

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed as now printed, is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.

Legislative Council,
1st August, 1895.

Hon. Sir P. A. Buckley.

COMMISSIONERS' POWERS.

ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p>3. Commissioner may summon witnesses. And require production of books, &c.</p> <p>4. How service may be effected.</p> <p>5. Penalty for refusing to appear as a witness. Witness not liable to penalty unless payment of expenses made or tendered.</p>	<p>6. Witnesses' expenses.</p> <p>7. Authority for payment to be obtained. Where authority not obtained, how expenses provided for.</p> <p>8. Witnesses to have same immunities as witnesses in Supreme Court.</p> <p>9. Commissioner may order payment of costs.</p> <p>10. Application of Act to other Commissions.</p> <p>11. Repeal.</p>
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A BILL INTITULED

AN ACT to enable Members of Board or Commission to examine Witnesses on Oath. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Commissioners' Powers Act, 1895." Short Title.

2. In this Act, if not inconsistent with the context,— Interpretation.
"Commission" includes "Board";
"Commissioner" means the Chairman of the Commission if there are more members than one:
"Oath" includes "affirmation."

3. (1.) Any Commission at any time appointed by the Governor in Council for the purposes of any inquiry may, by writing under the hand of the Commissioner, summon any person to attend at such place and time as is specified therein and give evidence before the Commission touching the subject-matter of the inquiry. Commissioner may summon witnesses, and require production of books, &c.

(2.) Such person may by such summons be required to bring any books, papers, writings, deeds, and documents of which any Court of law might compel the production.

(3.) Any member of such Commission may examine such person upon oath touching the subject-matter of such inquiry.

4. Service of any such summons may be effected by delivering the same to the person named therein, or by leaving it at his usual place of abode. How service may be effected.

Penalty for refusing to appear as a witness.

5. Every person who, having been served as aforesaid,—
- (1.) Neglects or fails to appear according to the exigency of the summons; or
 - (2.) Being present refuses to be sworn or to affirm, or to give evidence, or to make answer to such questions as are put to him by any member of such Commission touching the subject-matter of the inquiry; or
 - (3.) Having the custody or control of any such books, papers, documents, and writings as aforesaid, fails or neglects to produce them, in terms of such summons,—
- is liable, for every such default, to a penalty not exceeding *twenty* pounds, to be recovered in a summary way by any person authorised by the Commissioner so to do:

Provided as follows:—

Witness not liable to penalty unless payment of expenses made or tendered.

- (a.) No person summoned as a witness shall be liable to any penalty as aforesaid unless at the same time as the service of such summons there is made to him a payment or a tender of his travelling-expenses, according to the scale allowed by the rules of the Supreme Court in civil cases to witnesses;
- (b.) No person so summoned as aforesaid shall be bound, in obedience to such summons, to go or to travel from his usual place of abode a distance of more than two hundred miles, by the usual way.

Witnesses' expenses.

6. (1.) Every witness who attends in pursuance of any such summons, other than any party prosecuting any claim before such Commission, shall be entitled to expenses for travelling and maintenance during his absence from his usual place of abode.
- (2.) Such expenses shall be according to the scale allowed by the rules of the Supreme Court in civil cases to witnesses.

Authority for payment to be obtained.

7. (1.) In all cases where—
- (a.) The instrument under which the Commission is appointed or issued provides for the payment of witnesses' expenses by the Crown, or (in the absence of such provision) where—
 - (b.) The Commissioner has previously obtained the authority in writing of the Minister of Justice for summoning a witness,—

the expenses shall be paid by the Colonial Treasurer out of the Consolidated Fund upon the certificate of the Commissioner, and without further appropriation by Parliament.

Where authority not obtained, how expenses provided for.

- (2.) In the absence of such provision or authority, the person desiring a witness to be summoned shall be liable to pay his expenses, and no witness shall be summoned until such person has deposited with the Commissioner a sum sufficient, in the opinion of the Commissioner, to meet the expenses of such witness.

Witnesses to have same immunities as witnesses in Supreme Court.

8. Every witness sworn and examined under the provisions of this Act shall have, in respect of his evidence, the like privileges, immunities, and indemnities in all respects as are possessed by any witness sworn and examined in the Supreme Court.

Commissioner may order payment of costs.

9. (1.) The Commission, upon the hearing of any inquiry, may order that the whole or any portion of the cost thereof shall be paid

by or apportioned amongst such persons, parties to, interested in, or affected by the inquiry, as it deems just; and may also fix the amount of the costs, and direct by and to whom and in what proportions they are to be paid.

5 (2.) The Commissioner shall transmit such order to the Stipendiary Magistrate of the Magistrate's Court exercising jurisdiction in the place where such order is made, who thereupon may issue process for the payment of the amounts specified therein in like manner as if they were sums lawfully recovered by judgment in
10 such Magistrate's Court.

10 10. The provisions of the *last-preceding* section shall apply in respect of any Commission of inquiry appointed by the Governor in Council by virtue of any Act other than this Act, in case no other provision is made in that behalf in the instrument appointing such
15 Commission.

Application of Act to other Commissions.

11. "The Commissioners' Powers Act, 1867," and "The Commissioners' Powers Act 1867 Amendment Act, 1872," are hereby repealed.

Repeal.