

Bill No. 40 of 1945.

A BILL RESPECTING CORONERS

NOTE.

This Act replaces *The Coroner's Act*, being chapter 117 of the Revised Statutes of Alberta, 1942. Its main purpose is to revise the conditions under which a coroner's inquiry shall be held and to bring it into line with the provisions of the Coroner's Acts of other Provinces in the Dominion. Only the material changes are referred to in this note.

Section 6 (1) of the Bill replaces section 4 (1) of the Act and provides that a coroner shall be notified in all cases where there is reason to believe that a deceased person died as a result of violence or misadventure or by unfair means, or from any cause other than disease or sickness, or as a result of negligence or misconduct or malpractice on the part of others, rather than cases where persons died an unnatural death or a sudden death of which the cause is unknown, or as a result of violence as provided under the old Act.

The Bill outlines more fully the duties of coroners and the procedure to be carried out in connection with the holding of an inquest. It also provides that any five jurors may return a verdict, whereas under the old Act the jury had to render a unanimous verdict.

Section 15 of the Bill provides that where a person has met death by violence in the wreck of a building, bridge, structure, embankment, aeroplane, motor vehicle, boat, machine or apparatus, the coroner may take charge of the wreckage and place a constable to guard the same. He may also prohibit any person from interfering, destroying or carrying away the wreckage or any part thereof in order to preserve the conditions so that the jury may view the premises, and also to ensure the preservation of evidence relating to the death of the deceased.

The Bill provides details of procedure in requiring the attendance of jurors and witnesses, a good deal of which was omitted from the old Act.

Section 28 of the Bill provides that where a death occurs as a result of which any person is charged with murder or manslaughter arising out of such death, the Attorney General may direct that no inquest shall be held or continued touching that death. This section is inserted to do away with the necessity of holding an inquest where some person is to be charged and all the evidence will be submitted at a preliminary inquiry before a magistrate. In certain cases the trial of an accused person may be seriously prejudiced

by the holding of an inquest where publicity is given to the facts and circumstances brought out at the inquest, and prejudice created in the minds of the public against the accused prior to his trial.

The Bill provides forms to be used by the coroner at the inquest, many of which were omitted from the old Act.

W. S. GRAY,
Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 40 of 1945.

An Act respecting Coroners.

(Assented to _____, 1945.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

SHORT TITLE.

1. This Act may be cited as "*The Coroners Act*."

APPOINTMENT, JURISDICTION AND REMOVAL.

2.—(1) The Lieutenant Governor in Council may appoint one or more coroners for the Province and may define the territorial limits of their separate and respective jurisdictions, and may at any time remove, supersede or dispense with any or all of such coroners and appoint another or others in his or their stead at pleasure.

(2) The Lieutenant Governor in Council may appoint a Provincial Chief Coroner, who shall have jurisdiction throughout the Province, and the powers, duties and remuneration of the Provincial Chief Coroner shall be such as may from time to time be defined and set forth by Order in Council.

(3) In cities of more than fifteen thousand inhabitants, the Lieutenant Governor in Council may appoint a coroner to be called the Chief Coroner of the city, whose fees, powers and duties shall be such as may from time to time be defined and set forth by Order in Council.

(4) The Lieutenant Governor in Council may limit and define the powers and duties of all coroners now or hereafter appointed in cities of more than fifteen thousand inhabitants.

OATH OF OFFICE.

3. Each coroner before entering upon the duties of his office shall take and subscribe an oath of office and an oath of allegiance.

JURISDICTION.

- 4.—(1) Unless otherwise directed by the Attorney General, the coroner residing nearest by the usual route of travel to the place of death or where the body is found, shall deal with the case.

(2) The Attorney General may, at any time, direct a coroner to make an investigation or hold an inquest at any place in the Province and in such case the jurisdiction of the coroner residing at or near such place shall be suspended respecting the investigation or inquest.

DISQUALIFICATION.

5.—(1) A coroner shall not conduct an inquest upon the body, or make any investigation into the circumstances connected with the death of a person,—

- (a) on whom he has attended in his professional capacity as a physician at any time during the period of thirty days immediately prior to the date of death; or
- (b) on whose body he has performed an autopsy or post-mortem examination; or
- (c) whose death has been caused at or on a railway, mine or other work whereof the coroner 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.

(2) A coroner who conducts an inquest or makes an investigation in violation of subsection (1) shall be guilty of an offence and liable on summary conviction to a fine of not more than two hundred dollars.

NOTICE TO CORONER.

6.—(1) Any medical practitioner, undertaker, embalmer, any inmate of the house in which the deceased resided immediately before his death, any peace officer, or any other person who has reason to believe that a deceased person died as a result of violence or misadventure or by unfair means, or from any cause other than disease or sickness, 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 a coroner who ordinarily has jurisdiction in the locality in which the body of the deceased person is found, of the facts and circumstances relating to the death.

(2) Every person who fails to give the notice required by subsection (1) shall be guilty of an offence and liable on summary conviction to a fine of not more than fifty dollars provided that if the notice is given by one of the persons required to give it, the others shall not be liable to a fine.

DUTIES OF CORONERS.

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

(2) After the issue of a warrant no other coroner shall issue a warrant or interfere in the case, except under the instructions of the Attorney General.

(3) In any case where the Registrar General has pursuant to the provisions of *The Vital Statistics Act* ordered an investigation of a sudden death or death following an operation or an accident, it shall not be necessary for the coroner to issue his warrant to take possession of or view the body if the coroner, after inquiry into all the circumstances connected with the death, is satisfied that it is unnecessary to hold an inquest.

(4) For the purpose of making such inquiries as may be required to satisfy himself whether or not an inquest is necessary, the coroner may require the assistance of all or any constables and peace officers who shall, when so called on, make immediate inquiries into the circumstances of the death, and report to the coroner in detail the results of such inquiries.

(5) The coroner may, with the approval of the Attorney General, employ experts to assist him in the inquiry.

8.—(1) If the coroner deems an inquest unnecessary, he shall issue his warrant to bury the body, and shall forthwith transmit to the Attorney General the affidavit in Form C in the Schedule setting forth briefly the result of the inquiry and the grounds on which the warrant has been issued, and shall also forthwith transmit to the Registrar General of Vital Statistics such information as he is required to furnish under *The Vital Statistics Act*.

(2) Notwithstanding such affidavit, the Attorney General may direct the coroner or some other coroner to hold an inquest upon the body, and the coroner to whom such direction is given shall forthwith summon a jury and hold an inquest.

INQUESTS.

9. Where a coroner after investigation has good reason to believe that the deceased came to his death under circumstances making it necessary to hold an inquest, the coroner shall summon a jury and hold an inquest.

10.—(1) Before summoning a jury, the coroner shall make an affidavit in Form B in the Schedule.

(2) The affidavit shall be returned and filed by the coroner with the inquisition.

(3) This section shall not apply to an inquest held at the request of the Attorney General or to an inquest held by a coroner who is paid by salary or to an inquest held upon the body of a prisoner who died in or about any prison, gaol or lock-up.

11. Where the Attorney General has reason to believe that a deceased person has died under circumstances which in his opinion make the holding of an inquest advisable he may direct any coroner to conduct an inquest into the death of such person; and the coroner shall proceed to conduct an inquest in accordance with the provisions of this Act whether or not he or any other coroner has viewed the body, made any inquiry or investigation, held any inquest into or done any other act in connection with the death.

12. Where a prisoner in a gaol, house of correction, detention home, reformatory or lock-up, dies, the warden, gaoler, keeper or superintendent thereof shall immediately give notice of the death to the coroner and the coroner shall issue his warrant in Form A in the Schedule and hold an inquest on the body.

13. In any case where the body of any person upon whom it is necessary to hold an inquest has been buried, and it is known to the coroner that no good purpose shall be effected by exhuming the same for the purposes of the inquest, the Attorney General may, either on application to him or otherwise, give written permission under his hand, to the coroner, who is about to hold the inquest, to proceed therewith without exhuming the body.

14. In any case where a coroner is satisfied that the death of any person has occurred within his jurisdiction, but either from the nature of the event causing the death or for any other reason neither the body nor any part thereof which the coroner or jury can view can be found or recovered, he may, after having first obtained the consent in writing of the Attorney General so to do, proceed to summon a jury and hold an inquiry as to the cause of death of such person without any view of the body, in the same manner and in all other respects as other inquests are held under this Act.

15.—(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, aeroplane, motor vehicle, boat, machine or apparatus, the coroner may take charge of all wreckage and place a constable or constables in charge thereof so as to prevent persons from disturbing the wreckage until the coroner has made such examination as he deems necessary.

(2) Where a death has occurred in the wreck of a building, bridge, structure, embankment, aeroplane, motor vehicle, boat, machine or apparatus, every person who, except for the purpose of saving life or relieving human suffering, without authority from the coroner, interferes with, destroys or carries away, or alters the position of such wreckage or any part thereof, or anything in any way connected therewith, shall be guilty of an offence and liable on summary conviction to a fine of not more than one hundred dollars, and where it appears that the offence was committed wilfully and with the intention of making away with or destroying evidence, the person committing such offence shall be liable to imprisonment for a period not exceeding six months.

16.—(1) The coroner may at any time in any case where he considers it necessary,—

(a) for the purpose of an investigation; or

(b) prior to the termination of an inquest,—

by his order subject to the provisions of subsection (3), 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) Where the coroner has reason to believe that the death was directly or indirectly caused by the improper or negligent treatment of a medical practitioner or other person, the medical practitioner or other person shall not be allowed to perform or assist at the post-mortem examination.

(3) A post-mortem examination shall not be made without the consent in writing of the Attorney General or the Chief Coroner of the Province unless an inquest is ordered by the coroner.

JURORS.

17.—(1) The number of jurymen to be summoned to serve on an inquest shall be six.

(2) Except as is otherwise provided by this or any other Act, such persons only shall be liable to serve upon such a jury as are liable to serve as jurors, pursuant to *The Jury Act*.

(3) An officer, employee or inmate of a hospital, asylum, charitable institution, gaol, prison or lock-up shall not serve as a juror at an inquest upon the body of a person whose death occurred therein, nor shall an owner or an employee of an owner of any building or premises in which any trade or business is carried on, and in which the death of an owner or employee occurs, serve as a juror at an inquest on the body of the deceased.

18.—(1) When under this or any other Act an inquest is required to be held, the coroner shall, as soon as prac-

licable, issue his warrant to a constable authorizing him to summon a jury to appear before the coroner at a specified time and place, there to inquire touching the death in respect of which the inquest is to be held; and upon being assembled the jurors shall be sworn, by or before the coroner, diligently to inquire touching the death and a true verdict to give according to the evidence.

(2) The summons may contain the names of all the persons to be summoned but each copy thereof need only contain the name of that juror upon whom it is to be served.

(3) The constable shall attend at the time and place so appointed and make his return as to the service of the summons, and the coroner may proceed to hold the inquest if there are at least six jurors in attendance upon the return of the summons.

(4) If at least six jurors so summoned do not appear, the coroner may order a constable or any other person appointed by him for the purpose to summon a sufficient number of persons to complete the jury, and such jurors may, if necessary, be summoned by word of mouth.

(5) The jury shall consist of six persons, five of whom may return a verdict.

19.—(1) Where a person duly summoned to serve as a juror does not, after being openly called three times, appear in answer to the summons, the coroner may, after proof upon oath that the summons has been served, issue his warrant directed to any constable or other peace officer in the Province, commanding him to arrest such person and bring him before the coroner at the time and place mentioned in the warrant.

(2) Where such person is brought before the coroner and fails to show cause why he did not obey the summons, the coroner may impose upon such person a fine not exceeding twenty-five dollars and costs, and in default of payment may by warrant in Form D in the Schedule commit the person to gaol for a term not exceeding thirty days.

(3) Where a person summoned to serve as a juror is arrested and brought before the coroner and refuses without reasonable excuse to so serve, the coroner may impose upon such person a fine not exceeding twenty-five dollars and costs, and in default of payment may by warrant as near as may be in Form D in the Schedule, commit the person to gaol for a term not exceeding thirty days.

WITNESSES.

20.—(1) A coroner may issue a summons to any person who, in his opinion, may be able to give material evidence as to the matters to be inquired into at the inquest. The summons shall be served in the same manner as a writ or subpoena by any constable, but a copy only need be served.

The original summons may contain the names of any number of witnesses, but each copy thereof may contain the name of that witness only upon whom it is served.

(2) A coroner shall have the same powers to compel the attendance of witnesses, to punish them for disobeying a summons to appear or for refusing to be sworn or to give evidence as are conferred upon justices of the peace by Part XV of *The Criminal Code of Canada*.

PROCEDURE AT INQUEST.

21.—(1) The coroner and jury shall, at the first sitting of the inquest, view the body, unless a view has been dispensed with under sections 13 or 14, and the coroner shall examine on oath, touching the death, all persons who tender their evidence respecting the facts and all persons whom he thinks it expedient to examine as being likely to have knowledge of relevant facts; provided that a person who is suspected of causing the death, or who has been charged or is likely to be charged with an offence relating to the death, shall not be compellable to give evidence at the inquest; provided that before such person gives any evidence this section shall be read to him by the coroner.

(2) Counsel appointed by the Attorney General to act for the Crown at an inquest may attend thereat and may examine or cross-examine the witnesses called, and the coroner shall summon any witness required on behalf of the Crown.

22.—(1) Subject to subsection (2), the coroner shall put into writing the evidence of each witness, or so much thereof as is material, and each deposition shall be signed by the witness and also by the coroner.

(2) With the consent of the Attorney General or counsel representing him, the evidence or any part thereof 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 the signature of the witness shall not be necessary, and it shall be sufficient if the transcript is signed by the coroner and accompanied by an affidavit of the stenographer that it is a true report of the evidence.

(3) The evidence taken by a stenographer need not be transcribed unless ordered by the Attorney General or counsel appointed by him to act for the Crown at the inquest, or unless any other person requests a transcript and pays to the stenographer the prescribed fee therefor.

(4) A coroner may employ an interpreter at an inquest.

23.—(1) After viewing the body, unless a view has been dispensed with under section 13 or 14, and after hearing the evidence and summing up of the coroner, the jury

shall give their verdict and certify it by an inquisition in writing in Form E in the Schedule setting forth so far as such particulars have been proved to them, who the deceased was, and how, when and where he came to his death.

(2) The inquisition shall be signed by the jurors who concur in the verdict and by the coroner.

24.—(1) If five members of the jury cannot agree upon a verdict, the coroner may discharge the jury, after having first taken their findings upon such facts, if any, as at least five members have been able to agree upon.

(2) The coroner shall thereupon submit the evidence taken at the inquest, together with the findings of the jury upon such facts, if any, as they have agreed upon, to the Attorney General, who may order the coroner to summon another jury and hold a second inquest, either with or without a view of the body, or may take such other action as the Attorney General deems proper.

25.—(1) The coroner may, for the purpose of obtaining further evidence, adjourn an inquest from time to time and for such period as he deems necessary, and may upon adjournment take the recognizances of the jurors and witnesses for their due appearance at the adjourned sittings.

(2) Where a juror, by reason of his illness or death, or absence from the Province, does not attend at the adjourned sittings, the coroner may proceed with the inquest if at least five jurors are present.

PROCEDURE AT CONCLUSION OF INQUEST.

26. Each coroner shall immediately upon the conclusion of an inquest held by him, forward to the Department of the Attorney General the inquisition thereof in Form E in the Schedule together with the affidavit required by section 10, any depositions of witnesses taken in the manner required by subsection (1) of section 22, a transcript of any evidence taken in the manner permitted by subsection (2) of section 22, where the Attorney General or counsel appointed by him to act for the Crown has ordered it to be transcribed, or the stenographer's notes of the evidence if no such order has been made, and the exhibits.

GENERAL.

27. Each coroner shall at the end of each year transmit to the Attorney General's Department a statement setting forth the investigations and inquests, together with the particulars of each, held by him during the preceding year, which statement shall be in Form F in the Schedule, or to the like effect.

28. Where a death occurs as a result of which any person is charged with murder or manslaughter arising out of such death, the Attorney General may direct that no inquest shall be held or continued touching that death.

29. The Provincial Chief Coroner, upon being requested so to do by the Attorney General, shall have the power to take over from any other coroner any inquiry or inquest at any stage thereof, and thereupon the Provincial Chief Coroner shall have exclusive jurisdiction in the matter of the inquiry or inquest and may in his discretion either continue the proceedings at the stage at which they were when he assumed jurisdiction or he may commence the proceedings *de novo*, and in the last mentioned event, everything theretofore done in the matter shall be of no effect.

30. The fees and allowances payable to coroners, witnesses, jurors, stenographers and interpreters and to any medical practitioner for any examination shall be such as may from time to time be prescribed by the Lieutenant Governor in Council.

31. *The Coroners Act*, being chapter 117 of the Revised Statutes of Alberta, 1942, is hereby repealed.

32. This Act shall come into force on the day upon which it is assented to.

SCHEDULE.

FORM A.

WARRANT TO TAKE POSSESSION OF BODY.

Canada
Province of Alberta }
To Wit:

To..... and to all Peace Officers
and Constables whom it may concern:

Whereas, it has been made to appear to me that.....
..... has died.....
.....
.....

Note: here insert either:—

- (a) as a result of violence; or
- (b) by misadventure or by unfair means or from
any other cause other than sickness or dis-
ease; or
- (c) as a result of negligence or misconduct or
malpractice on the part of others; or
- (d) under such circumstances as require an in-
vestigation,

and that such body is now lying at.....
....., a place in which I have jurisdiction as
a coroner;

Therefore, by virtue of my office these are to command
you in His Majesty's name to take possession of the body of
the deceased and the same to safely keep and to deal with
the same as may be directed by me until a further order is
made by me concerning the same;

And for so doing, this shall be your full and sufficient
warrant and authority.

Given under my hand at in the
Province of Alberta, this..... day of
....., 19.....

.....
A Coroner in and for the Province of Alberta.

FORM B

AFFIDAVIT OF CORONER BEFORE SUMMONING JURY

Canada } I, of the
 Province of Alberta } of in
 To Wit: } the Province of Alberta, one of the
 coroners of the said Province, make
 oath and say:

That from information received by me, I am of the opinion
 that there is reason for believing that.....

..... now lying dead at
 did not come to his death from
 natural causes, or from mere accident or mischance, but
 that he came to his death from violence or unfair means, or
 culpable or negligent conduct of others, or under circum-
 stances requiring investigation by a coroner's inquest.

Sworn before me at the..... }
 of..... in the }
 Province of Alberta, this..... } *Coroner*
 day of..... A.D. 19..... }

A.....

FORM C.

AFFIDAVIT OF CORONER WHEN INQUEST NOT NECESSARY.

Canada } I, of the
 Province of Alberta } of in
 To Wit: } the Province of Alberta, a coroner
 in and for the said Province, make
 oath and say:

1. That from information received by me, I was of the
 opinion that there was reason for believing.....
 deceased, died.....

Note: here insert either:—

- (a) as a result of violence; or
- (b) by misadventure or by unfair means or from
 any other cause other than sickness or dis-
 ease; or
- (c) as a result of negligence or misconduct or
 malpractice on the part of others; or
- (d) under such circumstances as require an in-
 vestigation,

2. That I have since caused the circumstances of the death of the said..... to be inquired into, and by reason of such inquiries, I am satisfied that the death was not the result of any wrongful act or omission on the part of any person and that an inquest is unnecessary and that the said deceased came to his (her) death on the..... day of..... 19....., at..... in the said Province, from.....

(Here insert cause of death)

and I have in consequence issued my warrant to bury the body of the said.....

Sworn before me at the.....
of..... in the }
Province of Alberta, this..... }
day of..... A.D. 19.... } Coroner.

A.....

FORM D.

WARRANT OF COMMITMENT.

Canada
Province of Alberta }
To Wit:

To to the Warden of the Provincial Gaol at.....
in the Province of Alberta.

Whereas..... was duly summoned to appear before me on the..... day of..... A.D. 19....., to serve as a juror at the inquest to be held touching the death of.....

And whereas the said..... after being openly called upon, failed to appear in answer to such summons.

And whereas I duly issued my warrant to cause the said..... to be brought before me at..... on the..... day of..... A.D. 19.....

And whereas the said..... was duly apprehended and brought before me and failed to show cause why he did not obey the said summons.

And whereas I did adjudge that the said..... for his default pay a fine of..... dollars and the costs of his apprehension and in default of immediate payment that the said..... be imprisoned in the Provincial Gaol at..... for the space of..... days unless the said several sums be sooner paid.

And whereas the said.....
made default of payment of the said several sums.

These are therefore to command you to take the said.....
and him safely
to convey to the Provincial Gaol aforesaid, and there deliver
him to the warden thereof, together with this precept.

And I do hereby command you, the warden of the said
Provincial Gaol, to receive the said.....
into your custody in
the Provincial Gaol, there to imprison him for the term of
..... days, unless the said several sums
are sooner paid unto you; and for your so doing, this shall be
your sufficient warrant.

Given under my hand this..... day of
..... A.D. 19.....

.....
Coroner.

FORM E.

INQUISITION.

Canada
Province of Alberta }
To Wit:

An Inquisition taken for our Sovereign Lord the King at
the house of..... in the
..... of..... on the
..... day of..... 19.....
(and by adjournment on the..... day of.....
19.....), before..... one
of the coroners of our said Lord the King for the Province
of Alberta, on view of the body of.....
then and there lying dead, the undersigned.....

.....
good and lawful men, being duly sworn, and charged to
inquire for our said Lord the King, when, where, how and
by what means the said.....
came to..... death, do upon their oath
say:

.....
.....
.....
.....
In witness whereof, the coroner has hereunto set his
hand and seal and the Jury have hereto set their hands this
..... day of..... 19.....

FORM F.

CORONER'S RETURN for year ending December 31st, 19.....

NOTE:—This Return is required by Section 27 of *The Coroners Act*, to be filled in and forwarded to the Attorney General's Department at the end of every year. If no inquests or investigations were held, the form should be marked "Nil", signed and returned to the Deputy Attorney General.

[illegible]

I, the undersigned, one of His Majesty's coroners in and for the Province of Alberta, do certify the above to be a correct Return of all inquests and investigations held by me for the year above mentioned.

Dated.....**19**.....

Coroner.

No. 40.

FIRST SESSION
TENTH LEGISLATURE
9 GEORGE VI
1945

BILL
An Act Respecting Coroners.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MAYNARD.

EDMONTON:
A. Shnitka, King's Printer
1945