Act No. 43, 1901.

PARLIAMENTARY EVIDENCE.

An Act to consolidate the law relating to the summoning, attendance, and examination of witnesses before either House of Parliament or any Committee thereof. [*7th November*, 1901.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Parliamentary Evidence Act, 1901."

Repeal. First Schedule.

2. The Act mentioned in the First Schedule to this Act is hereby repealed.

Interpretation. 45 Vic. No. 5, s. 1.

3. In this Act—

"Assembly" means the Legislative Assembly.

"Committee" means a Committee of the Council or Assembly.

"Council" means the Legislative Council.

"President" means the President of the Council.

"Speaker" means the Speaker of the Assembly.

Witnesses how summoned. *Ibid.* s. 2.

4. (1) Any person not being a Member of the Council or Assembly may be summoned to attend and give evidence before the Council or Assembly by notice of the order of the Council or Assembly signed by the Clerk of the Parliaments or Clerk of the Assembly, as the case may be, and personally served upon such person.

(2) Any such person may be summoned to attend and give evidence before a committee by an order of such committee signed by the chairman thereof and served as aforesaid.

Members of Parliament. *Ibid.*

5. The attendance of a Member of the Council or Assembly to give evidence before the Council or Assembly or a committee shall be procured in conformity (so far as practicable) with the mode of procedure observed in the British House of Commons.

Expenses of witnesses. *Ibid.* s. 4.

6. (1) Every witness summoned as aforesaid shall be entitled to be paid at the time of service of such notice or order his reasonable expenses consequent upon his attendance in obedience thereto according to his condition or profession, to be calculated in accordance with the scale in force for the time being for the payment of witnesses in actions in the Supreme Court.

(2) The expenses of any witness summoned at the instance of a party shall be defrayed by such party; but if the witness be summoned

summoned for any public inquiry to be examined either by the Council or Assembly or by a committee, his expenses shall be paid by the Colonial Treasurer out of the Consolidated Revenue Fund on the receipt by him of a written authority in that behalf signed by the Clerk of the Parliaments or Clerk of the Assembly or Chairman of the Committee respectively, according to the nature of the summons.

Non-attendance of witness to be certified to a Judge. Second Schedule. 45 Vic. No. 5, s. 5.

7. If any witness so summoned fails to attend and give evidence in obedience to such notice or order, the President or the Speaker, as the case may be, upon being satisfied of the failure of such witness so to attend and that his non-attendance is without just cause or reasonable excuse, may certify such facts under his hand and seal to a Judge of the Supreme Court, according to the form in the Second Schedule hereto, or to the like effect.

Warrant to issue thereupon. Third Schedule. *Ibid.*

8. Upon such certificate any Judge of the said Court shall issue his warrant in the form in the Third Schedule hereto, or to the like effect, for the apprehension of the person named in such certificate, for the purpose of bringing him before the Council, Assembly, or Committee to give evidence.

Warrant and order of President or Speaker to be sufficient authority for acts thereunder. *Ibid.*

9. (1) Such warrant shall be a sufficient authority for all persons acting thereunder to apprehend the person named in such warrant, and to retain him in custody, to the intent that he may from time to time be produced for the purpose of giving evidence, or be remanded and finally be discharged from custody, pursuant to any order under the hand and seal of the President or Speaker, as the case may be.

(2) Every such order shall be a sufficient warrant for all persons acting thereunder.

Administration of oath. *Ibid.* s. 3.

10. (1) Every witness attending to give evidence before the Council, Assembly, or a Committee of the Whole shall be sworn at the bar of the House; and the customary oath shall be administered by the Clerk of the Parliaments or Clerk of the Assembly, as the case may be (or in his absence by the officer acting for him).

(2) Every witness attending to give evidence before a Committee other than a Committee of the Whole shall be sworn by the chairman of such Committee.

Declaration, &c., in lieu of oath. *Ibid.*

(3) Provided that in any case where a witness, if examined before the Supreme Court, would be permitted to make a solemn declaration or to give evidence in any other way than upon oath, a witness summoned under this Act shall be in like manner allowed to give evidence upon declaration or otherwise, as aforesaid.

Penalty for refusal to answer. *Ibid.* s. 7.

11. (1) If any witness refuses to answer any lawful question during his examination, he shall be deemed guilty of a contempt of Parliament, and may be forthwith committed for such offence into the custody of the usher of the black rod or sergeant-at-arms, and, if the House so order, to gaol, for any period not exceeding one calendar month, by warrant under the hand of the President or Speaker, as the case may be.

(2)

(2) Such warrant shall be a sufficient authority for all gaolers and other officers to hold the body of the person therein named for the term therein stated.

(3) No person acting under the authority of this section shall incur any liability, civil or criminal, for such act.

Privilege of witness. 45 Vic. No. 5, s. 6.

12. No action shall be maintainable against any witness who has given evidence, whether on oath or otherwise, under the authority of this Act, for or in respect of any defamatory words spoken by him while giving such evidence.

Penalty for false evidence. *Ibid.*

13. If any such witness wilfully makes any false statement, knowing the same to be false, he shall, whether such statement amounts to perjury or not, be liable to penal servitude for a term not exceeding five years.

SCHEDULES.

FIRST SCHEDULE.

Reference to Act.	Short title.	Extent of repeal.
45 Vic. No. 5 ...	Parliamentary Evidence Act, 1881	The whole.

Section 7.

SECOND SCHEDULE.

Form of certificate.

To His Honor

In the matter of the "Parliamentary Evidence Act, 1901," and A.B. of

This is to certify to your Honor that it hath been made to appear to me that the said A.B. has been duly summoned to attend and give evidence before the pursuant to the "Parliamentary Evidence Act, 1901," and that the said A.B. has failed to appear, and that his non-appearance is without just cause or reasonable excuse.

Given under my hand and seal at this day of in the year one thousand nine hundred and

President of the Legislative Council
or
Speaker of the Legislative Assembly
(*as the case may be*).

THIRD

THIRD SCHEDULE. Section 8.

Form of Judge's warrant.

In the Supreme Court of New South Wales.

In the matter of the "Parliamentary Evidence Act, 1901," and A.B. of

To the Sheriff of New South Wales, his deputy and assistants, and to all constables and other His Majesty's officers and ministers of the peace whom it may concern.

WHEREAS it hath this day been certified under the hand of* that of has been duly summoned to attend and give evidence before the pursuant to the "Parliamentary Evidence Act, 1901," but hath failed to appear

This is to require you forthwith to apprehend the said and to detain him in custody for the purpose of being brought before to give evidence and there to obey all further orders under the hand of the* for his remand or for his final discharge from custody.

Given under my hand and seal at aforesaid this day of in the year one thousand nine hundred and

A Judge of the Supreme Court of New South Wales.

* President or Speaker (*as the case may be*).