

New Zealand.

COMMISSIONS OF INQUIRY.

1908, No. 25.

AN ACT to consolidate certain Enactments of the General Assembly relating to Commissions of Inquiry appointed by the Governor in Council or by the Governor.

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

Short Title.

1. (1.) The Short Title of this Act is "The Commissions of Inquiry Act, 1908."

Enactments consolidated.

(2.) This Act is a consolidation of the enactments mentioned in the Schedule hereto, and with respect to those enactments the following provisions shall apply:—

Savings.

(a.) All Commissions, appointments, rules, Orders in Council, orders, instruments, and generally all acts of authority which originated under any of the said enactments or any enactment thereby repealed, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.

(b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

Governor may
appoint
Commissions of
Inquiry.
1903, No. 20, sec. 2

2. The Governor in Council may appoint any person or persons to be a Commission to inquire into and report upon any question arising out of the administration of the Government, or the working of any existing law, or regarding the necessity or expediency of any proposed legislation, or concerning the conduct of any officer in the public service.

3. So long as any member of any such Commission acts *bona fide* in the discharge of his duties, no action shall lie against him for anything he may report or say in the course of the inquiry.

Members of Commissions protected. 1903, No. 20, sec. 3

4. Every such Commission shall for the purpose of the inquiry have the power and status of a Magistrate in respect of citing parties interested in the inquiry, summoning witnesses, administering oaths, hearing evidence, and conducting and maintaining order at the inquiry.

Commissioners' powers. Ibid, sec. 4

5. Every summons to a witness shall be served either by delivering the same to the person summoned or by leaving the same at his usual place of abode at least twenty-four hours before his attendance is required.

Service of summons. Ibid, sec. 5

6. Every witness attending and giving evidence in pursuance of any such summons, and every counsel appearing before any Commission, shall have the same privileges and immunities as witnesses and counsel in Courts of law.

Protection of witnesses and counsel. Ibid, sec. 6

7. Every witness attending in pursuance of any such summons shall be entitled to expenses for travelling and maintenance during his absence from his usual place of abode according to the scale allowed to witnesses in civil cases by the rules of the Supreme Court:

Witnesses' allowances. Ibid, sec. 7

Provided that persons prosecuting any claim before a Commission shall not be entitled to be paid any moneys under this section.

8. (1.) Where the Commission has obtained the authority in writing of the Minister of Internal Affairs for summoning any witness, the expenses of that witness shall, if certified by the Chairman of the Commission, be paid by the Minister of Finance out of the Consolidated Fund.

Payment of witnesses' allowances. Ibid, sec.

(2.) In every other case the person requiring the evidence of any witness shall, before the summons is issued, deposit with the Commission such sum of money as the Commission deems sufficient, and the expenses of the witness shall be paid out of the sum so deposited.

9. Every person who, after being duly summoned to attend before the Commission, or to produce thereto any books, papers, writings, or documents,—

Non-attendance &c., of witness. Ibid, sec. 9

(a.) Fails to appear according to the exigency of such summons; or

(b.) Refuses to be sworn or to give evidence, or to make answer to such questions as may be put to him by the Commission or any member thereof touching the subject of the inquiry; or

(c.) Fails to produce any such books, papers, writings, or documents,—

is liable for every such default to a fine not exceeding twenty pounds :

Provided that no person so summoned shall be liable to any such fine unless at the time of the service of the summons there was made to him a payment or a tender of his travelling-expenses, according to the scale allowed to witnesses in civil cases by the rules of the Supreme Court :

Provided also that no person so summoned shall be bound to appear according to the exigency of the summons if, in order to

appear, he would have to travel more than two hundred miles, by the usual way, from his usual place of abode to the place where he is summoned to appear.

Reference of point
of law to Supreme
Court.
1903, No. 20, sec. 10

10. (1.) The Commission may refer any disputed point of law arising in the course of an inquiry to the Supreme Court for decision, and for this purpose may either conclude the inquiry subject to such decision or may at any stage of the inquiry adjourn it until after such decision has been given.

(2.) The question shall be in the form of a special case to be drawn up by the parties (if any) to the inquiry, and, if the parties do not agree, or if there are no parties, to be settled by the Commission.

(3.) The decision of the Supreme Court shall be final and binding upon all parties to the inquiry and upon the Commission.

Power to award
costs.
Ibid, sec. 11

11. The Commission, upon the hearing of an inquiry, may order that the whole or any portion of the costs of the inquiry or of any party thereto shall be paid by any of the parties to the inquiry, or by all or any of the persons who have procured the inquiry to be held:

Provided that no such order shall be made against any person who has not been cited as a party or summoned to attend and give evidence at the inquiry.

Enforcing orders for
costs.

12. (1.) For the purpose of enforcing any order of the Commission for the payment of costs, a duplicate of such order may be filed by the person to whom the costs are payable in the office of the Court named in the order, and shall thereupon be enforceable in all respects as a final judgment of that Court in its civil jurisdiction.

(2.) In every case where an order for costs is made, the order shall name the Court in which the order may, if necessary, be enforced.

(3.) The Court so named shall, where the amount recoverable under the order—

(a.) Exceeds one hundred pounds, be the Supreme Court; and

(b.) Does not exceed one hundred pounds, be the Magistrate's Court.

Powers of
Judges when
Commissioners.
1905, No. 13, sec. 2

13. (1.) In every case where under this Act, or any other Act or the Letters Patent constituting the office of Governor, the Governor or the Governor in Council appoints one or more Judges of the Supreme Court to be members of a Commission for the purpose of holding any inquiry, every such Judge, and the Commission of which he is a member, shall, for all the purposes of such inquiry, have the same powers, privileges, and immunities as are possessed by a Judge of the Supreme Court in the exercise of his civil jurisdiction under "The Judicature Act, 1908."

(2.) For the purpose of enforcing any order made by such Commission the order shall, as soon as conveniently may be after the making thereof, be drawn up and signed by the Chairman (whose signature and status shall be judicially noticed), and may be filed in any office of the Supreme Court, whereupon the order shall be enforceable in the same manner as a final judgment of that Court in civil proceedings.

Ibid, sec. 3

(3.) In the case of every such member the provisions of this section shall be deemed to supersede those of section three hereof;

and in the case of every Commission of which he is a member section four hereof shall be read as if the words "Judge of the Supreme Court" were substituted for the word "Magistrate," and section ten hereof shall be read as if the words "Court of Appeal" were substituted for the words "Supreme Court."

14. Any three or more Judges of the Supreme Court, of whom the Chief Justice shall be one, may from time to time make rules prescribing a scale of costs payable in respect of any inquiry under this Act :

Power to make
scale of costs.
1903, No. 20, sec. 12
1906, No. 58, sec. 11.

Provided that all such rules shall be subject to the approval of the Governor in Council.

15. This Act shall extend and apply to all inquiries held by Commissioners appointed by the Governor or the Governor in Council under any Act or such Letters Patent as aforesaid.

Extent of Act.
1905, No. 13, sec. 4

SCHEDULE.

ENACTMENTS CONSOLIDATED.

1903, No. 20.—"The Commissioners Act, 1903."

1905, No. 13.—"The Commissioners Act Amendment Act, 1905."

1906, No. 58.—"The Statute Law Amendment Act, 1906": Section 11, so far as applicable.