

LEGISLATIVE COUNCIL (POWERS AND PRIVILEGES) ORDINANCE 1963.

No. 1 of 1964.

An Ordinance relating to the powers (other than legislative powers), privileges and immunities of the Legislative Council for the Northern Territory and for other purposes.

[Assented to 20th January, 1964.]

BE it ordained by the Legislative Council for the Northern Territory of Australia, in pursuance of the powers conferred by the *Northern Territory (Administration) Act* 1910-1962, as follows:—

Short title.

1. This Ordinance may be cited as the *Legislative Council (Powers and Privileges) Ordinance* 1963.

Repeal.

2. The *Legislative Council (Privileges) Ordinance* 1961 is repealed.

Definitions.

3. In this Ordinance, unless the contrary intention appears—

“committee” means a committee of the whole Council or a standing, select, or other committee appointed by the Council;

“member” means a member of the Legislative Council;

“officer of the Council” means the Clerk or any other person declared by the President by notice in the *Gazette* to be an officer of the Council;

“Standing Orders” means the standing rules and orders of the Council for the time being in force;

“the Chamber” means the room or place in which the Council is at any time sitting;

“the Clerk” means the person appointed to be the Clerk of the Council and includes a Clerk-Assistant;

“the Council” means the Legislative Council for the Northern Territory established under the *Northern Territory (Administration) Act* 1910-1962;

“the President” means the President of the Council and includes any person for the time being presiding over the Council under the provisions of the *Northern Territory (Administration) Act* 1910-1962.

4.—(1.) The powers (other than legislative powers), privileges and immunities of the Council and of its members and committees, to the extent that they are not declared by the provisions of this Ordinance other than this section, shall be the powers (other than legislative powers), privileges and immunities of the House of Commons of the Parliament of the United Kingdom, and of the members and committees of that House, respectively, at the establishment of the Commonwealth.

Powers,
privileges
and immunities
not elsewhere
declared.

(2.) For the purpose of exercising or upholding a power, privilege or immunity declared by the last preceding sub-section the Council may by resolution require a person to do or to refrain from doing an act specified in the resolution.

(3.) A person shall do such an act, or refrain from doing such an act, in accordance with such a resolution of the Council.

5.—(1.) There shall be freedom of speech, debates and proceedings in the Council and that freedom shall not be impeached or questioned in any court or place outside the Council.

Freedom
of speech.

(2.) Neither a member nor any other person is liable in any action, suit or other legal proceeding (whether civil or criminal), for or in respect of any statement made or act done in the course of the conduct of the business of the Council during a meeting of the Council or by or on behalf of or with the authority of the Council or in the course of the conduct of the business of a committee during a meeting of that committee or by or on behalf of or with the authority of a committee.

6.—(1.) Subject to sub-section (4.) of this section on a day to which this section applies a member or an officer is not required to attend as a witness in any court or tribunal.

Attendance
of members
and officers
as witnesses.

(2.) This section applies in respect of—

- (a) a day fixed by resolution of the Council or otherwise to be a day on which the Council will sit;
- (b) the three days immediately preceding such a day;
- (c) a day fixed by a committee to be a day on which the committee will sit; and
- (d) the three days immediately preceding such a day.

(3.) The production of a certificate under the hand of the President stating—

- (a) that the person named therein is a member or an officer of the Council; and
- (b) that the Council or a committee is or will be sitting at or during a specified time,

shall be evidence of the facts stated.

(4.) This section does not excuse the attendance of a person as a witness unless that person is required to be in attendance at the sitting of the Council or a committee.

Service of
process within
the precincts.

7.—(1.) A person shall not on any day in respect of which this section applies, within the precincts of the Council—

(a) serve or tender for service or execute any writ, summons, warrant, order or other process issued by or with the authority of any court or otherwise in accordance with any law of the Territory; or

(b) except as authorized by section seventeen of this Ordinance, arrest another person.

(2.) This section applies in respect of—

(a) a day fixed by resolution of the Council or otherwise to be a day on which the Council will sit; and

(b) a day fixed by a committee to be a day on which the committee will sit.

Member not
to be arrested
on civil
process at
certain times.

8.—(1.) A person shall not, upon any day in respect of which this section applies, arrest a member upon any civil process.

(2.) This section applies in respect of—

(a) a day fixed by resolution of the Council or otherwise to be a day on which the Council will sit;

(b) the three days immediately preceding such a day; and

(c) the three days immediately succeeding such a day.

Contempts of
the Council.

9. Neither a member nor any other person shall—

(a) by force, threat of force or by threatening or insulting words—

(i) compel a member to vote or declare himself for or against any motion or proposal pending or likely to be moved or brought before the Council or a committee;

(ii) prevent or attempt to prevent a member from attending a meeting of the Council or a committee;

(b) interfere with, resist or obstruct an officer of the Council in the execution or performance of any act authorized or ordered by the Council or a committee or by or under this Ordinance;

- (c) by act or words disturb the proceedings of the Council or a committee, or counsel or procure another person to so disturb such proceedings; or
- (d) induce or compel, by any means, a person called or to be called to give evidence before the Council or a committee to give false testimony, to withhold true testimony or to refuse or fail to attend before the Council or a committee for the purpose of giving evidence.

10. Subject to the *Defamation Ordinance* 1938-1963 a person shall not publish any words, whether orally or in writing, or any cartoon, drawing or other pictorial representation, tending to bring the Council into hatred or contempt.

Publication
of contempt.

11. It shall be lawful for the Council to authorize the publication of any document laid before it or of any evidence given before it.

Publication of
documents and
evidence.

12.—(1.) When the Council has ordered a document or evidence to be printed the Council shall be deemed, unless the contrary intention appears in the order, to have authorized the Government Printer and the Clerk to publish the document or evidence.

Authority for
certain
publications.

(2.) The Council shall be deemed to have authorized the Government Printer and the Clerk to publish the notice paper and the minutes of the proceedings in the Council and the report of the debates and proceedings of the Council.

13.—(1.) No action, suit or proceeding, civil or criminal, shall lie against any person for publishing any document or evidence published under an authority given in pursuance of section eleven of this Ordinance or deemed to have been given by virtue of sub-section (2.) of the last preceding section.

No action
for publishing
authorized
publications.

(2.) In any action or prosecution commenced in respect of the publication of any document or evidence published under an authority given in pursuance of section eleven of this Ordinance or deemed to have been given by virtue of sub-section (2.) of the last preceding section, the defendant may bring before the Court in which the action or prosecution is pending or before any Judge of that Court, first giving twenty-four hours notice of his intention so to do to the plaintiff or prosecutor, a certificate under the hand of the President or Clerk, stating that the document or evidence in respect of which the action or prosecution has been commenced was published or was deemed to have been published under that authority, together with an affidavit verifying

the certificate, and the Court or Judge shall thereupon stay the action or prosecution and may order the plaintiff or prosecutor to pay the defendant his costs of defence.

Persons not to print matter contrary to order.

14. Where the Council has ordered that any words or matter published in the Council shall not be printed or published a person shall not print or publish outside the Council those words or that matter or any part or report thereof.

Precincts of the Council.

15.—(1.) Subject to the next succeeding sub-section, the precincts of the Council shall be that area of land, together with the buildings erected thereon, which is described in the First Schedule to this Ordinance.

(2.) If the Council, by resolution, declares that a specified portion of the area referred to in the last preceding sub-section or that a specified portion of one or more of the buildings referred to in that sub-section is not part of the precincts of the Council, the specified portion is not part of the precincts of the Council while the resolution is in force.

(3.) Subject to the directions of the Council, the President shall have the control and management of the precincts of the Council.

Ordinance not to limit powers of President or Council under Standing Orders.

16.—(1.) Nothing in this Ordinance shall limit the powers or the authority of the President or the Council or a committee under the Standing Orders.

(2.) It shall not be a defence to any proceedings for an offence against this Ordinance that the defendant has for that offence been excluded or removed from the precincts of the Council by the President or by the order of the Council.

Removal of persons from the precincts.

17.—(1.) The President may at any time direct that a member, as to whom the Council has ordered that he be excluded or removed from the Chamber, be excluded or removed from the Chamber.

(2.) The President may, at any time and whether the Council is sitting or not, direct that a person who is not a member be removed from the precincts of the Council.

(3.) In the exercise of his powers under the last two preceding sub-sections the President may require a person to exclude or remove by force the member or other person as to whom the President has directed that he be excluded or removed.

(4.) Neither the President nor any person acting under his direction is liable in civil or criminal proceedings for any act done in pursuance of this section.

18.—(1.) Where the President has directed the exclusion of a person from the precincts of the Council, that person shall not—

Persons to obey
directions of
President.

- (a) refuse or fail to leave the precincts of the Council;
or
- (b) re-enter or attempt to re-enter the precincts of the Council at any time during which the direction is in force.

19.—(1.) Upon the order of the Council or of a committee which has been authorized by the Council to send for persons and papers, the Clerk may issue under his hand a summons to a person (not being a member) to attend before the Council or the committee to give evidence before the Council or the committee or to produce to the Council or the committee the papers, books, documents or articles specified in the summons.

Summons to
witness.

(2.) A summons issued under the last preceding sub-section—

- (a) may be in or to the effect of the appropriate form in the Second Schedule to this Ordinance; and
- (b) shall be served personally on the person to whom it is directed.

20.—(1.) A committee which has been authorized by the Council to send for persons and papers may require that any facts, matters or things relating to the subject of the inquiry by the committee be verified or ascertained by the oral examination of witnesses and may cause such witnesses to be examined on oath.

Evidence may
be taken on
oath.

(2.) The Clerk attending the committee may administer an oath to a witness appearing before a committee authorized by the last preceding sub-section to examine witnesses on oath.

(3.) Where a witness is required to take an oath and it appears that he conscientiously objects to taking an oath he may make a solemn affirmation.

21. Where, in pursuance of a summons issued under section nineteen of this Ordinance, a person attends before the Council or a committee to give evidence or to produce any books, papers, documents or articles specified in the summons he may not be compelled to answer a question except by or with the leave of the President or the Chairman of the committee.

Witnesses may
be compelled to
answer.

22.—(1.) Subject to the next succeeding section a person who is served with a summons issued under section nineteen of this Ordinance shall not—

Offences by
witnesses.

- (a) refuse or fail, without reasonable excuse, to appear at the time and at the place specified in the summons;

- (b) refuse to be sworn or to make an affirmation;
- (c) refuse or fail, without reasonable excuse, to answer a question put to him by or with the leave of the President or the Chairman of a committee;
- (d) refuse or fail, without reasonable excuse, to produce to the Council or the committee the books, papers, documents or articles specified in the summons;
- (e) give false evidence or make any statement which is false or untrue in any particular; or
- (f) present to the Council or the committee a document which is to his knowledge false or falsified.

(2.) It shall be a defence to any prosecution for an offence which relates to paragraph (c) of the last preceding sub-section that the answer to the question which the defendant is charged to have refused or failed to answer—

- (a) would tend to incriminate him of an offence against a law of the Commonwealth or of a State or Territory of the Commonwealth; or
- (b) was irrelevant to the matter into which the Council was inquiring or into which the committee was authorized by the Council to inquire.

Claim of Crown privilege.

23.—(1.) Where a person attends before the Council or a committee to give evidence or to produce books, papers, documents or articles he may object to answering any question put to him or to produce any book, paper, document or article on the ground that to answer the question or to produce the book, paper, document or article would be contrary to the public interest.

(2.) Where a person objects to answering a question or to the production of a book, paper, document or article under the last preceding sub-section the Council or the committee shall until the expiry of the period of forty-eight hours referred to in the next succeeding sub-section desist from requiring an answer to the question or the production of the book, paper, document or article and the President or the Chairman of the committee, as the case may be, shall forthwith report to the Administrator the objection taken, the nature of the question asked or the book, paper, document or article required to be produced and shall make inquiry of the Administrator whether the objection is supported.

(3.) Upon such inquiry being made, the Administrator may within forty-eight hours deliver or refuse to deliver to the President or to the Chairman of the committee a certificate under his

hand certifying that the answer to the question or the production of the book, paper, document or article would be contrary to the public interest and if such a certificate is delivered it shall not be lawful for the President or the Chairman of the committee to require the question to be answered or the book, paper, document or article to be produced.

(4.) If the Administrator refuses to deliver a certificate referred to in the last preceding sub-section or if, at the expiration of a period of forty-eight hours after the inquiry is made of him under sub-section (2.) of this section, he has failed to deliver such a certificate, the objection made by the person under sub-section (1.) of this section is deemed to have been disallowed and the person may be then required by the President or the Chairman of the committee to answer the question or to produce the book, paper, document or article to the answering or the production of which the objection was made.

24. No broadcast or re-broadcast of any portion of the debates or proceedings of the Council or of a committee shall be made except by the authority of the Council and in accordance with such conditions as may be determined by the Council.

Broadcasting of proceedings.

25. Upon any inquiry touching the powers, privileges or immunities of the Council or of a member, a copy of any document printed or purporting to have been printed by the Government Printer, or by the authority of the Clerk or otherwise by or under the authority of the Council, shall be received in all courts and places as evidence of the proceedings.

Admission of documents in evidence.

26. Except with the leave of the President, an officer, employee or member of the Council shall not disclose to any court or tribunal or to any person charged with a duty to inquire into or investigate any matter the contents of—

Proceedings not to be disclosed without authority.

- (a) any evidence given before the Council or a committee;
- (b) a report of the debates and proceedings of the Council which has not been published with the authority of the Council; or
- (c) a manuscript or document laid before the Council or a committee which has not been published with the authority of the Council.

27.—(1.) A prosecution for an offence against a provision of this Ordinance shall not be commenced except by order of the President.

Commencement of prosecutions.

(2.) Where the President has ordered that prosecution for an offence against a provision of this Ordinance shall be commenced, the prosecution shall be commenced upon complaint in the name of the Clerk and the complaint shall recite that the prosecution has been commenced by order of the President.

(3.) In the absence of evidence to the contrary, a prosecution instituted in the name of the Clerk shall, if the complaint contains a recital that the proceedings have been commenced by order of the President, be presumed to have been duly commenced.

Summary trial.

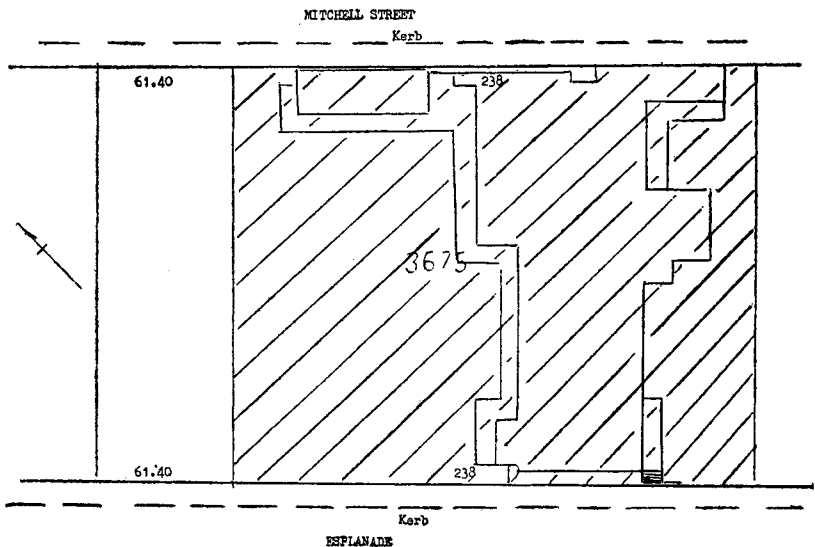
28. Proceedings for a contravention of or failure to comply with a provision of this Ordinance may be instituted in a court of summary jurisdiction.

Punishment of offences.

29. A person who contravenes or fails to comply with a provision of this Ordinance is guilty of an offence punishable on conviction by a fine not exceeding Two hundred pounds or imprisonment for a term not exceeding six months.

FIRST SCHEDULE.

All that piece or parcel of land being part of Lot 3675 Town of Darwin, commencing at a point on the south-western side of Mitchell Street south-easterly 61.40 feet from the northern-most corner of the said Lot 3675, thence south-easterly 238 feet to the north-western edge of a concrete pavement, thence south-westerly by a line at right angles to Mitchell Street to the Esplanade, thence by the north-east side of the Esplanade north-westerly for 238 feet, thence north-easterly to the point of commencement as is shown hachured on the plan hereunder.



Form 1.

SECOND SCHEDULE.

THE NORTHERN TERRITORY OF AUSTRALIA.

The Legislative Council.

To

Whereas the Legislative Council for the Northern Territory is concerned to inquire into

Now therefore you are required by this summons setting aside all other business to attend before the Council at _____ in the Northern Territory on the _____ day of _____ 196 at _____ o'clock in the noon and then and there to give evidence touching the subject matter of that inquiry and then and there to produce the following books, papers, documents and articles namely:—

Dated this _____ day of _____ 196 .

Clerk.

Form 2.

THE NORTHERN TERRITORY OF AUSTRALIA.

The Legislative Council.

To

You are required by this summons setting all other business aside to attend before the Committee of the Legislative Council appointed to inquire and report to the Council upon _____ at _____ in the Northern Territory on the _____ day of _____ 196 at _____ o'clock in the noon and then and there to give evidence touching the subject matter of that inquiry and then and there to produce the following books, papers, documents and articles, namely:—

Dated this _____ day of _____ 196 .

Clerk.
