

CHAPTER 12.

COMMISSIONS OF INQUIRY.

AN ORDINANCE TO ENABLE THE GOVERNOR TO ISSUE COMMISSIONS OF INQUIRY WITH SPECIAL POWERS. 3 of 1942.

[13th March, 1942.]

1. This Ordinance may be cited as the Commissions of Inquiry 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 inquire into the conduct of any officer in the public service in the Colony of the Falkland Islands and its Dependencies, the conduct or management of any department of the public service or of any public or local institution, or into any matter in which any inquiry would, in the opinion of the Governor, be for the public welfare. Each such Commission shall specify the subject of inquiry, 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 inquiry shall be made, and the report thereof rendered, and prescribe how such Commission shall be executed, and may direct whether the inquiry shall or shall not be held in public. In the absence of a direction to the contrary, the inquiry 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 inquiry, or for any other reason. Power to issue commissions of inquiry into matters of a public nature, etc.

Particulars of commissions.

Mode of holding inquiry and as to preservation of order.

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 issued under this Ordinance may be altered as the Governor Power to appoint fresh Commissioners and to alter and revoke commissions.

[Note. This Ordinance is declared to be in force in the Dependencies by the Application of Colony Laws Ordinance, Cap. 1 (D.S.).]

may deem fit by any subsequent Commission issued by the Governor, or may be revoked altogether by a notification to that effect published in the *Gazette*.

Commissions not affected by 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.

As to oath of office by Commissioners.

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 by virtue of such Commission, which oath may be taken before the Governor, or before such person as the Governor may appoint, and shall be deposited by the Commissioner with the Colonial Secretary.

Power to appoint secretary: his duties.

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 inquiry as the Commissioners shall prescribe.

Duties of Commissioners defined.

7. It shall be the duty of the Commissioners, after taking such oath, to make a full, faithful and impartial inquiry into the matter specified in such Commission, and to conduct such inquiry 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 inquiry; 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.

Division of opinion of Commissioners.

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.

Commissioners' powers for regulating proceedings.

9. The 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. Commissioners acting under this Ordinance shall have the powers of the Supreme Court to summon witnesses and 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 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 to this Ordinance, or any form to the like effect, and shall be signed by one of the Commissioners, and oaths may be administered by one of the Commissioners or by their secretary.

Power to summon and examine witnesses, and protection of Commissioner from suit.

Schedule.

11. Any witness who shall wilfully give false evidence in any such inquiry concerning the subject matter of such inquiry shall be guilty of perjury, and be liable to be prosecuted and punished accordingly.

False evidence.

12. 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. Every person refusing or omitting without sufficient cause to attend at the time and place mentioned 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

Duty of witnesses summoned.

Expenses of witnesses.

Penalty for contumacy, insult, or interruption of proceedings.

Indemnity
to witnesses.

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 to a penalty not exceeding fifty pounds, to be recovered in a summary manner before a Magistrate: 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 the privileges to which a witness giving evidence before the Supreme Court is entitled in respect of evidence given by him before such Court.

Appearance
of counsel.

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

Constables
detailed to
attend Com-
missioners:
their duties.

14. The Chief Constable shall detail constables to attend upon any such Commissioners, to preserve order during the proceedings of the Commission, to serve summonses on witnesses, and to perform such ministerial duties as such Commissioners shall direct.

Remunera-
tion to Com-
missioners,
etc.

15. Commissioners appointed under this Ordinance shall not be entitled to any remuneration beyond the actual expenses incurred in holding the inquiry, unless such remuneration shall be specially voted by the Legislative Council*, but the Governor may direct what remuneration, if any, shall be paid to the secretary, and to any other persons 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 defrayed out of the public revenue of the Colony upon the warrant of the Governor.

* [Note. In the application of this Ordinance to the Dependencies by the Application of Colony Laws Ordinance, Cap. 1 (D.S.), the words "specially voted by the Legislative Council" are replaced by the words "specially directed by the Governor to be paid".]

16. All Commissions under this Ordinance, and all revocations of any such Commission, shall be published in the *Gazette*, and shall take effect from the date of such publication.

Commissions, etc., to be published in *Gazette*.

17. No proceedings shall be commenced for any penalty under this Ordinance except by the direction 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.

As to proceedings for penalties.

SCHEDULE. (*Section 10*).

Summons to Witness.

Summons to witness.

To A. B. (*name of person summoned, and his calling and residence, if known*).

You are hereby summoned to appear before (*here name the Commissioners*), appointed by the Governor to inquire (*state briefly the subject of inquiry*), at (*place*), upon the _____ day of _____, 19____, at _____ o'clock, and to give evidence respecting such inquiry. (*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 _____, 19____
day of _____

Commissioner, this