

Bill No. 46 of 1954

A BILL TO AMEND THE CORONERS ACT

NOTE

This Bill amends *The Coroners Act*, being chapter 10 of the Statutes of Alberta, 1945.

A new section 1a is added for the purpose of defining the Registrar General referred to in various places in the Act.

Section 6 is amended by replacing subsection (2) with new subsections (2) to (4). The new subsection (2) provides for the giving of notice to the coroner by a hospital in which a person dies following an operation. Subsection (3) is a part of the previous subsection (2) altered to refer also to the new subsection (2). Subsection (4) provides that a person who does not give a notice required by subsection (1) is not to be deemed guilty of the offence created by subsection (2) if anyone else gives the notice.

Section 9 is replaced by a new section 9. Subsection (1) permits a coroner to view a body before the inquest. It also permits a coroner to authorize a post-mortem examination if he considers it necessary, and to authorize the burial of the body before the inquest takes place. Subsection (2) requires that a viewing of a body before an inquest take place in the presence of some person able to identify the deceased. Subsection (3) requires that that person make an affidavit as to the deceased's identity. Subsection (4) relates to the evidential value of that affidavit.

Section 10 is amended by striking out a qualification in subsection (3) which distinguishes between coroners on a salary basis.

Section 13 is amended to make a reference in that section conform to the amendments made by this Bill.

Section 14 is replaced by a new section. This amendment is made because of the new provision permitting a coroner to view the body of deceased before an inquest. It also makes provision in subsection (2) for the case where identity of the deceased cannot be established at such a viewing.

Section 16 is replaced by a new section 16 relating to post-mortem examinations. Post-mortems are extended to include an analysis of tissues, tissue contents and body fluids when before only an examination of the stomach contents and of that organ was specifically mentioned. Also now during an inquest where a post-mortem is indicated it will not be necessary to have consent of the Attorney General or Provincial Chief Coroner to the examination. In other cases, set out in the section, it will still be necessary

to obtain that consent; while in other cases, the consent of the Registrar General must be obtained but in these cases the new section makes no substantive change in the law. The responsibility for paying the costs of such examinations is not changed by this section. Subsection (9) permits the coroner to authorize a post-mortem in a case where the next of kin or a hospital request it to determine the cause of a death following upon an operation if the cost is borne by the requesting party.

Section 17 is amended by replacing subsection (2) with two new subsections. Subsection (3) provided that certain persons could not serve as jurors on certain inquests. The last part of that subsection referred to an inquest into the death of an owner of a building or premise in which or on which a trade is carried on who died therein or thereon. The new subsection (4) extends the subsection to cover the proprietor of the business or trade so carried on and his employees as well as the owner of the premises and his employees.

Section 21 is amended by replacing subsections (1) and (2) with a new subsection (1). This amendment is made necessary by reason of the amendment relating to the viewing of the body of a deceased; subsection (1) sets out the procedure on the first sitting of the inquest as modified by the changed procedure in respect of viewing of the body.

Section 22, subsection (2) is amended to remove the requirement that the Attorney General consent first before shorthand evidence be taken at an inquest.

Section 23, subsection (1) is amended to remove words that refer to the procedure respecting viewing of a body as it was before being altered by this Bill.

Section 26, subsection (1) is amended to bring up to date the reference to affidavits.

Section 30 is replaced by a new section which enlarges the powers of the Lieutenant Governor in Council to make regulations. Before the Lieutenant Governor in Council was authorized to prescribe fees only where now he is being empowered to prescribe and alter forms for use under this Act.

Form AA is added to the Schedule. This is the affidavit of identity of a deceased required by the new section 9, subsection (3).

Form BB in the Schedule is amended to conform with the change in the viewing procedure.

This Bill comes into force upon assent.

J. W. RYAN,
Acting Legislative Counsel.

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

BILL

No 46 of 1954

An Act to amend The Coroners Act

(Assented to _____, 1954)

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

1. *The Coroners Act*, being chapter 10 of the Statutes of Alberta, 1945, is hereby amended.

2. The following new heading and section are added immediately after section 1: New section 1a

"Interpretation

Interpretation

"1a. In this Act "Registrar General" means the Registrar General of Vital Statistics appointed under *The Vital Statistics Act*." "Registrar General"

3. Section 6 is amended by striking out subsection (2) and by substituting the following: Section 6 amended

"(2) Where a person dies in a hospital in the Province within thirty days after an operation upon him, the medical superintendent of the hospital shall immediately give notice and details of the death to the coroner who ordinarily has jurisdiction in the locality in which the hospital is situate. Notice of death following operation

"(3) Subject to subsection (4), a person who fails to give the notice required by this section is guilty of an offence and liable on summary conviction to a fine of not more than fifty dollars. Penalty for failure to notify coroner

"(4) If notice of the facts and circumstances of a death is given by one of the persons required by subsection (1) to give notice, the other persons mentioned in that subsection shall not be deemed guilty of an offence for failing to notify the coroner."

4. Section 9 is struck out and the following is substituted: Section 9 amended
"**9.** (1) Where a coroner after an investigation has good reason to believe that a deceased came to his death under circumstances making it necessary to hold an inquest, the coroner Viewing of body and post-mortem by coroner

"(a) may view the body of the deceased, and

“(b) may if he considers it necessary direct that a post-mortem examination be performed in accordance with section 16 upon the body of the deceased, and

“(c) may issue his warrant in Form BB to bury the body.

“(2) Where a coroner views a body pursuant to subsection (1) he shall do so in the presence of some person able to identify the deceased unless the Attorney General pursuant to section 14 dispenses with this requirement.

Affidavit of
identity

“(3) Where the body of a deceased is viewed by the coroner in the presence of some person able to identify the deceased, that person shall make in Form AA in the Schedule an affidavit as to the identity of the deceased.

“(4) An affidavit made pursuant to this section is *prima facie* evidence of the identity of the deceased and of the viewing of the body of the deceased by the coroner and no proof as to the making of the affidavit or the signature of the deponent shall be required at an inquest or in any court.”.

Section 10
amended

5. Section 10, subsection (3) is amended by striking out the words “or to an inquest held by a coroner who is paid by salary”.

Section 13
amended

6. Section 13 is amended by striking out the words “and it is known to the coroner that no good purpose shall be effected” and by substituting the words “other than pursuant to a warrant in Form BB in the Schedule, if, in the opinion of the coroner, no good purpose would be served”.

Section 14
amended

7. Section 14 is struck out and the following is substituted:

Inquiry
without
viewing body

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

“(2) Where a coroner is satisfied that the death of a person has occurred within his jurisdiction and where either from the nature of the event causing the death or any other reason

“(a) the deceased cannot be identified, or

“(b) no person able to identify the deceased can be found, the coroner, after having first obtained the consent in writing of the Attorney General to do so, may proceed to view the body in the presence of a person able to attest to the

viewing and may proceed to hold an inquiry as to the cause of death of the deceased in the same manner and in all other respects as other inquests are held under this Act.”.

8. Section 16 is struck out and the following new heading and section are substituted: Section 16
amended

“Post-Mortem Examination

“16. (1) Where during an investigation it appears to the coroner that a post-mortem examination is necessary, he may, subject to subsections (5) and (6) direct by his order that a post-mortem examination be made by a medical practitioner. Order for
post-mortem
examina-
tion

“(2) Where during an inquest it appears to the coroner that a post-mortem examination is necessary, he may by his order direct that a post-mortem examination be made by a medical practitioner.

“(3) A post-mortem examination may include an analysis of tissues, tissue contents and body fluids, or any of them.

“(4) Where the coroner has reason to believe that a death was directly or indirectly caused by the improper or negligent treatment of a medical practitioner or other person, the medical practitioner or the other person shall not perform or assist at the post-mortem examination. Assistance
at post-
mortem
examination

“(5) Where a coroner is required to make or is making an investigation into a death and there is reason to believe that the deceased died Consent of
Attorney
General to
post-mortem
examination

“(a) as a result of violence or misadventure or by unfair means, or

“(b) as a result of negligence or misconduct or malpractice on the part of others, or

“(c) under circumstances giving rise to suspicion of foul play or commission of a criminal offence,

the coroner shall obtain the consent of the Attorney General or the Provincial Chief Coroner before ordering a post-mortem examination.

“(6) Where a coroner is required to make or is making an investigation into a death other than a death from or in circumstances referred to in subsection (5) Consent of
Registrar
General to
post-mortem
examination

“(a) if the cause of death is ill-defined, obscure or unknown, or

“(b) if the deceased apparently died from disease, conditions resulting from disease, sickness or other natural causes, or

“(c) if the Registrar General has, pursuant to section 25 of *The Vital Statistics Act*, ordered the investigation of the death,

the coroner shall obtain the consent of the Registrar General before ordering a post-mortem examination.

“(7) The coroner shall submit accounts payable in respect of Accounts
for post-
mortem

“(a) a post-mortem examination held in connection with an inquest, or

“(b) a post-mortem examination held with the consent of the Attorney General or the Provincial Chief coroner,

to the Attorney General who shall pay the fees and allowances prescribed pursuant to section 30.

“(8) The coroner shall submit to the Registrar General accounts payable in respect of a post-mortem examination ordered or held with the consent of the Registrar General.

“(9) Where a death follows upon an operation in a hospital if a post-mortem examination is requested by the next of kin of the deceased or the hospital for the purpose of establishing the cause of death, and if the next of kin or the hospital will bear the costs of examination, the coroner may authorize a post-mortem examination to be made.”.

**Section 17
amended**

9. Section 17 is amended by striking out subsection (3) and by substituting the following:

**Exemption
from jury
duty**

“(3) No officer, employee or inmate of a hospital, asylum, charitable institution, gaol, prison or lock-up shall serve as a juror at an inquest into the death of a person whose death occurred therein.

“(4) If the owner or employee of the owner of a building or premises where a trade or business is carried on died in the building or on the premises, or if the proprietor or an employee of the proprietor of the trade or business died in the building or on the premises where the trade or business is carried on, no person

“(a) who is an owner of the building or premises or an employee of an owner thereof, or

“(b) who is a proprietor of the trade or business or an employee of a proprietor thereof,

shall serve as a juror at an inquest into the death of the owner, proprietor or employee.”.

**Section 21
amended**

10. Section 21 is amended

(a) by striking out subsections (1) and (2) and by substituting the following:

**Evidence
required
at first
sitting of
inquest**

“**21.** (1) At the first sitting of an inquest

“(a) if the coroner has not viewed the body of the deceased in respect of whom the inquest is held

“(i) the jury shall view the body unless the viewing has been dispensed with pursuant to section 13 or subsection (1) of section 14, and

“(ii) evidence of the identity of the deceased shall be taken if that evidence is then available,

“(b) if the coroner has viewed the body and identified the deceased, evidence of the

viewing by the coroner and identity of the deceased shall be taken,

“(c) if the coroner has viewed the body pursuant to subsection (2) of section 14 without identifying the deceased,

“(i) evidence of the viewing by the coroner shall be taken, and

“(ii) evidence of the identity of the deceased shall be taken if that evidence is then available.”;

(b) by renumbering subsection (3) as subsection (2).

11. Section 22, subsection (2) is amended by striking out the words “With the consent of the Attorney General or counsel representing him, the” and by substituting the word “The”. Section 22
amended

12. Section 23, subsection (1) is amended by striking out the words “After viewing the body, unless a view has been dispensed with under section 13 or 14, and after” and by substituting the word “After”. Section 23
amended

13. Section 26, subsection (1) is amended by striking out the figure “10” and by substituting the figures and word “9 or 10”. Section 26
amended

14. Section 30 is struck out and the following is substituted: Section 30
amended

“**30.** The Lieutenant Governor in Council

“(a) may prescribe the fees payable under this Act

“(i) to coroners, witnesses, jurors, stenographers and interpreters, and

“(ii) to medical practitioners for examinations pursuant to this Act, and

“(b) may prescribe forms for use under this Act, and

“(c) may alter forms prescribed by this Act for use hereunder.”.

Fees and
forms

15. The Schedule is amended

(a) by adding immediately after Form A the following new Form:

Schedule
amended

“FORM AA

“AFFIDAVIT OF WITNESS WHO IDENTIFIES
A DECEASED PERSON

<p>“CANADA PROVINCE OF ALBERTA TO WIT:</p>	}	<p>I, (full name, address) of the City of..... in the Province of Alberta, make oath and say:</p>
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“1. That I saw the coroner view the body of
..... now lying dead at.....
(full name)

“2. That I do identify the body as being that of
..... my
(full name) (age) (relationship to deceased)
presently residing at.....
(usual address of deceased person)

<p>“Sworn before me at the of in the Province of Alberta, this day of A.D. 19.....</p>	}	<p>.....</p>
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A Coroner in the Province of Alberta”.

(b) Form BB is amended by striking out the words
“(the jury has viewed the body at the first sitting
of the inquest.)” and by substituting the words
“(I have viewed the body.)”.

Coming into force **16.** This Act comes into force on the day upon which it is assented to.

No. 46

SECOND SESSION
TWELFTH LEGISLATURE
3 ELIZABETH II
1954

BILL

An Act to amend The Coroners Act

Received and read the

First time

Second time

Third time

HON. MR. MAYNARD
