

1911.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

Read 1° 4 August, 1910.

Proceedings interrupted by the Prorogation, Session 1910 ; resumed by order made 20 September, 1911.

*(Brought from the Senate.)*

## A BILL

FOR

## AN ACT

Relating to Parliamentary Witnesses.

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

1. This Act may be cited as the *Parliamentary Witnesses Act* 1910. Short title.
- 5 2. In this Act, unless the contrary intention appears— Definitions.  
 "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 ;  
 10 "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  
 15 House or before a Committee to give evidence or produce  
 documents ;  
 "Documents" includes books.
- 3.—(1.) Either House may summon witnesses to appear before it  
 to give evidence and produce documents. Power to  
 summon  
 witnesses.  
 Cf. N.S.W.,  
 1901, No. 43,  
 s. 4.
- 20 (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. 5

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. 10

(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. 15

(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. 20

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 offence.

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 offence. 25

Penalty for  
disobedience of  
summons.

9. 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 offence. 30

Preventing  
witnesses from  
giving evidence.

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

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

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. 35

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

Form of oath  
or affirmation.

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. 40

Witness not  
compelled to  
take oaths.

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

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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 offence.

Penalty for refusing to be sworn, &c.

15. If any witness before a Committee—

(a) wilfully interrupts or disturbs the proceedings of the Committee, or

10 (b) uses insulting language towards the Committee or the members thereof, or

(c) does any act or thing in contempt of the Committee,

he shall be guilty of an offence.

Contempt of Committee by a witness.

16.—(1.) If a witness appearing before a Committee so requests, any evidence given by him relating to a professional or trade secret, or to the profits or financial position, of himself or of any person, shall be taken by the Committee in private, and shall not be disclosed or published without the consent of the person entitled to the non-disclosure.

Taking of evidence in private.  
Cf. 1904, No. 13, s. 85.

20 (2.) Any person who discloses or publishes any evidence in contravention of this section shall be guilty of an offence.

Penalty : Five hundred pounds or three months' imprisonment.

17. Every witness summoned to appear or appearing before either House or before a Committee shall have the same protection and privilege as a witness in a case tried in the High Court.

Privileges of witnesses.  
Cf. 1902, No. 13, s. 7.

18. 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.

30 19. 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 offence.

Protection to witnesses.

40 20. Every witness appearing before either House or before a Committee to give evidence shall be entitled to be paid such witness fees and travelling expenses as the President, Speaker, or Chairman, as the case requires, thinks fit to allow in accordance with a scale prescribed by the Governor-General.

Witnesses' expenses.

21. Offences against this Act, not declared to be indictable offences, shall be triable on indictment or by a court of summary jurisdiction.

Offences triable on indictment or summarily.

22.—(1.) Proceedings

Proceedings to  
be instituted by  
Attorney-  
General only.

22.—(1.) Proceedings for offences against this Act shall be instituted only by the Attorney-General or by his direction.

(2.) The Attorney-General or person acting under his direction may in respect of any offence other than an offence declared to be an indictable offence institute proceedings for the summary conviction of the accused or for his commitment for trial on indictment as the Attorney-General thinks fit.

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Punishment of  
offenders.

23. A person convicted of an offence against this Act shall, if no higher penalty is provided, be punishable as follows :—

(a) If convicted on indictment, by imprisonment not exceeding one year or by a penalty not exceeding Two hundred pounds :

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(b) If convicted by a court of summary jurisdiction, by imprisonment not exceeding six months or by a penalty not exceeding One hundred pounds.

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Privileges of  
Parliament not  
affected.

24. 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.

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.

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THE SCHEDULE.

FORM A.

COMMONWEALTH OF AUSTRALIA.  
The Parliamentary Witnesses Act 1910.

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 19 , 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 19 .

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

FORM B.

COMMONWEALTH OF AUSTRALIA.  
The Parliamentary Witnesses Act 1910.

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 19 .

[President, or Speaker.]

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

FORM C.

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!

FORM D.

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.

