

P.
Am by 16-62

CHAPTER 7. No. 2.

COMMISSIONS OF ENQUIRY.

AN ORDINANCE RELATING TO COMMISSIONS OF ENQUIRY.

Ordinance
Ch. 7. No. 2-
1940.

[23rd January, 1892.]

Commence-
ment.

1. This Ordinance may be cited as the Commissions of Enquiry Ordinance. Short title.

2. It shall be lawful for the Governor, whenever he shall deem it advisable, to issue a commission appointing one or more commissioners, and authorising such commissioners, or any quorum of them therein mentioned, to enquire into the conduct of any officer in the public service in the Colony, the conduct or management of any department of the public service or of any public or local institution, or into any matter in which an enquiry would, in the opinion of the Governor, be for the public welfare. Each such commission shall specify the subject of enquiry, and may, in the discretion of the Governor, if there is more than one commissioner, direct which commissioner shall be chairman, and direct where and when such enquiry shall be made and the report thereof rendered, and prescribe how such commission shall be executed, and may direct whether the enquiry shall or shall not be held in public. In the absence of a direction to the contrary, the enquiry shall be held in public, but the commissioners shall nevertheless be entitled to exclude any particular person or persons for the preservation of order, for the due conduct of the enquiry, or for any other reason. Power to
issue com-
missions of
enquiry.

3. In case any commissioner shall be or become unable or unwilling to act, or shall die, the Governor may appoint another commissioner in his place; and any commission Power to
appoint fresh
commis-
sioners, and
to alter com-
missions.

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issued under this Ordinance may be altered as the Governor may deem fit by any subsequent commission issued by the Governor, or may be revoked altogether by notice in the *Royal Gazette*.

Change of
Governor.

4. No commission issued under this Ordinance shall lapse by reason of, or be otherwise affected by, the death, absence, or removal of the Governor issuing the same.

Oath by
commis-
sioners.

5. It shall be the duty of each commissioner appointed under this Ordinance to make and subscribe an oath that he will faithfully, fully, impartially, and to the best of his ability discharge the trust and perform the duties devolving upon him as such commissioner, which oath may be taken before the Governor, and shall be deposited by the commissioner with the Colonial Secretary.

Secretary.

6. The Governor may appoint a secretary to attend the sittings of the commission, to record their proceedings, to keep their papers, summon and minute the testimony of witnesses, and generally to perform such duties connected with such enquiry as the commissioners shall prescribe, subject to the directions, if any, of the Governor.

Duties of
commis-
sioners.

7. It shall be the duty of the commissioners, after taking such oath, to make a full, faithful, and impartial enquiry into the matter specified in such commission, and to conduct such enquiry in accordance with the directions, if any, in the commission; and, in due course, to report to the Governor, in writing, the result of such enquiry; and also, when required, to furnish to the Governor a full statement of the proceedings of such commission, and of the reasons leading to the conclusions arrived at or reported.

Casting vote
of chairman.

8. If the commissioners shall, in any case, be equally divided on any question that arises during the proceedings of the commission, the chairman of the commission shall have a second or casting vote.

Power to
regulate
proceedings.

9. Commissioners acting under this Ordinance may make such rules for their own guidance, and the conduct and management of proceedings before them, and the hours

and times and places for their sittings, not inconsistent with their commission, as they may from time to time think fit, and may from time to time adjourn for such time and to such place as they may think fit, subject only to the terms of their commission.

10. Any person whose conduct is the subject of enquiry under this Ordinance, or who is in any way implicated or concerned in the matter under enquiry, shall be entitled to be represented by counsel at the whole of the enquiry; and any other person who may consider it desirable that he should be so represented may, by leave of the commissioners, be represented in the manner aforesaid.

Appearance of counsel.

11. Commissioners acting under this Ordinance shall have the powers of the Supreme Court to summon witnesses, to call for the production of books, plans, and documents, and to examine witnesses and parties concerned on oath; and no commissioner shall be liable to any action or suit for any matter or thing done by him as such commissioner. All summonses for the attendance of witnesses or other persons, or the production of documents, may be in the form given in the Schedule hereto, and shall be signed by one of the commissioners. Oaths may be administered by one of the commissioners or by the secretary.

Power to summon and examine witnesses, and privilege of commissioner from suit.

Schedule.

12. (1) All persons summoned to attend and give evidence, or to produce books, plans, or documents, at any sitting of any such commission, shall be bound to obey the summons served upon them as fully in all respects as witnesses are bound to obey subpoenas issued from the Supreme Court, and shall be entitled to like expenses as if they had been summoned to attend at such Court on a criminal trial, if the same shall be allowed by the commissioners, but the commissioners may disallow the whole or any part of such expenses in any case, if they think fit. Orders for the payment of such witnesses shall be made as nearly as may be as orders are made for the payment of witnesses in the Supreme Court, and shall be paid in such manner as the Governor may direct.

Witnesses.

(2) Every person refusing or omitting, without sufficient cause, to attend at the time and place mentioned

Offences.

in the summons served on him, and every person attending, but leaving the commission without the permission of the commissioners, or refusing without sufficient cause to answer, or to answer fully and satisfactorily to the best of his knowledge and belief, all questions put to him by or with the concurrence of the commissioners, or refusing or omitting without sufficient cause to produce any books, plans, or documents in his possession, or under his control, and mentioned or referred to in the summons served on him, and every person who shall at any sitting of the commission wilfully insult any commissioner or the secretary, or wilfully interrupt the proceedings of the commission, shall be liable, on summary conviction, to a fine of two hundred and forty dollars:

Provided always, that no person giving evidence before the commission shall be compellable to criminate himself, and every such person shall, in respect of any evidence given by him before the commission, be entitled to all privileges to which a witness giving evidence before the Supreme Court is entitled in respect of evidence given by him before such Court.

Constables
to attend
commis-
sioners.

13. The Governor may direct the Commissioner of Police to detail constables to attend upon any such commissioners, to preserve order during the proceedings of the commission, and to serve summonses on witnesses, and to perform such ministerial duties as such commissioners shall direct.

Remunera-
tion to com-
missioners
and others.

14. Commissioners appointed under this Ordinance shall not be entitled to any remuneration, unless such remuneration shall be specially voted by the Legislative Council, beyond the actual expenses incurred in holding the enquiry, but the Governor may direct what remuneration, if any, shall be paid to the secretary, and to any other person employed in or about any such commission, and may direct payment of any other expenses attendant upon the carrying out of any such commission, or upon any proceedings for any penalty under this Ordinance. Such sums, so directed to be paid, shall be paid out of general revenue on the warrant of the Governor.

15. All commissions under this Ordinance, and all revocations of any such commission, shall be published in the *Royal Gazette*, and shall take effect from the date of such publication. Commissions, etc., to be published in *Royal Gazette*.

16. No proceedings shall be commenced for any penalty under this Ordinance, except by the direction of the Attorney General, or of the commissioners. The commissioners may direct their secretary, or such other person as they may think fit, to commence and prosecute the proceedings for such penalty. Proceedings for penalties.

SCHEDULE.

(Section 11.)

Summons to Witness.

To A. B. [name of person summoned, and his calling and residence].

You are hereby summoned to appear before [here name the commissioners] appointed by the Governor to enquire [state briefly the subject of enquiry] at [place] upon the day of " , 19 , at o'clock, and to give evidence respecting such enquiry. [If the person summoned is to produce any documents, add] and you are required to bring with you [specify the books, plans, and documents required]. Therefore fail not at your peril.

Given under the hand of , Commissioner, this day of , 19 .