

LEGISLATIVE COUNCIL.

PARLIAMENTARY PRIVILEGES.

THIS Bill consolidates without amendment five Acts relating to the immunities of the two Houses of the Assembly, and the privileges of members during session in relation to the exemption from attendance on Courts.

These Acts are—1865, No. 13; 1866, No. 73; 1872, No. 73; 1875, No. 20; and 1878, No. 16.

It also incorporates the provisions of "The Private Bills Evidence Act, 1860," empowering Committees on such Bills to take evidence on oath.

A. J. JOHNSTON.
W. S. REID.

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This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and having this day passed as now printed, is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.

Legislative Council,
10th August, 1881.

[STATUTES REVISION COMMISSION.]

PARLIAMENTARY PRIVILEGES.

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- 18. Members may attend Court by leave of Council or House.
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A BILL INTITULED

AN ACT to consolidate the Law relating to the Privileges, Immunities, and Powers conferred on the Legislative Council and the House of Representatives of New Zealand. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

1. The Short Title of this Act is "The Parliamentary Privileges Act, 1881." Short Title.

- 2. In this Act,—
- 5 "Speaker" includes the Acting-Speaker and any other person for the time being acting in the capacity of Speaker :
- "Court of Record" includes the Court of Appeal, the Supreme Court, the Court of Vice-Admiralty, District Courts, and no other Court :
- "Process" includes every writ, summons, and subpoena.

Interpretation.
1878, No. 16, s. 3.
1866, No. 73, s. 2.

Legislative Council and House of Representatives to have same privileges, &c., as House of Commons, so far as consistent with the Constitution Act.

1865, No. 13, s. 4.

Such privileges, &c., to form part of law of colony.

In case of inquiry into privileges, &c., printed copy of Journals of House of Commons evidence of Journals.

Ib., s. 5.

Proceedings civil or criminal against persons for publication of reports, &c., by order of any legislative body to be stayed, upon production of a certificate verified by affidavit to the effect that such publication is by order of such legislative body.

Ib., s. 7.

Notice of application to be given.

Power of Court.

Any such proceeding to be stayed when commenced or prosecuted in respect of a copy of any report verified by affidavit.

Ib., s. 8.

In proceedings for printing any extract or abstract of any

3. The Legislative Council or House of Representatives of New Zealand respectively, and the Committees and members thereof respectively, shall hold, enjoy, and exercise such and the like privileges, immunities, and powers as at the time of the passing of this Act are held, enjoyed, and exercised by the Commons House of Parliament of Great Britain and Ireland, and by the Committees and members thereof, so far as the same are not inconsistent with or repugnant to the provisions of the Constitution Act *yet remaining in force*, whether such privileges, immunities, or powers were so held, possessed, or enjoyed by custom, statute, or otherwise. 5

And such privileges, immunities, and powers shall be deemed to be, and shall be, part of the general and public law of the colony; and it shall not be necessary to plead the same, and the same shall in all Courts and by and before all Judges be judicially taken notice of. 10

4. Upon any inquiry touching the privileges, immunities, and powers of the said Council or House of Representatives, or of any Committee or member thereof respectively, any copy of the Journals of the said Commons House of Parliament, printed or purporting to be printed by order of the said Commons House of Parliament by the Printer to the said Commons House, shall be admitted as evidence of such Journals by all Courts, Judges, Justices, and others, without any proof being given that such copies were so printed. 15 20

PUBLICATION OF DOCUMENTS, ETC.

5. In any civil or criminal proceeding commenced or prosecuted in any manner for or on account or in respect of the publication by any person, or by his servant, or by or under the authority of such Legislative Council or House of Representatives, of any report, paper, votes or proceedings, such person may bring before the Court in which such proceeding shall have been or shall be so commenced or prosecuted, or before any Judge of the same, a certificate under the hand of the Speaker of such Council or House, stating that the report, paper, votes or proceedings, as the case may be, in respect whereof such civil or criminal proceedings shall have been commenced or prosecuted, was published by such person or by his servant by order or under the authority of such Council or House, together with an affidavit verifying such certificate. 25 30

Not less than twenty-four hours' notice of the intention of any person to avail himself of the privilege conferred hereby shall first be given by him or on his behalf to the prosecutor or plaintiff in such proceeding or to his solicitor. 35

Such Court or Judge shall thereupon immediately stay such civil or criminal proceeding, and the same and every writ or process issued therein shall be and shall be deemed and taken to be finally put an end to, determined, and superseded by virtue of this Act.

6. In any civil or criminal proceeding heretofore or to be hereafter commenced or prosecuted for or on account or in respect of the publication of any copy of such report, paper, votes or proceedings, any defendant may lay before the Court or Judge such report, paper, votes or proceedings, and such copy, with an affidavit verifying such report, paper, votes or proceedings, and the correctness of such copy; and the Court or Judge shall immediately stay such civil or criminal proceeding, and the same and every writ or process issued therein shall be and shall be deemed and taken to be finally put an end to, determined, and superseded by virtue of this Act. 40 45

7. In any civil or criminal proceeding heretofore or to be hereafter commenced or prosecuted for printing any extract from or abstract of any such 50

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report, paper, votes or proceedings, it shall be lawful to give in evidence under the general issue or denial such report, paper, votes or proceedings, and to show that such extract or abstract was published *bonâ fide* and without malice, and, if such shall be the opinion of the jury, a verdict of not guilty shall be entered for the defendant.

report, &c., if shown that such abstract was *bonâ fide* made, defendant entitled to verdict of not guilty. 1865, No. 13, s. 9.

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EXEMPTION FROM ATTENDANCE IN COURTS, ETC.

8. Whenever the Speaker of the Legislative Council, or the Speaker of the House of Representatives, being in attendance on Parliament, shall be required by the process of any Court of record or by recognizance to attend thereat personally, either as a party or a witness in any civil proceeding, or as a witness or prosecutor in any criminal proceeding, he shall submit the matter to the Legislative Council or House of Representatives respectively, and such order may be made thereon as the Council or House may think fit, and, if it be resolved that the Speaker shall be exempted from attendance, such resolution shall be presented in like manner and shall have the same effect as the certificate herein-after mentioned in respect of any other member.

Speaker in attendance on Parliament exempted from attendance on Courts upon resolution of Council or House. 1866, No. 73, s. 6.

Provided that, if the Council or House be under adjournment, and it be necessary to act without delay, it shall be competent for the Speaker whose attendance is required to sign a certificate to the like effect as is hereinafter provided in respect of any other member; but such certificate shall remain in force only until the matter shall have been submitted by the Speaker at the first convenient opportunity to the Council or House, and order shall be made thereon.

Power to Speaker to sign a certificate in his own favour in certain cases.

9. Whenever any member of the Legislative Council, or any member of the House of Representatives, other than the Speakers thereof respectively, or any of the officers specified in the First Schedule hereto, being in attendance on Parliament, shall be required by the process of any Court of record to attend thereat personally, either as a party or a witness in any civil proceeding, or as a witness in any criminal proceeding, such member or officer, being a member or officer of the Legislative Council, may apply to the Speaker thereof, or, being a member or officer of the House of Representatives, to the Speaker thereof, to be exempted from such attendance.

Members and officers of Assembly may apply during session to Speaker for exemption from attendance in civil Courts. *Ib.*, s. 7.

10. When any such member or officer as aforesaid, being in attendance on Parliament, shall have been bound by recognizance to prosecute or to give evidence at any sitting of a Court of record to be holden during any session of the General Assembly, or within ten days before the commencement thereof or ten days after the termination thereof, in any case of felony or misdemeanour, such member or officer of the Legislative Council may apply to the Speaker thereof, or, being a member or officer of the House of Representatives, to the Speaker thereof, to be exempted from such attendance.

Members and officers bound by recognizance may apply for exemption. *Ib.*, s. 8.

11. On any such application to a Speaker, unless it shall appear to his satisfaction, on such inquiry as he may think fit to make into the circumstances of the case, that the ends of public justice would be defeated or injuriously delayed, or that irreparable injury would be caused to any party to proceedings in such Court of record, by the non-attendance of such member or officer, such Speaker shall grant a certificate under his hand to the effect that the attendance in the General Assembly of the member or officer therein named is required during the session.

Speaker to make inquiry and grant certificate. *Ib.*, s. 9.

12. On such certificate being presented to the Court in which the attendance of such member or officer is required, he shall be thereby exempted from attending therein until ten days after the termination of the session then being held,

Effect of certificate. *Ib.*, s. 10.

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and no proceedings, civil or criminal, shall be taken against such member or officer in respect of his non-attendance in obedience to such process or in pursuance of such recognizance, and the Court shall direct such postponement of trial or other proceedings and make such order as it shall deem convenient and just, regard being had to such exemption as aforesaid.

Members and officers of Assembly may apply before session to Court for exemption from attendance therein.
First Schedule.
1866, No. 73, s. 3.

13. Whenever any member of the Legislative Council, or any member of the House of Representatives, or any of the officers specified in the First Schedule, not being in attendance on Parliament, shall be required by the process of any Court of record to attend thereat personally, either during any session of the General Assembly or within ten days before the commencement thereof, either as a party or a witness in any civil proceeding, or as a witness in any criminal proceeding, such member or officer may apply to the Court from which such process issued to be exempted from attendance on such Court.

Members and officers bound by recognizance may apply for exemption.
Ib., s. 4.

14. When any such member or officer shall have been bound by recognizance to prosecute or to give evidence at any sitting of a Court of record to be holden during any session of the General Assembly, or within ten days before the commencement thereof, or ten days after the termination thereof, in any case of felony or misdemeanour, such member or officer may apply for exemption from attendance at such Court to a Judge of such Court.

Duty of Court to make inquiry and grant exemption.
Ib., s. 5.

15. On any such application for an exemption from attendance being made to any such Court, or to any Judge thereof, unless it shall appear to the satisfaction of such Court or Judge that the ends of public justice would be defeated or injuriously delayed, or irreparable injury would be caused to any party to proceedings in such Court, by the non-attendance of such member or officer in obedience to such process or in pursuance of such recognizance, such Court or Judge shall order that such member or officer shall be discharged from such attendance until the expiration of ten days from the termination of the session of the General Assembly in respect of which such exemption is claimed ;

And may make order for the attendance of such member or officer at the sitting of such Court at such future date after the expiration of such ten days as such Court or Judge may think fit.

Members and officers of Assembly may obtain adjournment of civil proceedings against them in certain cases.
1872, No. 73, s. 3.

16. Whenever any civil proceedings shall be pending in any Court of record against any member of either the Legislative Council or the House of Representatives, or any such officer as in the First Schedule specified, and such proceedings shall be set down for trial or hearing, or be likely in the ordinary course to come on for trial or hearing, at a sitting of any such Court to be held within the period extending from ten days before the holding of any session of the General Assembly to thirty days after the termination of the said session, such member or officer may obtain an adjournment or appointment of such trial or hearing to or on some day beyond the period of thirty days last mentioned, upon the conditions following :—

Court may adjourn case likely to come on for hearing during session on application of member or officer, and after inquiry.

- (1.) Where such member or officer shall not be in attendance on Parliament, and the proceedings shall be likely to come on or shall be set down for trial or hearing at a sitting of any such Court to be held within ten days before the commencement of the session or during such session, such member or officer shall make application to the Court in which such proceedings are pending for an adjournment or appointment of such trial or hearing to or on some day beyond the period of thirty days after the end of such session.

Such application shall be made upon an affidavit of such member or officer that he has been summoned to attend in his place in Parliament, and that it is necessary that opportunity should be

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afforded him of being personally present at the trial or hearing of such proceedings, and that his attendance on Parliament will prevent his being able so to be present.

5 (2.) When such member or officer shall be in attendance on Parliament, and such proceedings shall be likely to come on or shall be set down for trial or hearing at a sitting of such Court to be held at any time during a session of Parliament or within thirty days thereafter, then such member or officer shall apply to the Speaker of the Council or House of which he is member or officer for a certificate entitling him to an adjournment of such trial or hearing.

When member or officer in attendance on Parliament, he must apply to Speaker for certificate entitling him to procure an adjournment. 1872, No. 73, s. 3.

10 Such application shall be made upon an affidavit of such member or officer, and delivered to such Speaker, that such proceedings are likely to come on or are set down for trial or hearing at a sitting of such Court to be held during such session or within thirty days thereafter, and that the personal attendance of such member or officer at such trial or hearing will be necessary for his interest.

15 The said Speaker shall, after making inquiry in manner provided by the *eleventh* section, and unless satisfied that irreparable injury would be caused to any party to such proceedings if the trial or hearing thereof were postponed, forward such affidavit, together with a certificate in terms of the aforesaid section, to the Court in which such proceedings are pending.

20 17. The Court in which such civil proceedings shall be pending shall, in either of the above-mentioned cases, cause the trial or hearing of such proceedings to be adjourned without cost to such member or officer from time to time to some sitting of such Court to be held after the expiration of thirty days after the termination of the session.

Power of Court in which proceedings pending. *Ib.*, s. 4.

30 Provided, however, that, in the case provided for by the first subsection of section *sixteen*, the Court may make the same inquiries as the Speaker of either House of Assembly is required to make under the *eleventh* section, and shall not be bound to adjourn or postpone the trial or hearing if it shall be satisfied that irreparable injury would be caused to any party to such proceedings by such adjournment or postponement.

Proviso.

GENERAL PROVISIONS.

35 18. Nothing in this Act contained shall be construed to limit or abridge in any respect the power of the Legislative Council or of the House of Representatives to give leave to any of the members or officers of either House respectively to attend any Court in respect of which it may appear desirable to the Council or House, as the case may be, that such leave should be granted.

Members may attend Court by leave of Council or House. 1866, No. 73, s. 13.

40 Provided always that any member of either House, having obtained leave of absence without any reference to the process of any Court, shall, so far as regards any Court not being a Court of record, but not as regards a Court of record, be considered as in attendance upon his duties in Parliament.

45 19. It shall be the duty of all Courts, Judges, and Justices, and all other persons, to take judicial notice of the signatures of the Speaker of the Legislative Council, and the Speaker of the House of Representatives, when affixed to any certificate granted under this Act.

Service of process of Courts not of record to be void. *Ib.*, s. 12.

50 20. If any person shall serve or cause to be served any summons or process issued out of any Court not of record, other than a summons or warrant on a charge of felony or misdemeanour, upon any such member or officer as aforesaid, or for such member or officer, by sending, leaving, or delivering the same in any

Court to take judicial notice of signature of Speaker. *Ib.*, s. 11.

way which would otherwise be good service by law, during any session of the General Assembly, or within ten days before the commencement or ten days after the termination of such session, such service shall be invalid and of none effect.

21. The Legislative Council and House of Representatives, and any Committee either of such Council or House, any joint Committee of such Council and House, and any such Committee as aforesaid to which any private Bill may be referred by such Council or House, may respectively administer an oath to the witnesses examined before such Council, or House, or Committee.

Any person examined as aforesaid who shall wilfully give false evidence shall be liable to the penalties of perjury.

22. Every witness sworn and examined under the provisions of this Act has and shall have, in respect of the testimony which he has given or shall give when so sworn, the like privileges, immunities, and indemnities in all respects as are possessed by or belong to any witness sworn and examined in the Supreme Court.

23. The Acts enumerated in the Second Schedule are hereby repealed.

SCHEDULES.

FIRST SCHEDULE.

The Clerk of Parliament.
 The Clerk of the Legislative Council.
 The Clerk of the House of Representatives.
 The Serjeant-at-Arms.
 The Clerk-Assistant of the Legislative Council.
 The Clerk-Assistant of the House of Representatives.

SECOND SCHEDULE.

ACTS REPEALED.

1860, No. 1.—The Private Bills Evidence Act, 1860.
 1865, No. 13.—The Parliamentary Privileges Act, 1865.
 1866, No. 73.—The Privileges Act, 1866.
 1872, No. 73.—The Privileges Act 1866 Amendment Act, 1872.
 1875, No. 20.—The Parliamentary Privileges Act 1865 Amendment Act, 1875.
 1878, No. 16.—The Privileges Act 1866 Amendment Act, 1878.

Legislative Council and House of Representatives may administer oaths.

1865, No. 13, s. 6.

1860, No. 1, s. 2.

Ib., s. 3.

Immunities to witnesses.

1875, No. 20, s. 2.

Repeal.

Second Schedule.

Schedules.

1866, No. 73.

1878, No. 16.

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