



**The Criminal Code and the Law of Criminal
Evidence in Canada; Being an Annotation of the
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This historic book may have numerous typos and missing text. Purchasers can download a free scanned copy of the original book (without typos) from the publisher. Not indexed. Not illustrated. 1908 Excerpt: ...be both a witness and a judge in a cause which is on trial before him; and where the coroner was a necessary witness by reason of having attended the deceased professionally as a physician during the illness from which death resulted, he is disqualified from holding the inquest. *Re Haney v. Mead* (1898), 34 Can. Law Jour. 330. Depositions at coroner's inquest.--A coroner's court is a court of record. *Thomas v. Churton* (1862), 2 B. & S. 475; *Jervis on Coroners*, 5th ed., p. 62; *Boys on Coroners*, 2nd ed., pp. 2, 208; *Davidson v. Garrett* (1899), 5 Can. Cr. Cas. 200 (Ont.), 35 C.L.J. 502; but a coroner is not a "justice" within the meaning of sec. 999, which provides for using upon a trial a certificate of the depositions of a witness absent from Canada taken by a justice in the preliminary or other investigation of any charge; *R. v. Graham* (1898), 2 Can. Cr. Cas. 388 (Que.); and sec. 999 does not apply to depositions at coroners' inquests. *R. v. Laurin* (No. 3), 5 Can. Cr. Cas. 548. Where it is clear that the proceedings before the coroner were an investigation of tli..-charge against the person subsequently indicted, and he was present in person and had a full opportunity of cross-examining the witness, it would seem that the deposition is admissible on proper proof of same apart from sec. 999, if the witness who had been examined before the coroner was (1) dead, (2) unable to travel, or (3) kept out of the way by the means and contrivance of the prisoner. *Lord Morlev's Case*, Kel. 55; *Thatcher's Case*, Jones, 53; *Bromwick's Case*, 1 Lev 1.80; *Rex v. Stockier*, 1 East P.C. 310; 2 *Philips Evid.* 8th ed., 75; 3 *Russell on Crimes*, 4th ed., 478; *R. v. Hamilton*, 16 T.J.C.C.P. 340; *R. v. Butcher*, 64 J.P. 808. The question is still an unsettled one. *Phipson, Ev...*

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