COMMISSIONS OF ENQUIRY

THE COMMISSIONS OF ENQUIRY ACT

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SCHEDULE

[The inclusion of this page is authorized by L.N. 50/1979]
THE COMMISSIONS OF ENQUIRY ACT

[27th March, 1873.]

1. This Act may be cited as the Commissions of Enquiry Act.

2. It shall be lawful for the Governor-General, whenever he shall deem it advisable, to issue a Commission, appointing one or more Commissioners, and authorizing such Commissioners, or any quorum of them therein mentioned, to enquire into the conduct or management of any department of the public service, or of any public or local institution, or the conduct of any public or local officers of this Island, or of any parish, or district thereof, or into any matter in which an enquiry would in the opinion of the Governor-General, be for the public welfare.

Each such Commission shall specify the subject of enquiry, and may, in the discretion of the Governor-General, 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.
3. In case any Commissioner shall be or become unable or unwilling to act, or shall die, the Governor-General may appoint another Commissioner in his place; and any Commission issued under this Act may be altered as the Governor-General may deem fit by any subsequent Commission issued by the Governor-General or may be revoked altogether by a notification to that effect published in the Gazette.

4. No Commission issued under this Act shall lapse by reason of, or be otherwise affected by the death, absence, or removal of the Governor-General issuing the same.

5. It shall be the duty of each Commissioner appointed under this Act to make and subscribe an oath or affirmation, 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 or affirmation may be taken before any Justice, and shall be deposited by the Commissioner with the Governor-General’s Secretary.

6. The Governor-General 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-General.

7. It shall be the duty of the Commissioners, after taking such oath or affirmation, 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-General, in writing, the
result of such enquiry; and also, when required, to furnish to the Governor-General a full statement of the proceedings of such Commission and of the reasons leading to the conclusions arrived at or reported.

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.

9. The Commissioners acting under this Act 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 Act shall have the powers of a Judge of the Supreme Court of this Island, 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 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, and shall be signed by one of the Commissioners, and oaths may be administered by one of the Commissioners, or by their Secretary.

11.—(1) All persons summoned to attend and give evidence or to produce any book, plan or document before the Commission—

(a) shall be bound to obey the summons served upon them;
(b) shall be entitled in respect of such evidence or the disclosure of any communication or the production of any such book, plan or document to the same right or privilege as before a court of law;

(c) shall be entitled to be paid their expenses including travelling expenses at the rates prescribed by the Witnesses' Expenses Act for witnesses who are entitled to have their expenses paid from public funds:

Provided that the Commission may disallow the whole or any part of such expenses in any case, if it think fit.

(2) Any person who—

(a) without sufficient cause, fails or refuses to attend before a Commission in obedience to a summons under this Act, or fails or refuses to produce any book, plan or document which he was required by such summons to produce; or

(b) being a witness, leaves the Commission without the permission of the Commission; or

(c) being a witness, refuses, without sufficient cause, to answer any question put to him by or with the permission of the Commission; or

(d) wilfully obstructs or interrupts the proceedings of the Commission,

shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred dollars or in default of payment thereof to imprisonment with or without hard labour for a term not exceeding three months.

11A.—(1) If a person who has been summoned to attend before the Commissioners as a witness fails to attend or appear before the Commissioners as required by section 11 any Commissioner may, on proof by affidavit that the summons was served on the witness personally or that it
has otherwise come to his knowledge, issue a warrant for the apprehension of that person.

(2) A warrant so issued shall authorize the apprehension of the person and his being brought before the Commissioners and his detention in custody for that purpose until he is released by order of the Commissioners or any one of them.

(3) A warrant so issued may be executed by a person who is a member of the Constabulary Force, and the person executing it shall have power to break open and enter any place, building or vessel for the purpose of executing the warrant.

(4) The apprehension of a person under this section shall not relieve him from any liability incurred by reason of his failure to attend before the Commissioners.

12. The Governor-General 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 perform such other duties as usually pertain to their office when in attendance upon the Supreme Court, and to serve summonses on witnesses, and to perform such ministerial duties as such Commissioners shall direct.

13. The Governor-General may direct what remuneration, if any, shall be paid to any Commissioners acting under this Act, and to their 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 Act. Such sums, so directed to be paid, shall be paid by the Accountant-General out of the ordinary cash balance in the Treasury.

14. All Commissions and all process and proceedings before the Commissioners under this Act shall be free from stamp duty.

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15. All Commissions under this Act, and all revocations of any such Commissions, shall be published in the Gazette, and shall take effect from the date of such publication.

16. No proceedings shall be commenced for any penalty under this Act, except by the direction of the Director of Public Prosecutions, 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.

SCHEDULE

(Schedule 10)

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-General 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 .

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