

*Laws of Her Majesty's Province of Upper Canada*, passed in the year 1850. Toronto: Stewart Derbyshire & George Desbarats, 1850.

13 & 14 Victoria – Chapter 56

**An Act to amend the Law respecting the office of Coroner. 24th July, 1850.**

Whereas the regulations for holding Coroners' Inquests are insufficient, and it is desirable that some remedy should be provided therefor: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, no Inquest shall be holden on the body of any deceased person by any Coroner until it has been first made to appear to such Coroner, that there is reason to believe that such deceased person came to his death under such circumstances of violence or unfair means, or culpable or negligent conduct, either of himself or of others, as require investigation, and not through any mere accident or mischance: Provided always, that an Inquest shall be holden on the body of any person who shall die while in confinement in any Penitentiary.

II. And be it enacted, That upon the death of any prisoner or any lunatic confined in any Lunatic Asylum, it shall be the duty of the Warden, Gaoler, Keeper or Superintendent of any Penitentiary, Gaol, Prison, House of Correction, Lock-up-house or Lunatic Asylum in which such prisoner or lunatic shall have died, immediately to give notice of such death to some Coroner of the County or City in which such death shall have taken place, and thereupon such Coroner shall proceed forthwith to hold an Inquest upon the body of such deceased prisoner or lunatic.

III. And be it enacted, That if any person having been duly summoned as a juror or witness to give evidence upon any Coroner's Inquest, shall not, after being openly called three times, appear and serve as such juror, or appear and give evidence on such Inquest, every such Coroner shall be empowered to impose such fine upon any person so making default as he shall think fit, not exceeding twenty shillings; and every such Coroner shall make out and sign a certificate, containing the name, residence, trade or calling of such person so mailing default, together with the amount of the fine imposed, and the cause of such fine, and shall transmit such certificate to the Clerk of the Peace in the County in which such defaulter shall reside, on or before the first day of the Quarter Sessions of the Peace then next ensuing for such last mentioned County, and shall cause a copy of such certificate to be served upon the person so fined, by leaving it at his residence, within a reasonable time after such Inquest; and all fines and forfeitures so certified by such Coroner shall be estreated, levied and applied in like manner, and subject to the like powers, provisions and penalties in all respects as if they had been part of the fines imposed at such Quarter Sessions: Provided always, that nothing herein contained shall be construed to affect any power now by law vested in any Coroner for compelling any person to appear and give evidence

before him on any Inquest or other proceeding, or for punishing any person for contempt of Court, in not so appearing and giving evidence or otherwise.

IV. And be it enacted, That no Inquisition found upon or by any Coroner's Inquest, nor any judgment recorded upon or by virtue of any such Inquisition, shall be quashed, stayed or reserved for want of the averment therein of any matter unnecessary to be proved, nor for the omission of any technical word or words of mere form or surplusage, and in all such cases and all others of technical defect, it shall be lawful for either of the Superior Courts of Common Law, or any Judge thereof, or any Judge of Assize or Gaol Delivery, if he shall think fit, upon the occasion of any such inquisition being called in question before them or him, to order the same to be amended, and the same shall be amended accordingly.

V. And be it enacted, That whenever upon the summoning or holding of any Coroner's Inquest, it shall appear to the Coroner that the deceased person was attended at his or her death, or during his or her last illness by any legally qualified medical practitioner, it shall be lawful for the Coroner to issue his order in the form in the Schedule hereunto annexed, for the attendance of such practitioner as a witness at such inquest; and if it shall appear to the Coroner that the deceased person was not attended immediately at or before his or her death by any legally qualified medical practitioner, it shall be lawful for the Coroner to issue such order for the attendance of any legally qualified medical practitioner being at the time in actual practice in or near the place where the death has happened; and it shall be lawful for the Coroner, either in his order for the attendance of the medical witness, or at any time between the issuing of such notice and the termination of the Inquest, to direct the performance of a *post mortem* examination, with or without an analysis of the contents of the stomach or intestines, by the medical witness or witnesses who may be summoned to attend at any Inquest; Provided that if any person shall state upon oath before the Coroner, that in his or her belief the death of the deceased individual was caused partly or entirely by the improper or negligent treatment of any medical practitioner or other person, such medical practitioner or other person shall not be allowed to assist at the *post mortem* examination of the deceased.

VI. And be it enacted, That whenever it shall appear to the majority of the Jurymen sitting at any Coroner's Inquest, that the cause of death has not been satisfactorily explained by the evidence of the medical practitioner or other witness or witnesses who may be examined in the first instance, such majority of the Jurymen are hereby authorized and empowered to name to the Coroner, in writing, any other legally qualified medical practitioner or practitioners, and to require the Coroner to issue his order in the form hereinbefore mentioned, for the attendance of such last mentioned medical practitioner or practitioners, as a witness or witnesses, and for the performance of such *post mortem* examination, as in the fifth section of this Act mentioned, whether such examination has been before performed or not; and if the Coroner, having been so required, shall refuse to issue such order, he shall be deemed guilty of a misdemeanor, and shall be punishable by a fine not exceeding Ten Pounds, or by imprisonment not exceeding one month, in the discretion of the Court trying such offence, or by both, as to the said Court shall seem fit.

VII. And be it enacted, That where any legally qualified medical practitioner has attended upon a Coroner's Inquest, in obedience to any such order as aforesaid of the Coroner, the said practitioner shall receive for such attendance, if without a mortem examination, One Pound Five Shillings; if with a *post mortem* examination, without an analysis of the contents of the stomach or intestines, Two Pounds Ten Shillings; if with such analysis, Five Pounds, together with the sum-of One Shilling per mile, for each mile he shall have to travel in going to and returning from such inquest, such travel to be proved by his own oath to the said Coroner, who is hereby authorized and empowered to administer the same; and the Coroner is hereby required and commanded to make his order on the Treasurer of the County in which such inquest shall be holden, in favor of such medical practitioner or practitioners, for the payment of such fees or remuneration, and such Treasurer is hereby required and commanded to pay the sum of money mentioned in such order of the Coroner, to the medical witness therein mentioned, out of any funds he may then have in the County Treasury.

VIII. And be it enacted, That where any order for the attendance of any medical practitioner as aforesaid, shall have been personally served upon such practitioner, or where any such order not personally served shall have been received by any medical practitioner as aforesaid, or left at his residence, in sufficient time for him to have obeyed such order, and in every case where such medical practitioner has not obeyed such order, he shall for such neglect or disobedience forfeit the sum of Ten Pounds upon complaint made thereof by the Coroner or any two of the Jury holding such Inquest, before any two Justices of the Peace of the County where the Inquest was held, or the County where such medical practitioner resides; and such two Justices are hereby required, upon such complaint, to proceed to the hearing and adjudication of the same; and if such medical practitioner shall not shew to the said Justices a good and sufficient reason for not having obeyed such order, to enforce the said penalty by distress and sale of the offender's goods as they are empowered to proceed by any Statute for the summary enforcement of any penalty or forfeiture.

IX. And be it enacted, That this Act shall be in force in Upper Canada.

Schedule  
To Which this Act Refers.

Coroner's Inquest at \_\_\_\_\_, upon the body of \_\_\_\_\_.

By virtue of this my order, as Coroner for \_\_\_\_\_, you are required to appear before me and the Jury, at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_ o'clock, to give evidence touching the cause of death of \_\_\_\_\_, \_\_\_\_\_ 174\_\_\_\_\_ (and then add, when the witness is required to make or assist at a *post mortem* examination) and make or assist in making a *post mortem* examination of the body, with (or without) an analysis, (as the case may be) and report thereon at the said Inquest.

Signed,  
Coroner.