
Inquiry re Central Railway Co., &c., authorized

CAP. 'XIX.

An Act authorizing an **inquiry** into **certain** matters connected with the Central Railway Company and The **New Brunswick Coal & Railway Company**.

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· Passed 30th May, 1908.

Be it enacted by the Lieutenant-Governor and Legislative Assembly, as follows :—

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1. The Lieutenant - Governor is hereby empowered by and with the advice and consent of the Executive Council, to cause a Commission or Commissions to issue under the Great Seal to three persons, one of whom shall be a Judge of the Supreme Court or County Court, or a Barrister of not less than ten years' standing, to hold an investigation or inquiry into:

(a) The expenditure of all moneys of the Province, granted since the first day of January, A. D. 1901, either as subsidies or otherwise in connection with the Railway from Norton to Chipman, and the Railway from Chipman to Minto, and the' branches thereof;

(b) The issue and sale, pledge, hypothecation or other dealing by The New Brunswick Coal & Railway Company, or by any person or persons acting or purporting to act on its behalf, of or with all bonds and debentures guaranteed by or on behalf of the Province and issued or purporting to be issued by The New Brunswick Coal & Railway Company, or by the Commissioners of The New Brunswick Coal & Railway Company, the guaranteeing of the said bonds or debentures by or on behalf of the Province, and the expenditure of the moneys obtained by such sale, pledge, hypothecation or other dealing of or with the said bonds and debentures;

(c) The expenditure of, all moneys made by The New Brunswick Coal & Railway Company, upon or in connection with the Central Railway previous to the purchase of the same by the said Company;

(d) The purchase of the Central Railway by The New Brunswick Coal & Railway Company from the

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Central Railway Company, and the facts and circumstances connected with such purchase ;

(e) The money payment or satisfaction received by the holders thereof, or by any other person or persons acting or purporting to act for them, or any of them, on account of, or in connection with the bonds or debentures outstanding against the Central Railway at the time of the purchase of the said Railway by The New Brunswick Coal & Railway Company ;

(f) The money payment or satisfaction received by The Central Railway Company or by the Shareholders thereof, or by any person or persons acting or purporting to act on behalf of The Central Railway Company, or the Shareholders thereof, or any of such Shareholders, in connection with the sale or transfer of the Central Railway by The Central Railway Company to The New Brunswick Coal- & Rail-way Company ;

(g) The receipts and revenues and the expenditures, whether made for working expenses or otherwise in connection with the railways and the branches thereof, taken over by the Province from The New Brunswick Coal & Railway Company, from the time they were so taken over ;

(h) The amount for which the railways and the branches thereof taken over by the Province from The New Brunswick Coal & Railway Company could, at their present standard of construction, have reasonably been constructed ;

(i) All negotiations and transactions, relating to the foregoing subjects of inquiry, which were carried

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on or took place between The New Brunswick Coal & Railway Company and The Central Railway Company or either thereof or any officer of either thereof or any person acting or purporting to act on behalf of the said Companies, or either thereof, or on behalf of any officer or shareholders of the said Companies or either thereof, and the Government of New Brunswick or any member or officer thereof or person acting or purporting to act on behalf of the Government of New Brunswick or of any member or officer thereof, and the facts and circumstances connected with such negotiations or transactions.

2. As often as any vacancy occurs in the office of a Commissioner acting under this' Act, by reason of such Commissioner dying, resigning or declining or becoming incapable to act,' the Lieutenant-Governor-in-Council may, from time to time, fill up such vacancy.

3. The Commissioners shall have, for the purposes of such investigation or inquiry to "be instituted by them in pursuance of this Act, all such powers, rights and privileges as are vested in His Majesty's Supreme Court for the Province or in any Judge thereof, on the occasion of any action or suit in respect of the following matters :

(a). The enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise, as the Commissioners may think fit;

(b) . The compelling of the production of books, papers or documents which, in the opinion of the Commissioners, are necessary to be produced;

(c). The adjourning the Court from time to time and from place to place within the Province, as the Commissioners may deem necessary ;

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(d). The punishing of persons guilty of contempt.

4. Any one Commissioner may administer the oath to a witness, may issue summons or warrants for witnesses and, with the consent of his co - Commissioners, may, sitting alone, hold investigations or inquiries for the purposes of this Act, and exercise all the powers which by this Act may, when the Commissioners are sitting together, 'be exercised by all or either of- them, except only the power of punishing persons guilty of contempt, which. power shall not be exercised by one *Commissioner sitting alone, unless by the order of the Attorney General.

5. The oath or affirmation to be administered to a witness shall be as follows:

"I do swear that the evidence I shall give touching the matter of this inquiry shall be the truth, the n-hole truth, and nothing but the truth, so help me God."

6. The summons to a witness may be in form "A" in the Schedule to this Act, and one or more witnesses may be included in the same summons. The summons may be served by any person at any place within the Province.

7. If any person summoned as a witness neglects or refuses to appear at the time and place appointed by the summons, and no excuse which, in the opinion of the Commissioners is sufficient, is offered -for such neglect or refusal then, after proof on oath or affirmation to the satisfaction of the Commissioners of the summons having been served upon such person either personally or by leaving the same for him with some adult person at his last or most usual place of abode, the Commissioners may issue their warrant

wholly within or without, or partly within and partly without, the County of which such officer is a Sheriff or Constable.

8. If any person, being before the Commissioners either in obedience to the summons aforesaid or by virtue of the warrant aforesaid, or being brought by the Sheriff or gaoler, after commitment, as hereinafter provided, shall refuse to be examined upon oath or affirmation concerning any matter which, in the opinion of the Commissioners, is relevant to the inquiry or investigation or refuses to take the oath or affirmation aforesaid, or, having taken the oath or affirmation, refuses to answer all such questions as are then put to him by the Commissioners and which in the opinion of the Commissioners are relevant to the matter to be inquired into or investigated by them, without offering any excuse for his refusal which, in the opinion of the Commissioners, is sufficient, refuses to produce all or any books, documents and papers which he may, by the Commissioners, be required to produce either in and by the summons aforesaid or by direction of the Commissioners upon such hearing, the Commissioners may, by warrant in Form "C" in the Schedule to this Act, commit the person so re-

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fusing, to the common gaol of the County in which the Commissioners may then be holding their Court, there to remain and be imprisoned for any term, not exceeding thirty days, which shall be by the Commissioners adjudged and specified in said warrant, and in case any person be imprisoned under and by virtue of such last mentioned warrant the Commissioners shall hold their court at some place within the same County in which such person is imprisoned on the last day of the term for which such person has been so imprisoned, and the Sheriff or gaoler in whose custody such person then is shall, on such last day of the term of imprisonment, bring such person in custody before the Commissioners at such hour as the Commissioner's may verbally or in writing direct; then and there to be further examined before the Commissioners, and if such person then and there persists in his former refusal, the Commissioners may, by warrant in Form "C" in the Schedule to this Act, recommit him to the said gaol for any further period, not exceeding thirty days, and so on, from time to time, until such person being brought before the Commissioners ceases to persist in such refusal.

9. All persons summoned to attend and attending before the Commissioners upon summons, shall be entitled to their reasonable expenses, and the amount thereof shall be fixed and determined by the Commissioners and shall be paid by warrant of the Lieutenant-Governor on the certificate of the Commissioners.

10. No witness shall be excused from answering any question put to him on such investigation or inquiry, on the ground that the answer to such question shall or may tend to incriminate him.

11. Any person examined as a witness in any inquiry under this Act who, in the opinion of the Commissioners,

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makes a full and **true** disclosure touching all the matters in respect to which he is examined, shall receive a certificate under the hand of the Commissioners stating that the witness has, upon his examination, made a full and true disclosure as aforesaid, and no evidence given or taken under this Act shall be admissible against such person in any civil proceedings whatever, if such certificate be produced to the Court in which such proceeding is pending.

12. Every examination of witnesses under this Act shall be conducted in public.

13. The Commissioners, when holding their Court, shall have the like powers for the preservation of order therein and for the punishing of any disturbance or contempt committed in the face of the Court, as is possessed by a Judge of the Supreme Court, when sitting for trial of causes at any Circuit Court.

14. All Sheriffs, Police Officers or Constables shall, and they are required to give, when requested by the Commissioners, their aid and assistance to the Commissioners in the execution of their duties under this **Act, and they** shall be entitled for their services done in compliance with such request, to the fees prescribed for similar services by Part IT. of Chapter 188 of The Consolidated Statutes, 1903. The said fees shall be paid by **warrant of the Lieutenant-Governor on the certificate of the Commissioners.**

15. The Commissioners shall report the evidence taken before them and their findings thereon and the proceedings of the Commissioners, to the **Provincial Secretary,** to be by him laid before the **Lieutenant-Governor-in-Council.**

16. No action shall be brought or maintained against the Commissioners, or either of them, by reason of any act

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purporting to be done by him or them in his or their capacity as such Commissioner or Commissioners, unless it shall appear that such act was done by such Commissioner or Commissioners without reasonable cause, and with actual malice and wholly without jurisdiction; and if any such action is brought, the defendants may plead the general issue and give the special matter of defence in evidence at the trial of such action.

11. No action shall be brought against any Commissioner or Commissioners appointed to conduct any inquiry under this Act for anything done in the execution of his or their duty under this Act, unless such action shall be brought after one month's notice thereof and within six calendar months after the doing of such thing.

18. The Lieutenant-Governor-in-Council is hereby empowered to pay the expenses of the Commissioners and for their services by warrant upon the Provincial Treasury out of the public moneys of the Province.

19. No person shall be liable to any suit, action or proceeding, by reason of his publishing a true account of any report of the Commissioners or of any evidence taken by them or either of them.

20. Any person who neglects or refuses to appear before the Commissioners in obedience to any summons under this Act duly served upon him, and offers no reasonable excuse for such neglect or refusal shall also be liable to a penalty not exceeding four hundred dollars to be recovered with costs under "The Summary Convictions Act" before two Justices of the Peace for the County in which such neglect or refusal takes place, and such penalty, when collected, shall be payable to the Receiver General for the use of the Province.

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21. Should any person be desirous of appearing either in person or by "counsel at the said investigation or inquiry and of cross-examining the witnesses thereat the Commissioners may permit him to do so to the extent and on the terms that they may deem proper.

22. The Lieutenant-Governor-in-Council is hereby empowered to retain Counsel for the purpose of assisting the Commissioners in their investigation and to pay for the service of such Counsel by warrant upon the Provincial Treasury out of the public moneys of the Province.

SCHEDULE.

Form A.

To A. B.,

You are hereby summoned to attend personally before the Commissioners" appointed under the Great Seal of the Province to investigate (*stating the cause*), at on the _____ day of _____ at the hour of _____ o'clock 'in the _____ noon of the same day, then and there to testify the truth according to your knowledge in the matter of the inquiry now pending, and then and there to produce (Specifying the *books or documents to be produced*), and this you shall by no means omit under the penalties in such case provided.

Given under my (or our) hand at the
in the County of _____ this
day of _____ A. D., 19

(Signature.)

Commissioner.

Form B.

To any Constable in the Province of New Brunswick, and to the Sheriff of any County in the said Province:-

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Whereas, a **Summons** was issued by me (or us), a Commissioner (or the Commissioners) duly appointed and acting under the provisions of the Act of the Legislature of Sew Brunswick, passed in the year 1908, intituled "An Act authorizing an inquiry into certain matters connected with the Central Railway Company and The New Brunswick Coal & Railway Company," to A. B., summoning him to appear before me (or us), under said Act, and the said A. B. has not appeared in obedience to said summons, and it has been proved upon oath before me (or us) that said summons has been 'duly served upon the said A. B. personally (or by leaving the same, for him with W. Z., an adult person at the last and most usual place of abode of the said A. B., at _____ in the County of _____), and no excuse having been offered to me (or' us) which in my (or our) opinion is sufficient for such neglect or refusal Of the said A. B. to attend in obedience to said summons, I (or me) hereby order and direct you to arrest the said A. B., wherever you may find him within the said Province, and to bring him in custody before me (or us) at _____ in the County of _____ on the _____ day of _____ A. D., **19** at _____ o'clock in the _____ noon, or at any place or time thereafter to which I (or we) shall have adjourned the hearing under the said Commission.

Given under my (or our). hand this _____ day of _____
 A. D. **19** _____, at the _____ in the County
 of _____

(Signature.)
 Commissioner.

Form C.

A. B., being before me (or us) , a Commissioner (or the Commissioners) duly appointed and acting under the pro-

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visions of the Act of the Legislature of New Brunswick passed in the year **1908**, intituled "An Act authorizing an inquiry into certain matters connected with The Central Railway Company and The New Brunswick Coal & Railway Company," on this day of A. D. **19** , at in the County of refused to take oath (or make **affirmation**) as a witness before me (or us) as required by said **Act** (or, and having taken the oath or made affirmation as required by law, refused to answer the following question by me (or us) to him (*here state question*), such question being one which in my (or our) opinion is relevant to the matter to be inquired into by me (or us) (or, refused to produce a certain book or document, *as the case may be*, which he was required by me (or us) to produce) , and has offered no excuse for such refusal, which in my (or our) opinion is **sufficient**; I (or we) do hereby commit the said A. B. for his said refusal to the common gaol of the said County of at in the said County, there to be imprisoned for (**any term not exceeding thirty days**), and you, the gaoler of such gaol, are hereby required to receive the said A. B. and detain him in your custody in the said goal for the term stated, and on the last day of said term to have the said A. B. in custody before me (or us) at in the Parish of in the County of at o'clock in the noon, then and there to be further examined before me (or us).

Given under my (or our) hand this day
of A. D. **19** , at in the County
of

(Signature.)

Commissioner.