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1966—Part A

TRIBUNALS OF INQUIRY DECREE 1966



ARRANGEMENT OF SECTIONS

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Decree No. 41

[2nd June 1966]

Commence-
ment.

THE NATIONAL MILITARY GOVERNMENT hereby decrees as follows:—

1.—(1) The Head of the National Military Government (in this Decree referred to as "the proper authority") may, whenever he deems it desirable, by instrument under his hand (hereafter in this Decree referred to as "the instrument") constitute one or more persons (hereafter in this Decree referred to as "member" or "members") a tribunal to inquire into any matter or thing or into the conduct or affairs of any person in respect of which in his opinion an inquiry would be for the public welfare. The proper authority may by the same instrument or by an order appoint a secretary to the tribunal who shall perform such duties as the members shall prescribe.

Power
to constitute
tribunal of
inquiry.

(2) The instrument shall

(a) set out the terms of reference of the tribunal ;

(b) if there are more members than one, direct which member shall be chairman ;

(c) specify the quorum of the members ;

(d) direct whether or not the inquiry is to be held in public.

Provided that if the inquiry is to be held in public, the tribunal shall have power, in its absolute discretion, to admit or exclude the public or any member of the public or the press from any meeting of the tribunal ;

(e) direct where and when such inquiry shall be made and the manner in which the report thereof shall be rendered.

New members and alterations etc., of instrument constituting a tribunal.

2. Notwithstanding anything contained in section 1 of this Decree, the proper authority shall have power—

(a) if any person appointed a member or secretary is at any time unable to act, to appoint another fit person in the place of the person unable to act ;

(b) whenever he deems it desirable, by an order to add to, alter or revoke the instrument or the terms of reference of a tribunal.

Oath of members.

3.—(1) Every member of a tribunal shall, before entering upon his duties, make, and subscribe to, an oath that he will faithfully and impartially and to the best of his ability discharge the duties devolving upon him under the inquiry, and if the inquiry is not to be held in public, that he will not divulge the proceedings or the vote or opinion of the members or any other matter relevant to the inquiry.

No. 23 of 1963.

(2) Such oath may be taken under the Oaths Act 1963. In this Decree, "oath" includes affirmation and declaration.

Tribunal may regulate its own proceedings.

4.—(1) Unless the instrument otherwise prescribes, a tribunal may regulate its own proceedings save that, if the members shall, in any case, be equally divided on any question that arises during the proceedings of the tribunal, the chairman shall have a second or casting vote.

(2) Such regulations may confer on the tribunal power to appoint, at its discretion, suitable persons to assist in the preparation or presentation of evidence for its purposes.

Powers of tribunal with regard to conduct of proceedings.

5. Subject to the provisions of this Decree, a tribunal shall have and may exercise any of the following powers, that is to say—

(a) the power to procure all such evidence, written or oral, and to examine all such persons as witnesses as the tribunal may think it necessary or desirable to procure or examine ;

(b) the power to require such evidence to be given on oath as is required of a witness testifying before a magistrate's court ;

(c) the power to summon any person in Nigeria to attend any meeting of the tribunal to give evidence or produce any document or other thing in his possession and to examine him as a witness or require him to produce any document or other thing in his possession, subject to all just exceptions. Summonses issued under this paragraph may be in Form A in the Schedule to this Decree, and shall be served by the police or by such person as the members may direct ;

(d) the power to issue a warrant to compel the attendance of any person who, after having been summoned to attend fails or refuses or neglects to do so and does not excuse such failure or refusal or neglect to the satisfaction of the tribunal, and to order him to pay all costs which may have been occasioned in compelling his attendance or by reason of his failure or refusal or neglect to obey the summons, and also to fine such person a sum not exceeding ten pounds, such fine to be recoverable in the same manner as a fine imposed by a magistrate's court. A warrant issued under this paragraph may be in Form B in the Schedule to this Decree and may be executed by any member of the Police force and by any person authorised by a native or customary court, or a native or local authority to effect arrests ;

(e) the power to admit any evidence, whether written or oral, notwithstanding that such evidence might have been inadmissible in civil or criminal proceedings before a court, and power to act on such evidence ;

(f) the power to appoint any person, whether or not such person is in the government service, to act as interpreter in any matter brought before it and to translate any books, papers or writings produced to it ;

(g) the power to enter upon any land or premises personally or by any agent or agents duly authorised in writing by the members, for any purpose which, in their opinion is material to the inquiry, and in particular, for the purpose of obtaining evidence or information or of inspecting or taking copies of any documents required by or which may be of assistance to, the tribunal, and for safeguarding any such document or property which in the opinion of the members ought to be safeguarded for any purpose of the inquiry.

6. Where more members than one constitute a tribunal, the Chairman shall have power to issue on behalf of the tribunal all such summonses, subpoenas and other processes and make such necessary appointments as may be required under this Decree either before or during the inquiry until the submission of the tribunal's final report.

Powers for
chairman to
issue
summons,
etc.

7. Any interpreter appointed under the provisions of paragraph (f) of section 5 shall, before entering upon his duties take and subscribe to the following oath before the members :—

Interpreters.

"I do swear (or solemnly affirm or declare) that I will faithfully perform the duties entrusted to me, and will truly translate or explain all documents entrusted to me for such purpose to the best of my ability, and that I will not except as authorised by the members directly or indirectly reveal the contents of such documents as may be entrusted to me, nor the evidence given by witnesses which may have been interpreted by me".

8. Evidence taken under this Decree shall be inadmissible against any person in any civil or criminal proceedings whatever, except in the case of a person charged with giving false evidence before the members.

Use of
evidence
taken under
this Decree
in judicial
proceedings.

9. Any person who—

(a) threatens, insults or injures any person for having given evidence or on account of the evidence given before a tribunal ; or

Penalty for
threats to
witnesses.

(b) hinders or attempts to hinder any person, or by threats deters or attempts to deter any person, from giving evidence before a tribunal; or

(c) gives false evidence upon oath before a tribunal; or

(d) being duly appointed as interpreter, under this Decree, wilfully gives false interpretation of any evidence or makes an untrue translation of any book, paper or writing; shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding two years.

Penalty for failing to give evidence etc.

10. Any person who, after service on him of a summons to attend as a witness or to produce a book, document or any other thing and, notwithstanding any duty of secrecy however imposed, fails or refuses or neglects to do so or to answer any question put to him by or with the concurrence of the tribunal shall be guilty of an offence, and liable on summary conviction to a fine of one hundred pounds or to imprisonment for a term of six months.

Provided that no person shall be bound to incriminate himself and every witness shall, in respect of any evidence written by him for or given by him before the members, be entitled to the same privilege to which he would have been entitled if giving evidence before a court of justice.

Contempt of tribunal.

11.—(1) Any person who commits an act of contempt, whether the act is or is not committed in the presence of the members sitting in an inquiry, shall be liable—

(a) on summary conviction before a court of competent jurisdiction to a fine of one hundred pounds or to imprisonment for a term of three months; or

(b) on the order of the tribunal to a fine of ten pounds, such fine being recoverable in the same manner as if it were imposed by a magistrate.

(2) An appeal shall lie to the High Court within whose area of jurisdiction the act concerned was committed against any order made by a tribunal under subsection 1 (b) of this section as if such order were a decision of a magistrate against which an appeal lay.

(3) Where an act of contempt is alleged to have been committed but not in the presence of the members sitting in an inquiry, the tribunal may by summons in Form C or to the like effect in the Schedule to this Decree require the offender to appear before the tribunal, at a time and place specified in the summons, to show cause why he should not be judged to have committed an act of contempt and be dealt with accordingly. Summonses issued under this subsection shall be served by the police or by such other person as the tribunal may direct.

(4) If any person who has been summoned in accordance with subsection (3) of this section fails or refuses or neglects to attend at the time and place specified in the summons, the tribunal may issue a warrant in Form D or to like effect in the Schedule to this Decree to compel the attendance of such person and order such person to pay all costs which may have been occasioned in compelling his attendance or by his failure or refusal or neglect to obey the summons, and may in addition fine such person a sum of ten pounds, such costs and fine to be recoverable in the same manner as if they were imposed by a magistrate's court.

Contempt defined.

12.—(1) For the purposes of section 11 of this Decree, the following shall be deemed to be an act of contempt—

(a) any act of disrespect and any insult or threat offered to a tribunal or any member thereof while sitting in a tribunal;

(b) any act of disrespect and any insult or threat offered to a member at any other time and place on account of his proceedings in his capacity as a member;

(c) any publication calculated to prejudice an inquiry or any proceedings therein.

(2) No punishment for contempt shall be imposed by a tribunal until the members shall have heard the offender in his defence.

13. Witnesses and interpreters and any other person attending at the request of a tribunal or upon summons shall be paid such sums as allowances or for expenses, as the case may be, as a tribunal may, with the approval of the proper authority, direct, and such sums shall be paid out of the public revenue.

Witnesses' fees and interpreters' remunerations.

14. A tribunal shall make and furnish to the proper authority full report in writing of its proceedings, findings and recommendations and record an opinion and reasons leading to its conclusions. Any member dissenting from the conclusions or any part thereof, shall note his reason for such dissent.

Report.

15. A tribunal shall, if so directed or required make any order in relation to any property or other matter dealt with in its report; and such order when made may be delivered to the Registrar of a High Court (which order the Registrar is empowered and required to receive and register without payment of a fee) and when so delivered the order shall have effect as a judgment of that High Court and may be enforced accordingly but shall not be reviewed in any court by prerogative writ or otherwise howsoever and no appeal shall lie therefrom.

Order in relation to any property or matter dealt with in report.

16. No member shall be liable to any action or suit for anything done or said by him as such member.

Indemnity of members of tribunal.

17. No defect whatever in an instrument or order or direction made or given by the proper authority shall affect the validity of any proceeding, decision, finding or order made by a tribunal under this Decree, and no action or proceedings in the nature of quo warranto, certiorari, mandamus, prohibition, injunction or declaration against any such proceeding, decision, finding or order, as the case may be, shall be entertained in any court of law.

Restriction of power to review etc.

18. Any person whose conduct or affairs are the subject of inquiry under this Decree 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 subject to paragraph (d) of section 2 (1) of this Decree, any other person may, with the leave of the members, be represented in like manners.

Appearance of counsel.

19. When setting up any tribunal the proper authority may direct that the tribunal shall not exercise all the powers conferred on a tribunal by this Decree and such direction shall be in writing and shall specify which powers the tribunal shall not exercise.

Proper authority may restrict powers of tribunals.

20. A tribunal shall vacate office at such time as the proper authority may direct.

Vacating of office by tribunal.

21. This Decree may be cited as the Tribunals of Inquiry Decree 1966.

Citation.

22. The Commissions and Tribunals of Enquiry Act 1961, is hereby repealed.

Repeal. 1961 No. 26.

SCHEDULE

Section 5 (c)

FORM A

SUMMONS TO WITNESS

(Tribunals of Inquiry Decree 1966)
(1966 No. 41)

To
(name of person summoned and his calling and residence if known)

You are hereby summoned to appear before the
(particulars of tribunal)

at
(place)

on the day of 19 at
o'clock or so soon thereafter as you may be called there, to give evidence respecting
the inquiry into the conduct or affairs of the

..... (if the
person summoned is to produce any documents etc., add) and you are required to bring with
you the following books, documents or other things, that is to say—

- (a)
(b)
(c)
(d)
} (specify the books,
documents, or other
things).

Herein fail not at your peril.

GIVEN under my hand at this day
of 19

.....
Chairman or Sole Member of
Tribunal

FORM B

Section 5 (d)

WARRANT TO ARREST PERSON FAILING TO ATTEND ON
SUMMONS

(Tribunals of Inquiry Decree 1966)
(1966 No. 41)

To any police officer and any other person authorised to effect arrest.

WHEREAS a summons issued by this Tribunal (the
(particulars of tribunal)

Tribunal) under section 5 of the Tribunals of Inquiry Decree 1966 and dated the

day of has been duly served upon

of
(name of person summoned) (address)

AND whereas the said
(name of person summoned)

failed, refused, or neglected to obey the summons without proper excuse to the satisfaction
of the tribunal or any member thereof;

You are therefore hereby commanded forthwith to apprehend the said
(name of person to
be arrested) and to bring him before me [or one of the

other members of the tribunal (if there be more than one member)] at
(place where person

arrested is to be brought)

GIVEN under my hand at this day of 19

Chairman or Sole Member of
Tribunal

FORM C

Section 11 (3)

SUMMONS TO PERSON CHARGED WITH CONTEMPT

(Tribunals of Inquiry Decree 1966)
(1966 No. 41)

To AB

(name of person summoned)

of

(address)

You are hereby summoned to appear before the

(particulars of tribunal)

at

on the

day of

19

(place)

at o'clock to show cause why you should not be judged to have committed
an act of contempt and be dealt with accordingly, in that you on the day of
(date of act of contempt)

19 committed an act of contempt against members of the
said tribunal or one of those members, namely, by

(state briefly the act of contempt complained of)

GIVEN under my hand this day of 19

Chairman or Sole Member of Tribunal

FORM D

Section 11 (4)

WARRANT TO ARREST ON CHARGE OF CONTEMPT

(Tribunals of Inquiry Decree 1966)
(1966 No. 41)

To any police officer and any other person authorised to effect arrest.

WHEREAS a summons issued by this Tribunal (the.....
(particulars of tribunal)

.....Tribunal) under section 11 of the Tribunals of
Inquiry Decree 1966, and dated the.....day of.....19.....

has been duly served on.....

(name of person served)

of.....;

(address)

AND whereas the said.....

(name of person served)

has failed, refused, or neglected to obey the summons without proper cause to the
satisfaction of the tribunal or any member thereof;

You are therefore hereby commanded forthwith to apprehend the said.....

.....and bring him before me [or any
(name of person to be arrested)
other member of the tribunal (if there be more than one member)] at.....

(place where person arrested is to be brought)

GIVEN under my hand at.....this.....day of.....19.....

Chairman or Sole Member of
Tribunal

DATED at Lagos this 2nd day of June 1966.

MAJOR-GENERAL J. T. U. AGUIYI-IRONSI,
Head of the National Military Government,
Supreme Commander of the Armed Forces,
Republic of Nigeria