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THE

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OF THE

PROVINCE OF QUEBEC

1909

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CHAPTER THIRD

QUESTIONS REFERRED TO THE COURT OF KING'S BENCH BY THE LIEUTENANT-GOVERNOR IN COUNCIL

579. The Lieutenant-Governor in Council may refer to the Court of King's Bench, Appeal side, for hearing and consideration, any question which he deems expedient, and thereupon the court shall hear and consider the same. 61 V., c. 11, s. 1.

References to Court of King's Bench, Appeal Side.

580. The court shall send to the Lieutenant-Governor in Council for his information its opinion duly certified upon the questions so referred, giving its reasons in support thereof, in like manner as in the case of judgments rendered upon appeals brought before the said court.

How opinion of court is given.

Any judge who differs from the majority shall, in like manner, give his opinion duly certified and his reasons in support thereof. 61 V., c. 11, s. 2.

Opinion of dissenting judges.

581. The court may order that any person interested, or if there is a class of persons, any one or more persons as representing such class, be notified of the hearing upon any reference to the court under this chapter ; and such persons are entitled to be heard. 61 V., c. 11, s. 3.

Parties may be notified and are entitled to be heard.

582. The opinion of the court upon any question referred to it under this chapter is advisory only and cannot be appealed from. 61 V., c. 11, s. 4.

Opinion advisory and not subject to appeal.

583. The majority of the judges of the Court of King's Bench may make the rules of practice necessary for carrying out the provisions of this chapter.

Rules of practice to be made.

The chief-justice of the Court of King's Bench, or if he be absent or sick, any other judge of that court, may fix any day or days, in or out of term, for the hearing, consideration and decision of the question referred under the authority of this chapter. 61 V., c. 11, s. 5.

Days for hearing to be fixed.

CHAPTER FOURTH

INQUIRIES CONCERNING PUBLIC MATTERS

584. Whenever the Lieutenant-Governor in Council deems it expedient to cause inquiry to be made into and concerning any matter connected with the good government of

Appointment of commissioners to

hold inquiries. the Province, the conduct of any part^{ch} of the public business, the administration of justice, any matter of importance relating to public health, or any matter connected with the good government of any municipality of the Province, he may, by a commission issued to that effect, appoint one or more commissioners by whom such inquiry shall be conducted. R. S. Q., 596 ; 59 V., c. 11, s. 1; 9 Ed. VII, c. 13, s. 1.

Oath of commissioners. **585.** The commissioners so appointed shall, before acting, take the following oath of office before a judge of the Superior Court:

Form of oath. "I, A. B., do swear that I will exercise and perform the powers and duties vested in me by the provisions of chapter fourth of title third of the Revised Statutes of Quebec, 1909, respecting inquiries concerning public matters, according to the best of my knowledge and judgment. So help me God." R. S. Q., 596a; 59 V., c. 11, s. 1.

Secretary to commission. **586.** The Lieutenant-Governor may also appoint a secretary to the commission.

Stenographers, &c. The commissioners may, with the authorization of the Attorney-General, employ stenographers, clerks and messengers.

Other expenses. They may also incur such further expenses as may be necessary for the performance of their duties.

Salaries of commissioners, &c. The salaries of the commissioners, secretary, stenographers, clerks and messengers shall be fixed by the Lieutenant-Governor in Council. R. S. Q., 596b; 9 Ed. VII, c. 13, s. 2.

When meetings to be held. **587.** The commissioners shall, within a reasonable time after their appointment, hold meetings for the purposes of the inquiry, at the place where the necessary information is to be obtained.

Notice thereof. They shall give notice of the time and place of their first meeting, in two French and two English newspapers published nearest to the place of meeting.

Adjournments. The commissioners shall not adjourn the inquiry for a period exceeding one week, unless they are duly authorized to that effect by the Attorney-General. R. S. Q., 596c; 59 V., c. 11, s. 1.

Duty of commissioners. **588.** The commissioners may, by all such lawful means as they may think best fitted to discover the truth, inquire into the matters referred to them for investigation.

Report. As soon as the inquiry is completed, they shall report the result, with all evidence taken during the inquiry, to the Lieutenant-Governor in Council, who shall order such action to be taken in the matter as shall be warranted by the evidence and report. R. S. Q., 596d; 59 V., c. 11, s. 1.

589. A majority of the commissioners must attend and ^{Attendance} preside at the hearing of witnesses, and they, or a majority of ^{of commis-} them, shall have, with respect to the proceedings upon the ^{sioners and} hearing, all the powers of a judge of the Superior Court in ^{their powers.} term. R. S. Q., 598 ; 59 V., c. 11, s. 2.

590. Notwithstanding any law to the contrary, the ^{Judges of K.} Lieutenant-Governor in Council may grant such indemnity ^{B. and S. C.,} as he shall deem advisable, to judges of the Court of King's ^{appointed} Bench and of the Superior Court appointed commissioners under ^{commission-} the preceding articles. R. S. Q., 598a ; 55-56 V., c. 6, s. 1. ^{ers; may} receive in- ^{demnity.}

591. The commissioners or any of them may, by a sum- ^{Summoning} mons under his or their hand or hands, require the attendance ^{of witnesses,} before them, at a place and time therein specified, of any per- ^{&c.} son whose evidence may be material to the subject of inquiry, and require any person to bring before them such books, papers, deeds and writings as appear necessary for arriving at the truth.

All such persons shall attend and answer all questions put ^{Persons to} to them by the commissioners touching the matter to be in- ^{attend, &c.} quired into, and shall produce for the commissioners, all books, papers, cheques, promissory notes, deeds and writings, required of them, and in their custody or control, according to the tenor of the summons.

The commissioners or any one of them may require and ^{Oath of} shall receive the usual oath or affirmation from every person ^{witnesses.} examined before them. R. S. Q., 598b ; 59 V., c. 11, s. 3.

592. Any person, on whom any summons has been served, ^{Default to} in person or by leaving a copy thereof at his usual residence, ^{appear when} who fails to appear before the commissioners, at the time and ^{summoned.} place specified therein, may be proceeded against by the commissioners in the same manner as if he had failed to obey any subpoena or any process lawfully issued from a court of justice.

Any person refusing to be sworn when duly required, or ^{Refusal to} omitting or refusing, without just cause, sufficiently to answer ^{swear, &c.} all questions that may be lawfully put to him, or to render any testimony in virtue of this chapter, shall be deemed to be in contempt and shall be punished accordingly.

No answer given, however, by any person so heard as a wit- ^{Protection of} ness, can be used against him in any prosecution under any ^{witnesses.} act of the Legislature, if the commissioners have given him a certificate establishing that he has claimed the right to be excused from answering, and has given full and truthful answers to the satisfaction of the said commissioners.

If any person refuses to produce, before the commissioners, ^{Contempt of} any papers, books, deeds or writings in his possession or under ^{persons upon}

refusing papers, &c.

his control, which they deem necessary to be produced, or if any person is guilty of contempt of the commissioners or their office, the commissioners may proceed for such contempt in the same manner as any court or judge under like circumstances. R. S. Q., 598c ; 59 V., c. 11, s. 3.

Travelling expenses, &c., of certain witnesses.

593. The commissioners may allow to any witness summoned to appear before them, and who resides at more than ten miles from the place of examination, the actual cost of his travelling expenses and cost of maintenance during the time he is detained by the inquiry. R. S. Q., 598d ; 59 V., c. 11, s. 3.

Power of the Treasury Board and others as to inquiries instituted by them.

594. The Treasury Board and the commissioners named by it, the Provincial Auditor, the inspectors of prisons, hospitals and other institutions, the inspector of registry offices and any inspector of public offices and each of such inspectors, the Civil Service Board and the commissioners appointed by it, the Council of Public Instruction and each of the Committees thereof and the commissioners appointed by them, the Superintendent of Public Instruction, the secretaries of the Department of Public Instruction and school inspectors, have, by law, the powers mentioned in articles 591, 592, and 593.

Powers may be conferred on other boards, &c.

The Lieutenant-Governor may, by order in council, whenever he deems it advisable in the interest of the public service, confer the same powers upon any other board, body or person who demands the same, for the purpose of any inquiry to be made by such board, body or person. R. S. Q., 597 ; 53 V., c. 14, s. 1.

Costs by whom paid.

595. In the case of an inquiry into the affairs of any municipality, all the costs occasioned by the inquiry shall be paid by such municipality.

Advances of money by municipality to commissioners, &c.

The commissioners may, by order, require the municipality to advance them within such delay as they may fix, any moneys necessary for the performance of their duties, and after the service of such order upon him, the treasurer or secretary-treasurer of the municipality, shall, within the prescribed delay, and under pain of contempt of court, transmit the amount required, to the secretary of the commission.

Advances whence taken.

The treasurer or secretary-treasurer is authorized to take such amount out of the general funds of the municipality, notwithstanding any provision to the contrary contained in any special or general act.

Reimbursement of costs to municipality by certain persons.

If, in the course of an inquiry, it is established that there has been maladministration or malversation on the part of any employee, alderman or councillor of the municipality, or on the part of any other person, or if it is established therein

that the charge which gave rise to the inquiry is unfounded, the commissioners may condemn the person or persons inculpated, or the person who has brought the false accusation, to repay the municipality the whole of the costs of such inquiry, or such part thereof as they may think fit.

In default of immediate payment of such costs, the municipality shall sue the person or persons liable therefor, for the recovery thereof, and such persons shall be liable to imprisonment until they have paid in full the costs which they have been condemned to pay. Recovery of such costs. R. S. Q., 598e; 9 Ed. VII, c. 13, s. 3.

596. The commissioners shall have the same protection and privileges as are now conferred upon judges of the Superior Court, for any act done or omitted in the execution of their duty. Protection and privileges of commissioners. R. S. Q., 598f; 59 V., c. 11, s. 3.

597. No writ of injunction or prohibition or other legal proceeding shall interfere with or stay the proceedings of the commissioners in the inquiry. Writ of injunction, &c., not to lie. R. S. Q., 598g; 59 V., c. 11, s. 3.

598. Certified copies of the evidence taken by the commissioners may be obtained by any person applying for the same, on payment therefor at the rate of ten cents per hundred words. Copies of evidence. R. S. Q., 598h; 59 V., c. 11, s. 3.

599. The Lieutenant-Governor in Council shall fix the date when the commissioners shall complete their labours and reports, and the limit of the expenditure on such commission; after which date all expenses of the commission shall cease. Date when labours, &c., to be completed. R. S. Q., 598i; 59 V., c. 11, s. 3.

CHAPTER FIFTH

PUBLIC OFFICERS

SECTION I

APPOINTMENT AND REMOVAL OF PUBLIC OFFICERS

600. Unless otherwise specially provided, every public officer or employee shall be appointed by the Lieutenant-Governor in Council, by commission or otherwise, and remain in office during pleasure. Appointment of public officers. R. S. Q., 599.

601. A public officer or employee, who is appointed under permanent commission, but who is removable from office, can be dismissed by order in council only. Their dismissal.