sanction of the Crown attorney to the employment of a stenographer shall not be necessary in the case of an inquest held by a provincial coroner, or in the case of a fire inquest where one of the parties thereto in writing requests the coroner to employ a stenographer and agrees to pay the extra charges occasioned thereby. 1926, c. 33, s. 39.

39. — (1) 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.

(2) An interpreter shall be paid for his attendance and services such fees as may be fixed by the provincial coroner, or by the coroner with the approval of the Crown attorney. 1926, c. 33, s. 40.

PENALTY ON JUROR FOR NON-ATTENDANCE.

40. Where a person duly summoned to serve as a juror does not attend the coroner may impose upon him a fine not exceeding $4. 1926, c. 33, s. 41.

41. — (1) Where a coroner conducts an inquest in violation of the provisions of section 5 he shall incur a penalty of not less than $100 nor more than $500, to be sued for and recovered by anyone in any court of competent jurisdiction.

(2) 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.

(3) The action shall be commenced within one year next after the inquest was held and not afterwards and shall be tried by a judge without a jury. 1926, c. 33, s. 42.

RECOVERY OF FINES.

42. Where a fine is imposed by a coroner under this Act he shall thereupon make out and sign a certificate stating the name, residence and occupation of the delinquent, the amount of the fine imposed and the cause of the fine, and shall transmit such certificate to the clerk of the peace of the county or district in which the delinquent resides on or before the first
day of the general sessions of the peace then next ensuing, and the fine so certified shall be estreated, levied and applied in like manner and upon and subject to the like powers, provisions and penalties as if it had been a fine imposed at the general sessions. 1926, c. 33, s. 43.

RETURN OF INQUISITION.

43. Every coroner shall forthwith, after an inquisition found by or before him, return the verdict or finding of the jury or of the coroner and every recognizance taken before him, with the evidence and exhibits, to the Crown attorney. 1926, c. 33, s. 44.

COURT ROOM FOR INQUEST.

44. — (1) The corporation of every city and town shall provide a suitable place for the holding of inquests, and until it is provided for that purpose, inquests may be held in the police court room of the municipality, but at such times as shall not interfere with the use of such court room for the holding of the police court.

(2) If a suitable place is not provided by the corporation the coroner may procure a suitable place for holding the inquest and the expense incurred shall be borne by the corporation. 1926, c. 33, s. 45.

FORMS.

45. Forms for the carrying out of the provisions of this Act may be prescribed by the Lieutenant-Governor in Council. 1926, c. 33, s. 46.

(For special provisions as to coroners when acting under The Sheriffs Act, see Rev. Stat. c. 18.)

(As to fatal accidents in mines, see The Mining Act, Rev. Stat. c. 45.)

(As to expenses see Administration of Justice Expenses Act. Rev. Stat. c. 126.)

(As to coroners duty in cases of murder or manslaughter see Criminal Code, sec. 667, and as to his duty when an offender is executed see Criminal Code, sec. 1070.)

SCHEDULE “A.”

(a) Impanelling a jury ........................................ $2.00
(b) Examining each witness (including summonses) ............ 50
(c) Taking each recognizance .................................. 50
(d) Necessary travel per mile .................................. 20
   When by railway, per mile .................................. 10
(e) Taking inquisition and making return ....................... 10.00
(f) Every warrant ............................................ 1.00
(g) Order for the payment of jurors ........................... 1.00

1926, c. 33, Sched. A.