

No. V.

An Act to provide for the summoning attendance and examination of Witnesses before either House of Parliament or any Committee thereof. [4th October, 1881.]

PARLIAMENTARY
EVIDENCE.

WHEREAS it is expedient that the power of compelling the attendance of Witnesses and of examining them on oath should be possessed by Parliament and Parliamentary Committees Be it therefore enacted by the Queen'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:—

Preamble.

1. This Act may be cited for all purposes as the "Parliamentary Evidence Act 1881" In its construction and for its purposes the expression "Parliament" means the Legislative Council and Legislative Assembly of New South Wales "President" means the President of the Legislative Council and "Speaker" means the Speaker of the Legislative Assembly.

Short title and interpretation of terms.

2. Any person not being a Member of the Legislative Council or Legislative Assembly may be summoned to attend and give evidence before the Legislative Council or Legislative Assembly by notice of the order of the said Council or Assembly signed by the Clerk of the Parliaments or Clerk of the Assembly (as the case may be) and personally served upon the person whose attendance to give evidence is required And any such person may be summoned to attend and give evidence before any Committee of either House by an order of such Committee signed by the Chairman thereof and served as aforesaid The attendance of a Member of Parliament to give evidence before such Council Assembly or Committee shall be procured in conformity (so far as practicable) with the mode of procedure observed in the British House of Commons.

Witnesses how to be summoned.

3. Every witness attending to give evidence before the Legislative Council or Legislative 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) Every witness attending to give evidence before any Committee of either House shall be sworn by the chairman of such Committee Provided that in any case where a witness is examined before any superior Court of Record would be permitted to make a solemn

Procedure in examining witnesses.

Parliamentary Evidence.

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 by declaration or otherwise as aforesaid.

Expenses of witnesses.

4. Every witness so summoned to give evidence shall be entitled to be paid at the time of service of such notice as aforesaid his reasonable expenses consequent upon his attendance in obedience to such summons according to his condition or profession to be calculated in accordance with the scale in force for the time being in the payment of witnesses before the Supreme Court. Provided that the expenses of any witness summoned at the instance of a party shall be defrayed by such party but if the witness be summoned for any public enquiry to be examined either by the Council or Assembly or by any Committee thereof 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.

Penalty for non-attendance of witness.

5. If any witness so summoned shall fail to attend and give evidence in obedience to the orders served upon him it shall be lawful for 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 to certify such facts under his hand and seal to a Judge of the Supreme Court according to the form in the First Schedule hereto or to the like effect. And upon such certificate any such Judge shall issue his warrant 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. And such warrant shall be in the form in the Second Schedule hereto or to the like effect and 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. And every such order shall be a sufficient warrant for all persons acting thereunder.

Privilege of witness.

6. 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 but if any such witness shall wilfully make 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.

False evidence.

Penalty for refusal to answer.

7. If any witness so summoned or attending to give evidence shall refuse 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. 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. And no person acting under the authority of this section shall incur any liability civil or criminal for such act.

Navigation Law Amendment.

FIRST SCHEDULE.

Form of Certificate.

To His Honor.

In the matter of the "Parliamentary Evidence Act 1881" 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 1881" 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 of our Lord one thousand eight hundred and

President of the Legislative Council

or

Speaker of the Legislative Assembly

(as the case may be).

SECOND SCHEDULE.

Form of Judge's Warrant.

In the Supreme Court of }
 New South Wales. }

In the matter of the "Parliamentary Evidence Act 1881" and

To the Sheriff of New South Wales his Deputy and Assistants and to all Constables
 and other Her 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 1881" 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* or for his remand
 or for his final discharge from custody.

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

A Judge of the Supreme Court of New South Wales.

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