

1907.

(SECOND SESSION.)

THE PARLIAMENT OF THE COMMONWEALTH.

## HOUSE OF REPRESENTATIVES.

Read 1° 24 July, 1907.

*(Brought from the Senate.)*

## A BILL

FOR

## AN ACT

No. 6

Relating to Parliamentary Witnesses.

**W**HEREAS by section forty-nine of the Constitution it is enacted Preamble.  
that the powers, privileges, and immunities of the Senate  
and of the House of Representatives, and of the Members and the  
Committees of each House, shall be such as are declared by the  
5 Parliament, and until declared shall be those of the Commons House  
of Parliament of the United Kingdom, and of its Members and  
Committees, at the establishment of the Commonwealth :

10 And whereas the powers and privileges of the Senate and of the  
House of Representatives include amongst others the power  
to summon and compel the attendance of witnesses, to take evidence  
on oath or affirmation, to require the production of documents, to  
protect witnesses, and to punish persons guilty of breaches of  
privilege :

15 And whereas it is desirable, without limiting the powers and  
privileges of the Senate or of the House of Representatives, to make  
statutory provision for the exercise by each House and by its  
Committees of powers of summoning and compelling the attendance  
of witnesses and taking evidence on oath or affirmation, for the pro-  
tection of witnesses summoned or giving evidence before either House  
or a Committee thereof, and for the punishment, by ordinary process  
20 of law, of persons offending against the provisions so made :

Be it therefore enacted by the King's Most Excellent Majesty,  
the Senate, and the House of Representatives of the Commonwealth  
of Australia, as follows :—

25 1. This Act may be cited as the *Parliamentary Witnesses Act* 1907. Short title.  
[C. 19]—780/24.7.1907.—F. 8301. 2. In

## Definitions.

2. In this Act, unless the contrary intention appears—

“House” means a House of the Parliament;

“Committee” means a Committee of either House or a joint Committee of the two Houses;

“The President” means the President of the Senate;

“The Speaker” means the Speaker of the House of Representatives;

“The Chairman” means the Chairman of a Committee or the member acting as the Chairman of a Committee;

“Witness” means a person summoned to appear before either House or before a Committee to give evidence or produce documents;

“Documents” includes books.

Power to  
summon  
witnesses.  
Cf. N.S.W.,  
1901, No. 43,  
s. 4.

3.—(1.) Either House may summon witnesses to appear before it to give evidence and produce documents.

(2.) Any Committee, if thereto authorized by the Senate or the House of Representatives, as the case may be, may summon witnesses to appear before it to give evidence and produce documents.

Form of  
summons.

4. A summons to a witness may be in accordance with Form A in the Schedule, and shall be signed by the President, or by the Speaker, or by the Chairman, as the case may be.

Service of  
summons.

5. A summons to a witness may be served upon the witness either personally or by being left at or sent by post to his usual place of business or of abode.

Warrant in  
case of dis-  
obedience of  
summons.

6.—(1.) If any witness upon whom a summons under this Act has been served, fails to appear or to continue in attendance in obedience to the summons, the President, or the Speaker, as the case may be, may issue a warrant for his apprehension.

(2.) The warrant may be in accordance with Form B in the Schedule, and shall authorize the apprehension of the witness, and his being brought before the House or the Committee, and his detention in custody for that purpose until he is released by order of the President, or the Speaker, as the case may be.

(3.) The warrant may be executed by the person to whom it is addressed or by any person whom he appoints to assist him in its execution, and the person executing the warrant shall have power to break and enter any building, place, or ship for the purpose of executing it.

Escape from  
custody.  
Cf. Canada  
Criminal Code,  
s. 164.

7. Any witness who, being apprehended by virtue of a warrant of apprehension issued under this Act, escapes from custody, shall be guilty of an indictable offence.

Penalty : Two years' imprisonment.

Resisting  
apprehension.  
Cf. Queensland  
Criminal Code,  
s. 340.

8. Whoever assaults, resists, molests, or obstructs any person in the execution of a warrant of apprehension issued under this Act shall be guilty of an indictable offence.

Penalty : Two years' imprisonment.

9.—(1.) If

9.—(1.) If any witness, upon whom a summons under this Act has been served, fails without reasonable excuse, proof whereof shall lie upon him, to appear or to continue in attendance in obedience to the summons, he shall be guilty of an indictable offence.

Penalty for disobedience of summons.

5 Penalty: Two years' imprisonment.

(2.) The fact that a witness has been apprehended, and brought before either House or a Committee shall not relieve him from liability under this section.

10. Whoever, by act or omission, dissuades or prevents any witness from obeying a summons under this Act, shall be guilty of an indictable offence.

Preventing witnesses from giving evidence.

Penalty: Two years' imprisonment.

11.—(1.) Either House may take evidence on oath or affirmation, and the Clerk of the House may administer oaths or affirmations to witnesses appearing before the House.

Power to take evidence on oath or affirmation.  
Cf. N.S.W., 1901, No. 43, s. 10.

(2.) A Committee may take evidence on oath or affirmation, and the Chairman may administer oaths or affirmations to witnesses appearing before the Committee.

12. The oath or affirmation administered to a witness may be in accordance with Form C or D in the Schedule, as the case requires.

Form of oath or affirmation.

13. A witness who conscientiously objects to take an oath shall not be compelled to take an oath, but may be compelled to make an affirmation.

Witness not compelled to take oaths.

14. If any witness refuses, without just cause, proof whereof shall lie upon him, to be sworn or make an affirmation, or to answer any question put to him by the House or the Committee before which he is summoned, or by any member thereof, or to produce any document which he is required by the House or the Committee to produce, he shall be guilty of an indictable offence.

Penalty for refusing to be sworn, &c.

30 Penalty: Two years' imprisonment.

15. Any person who wilfully gives false evidence on oath or affirmation before either House or before a Committee shall be guilty of an indictable offence.

False evidence.  
Cf. N.S.W., 1901, No. 43, s. 13.

Penalty: Five years' imprisonment.

16. Whoever uses, causes, inflicts, or procures any violence, punishment, damage, loss, or disadvantage to any person for or on account of his having appeared as a witness before either House or before a Committee, or for or on account of any evidence lawfully given by him before either House or before a Committee, shall be guilty of an indictable offence.

Protection to witnesses.

40 Penalty: Two years' imprisonment.

17. Nothing in this Act shall derogate from any power or privilege of either House, or of the members or Committees of either House, as existing at the commencement of this Act.

Privileges of Parliament not affected.

45 Provided always that no person shall be liable to be proceeded against a second time in respect of any offence or breach of privilege for which he has been proceeded against and convicted or acquitted or punished.

THE SCHEDULE.

THE SCHEDULE.

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FORM A.

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COMMONWEALTH OF AUSTRALIA.  
The *Parliamentary Witnesses Act 1907.*

SUMMONS TO A WITNESS.

To [*here insert name, address, and occupation of witness*].

You are hereby summoned to appear before [*here insert "the Senate," or "the House of Representatives," or a description of the Committee, as the case may be*] on the \_\_\_\_\_ day of \_\_\_\_\_ 190\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, at [*here insert place*], then and there to give evidence and then and there to produce [*here specify the documents required*]; and you are required to continue in attendance as directed by the [*here insert "President," or "Speaker," or "said Committee or the Chairman thereof," as the case may be*] until your attendance is no longer required.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 190\_\_\_\_.

[President, or Speaker, or Chairman of the Committee.]

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FORM B.

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COMMONWEALTH OF AUSTRALIA.  
The *Parliamentary Witnesses Act 1907.*

WARRANT FOR THE APPREHENSION OF A WITNESS WHO HAS DISOBEYED A SUMMONS.

WHEREAS [*here insert name, address, and occupation of witness*] has been summoned to appear before [*here insert "the Senate," or "the House of Representatives," or a description of the Committee, as the case may be*], but has failed to appear in obedience to the summons: These are therefore to command and authorize you to forthwith apprehend the said [*here insert name of witness*] and to bring him before the [*here insert "Senate," or "House of Representatives," or "said Committee," as the case may be*] and to detain him in custody for that purpose until he is released by order of the [*here insert "President," or "Speaker," as the case may be*].

Given at \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 190\_\_\_\_.

[President, or Speaker.]

To [*here insert description of persons to whom it is addressed*].

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FORM C.

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OATH TO WITNESS.

The evidence you shall give on this examination shall be the truth, the whole truth, and nothing but the truth. So help you God!

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FORM D.

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AFFIRMATION TO WITNESS.

You do solemnly and sincerely affirm and declare that the evidence you shall give on this examination shall be the truth, the whole truth, and nothing but the truth.