

Parliamentary Privilege Bill

Government Bill

Explanatory note

General policy statement

Introduction

This Bill seeks to implement the recommendations in the Report of the Privileges Committee *Question of privilege concerning the defamation action Attorney-General and Gow v Leigh* (2013) AJHR I.17A (the **Privileges Committee's 2013 Report**). The Committee concluded that the Court decision in that defamation action represented a significant shift in the interpretation of the scope of privilege and moved New Zealand away from the position in comparable Commonwealth jurisdictions. The Committee recommended legislation to restore privilege's scope to Parliament's previous understanding. The Committee also recommended addressing various other matters of privilege, including reaffirming certain other aspects of privilege and modernising existing legislation. On 3 September 2013, the Government presented its response to the report, agreeing to adopt the Committee's recommendations.

A key purpose of the Bill is to reaffirm, and clarify the purpose and certain other aspects of the operation and scope of, parliamentary privilege. This Bill does this by providing statutory guidance for the interpretation of certain legal terms relating to privilege, and affirming in legislation certain other aspects of parliamentary privilege.

The Bill does not seek to comprehensively codify, or replace entirely with legislation, all aspects of parliamentary privilege.

Two key components of parliamentary privilege are Parliament's freedom of speech, and Parliament's right to control its own affairs for matters within its jurisdiction (exclusive cognisance). In practical terms, parliamentary privilege provides immunities from legal proceedings for words spoken and acts done in proceedings in Parliament. The privileges, immunities, and powers held, enjoyed, and exercised by the House, its committees, and its members are held, enjoyed, and exercised for the purpose of enabling them to carry out their functions. Those functions require parliamentarians to meet, legislate, and debate matters of public importance, and to scrutinise, or hold to account, the Government.

The Bill clarifies the scope of parliamentary privilege by—

- defining “proceedings in Parliament” based on the definition in the Australian Parliamentary Privileges Act 1987 to include, amongst other matters, where an official provides material for a Minister to respond to an oral question; and
- providing statutory guidance on how to interpret “impeached or questioned”; and
- clarifying the protections afforded to certain broadcasts and reports of proceedings in Parliament; and
- ensuring that no person may incur criminal or civil liability for making an oral or written statement that affirms, adopts, or endorses words written or spoken in proceedings in Parliament where that statement would not, but for the proceedings in Parliament, give rise to criminal or civil liability.

In doing so, the Bill will not amend directly the text of, or detract from the other operation of, Article 9 of Bill of Rights 1688.

The Bill also brings together and modernises existing legislation, and resolves a number of minor and technical issues. In addition, it affirms the House's power to fine for contempt.

Statutory definitions and guidance

Parliament's freedom of speech is protected, primarily, by Article 9 of the Bill of Rights 1688 (UK), which provides that “the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament”.

The Bill seeks to define the term “proceedings in Parliament” and provide statutory guidance on the scope and application of the terms “impeached or questioned” as they appear in Article 9. This statutory guidance is intended to be read alongside Article 9, which will be unchanged.

Reports and broadcasts of parliamentary proceedings

The Bill seeks to ensure appropriate protection from civil or criminal liability is extended to broadcasts and reports of parliamentary proceedings, recognising the development of new communication technologies and practices affecting the broadcast and reporting of parliamentary proceedings.

The Bill applies absolute privilege (which protects against any civil or criminal liability or proceedings) to the following matters:

- the live broadcast of proceedings in Parliament, including select committee hearings; and
- delayed broadcasts or rebroadcasts of Parliament’s proceedings, including select committee hearings, that are made by order or under the authority of the House of Representatives.

The Bill applies qualified privilege (which protects against any civil or criminal liability or proceedings) to the following matters:

- fair and accurate reports of proceedings in the House, or summaries using extracts of proceedings in the House; and
- the broadcast and other publication of extracts of Parliament’s proceedings, including select committee hearings, that are not made by order or under the authority of the House of Representatives.

Effective repetition

The Bill seeks to clarify the effect of a person “adopting” or “endorsing” a statement made in the House (which is itself subject to absolute privilege) in later comments made outside the House. In particular, the Bill will clarify the extent to which something said by a person during proceedings in Parliament may be used to ascertain any content, effect, or meaning (giving rise to civil or criminal liability) of a statement made outside the House.

The Bill ensures that statements made in the House cannot be used to ascertain the meaning of statements made outside the House. State-

ments made outside the House must be assessed on their content alone to determine whether they are actionable.

The Bill also ensures that effective repetition statements (made outside proceedings in Parliament) are protected by absolute privilege.

Consolidation and modernisation of existing statutes

Aspects of parliamentary privilege are reflected in the Defamation Act 1992, the Legislature Act 1908, and the Legislature Amendment Act 1992. The Bill seeks to repeal and replace the Legislature Act 1908 and the Legislature Amendment Act 1992, and some provisions of the Defamation Act 1992. In doing so, the Bill makes minor amendments to modernise drafting and to update existing provisions so they are consistent with other statutes.

The Bill also explicitly affirms the House's power to fine for contempt, and ensures that the House does not have the power to expel its members.

The Bill will repeal or amend 4 Acts. In particular, the Bill will—

- repeal the Legislature Act 1908 and the Legislature Amendment Act 1992, with the remaining operative provisions of these 2 Acts to be re-enacted in a new Parliamentary Privilege Act, to modernise and consolidate the existing legislation:
- amend the Defamation Act 1992, replacing section 13 and making consequential amendments, in favour of more modern and comprehensive provisions in the new Act:
- amend the Intelligence and Security Committee Act 1996, to add a reference to the new Act.

Departmental disclosure statement

The Ministry of Justice and Office of the Clerk of the House of Representatives are required to prepare a disclosure statement to assist with the scrutiny of this Bill. It provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2013&no=179&>.

Regulatory impact statement

The Ministry of Justice produced a regulatory impact statement on 21 October 2013 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- <http://www.justice.govt.nz/policy/regulatory-impact-statements>
- <http://www.treasury.govt.nz/publications/information-releases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 relates to commencement. The Act resulting from the Bill is to come into force on the day after the date of Royal assent.

Part 1

Substantive provisions

Subpart 1—General provisions

Purpose of new Act

Clause 3 states the Act's purpose. The Act's purpose is to—

- recognise the mutual respect and restraint (also together referred to as the principle of comity) in the important constitutional relationship between the legislative and judicial branches of government; and
- reaffirm generally in a single Act and clarify the purpose and certain other aspects of, but avoid comprehensive codification of, the privileges, immunities, and powers held, enjoyed, and exercised by the House of Representatives, its committees, and its members; and
- provide for Article 9 of the Bill of Rights 1688 to be taken to have, for the avoidance of doubt, a specified effect (in addition to any other operation, and subject to applicable overriding enactments); and
- define for the avoidance of doubt “proceedings in Parliament” for the purposes of Article 9 of the Bill of Rights 1688, in

- particular to alter the law in the decision in *Attorney-General v Leigh* [2011] NZSC 106, [2012] 2 NZLR 713 (SC); and
- abolish the “effective repetition” in the decision in *Buchanan v Jennings* [2004] UKPC 36, [2005] 2 All ER 273 (PC), and ensure effective repetition statements are protected by absolute privilege; and
 - replace with modern legislation the law about parliamentary privilege formerly contained in the Legislature Act 1908, the Legislature Amendment Act 1992, and certain provisions of the Defamation Act 1992.

Interpretation

Clause 4 defines terms used in the Act (for example, committee, House, member, officer, proceedings in Parliament, and Speaker).

Committee is defined as a committee, or subcommittee of a committee, of the House. Examples of a committee therefore include a committee of the whole House, a select committee (whether established by or under the Standing Orders of, or otherwise by, the House), and a subcommittee of a select committee.

Document is defined very widely, based on the definition of document in section 4(1) of the Evidence Act 2006. The definition expressly includes information electronically recorded or stored (including, without limitation, an audio or video file or recording), and information derived from that information. Document is a term used widely in the Bill, for example, in *clause 8(2)(b)* (which relates to presentation or submission of a document to the House or a committee), and in *clause 13* (which relates to publication of certain parliamentary documents or reports).

Document as defined in *clause 4* is also a part of the definitions of the terms parliamentary paper and authorised parliamentary paper (used in *clauses 15 and 16*). The scope of the definition of parliamentary papers, and practice relating to those papers, are discussed in the Report of the Privileges Committee *Question of privilege relating to the exercise of the privilege of freedom of speech by members in the context of court orders* (2009) AJHR I.17A at pages 24 and 25 and in D G McGee, CNZM, QC, *Parliamentary Practice in New Zealand* (3rd ed, Dunmore Publishing Limited, 2005) (**PPNZ**)

at Chapter 38. *PPNZ* is available via the Internet at www.parliament.nz/en-nz/about-parliament/how-parliament-works/ppnz/

See also the examples of parliamentary papers in the analysis below of *clause 15*.

Officer is generally defined as any officer of the House. However, in *subpart 7 of Part 1* (Members' and certain officers' participation in court or tribunal proceedings), officer means only an officer of the House who is the Clerk, or a Deputy Clerk, of the House, or a Clerk-Assistant of the House, or the Serjeant-at-Arms.

Other terms or expressions defined by *clause 4* are discussed in the analysis of clauses in which they are used.

Act binds the Crown

Clause 5 ensures the Act resulting from the Bill will bind the Crown.

Subpart 2—Privileges generally of House, committees, and members

Purpose of parliamentary privilege

Clause 6(1) states the purpose of privileges, immunities, and powers held, enjoyed, and exercised in accordance with the rest of the new Act. The Privileges Committee's 2013 Report at page 36 recommended that the Bill contain a clear statement of purpose to aid in determining the extent and scope of parliamentary privilege.

Clause 6(2) requires that purpose to be taken into account in determining the extent and scope of a privilege, immunity, or power held, enjoyed, and exercised in accordance with the rest of the new Act, and in determining whether in a particular case an occasion of privilege exists.

Clause 6(3) ensures that *clause 6* does not limit the rest of the new Act (including, without limitation, the House's exclusive right to control its own proceedings, or the House's right to legislate on any matter or to consider delegated legislation).

Introduction to privileges, etc

Clause 7 re-enacts section 242 of the Legislature Act 1908 (which itself re-enacted sections 4 and 5 of the Privileges Act 1865), on the privileges generally of the House, its committees, and its mem-

bers. The Privileges Committee's 2013 Report recommended (at page 37) that the Bill replace all remaining provisions of the Legislature Act 1908 and the Legislature Amendment Act 1992—both Acts are repealed by *clause 35*.

Privileges, etc, held: general

Clause 7(1) ensures that House, committees, and members hold, enjoy, and exercise (subject to applicable modifying or abrogating enactments) every privilege, immunity, and power that complies with both of the following:

- it was on 1 January 1865 (by parliamentary custom or practice and rules, statute, or common law) held, enjoyed, and exercised by (as the case requires) the Commons House of Parliament of Great Britain and Ireland, its committees, or its members; and
- it is not inconsistent with, or repugnant to, the New Zealand Constitution Act 1852 of the Parliament of the United Kingdom as in force on (the date of the coming into operation of the Parliamentary Privileges Act 1865, namely) 26 September 1865.

Clause 7(1) is to continue the legal foundation in New Zealand of parliamentary privilege, which has been founded in New Zealand statute law since the Parliamentary Privileges Act 1865. *Clause 7(1)* confers on New Zealand's House of Representatives the privileges, immunities, and powers already established on 1 January 1865 for the House of Commons of the Parliament of the United Kingdom (and not inconsistent with the New Zealand Constitution Act 1852 (UK) as in force when the Parliamentary Privileges Act 1865 commenced on 26 September 1865).

Whether a privilege exists and the definition of the scope of that privilege are questions of law to be determined by the courts by reference to *clause 7(1)* and other applicable law (which may include Article 9 of the Bill of Rights 1688), rather than on any ground of necessity (though necessity may help to elucidate any applicable statute). The Privileges Committee's 2013 Report included consideration of the appropriateness of applying the doctrine of necessity to parliamentary privilege, given the conclusion in *Attorney-General v Leigh* [2011] NZSC 106, [2012] 2 NZLR 713 (SC) that necessity was and

remains an essential underpinning and test for parliamentary privilege in New Zealand. The Privileges Committee's 2013 Report notes (at pages 19 and 20) that the Committee considers the test of necessity, a common law test, not appropriate to apply to Parliament's freedom of speech privilege, which is based in statute law through Article 9 of the Bill of Rights 1688.

The Parliamentary Privileges Act 1865, the Legislature Act 1908, and the Act arising from this Bill, are all statutes that receive into New Zealand law the United Kingdom approach. But none of those statutes of reception is seen as having the effect of freezing the law or precluding statutory or common law developments, or developments in parliamentary practice and rules, appropriate for New Zealand conditions. Those developments may of course include those proposed in *clause 8*, which relates to aspects of the effect and meaning of Article 9 of the Bill of Rights 1688.

Privileges, etc, held: clearly and widely recognised examples

Clause 7(1) includes no legislated examples of the privileges, immunities, and powers that comply with its requirements. Clearly and widely recognised examples, however, based on the authoritative analysis of an acknowledged expert—D G McGee, CNZM, QC, *PPNZ* at chapters 45 to 48—but also recognising ways in which the Bill is to clarify the law, are as follows:

- freedom of speech in Parliament, freedom of debates in Parliament, protection from external impeaching or questioning of proceedings in Parliament, and exemption from any legal liability (subject to any applicable abrogating enactments) for words spoken or actions taken in and as part of proceedings in Parliament, in each case under Article 9 of the Bill of Rights 1688:
- the House's exclusive right to control its own proceedings:
- the House's control of reports of the House's proceedings (including an official report (to be known as *Hansard*) made under *clause 14*):
- the House, through the Speaker (in whom control and administration is vested under section 26 of the Parliamentary Service Act 2000), exercising control over the parliamentary precincts (as defined in section 3 of that Act):

- the House's control of access to sittings of the House:
- the House's powers to hold inquiries, obtain evidence, and administer oaths or affirmations (*see clause 23*):
- the House's power to delegate functions or powers (for example, to committees or members):
- the House's power to punish for contempt (instead of, or as well as, directing that the offender be prosecuted in the courts for the offence concerned), for example, by punishing a contempt by imprisonment, fine (*see clause 21*), exclusion from the parliamentary precincts, or censure:
- the House's power to discipline members (otherwise than by expelling them from membership of the House—*see clause 22*):
- members' being disqualified (under section 8(b) of the Juries Act 1981) from serving on a jury in any court on any occasion:
- the freedom from arrest in civil proceedings of members (subject to sections 55(1)(i) and 56 (which relate to a member becoming mentally disordered) of the Electoral Act 1993), of witnesses summoned to attend before the House or a committee, of witnesses in attendance upon the business of the House and while they are coming to, or going from, the House on parliamentary business, and of officers in personal attendance on the House:
- exemption of members, certain officers, and the Speaker from a summons of a court or tribunal (*see subpart 7 of Part 1*):
- the House's power to determine (otherwise than by making legal determinations of membership of the House of the kind that may be made by a court of competent jurisdiction) the qualifications of its members to sit and vote in the House:
- the House's right, through its Speaker, to freedom of access to the Sovereign or Governor-General, and the House's right that a favourable construction be put on the House's proceedings.

Privileges, etc, part of laws of New Zealand

Clause 7(2) ensures those privileges, immunities, and powers are part of the laws of New Zealand.

Judicial notice of privileges, etc

Clause 7(3) requires all courts and all persons acting judicially to take judicial notice of those privileges, immunities, and powers. Courts or persons acting judicially must therefore recognise them for what they purport to be, without supporting evidence to prove their existence. The requirement to take judicial notice means that those privileges, immunities, and powers need not be pleaded or otherwise raised.

Use, on privileges, etc, inquiry, of House of Commons Journal

Clause 7(4) requires, on any inquiry touching those privileges, immunities, and powers, that a copy of the Journals of the Commons House of Parliament that purports to be printed or published by order of the Commons House of Parliament be admitted as evidence of those journals by all courts, persons acting judicially, and other persons, without any proof being given that the copy was so printed or published.

The House of Commons Journal is available via the Internet at <http://www.publications.parliament.uk/pa/cm/cmjournal.htm>

Another source that could also be used to help to ascertain whether a privilege, immunity, or power complies with *clause 7(1)(a)* is Thomas Erskine May, Esq, CB, Clerk Assistant of the House of Commons, *A treatise on the Law, Privileges, Proceedings, and Usage of Parliament* (5th edition, Butterworths, London, 1863).

Subpart 3—Provisions related to
Article 9 of Bill of Rights 1688 or to
proceedings in Parliament

Aspects of effect and meaning of Article 9

Introduction

Clause 8 relates to parliamentary privilege in court or tribunal proceedings. It is based on, and follows very closely, section 16 of the Parliamentary Privileges Act 1987 (Aust). The Privileges Committee's 2013 Report says (at page 34) "The [1987 Australian] Act appears to have successfully confirmed what had always been assumed to be the scope of the freedom of speech in Parliament."

Article 9 to be taken to have specified effect

Clause 8(1) requires Article 9 of the Bill of Rights 1688 to be taken to have the effect required by the rest of *clause 8* (in addition to any other operation of, and subject to applicable enactments overriding, Article 9). The specified effect therefore does not limit any other operation of Article 9 (including, without limitation, under section 16 of the Intelligence and Security Committee Act 1996, or other applicable modifying enactments), and is subject to applicable overriding enactments (including, without limitation, sections 108 and 109 (which relate to perjury) of the Crimes Act 1961).

Definition of proceedings in Parliament

Clause 8(2) defines generally, and gives particular legislated illustrations of, proceedings in Parliament. The definition and particular illustrations are for the purposes of Article 9 of the Bill of Rights 1688, and also for the purposes of the new Parliamentary Privilege Act **2013**.

The Privileges Committee's 2013 Report recommended (at page 37) that this Bill provide, for the avoidance of a doubt, a definition of proceedings in Parliament based on the one in section 16(2) of the Parliamentary Privileges Act 1987 (Aust), but also informed by section 13(4) and (5) of the Defamation Act 1996 (UK).

The general definition of proceedings in Parliament is all words spoken and acts done in the course of, or for purposes of or incidental to, the transacting of the business of the House or of a committee (as those 2 terms are defined in *clause 4*).

The 4 legislated particular illustrations given (in *clause 8(2)(a) to (d)*) follow closely section 16(2)(a) to (d) of the Parliamentary Privileges Act 1987 (Aust).

How Bill alters law in Attorney-General v Leigh

This Bill alters the law in the decision in *Attorney-General v Leigh* [2011] NZSC 106, [2012] 2 NZLR 713 (SC) both through the general definition in *clause 8(2)* and, without limitation, through the particular legislated illustration—relating to preparation of a document—given by *clause 8(2)(c)*.

The alteration ensures that parliamentary privilege extends to, and protects, words spoken or acts done (in particular, to the formulation

or giving of an oral or written communication, and to the communication so formulated or given) in the course of, or for purposes of or incidental to, the transacting of the business of the House that is a member's replying to oral or written questions to Ministers or other members. As the Privileges Committee's 2013 Report notes (at pages 26 and 27), Freedom of Information Act 2000 (UK) exemptions guidance material prepared by the UK Ministry of Justice similarly lists information that may be covered by parliamentary privilege as including "any unpublished correspondence between Ministers (or departmental officials) and any Member or official of either House, relating specifically to proceedings on any Question, draft bill or instrument, motion or amendment, either in the relevant House, or in a committee". See also recommendation 32 (on page 75, about protecting briefings supplied by officials to Ministers) of the House of Lords and House of Commons Joint Committee on Parliamentary Privilege, *Parliamentary Privilege Report of Session 2013–14* (HL Paper 30, HC 100, 3 July 2013).

It will be a question of fact in each case whether words are spoken, or acts are done, not in the course of, but for purposes of or incidental to, the transacting of the business of the House that is a member's replying to (any, or particular) oral or written questions to Ministers or other members. *Clause 8(2)* does not protect generally classes of communications (say, between officials and Ministers, or between Ministers and members). Therefore some words spoken, or acts done, will remain unprotected by *clause 8(2)* because those words spoken or acts done are not clearly for purposes of or incidental to the transacting of the House's or a committee's business. An example of an unprotected communication might be a document a member of the public has delivered electronically or in hard copy to, but that is unsolicited by, a member, and is not clearly for purposes of or incidental to the transacting of the House's or a committee's business (compare *Rivlin v Bilainkin* [1953] 1 QB 584, [1953] 1 All ER 534, [1953] 2 WLR 281 (QBD)).

Scope of prohibited external impeaching or questioning

Clause 8(3) to (6) helps to make clear the scope of prohibited external impeaching or questioning of proceedings in Parliament.

Clause 8(3) based on Parliamentary Privileges Act 1987 (Aust)

Clause 8(3) ensures, in proceedings in a court or tribunal (as those 2 terms are defined in *clause 4*), that it is not lawful for evidence to be offered or received, questions asked or statements, submissions, or comments made, concerning proceedings in Parliament, by way of, or for the purpose of, all or any of the purposes specified in *paragraphs (a) to (c)*. *Paragraphs (a) to (c)* are based on, and follow closely, section 16(3)(a) to (c) of the Parliamentary Privileges Act 1987 (Aust).

Clause 8(4) is new, and abolishes “effective repetition”

But *clause 8(4)* is new, and abolishes the “effective repetition” in *Buchanan v Jennings* [2004] UKPC 36, [2005] 2 All ER 273 (PC). *Clause 8(4)* abolishes effective repetition by ensuring, in proceedings in a court or tribunal, that it is not lawful for evidence (including, without limitation, *Hansard*) to be offered or received, questions asked or statements, submissions, or comments made, concerning proceedings in Parliament, by way of, or for the purpose of, ascertaining any content, effect, or meaning of a statement (in *clause 10* called an effective repetition statement)—

- made outside proceedings in Parliament by any person; and
- to the effect (regardless of its form or terms) that the person affirms, adopts, endorses, or refers to the content, effect, or meaning of a statement or an action that a participant in proceedings in Parliament (who may, but need not, be the person) made or took in those proceedings; but
- that, if considered alone, does not in and of itself repeat that content, effect, or meaning.

Use of proceedings in Parliament not prevented entirely

However, *clause 8(3) and (4)*—like section 16(3)(a) to (c) of the Parliamentary Privileges Act 1987 (Aust) on which *clause 8(3) and (4)* is based—does not prevent use for all purposes of proceedings in Parliament. *Clause 8(3) and (4)* is unlikely, for example, to preclude evidence being offered or received, questions asked or statements, submissions, or comments made, concerning proceedings in Parliament, for purposes that are clearly non-contentious (non-impeaching

and non-questioning), and so that are also clearly not inconsistent with Article 9 of the Bill of Rights 1688.

As suggested, for example, in *Re Amann Aviation Pty Limited v Commonwealth of Australia* [1988] FCA 286 at [26] per Beaumont J: “If what is involved in a tender of evidence from *Hansard* is simply not capable of being contentious, it is difficult to see how the right of free speech could be affected”. See also *Prebble v Television New Zealand Ltd* [1994] 3 NZLR 1 at 11 (PC) per Lord Browne-Wilkinson (“if the defendants wish at the trial to allege the occurrence of events or the saying of certain words in Parliament without any accompanying allegation of impropriety or any other questioning there is no objection to that course”), and *Office of Government Commerce v Information Commissioner* (Rev 1) [2008] EWHC 737 (Admin) at [49] per Mr Justice Stanley Burnton (“There is no reason why the Courts should not receive evidence of the proceedings of Parliament when they are simply relevant historical facts or events: no ‘questioning’ arises in such a case”).

Protection for certain private evidence or secret evidence

Clause 8(5) is based on and follows closely section 16(4) of the Parliamentary Privileges Act 1987 (Aust), and requires a court or tribunal not to require to be produced, to admit into evidence, or to admit evidence relating to or a document recording or reporting, documents or oral evidence—

- received as private evidence or secret evidence by the House or a committee; and
- not published by or under the authority of the House or a committee.

Use of authorised report in interpretation of legislation

Clause 8(6) is based on and follows closely section 16(5)(b) of the Parliamentary Privileges Act 1987 (Aust). *Clause 8(6)* ensures, in relation to proceedings in a court or tribunal so far as they relate only to ascertaining the meaning of, or the meaning that can be given to, an enactment, that neither *clause 8* nor the Bill of Rights 1688 prevents or restricts a court or tribunal allowing only for that purpose—

- the admission in evidence (or judicial notice being taken) of a report (as defined broadly in *clause 4*) of proceedings in Par-

liament published by or with the authority of the House or a committee; or

- the making of statements, submissions, or comments based on that report.

Examples of, or of submissions based on, authorised reports of proceedings (as referred to in *clause 8(6)*) include the following:

- an Attorney-General's report under section 7 (Attorney-General to report to Parliament where Bill appears to be inconsistent with Bill of Rights) of the New Zealand Bill of Rights Act 1990 on the Bill for the Act concerned;
- the first reading speech in *Hansard* of the member in charge of the Bill for the Act concerned;
- a report on the Bill for the Act concerned of a select committee to which that Bill was referred by the House;
- submissions based on amendments during a committee of the whole House's consideration of the Bill for the Act concerned.

Clause 8 is for avoidance of doubt, and existing proceedings

Clause 8(7) ensures that subclauses (1) to (6) of clause 8—

- are declaratory and for the avoidance of doubt, because they simply declare and enact, for the avoidance of doubt, the effect that Article 9 of the Bill of Rights 1688 (so far as it is part of the laws of New Zealand under the Imperial Laws Application Act 1688) had, on its true construction, before the commencement of the Parliamentary Privilege Act **2013**; but
- do not apply (in accordance with *clause 31*) to proceedings in a court or a tribunal and that commenced before the commencement of the Parliamentary Privilege Act **2013**.

Absolute privilege

Introduction

Clauses 9 to 13 ensure that specified proceedings, statements, broadcasts, rebroadcasts, or publications are protected by absolute privilege.

The effect and operation of absolute privilege are not specified by the Bill (just as they are not specified by the Defamation Act 1992). The effect and operation of absolute privilege are to be understood in

the light of all relevant case law authorities, including, without limitation, *Buchanan v Jennings* [2004] UKPC 36, [2005] 2 All ER 273 (PC), and *Witcombe v Clerk of the House of Representatives* [2010] NZAR 680 (HC) at [71] to [74] per Chief Judge Colgan. Absolute privilege, in the light of those authorities, is an immunity (whether it is a defence to liability, or it instead applies on relevant occasions by operation of law whether or not it is pleaded) from any civil or criminal liability for the relevant proceedings, statement, broadcast, rebroadcast, or publication.

The Bill's absolute privilege provisions therefore apply not only in proceedings for defamation, but also in proceedings for any other civil or criminal liability. These proposals are very similar to those in recommendation 25 (at pages 73 and 74) of the House of Lords and House of Commons Joint Committee on Parliamentary Privilege, *Parliamentary Privilege Report of Session 2013–14* (HL Paper 30, HC 100, 3 July 2013). *Clauses 9 to 13*, as the Privileges Committee's 2013 Report recommends (at pages 37 and 38), replace section 13 of the Defamation Act 1992. (However, *clause 33(2)* also inserts in the Defamation Act 1992 a *new section 13* that cross-refers to the effect of absolute privilege under the Parliamentary Privilege Act **2013**. Section 54 of the Defamation Act 1992 also ensures that Act does not derogate from parliamentary privilege.)

Proceedings in Parliament

Clause 9 ensures that proceedings in Parliament are protected by absolute privilege. *Clause 9* replaces section 13(1) of the Defamation Act 1992. Proceedings in Parliament, as that term is used in *clause 9*, has the meaning given to it by *clause 8(2)* (*see clause 4*).

Effective repetition statements

Clause 10 ensures that effective repetition statements (as defined by *clause 8(4)*) are protected by absolute privilege. (*Clause 10* is new, and so replaces no generally corresponding but narrower equivalent provision in the Defamation Act 1992.) The Privileges Committee's 2013 Report recommends (at page 38) that the new Act make it explicit that a member, or any other person participating directly in or reporting on proceedings in Parliament, who makes an oral or written statement that affirms, adopts, endorses, or refers to what he or

she or another person has said or done in the House or its committees will not be liable to criminal or civil proceedings unless the statement, considered alone, in and of itself repeats some parliamentary content, effect, or meaning giving rise to civil or criminal liability.

It is unclear whether both *clause 10* and *clause 8(4)* are required to give effect to the Privileges Committee's 2013 Report recommendation (recommendation 14, at page 38) that no person may incur civil or criminal liability for making an effective repetition statement.

Live broadcasts of proceedings in Parliament

Clause 11 ensures that a live broadcast, by any broadcaster, of proceedings in Parliament is protected by absolute privilege. *Clause 11* replaces section 13(2) of the Defamation Act 1992.

Proceedings in Parliament, as that term is used in *clause 11*, has the meaning given to it by *clause 8(2)* (see *clause 4*).

A broadcast (as that term is used in *clause 11* and defined in *clause 4*) means a transmission (even if, but not limited to, a transmission solely as a distributor, a reproducer of content, or a supplier of transmission services)—

- using a means of telecommunication; and
- for reception or access (whether free-of-charge or by payment, and whether on-demand or at a scheduled time or times) by, or by a class of, the public, and using any device or equipment (including, without limitation, a radio, television, or device connected to the Internet or any other electronic medium); and
- not made solely for performance or display in a public place.

Ordered or authorised delayed broadcasts or rebroadcasts

Clause 12 ensures that a delayed broadcast or a rebroadcast, by any broadcaster, of proceedings in Parliament, if made by order or under the authority of the House, is protected by absolute privilege. *Clause 12* is based on, but extends, section 13(2) of the Defamation Act 1992, which is replaced by *clause 11*.

Publication of certain parliamentary documents or reports

Clause 13 ensures that specified publications are protected by absolute privilege. *Clause 13* replaces section 13(3) of the Defamation Act 1992.

The specified publications are as follows:

- the publication, by or under the authority of the House, of any document:
- the publication, to the House, of any document, either by presenting the document to, or laying the document before, the House:
- the publication, by or under the authority of the House, or under the authority of any enactment, of an official or authorised report (including, without limitation, *Hansard*) of proceedings in Parliament:
- the publication of a correct copy of any document or report specified in *clause 13(a) or (c)*.

Official report of proceedings in Parliament

Clause 14 requires an official report of proceedings in Parliament, to be known as *Hansard*. *Clause 14* re-enacts (as the Privileges Committee's 2013 Report recommends, at page 37) section 253A of the Legislature Act 1908 (as that section 253A was inserted, on 1 February 1992, by section 11 of the Parliamentary Service Amendment Act 1991).

The official report must be made of all the portions of proceedings in Parliament (if any) that are portions of that kind for the time being determined for the purposes of *clause 14(1)* by the House or by the Speaker. The report must also be made in the form (if any), and subject to the rules (if any), as may be from time to time approved for the purposes of *clause 14(2)* by the House or by the Speaker. Any existing determinations, and any existing approved form or existing approved rules, are saved expressly by *clause 32*.

Section 3(e) of the Clerk of the House of Representatives Act 1988 ensures that the Clerk continues to be responsible, under the Speaker's direction, for the official report of the proceedings of the House of Representatives and its committees (to be known as *Hansard*) required by *clause 14*.

*Stays of court or tribunal proceedings in respect
of specified publications*

Introduction

Clauses 15 and 16 re-enact (as the Privileges Committee's 2013 Report recommends, at page 37), but also extend to tribunal proceedings, provisions on stays of court proceedings in sections 2, 4, and 5 of the Legislature Amendment Act 1992 (which re-enacted sections 18 and 19 of the Defamation Act 1954, based on sections 254 and 255 of the Legislature Act 1908, sections 7 and 8 of the Parliamentary Privileges Act 1865, and sections 1 and 2 of the Parliamentary Papers Act 1840 (UK)).

Parliamentary paper published by order or under authority

Clause 15 applies, as *clause 15(1)* indicates, if civil or criminal proceedings in a court or tribunal (as those 2 terms are defined in *clause 4*) are commenced against a person in respect of the publication, by the person or the person's employee, by order or under the authority of the House, of a parliamentary paper.

A parliamentary paper, as defined in *clause 4*, means any document (as very widely defined in *clause 4*, analysed above) that is a report, paper, votes, or proceedings.

Examples of a parliamentary paper therefore include the following:

- an extract from, or other part of, the *Journals of the House of Representatives* in printed form:
- an extract from, or other part of, *Hansard* (see *clause 14*) in an electronic form:
- an extract from, or other part of, a (final or provisional) Order Paper in an electronic form:
- other information electronically recorded or stored (including, without limitation, an audio clip or video clip), and that is a report, paper, votes, or proceedings.

Clause 15(2) provides that the person may produce to the court or tribunal a certificate signed by the Speaker stating that the parliamentary paper in respect of which the proceedings are commenced was published, by the person or the person's employee, by order or under the authority of the House.

Clause 15(3) specifies a 24 hours' notice precondition for production of the certificate. *Clause 15(3)* includes no equivalent of the requirement in section 4(3) of the Legislature Amendment Act 1992 that a certificate signed by the Speaker be accompanied by an affidavit verifying the certificate. However, *clause 30* requires all courts and all persons acting judicially to take judicial notice of the Speaker's signature on a certificate granted under *clause 15*.

Clause 15(4) requires the court or tribunal, on the production in accordance with *clause 15* of the certificate, immediately to stay the proceedings.

Clause 15(5) provides the stayed proceedings are required by *clause 15* to be taken to be finally determined.

Publication of copy of authorised parliamentary paper

Clause 16 applies, as *clause 16(1)* indicates, if civil or criminal proceedings in a court or tribunal (as those 2 terms are defined in *clause 4*) are commenced against a person in respect of the publication of a copy of an authorised parliamentary paper.

An authorised parliamentary paper, as defined in *clause 4*, means any parliamentary paper (as defined in *clause 4*—the definition is discussed in the analysis above of *clause 15*) published by order or under the authority of the House.

Clause 16(2) provides that the person may, at any stage of the proceedings, produce to the court or tribunal the following documents:

- the authorised parliamentary paper and the copy of it;
- an affidavit verifying the authorised parliamentary paper and the correctness of the copy of it.

Clause 16(3) requires the court or tribunal, on the production of the documents required by *clause 16(2)*, immediately to stay the proceedings.

Clause 16(4) provides the stayed proceedings are required by *clause 16* to be taken to be finally determined.

Qualified privilege

Introduction

Clauses 17 to 19 re-enact, but also extend (for example, to court proceedings other than proceedings in defamation), provisions on qualified privilege in the Defamation Act 1992.

Effect and operation of qualified privilege

Clause 17 relates to the effect and operation of qualified privilege under the Bill.

Clause 17(1) ensures that qualified privilege under the Bill is an immunity from any civil or criminal liability for the relevant broadcast, rebroadcast, or publication. The Bill's qualified privilege provisions therefore apply not only in proceedings for defamation, but also in proceedings for any other civil or criminal liability. These proposals are very similar to those in recommendation 25 (on pages 73 and 74) of the House of Lords and House of Commons Joint Committee on Parliamentary Privilege, *Parliamentary Privilege Report of Session 2013–14* (HL Paper 30, HC 100, 3 July 2013). *Clauses 17 to 19*, as the Privileges Committee's 2013 Report recommends (at pages 37 and 38), replace sections 16, 17, and 19, and clauses 1 to 3 of Part 1 of Schedule 1, of the Defamation Act 1992. *Clause 33* does not amend the Defamation Act 1992 to insert any cross-reference to the effect of qualified privilege under the Parliamentary Privilege Act **2013**. However, section 16(3) of the Defamation Act 1992 ensures that nothing in section 16 of that Act (which relates to qualified privilege applying only in proceedings in defamation) limits any other rule of law relating to qualified privilege. Section 54 of the Defamation Act 1992 also ensures that Act does not derogate from parliamentary privilege.

Clause 17(2) indicates that the immunity is a defence to liability, but the defence is available to the defendant only if—

- the defence is pleaded, or otherwise raised as a defence, by or on behalf of the defendant; and
- the defence is not made unavailable by *clause 17(3)*.

Clause 17(3) makes the defence unavailable if, in proceedings against the defendant that relate to the relevant broadcast, rebroadcast, or publication, the plaintiff or prosecutor proves that,

in publishing the matter that is the subject of the proceedings, the defendant—

- was predominantly motivated by ill will towards the person who is the subject of that matter; or
- otherwise took improper advantage of the occasion of publication.

Clause 17(4) ensures, by analogy with section 19(2) of the Defamation Act 1992, that the defence does not fail because the defendant was motivated by malice, unless the defence is made unavailable by *clause 17(3)*.

Although *clause 17* does not expressly so provide, the defence does not fail if the relevant broadcast, rebroadcast, or publication is or involves the publication of a report or other matter the publication of which is prohibited by law, or by a lawful order, in New Zealand or in a territory in which the subject matter of the report or matter arose. This Bill's qualified privilege therefore differs designedly from qualified privilege under sections 16(1) and 17 of the Defamation Act 1992. The difference is necessary to ensure the intended wider availability of qualified privilege under this Bill (including, without limitation, in cases in which a report or other matter is published in breach of a New Zealand or other relevant territorial statutory name-suppression or other non-disclosure prohibition).

Other delayed broadcasts or rebroadcasts

Clause 18 ensures that a delayed broadcast or a rebroadcast, by any broadcaster, of proceedings in Parliament, if not made by order or under the authority of the House, is protected by qualified privilege. "Broadcast" is defined in *clause 4* (the definition is discussed in the analysis above of *clause 11*). *Clause 18* replaces sections 16(1), (3), 17, and 19, and clause 1 of Part 1 of Schedule 1, of the Defamation Act 1992.

Publication of certain parliamentary documents or reports

Clause 19 ensures that the following publications are protected by qualified privilege:

- the publication of a fair and accurate report of proceedings in Parliament:

- the publication of a fair and accurate extract from, or summary of, a document or report specified in *clause 13(a) or (c)*.

A document or report is (for the purposes of *clause 19(1)(b)*) specified in *clause 13(a) or (c)* if the document or report is—

- a document published by or under the authority of the House; or
- an official or authorised report (including, without limitation, *Hansard*) of proceedings in Parliament, published by or under the authority of the House or under the authority of any enactment.

Clause 19 replaces sections 16(1), 17, and 19, and clauses 2 and 3 of Part 1 of Schedule 1, of the Defamation Act 1992.

Relationship with other laws

Clause 20 makes it clear (by analogy with sections 15 and 16(3) of the Defamation Act 1992) that the Parliamentary Privilege Act **2013** does not limit or affect other laws relating to absolute privilege or qualified privilege.

Examples of those other laws include the following:

- section 14 (Absolute privilege in relation to judicial proceedings and other legal matters) of the Defamation Act 1992;
- sections 16 to 19 (Qualified privilege) of the Defamation Act 1992;
- section 27 (Other immunities and privileges of participants) of the Inquiries Act 2013;
- any common law rule relating to qualified privilege for the publication of a fair and accurate report of judicial proceedings;
- any common law rule relating to qualified privilege for the publication of a fair and accurate report of proceedings in Parliament.

Subpart 4—House’s power to fine for contempt

Introduction

Clause 21, as recommended by the Privileges Committee’s 2013 Report (at page 37), provides clearly, and exclusively, the House’s power to fine for contempt. *Clause 21* is based on, and follows closely, section 7(5) to (8) of the Parliamentary Privileges Act 1987 (Aust).

Background

The Privileges Committee’s 2013 Report (at page 37 and footnote 34) says that “Fines have been imposed in the past by the House on members and non-members, most recently in 2006 when Television New Zealand was fined \$1,000. The last occasion before that was in 1903.”

The analysis of this matter in D G McGee, CNZM, QC, *PPNZ* at pages 670 to 672 includes both the observation that “Much doubt has been expressed about the power of the House to impose fines”, and the prediction (made in October 2005) that, “In view of the conflicting opinions held on the existence of the power, it is doubtful whether the House today would ever seek to impose a fine.”

In its Interim report (presented 6 April 2006) on the *Question of privilege on the action taken by TVNZ in relation to its chief executive, following evidence he gave to the Finance and Expenditure Committee* (2006) AJHR I.17A, the Privileges Committee found that TVNZ had committed a contempt of the House. The Committee (at page 9) said that “Parliament will treat with utmost seriousness any behaviour that impedes the proper process of accountability to the elected representatives of the people”. The Committee recommended that the House punish the contempt by (a) requiring from the Board of TVNZ a formal written apology to the House; and (b) imposing on the Board of TVNZ a fine of \$1,000. The procedure it followed and resulting in its Interim Report included hearing evidence from Mr David McGee, QC, Clerk of the House. In its Final Report (2006) AJHR I.17B (presented 17 October 2006), the Committee made related recommendations and noted (at page 4) that “The House adopted both recommendations; TVNZ apologised to the House and paid the fine.”

Power to fine for contempt of House

Clause 21(1) provides that the House may impose on a person, for a contempt of the House determined by the House to have been committed by that person, a fine not exceeding \$1,000.

Clause 21(1) does not prescribe, as does section 7(5) of the Parliamentary Privileges Act 1987 (Aust), differing maximum fines able to be imposed depending on whether the person is an individual or a body corporate. Nor does *clause 21(1)* specify, in the case of a continuing contempt, a further fine for every day or part of a day during which the contempt has continued. *Clause 21(1)* also does not have retrospective effect (consistent with section 7 of the Interpretation Act 1999), and therefore applies only to a contempt of the House determined by the House to have been committed by a person after the new Act's commencement.

Enforcement

Clause 21(2) ensures that a fine imposed on a person under *clause 21(1)* is payable and enforceable under Part 3 (and all other relevant provisions) of the Summary Proceedings Act 1957 as if it were a fine (as defined in section 79(1) of that Act) that is, or is a part of, an amount of money that the person is obliged to pay under an order imposed by a court for a contempt of court.

Power to fine is exclusive, but other penalty powers unaffected

Clause 21(3) makes it clear that *clause 21* replaces all other powers, if any, of the House, under any other laws, to impose a fine on a person for a contempt of the House determined by the House to have been committed by that person, but does not limit or affect the House's powers to penalise the person for the contempt otherwise than by imposing a fine on the person (whether the other penalty is instead of, or as well as, the imposition of a fine). The existence and proposed use of the House's power to imprison, for example, is analysed in D G McGee, CNZM, QC, *PPNZ* at pages 669 and 670.

Power to fine is for avoidance of doubt

Clause 21(4) provides that *clause 21(1)* (except for the \$1,000 maximum) declares and enacts, for the avoidance of doubt, part of the

effect that section 242 of the Legislature Act 1908 had, on its true construction, before the new Act's commencement.

Subpart 5—House has no power to expel from membership of House

Introduction

Clause 22, as recommended by the Privileges Committee's 2013 Report (at page 38), confirms that the House does not have the power to expel from membership of the House, and that members' seats become vacant only as provided in the Electoral Act 1993.

Confirmation of absence of power

Clause 22(1) provides that the House has no power to make a member's seat become vacant by expelling the member (whether to discipline or punish the member, to protect the House by removing an unfit member, or for any reason or purpose) from membership of the House.

Relationship with other laws

Clause 22(2) ensures that *clause 22(1)* overrides any law to the contrary. *Clause 22(1)* is not intended or expected, however, to limit or affect—

- the determination by a court of competent jurisdiction of an election petition under Part 8 of the Electoral Act 1993 questioning an election or return to the House of Representatives;
- the determination by a court of competent jurisdiction of whether the seat of a member of Parliament has become vacant in accordance with section 55 (or any other applicable provision or provisions) of the Electoral Act 1993;
- the House's exclusive right to control its own proceedings and, in particular, the House's power to determine the qualifications of members to sit and vote in the House;
- the House's power to discipline members (otherwise than by expelling them from membership of the House).

Subpart 6—Parliamentary witnesses

Introduction

Clauses 23 and 24, as recommended by the Privileges Committee's 2013 Report (at pages 36 and 37), provide for the power of the House or a committee to administer oaths or affirmations in respect of witnesses giving evidence, and re-enact sections 252 and 253(5) of the Legislature Act 1908.

House or committee may administer oath or affirmation

Clause 23 re-enacts section 252 of the Legislature Act 1908, and provides that the House or a committee respectively may, for the purpose of taking evidence on oath or affirmation from a witness examined before the House or that committee, administer an oath or affirmation to the witness.

As suggested by the Privileges Committee's 2013 Report (at page 36), in drafting this Bill, consideration has been given to tidying up recommendations in the *Second Report of the Standing Orders Committee On the Law of Privilege and Related Matters* (November 1989) AJHR I.18B at [24] and [25] (pages 11 and 12).

Clause 23 therefore omits any reference to perjury (see the analysis above of *clause 8(1)*).

This Bill also does not re-enact any equivalent of the process in section 253(1) to (4) of the Legislature Act 1908 under which the House may resolve to override a claim to the privilege against self-incrimination made by a witness sworn and examined by a select committee of the House.

Examination of witnesses on oath or affirmation is dealt with or discussed in the Standing Orders of the House of Representatives (effective on and after 21 October 2011) at Standing Orders 154 and 227, and in D G McGee, CNZM, QC, *PPNZ* at pages 286 and 431 to 432.

Privileges and immunities of certain witnesses

Clause 24(1) re-enacts section 253(5) of the Legislature Act 1908, and provides that a witness examined before the House or a committee and giving evidence on oath or affirmation has, in respect of that evidence, the same privileges and immunities as has a witness giving evidence on oath or affirmation in a court.

Clause 24(2) makes it clear that *clause 24* is subject to any contrary enactment. An example of a contrary enactment is section 10(1)(d)(ii) of the Crown Organisations (Criminal Liability) Act 2002. That section prevents a person from invoking the privilege against self-incrimination on behalf of a Crown organisation as a ground for refusing to supply information requested by a committee of Parliament. However, that section does not affect any right of an individual to invoke the privilege against self-incrimination in relation to any act or omission of that individual.

Subpart 7—Members’ and certain officers’ participation in court or tribunal proceedings

Clauses 25 to 29, as recommended by the Privileges Committee’s 2013 Report (at pages 36 and 37), re-enact Legislature Act 1908 provisions exempting members and certain officers of the House from attendance as witnesses in court proceedings.

However, in the drafting of the re-enacted provisions, consideration has been given to recommendations in the *Second Report of the Standing Orders Committee On the Law of Privilege and Related Matters* (November 1989) AJHR I.18B at [32] to [41] (pages 13 to 15). *Clauses 25 to 29* also extend to a tribunal’s summons. Officer, in *subpart 7 of Part 1*, has only the restricted meaning in *paragraph (a)* of the definition of officer in *clause 4*.

Subpart 8—Judicial notice of Speaker’s certificates

Clause 30 re-enacts and extends section 268 of the Legislature Act 1908, which relates only to a Speaker’s certificate under section 260, 263, or 265 of the Legislature Act 1908 exempting members or officers from participation in court or tribunal proceedings. Section 268 of the Legislature Act 1908 does not cover the following certificates:

- a select committee chairperson’s certificate under section 253(2) and (3) of the Legislature Act 1908 staying proceedings in any action or prosecution against a witness for any act or thing done by the witness that is revealed by the evidence of the witness obtained as a result of the witness’s compliance with a resolution of the House overriding a claim by the witness to the privilege against self-incrimination:

- a Speaker's certificate under section 4 of the Legislature Amendment Act 1992 staying court or tribunal proceedings in respect of a parliamentary paper published by order or under the authority of the House.

Clause 30, by contrast, requires all courts and all persons acting judicially to take judicial notice of the Speaker's signature on *any* certificate granted under the new Act. It therefore covers the following certificates:

- a certificate under *clause 15* staying court or tribunal proceedings in respect of a parliamentary paper published by order or under the authority of the House;
- a certificate under *clause 26 or 28* exempting a member or officer from participation in court or tribunal proceedings.

Part 2 Savings provisions, related amendments, and repeals

Savings provisions

Clause 31, which is based on section 16(7) of the Parliamentary Privileges Act 1987 (Aust), ensures that the provisions of the Parliamentary Privilege Act **2013** do not apply to proceedings—

- in a court or a tribunal; and
- that commenced before that Act's commencement.

Clause 32 is a savings provision relating to the repeal and replacement of section 253A(1) and (2) of the Legislature Act 1908, and is discussed in the analysis above of *clause 14*.

Related amendments

Clause 33 amends the Defamation Act 1992, in the light of this Bill's provisions. *See*, in particular, the discussion in the analysis above of *clauses 9 to 12 and 17 to 19*.

Clause 34 amends section 16 of the Intelligence and Security Committee Act 1996, in the light of this Bill's provisions.

Repeals

Clause 35 repeals the Legislature Act 1908 and the Legislature Amendment Act 1992.

Hon Gerry Brownlee

Parliamentary Privilege Bill

Government Bill

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Part 2

Savings provisions, related amendments, and repeals

Savings provisions

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Repeals

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Parliamentary Privilege Act **2013**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent. 5

Part 1

Substantive provisions

Subpart 1—General provisions

3 Purpose of this Act 10

The purpose of this Act is to—

- (a) recognise the mutual respect and restraint (also together referred to as the principle of comity) in the important constitutional relationship between the legislative and judicial branches of government; and 15
- (b) reaffirm generally in a single Act and clarify the purpose and certain other aspects of, but avoid comprehensive

- codification of, the privileges, immunities, and powers held, enjoyed, and exercised by the House of Representatives, its committees, and its members; and
- (c) provide for Article 9 of the Bill of Rights 1688 to be taken to have, for the avoidance of doubt, a specified effect (in addition to any other operation, and subject to applicable overriding enactments); and 5
- (d) define for the avoidance of doubt “proceedings in Parliament” for the purposes of Article 9 of the Bill of Rights 1688, in particular to alter the law in the decision in *Attorney-General v Leigh* [2011] NZSC 106, [2012] 2 NZLR 713 (SC); and 10
- (e) abolish the “effective repetition” in the decision in *Buchanan v Jennings* [2004] UKPC 36, [2005] 2 All ER 273 (PC), and ensure effective repetition statements are protected by absolute privilege; and 15
- (f) replace with modern legislation the law about parliamentary privilege formerly contained in the Legislature Act 1908, the Legislature Amendment Act 1992, and certain provisions of the Defamation Act 1992. 20

4 Interpretation

In this Act, unless the context otherwise requires,—

authorised parliamentary paper means any parliamentary paper published by order or under the authority of the House

broadcast means a transmission (even if, but not limited to, a transmission solely as a distributor, a reproducer of content, or a supplier of transmission services)— 25

- (a) using a means of telecommunication; and
- (b) for reception or access (whether free of charge or by payment, and whether on-demand or at a scheduled time or times) by, or by a class of, the public, and using any device or equipment (including, without limitation, a radio, television, or device connected to the Internet or any other electronic medium); and 30
- (c) not made solely for performance or display in a public place 35

committee means a committee, or subcommittee of a committee, of the House

copy, in relation to a document (including, without limitation, any journals, paper, or report), includes a copy of a copy and a copy that is not an exact copy of the document but is identical to the document in all relevant respects

court means—

5

- (a) the Supreme Court, the Court of Appeal, the High Court, or a District Court; or
- (b) any of the following specialist courts: the Court Martial of New Zealand established by section 8 of the Court Martial Act 2007, the Court Martial Appeal Court constituted by the Court Martial Appeals Act 1953, the Employment Court, the Environment Court, the Māori Appellate Court, and the Māori Land Court

10

document means any of the following:

- (a) any material, whether or not it is signed or otherwise authenticated, that bears symbols (including words and figures), images, or sounds or from which symbols, images, or sounds can be derived, including (without limitation) material that is any of the following:
 - (i) a label, marking, or other writing that identifies or describes a thing of which it forms part, or to which it is attached:
 - (ii) a book, map, plan, graph, or drawing:
 - (iii) a photograph, film, or negative:
- (b) information electronically recorded or stored (including, without limitation, an audio or video file or recording), or information derived from that information: 25
- (c) a copy of, or part of, a document as defined in **paragraph (a) or (b)**

House means the House of Representatives continued by section 10 of the Constitution Act 1986 30

member means a member of the House

officer,—

- (a) in **subpart 7** of this Part (Members' and certain officers' participation in court or tribunal proceedings), means only an officer of the House who is any of the following:
 - (i) the Clerk, or a Deputy Clerk, of the House; or
 - (ii) a Clerk-Assistant of the House; or

5

- (iii) the Serjeant-at-Arms; and
- (b) in the rest of this Act, means any officer of the House (including, without limitation, an officer referred to in **paragraph (a)(i), (ii), or (iii)**, a clerk of a committee, and a person employed by or on behalf of the House to make a transcript of proceedings of the House or of a committee) 5

parliamentary paper means any document that is a report, paper, votes, or proceedings

proceedings in Parliament has the meaning given to it by **section 8(2)** 10

report includes—

- (a) a record or transcript; and
- (b) part of a report

Speaker means— 15

- (a) every person who is the Speaker of the House (as chosen and confirmed, and continuing in office, under sections 12 and 13 of the Constitution Act 1986), a Deputy Speaker of the House, or a person for the time being acting in either of those capacities; or 20
- (b) in relation to the period commencing immediately after the close of any polling day at a general election and ending with the first meeting of the House after the general election, every person who (even if in an acting capacity only) held on that polling day the office of Speaker of the House or Deputy Speaker of the House 25

statement means a statement in any form (including, without limitation, an oral statement or a written statement)

summons, of a court or tribunal, includes a writ, subpoena, or other process— 30

- (a) that is a process of, or issued by or on behalf of, the court or tribunal; and
- (b) that requires attendance at the court or tribunal

tribunal means any person or body (other than the House, a committee, or a court, but including, without limitation, an inquiry to which section 6 of the Inquiries Act 2013 applies) acting judicially or with power to summons witnesses and take evidence on oath or affirmation. 35

5 Act binds the Crown

This Act binds the Crown.

Subpart 2—Privileges generally of
House, committees, and members

6 Purpose of parliamentary privilege

5

(1) The privileges, immunities, and powers held, enjoyed, and exercised in accordance with the rest of this Act by the House of Representatives, its committees, and its members are held, enjoyed, and exercised for the purpose of enabling them to carry out their functions.

10

(2) That purpose must be taken into account in determining the extent and scope of a privilege, immunity, or power held, enjoyed, and exercised in accordance with the rest of this Act, and in determining whether in a particular case an occasion of privilege exists.

15

(3) This section does not limit the rest of this Act (including, without limitation, the House's exclusive right to control its own proceedings, or the House's right to legislate on any matter or to consider delegated legislation).

7 Privileges held and part of laws of New Zealand, journals as evidence

20

Privileges, etc, held

(1) The House, committees, and members hold, enjoy, and exercise every privilege, immunity, and power that complies with both of the following:

25

(a) it was on 1 January 1865 (by parliamentary custom or practice and rules, statute, or common law) held, enjoyed, and exercised by the Commons House of Parliament of Great Britain and Ireland, its committees, or its members; and

30

(b) it is not inconsistent with, or repugnant to, the New Zealand Constitution Act 1852 of the Parliament of the United Kingdom as in force on (the date of the coming into operation of the Parliamentary Privileges Act 1865, namely) 26 September 1865.

35

- Privileges, etc, part of laws of New Zealand*
- (2) Those privileges, immunities, and powers are part of the laws of New Zealand.
- Judicial notice of privileges, etc*
- (3) All courts and all persons acting judicially must take judicial notice of those privileges, immunities, and powers. 5
- Use, on privileges, etc, inquiry, of House of Commons Journal*
- (4) On any inquiry touching those privileges, immunities, and powers, a copy of the Journals of the Commons House of Parliament that purports to be printed or published by order of the Commons House of Parliament must be admitted as evidence of those journals by all courts, persons acting judicially, and other persons, without any proof being given that the copy was so printed or published. 10
- Compare: 1865 No 13 ss 4, 5; 1908 No 101 s 242 15

Subpart 3—Provisions related to
Article 9 of Bill of Rights 1688 or to
proceedings in Parliament

Aspects of effect and meaning of Article 9

- 8 Parliamentary privilege in court or tribunal proceedings** 20
- Article 9 to be taken to have specified effect*
- (1) Article 9 of the Bill of Rights 1688 must be taken to have the effect required by the rest of this section (in addition to any other operation of, and subject to applicable enactments overriding, Article 9 of the Bill of Rights 1688). 25
- Definition of proceedings in Parliament*
- (2) For the purposes of Article 9 of the Bill of Rights 1688, and for the purposes of this Act, **proceedings in Parliament** means all words spoken and acts done in the course of, or for purposes of or incidental to, the transacting of the business of the House or of a committee, and therefore includes (without limiting that general definition) the following: 30
- (a) the giving of evidence (and the evidence so given) before the House or a committee:
- (b) the presentation or submission of a document to the House or a committee: 35

- (c) the preparation of a document for purposes of or incidental to the transacting of any business of the House or of a committee:
- (d) the formulation, making, or publication of a document, including a report, by or pursuant to an order of the House or a committee (and the document so formulated, made, or published).

Scope of prohibited external impeaching or questioning

- (3) In proceedings in a court or tribunal, it is not lawful for evidence to be offered or received, questions asked or statements, submissions, or comments made, concerning proceedings in Parliament, by way of, or for the purpose of, all or any of the following:
 - (a) questioning or relying on the truth, motive, intention or good faith of anything forming part of those proceedings in Parliament:
 - (b) otherwise questioning or establishing the credibility, motive, intention or good faith of any person:
 - (c) drawing, or inviting the drawing of, inferences or conclusions wholly or partly from anything forming part of those proceedings in Parliament.
- (4) In proceedings in a court or tribunal, it is not lawful for evidence (including, without limitation, *Hansard*) to be offered or received, questions asked or statements, submissions, or comments made, concerning proceedings in Parliament, by way of, or for the purpose of, ascertaining any content, effect, or meaning of a statement (in **section 10** called an **effective repetition statement**)—
 - (a) made outside proceedings in Parliament by any person; and
 - (b) to the effect (regardless of its form or terms) that the person affirms, adopts, endorses, or refers to the content, effect, or meaning of a statement or an action that a participant in proceedings in Parliament (who may, but need not, be the person) made or took in those proceedings; but
 - (c) that, if considered alone, does not in and of itself repeat that content, effect, or meaning.

- (5) A court or tribunal must not (unless the House or a committee has published, or authorised the publication of, that document or a report of that oral evidence)—
- (a) require to be produced, or admit into evidence, or admit evidence relating to, a document that has been prepared for the purpose of submission, and submitted, to the House or a committee, and that—
 - (i) was received as private evidence by, and so is confidential to, the House or the committee; or
 - (ii) was received as secret evidence by the House or the committee, and so generally cannot be disclosed; or
 - (b) admit evidence concerning, or require to be produced or admit into evidence a document recording or reporting, any oral evidence taken by the House or a committee, and that—
 - (i) was heard as private evidence by, and so is confidential to, the House or the committee; or
 - (ii) was heard as secret evidence by the House or the committee, and so generally cannot be disclosed.
- (6) In relation to proceedings in a court or tribunal so far as they relate only to ascertaining the meaning of, or the meaning that can be given to, an enactment, neither this section nor the Bill of Rights 1688 prevents or restricts a court or tribunal allowing only for that purpose—
- (a) the admission in evidence (or judicial notice being taken) of a report of proceedings in Parliament published by or with the authority of the House or a committee; or
 - (b) the making of statements, submissions, or comments based on that report.
- Section is for avoidance of doubt, and existing proceedings*
- (7) **Subsections (1) to (6)** declare and enact, for the avoidance of doubt, the effect that Article 9 of the Bill of Rights 1688 had, on its true construction, before this Act's commencement, but (in accordance with **section 31**) do not apply to proceedings

in a court or a tribunal and that commenced before this Act's commencement.

Compare: 1908 No 101 s 253(4); Parliamentary Privileges Act 1987 s 16(1)–(5), (7) (Aust); Defamation Act 1996 s 13(4), (5) (UK)

Absolute privilege 5

9 Proceedings in Parliament

Proceedings in Parliament are protected by absolute privilege.

Compare: 1992 No 105 s 13(1)

10 Effective repetition statements

Effective repetition statements (as defined by **section 8(4)**) are protected by absolute privilege. 10

11 Live broadcasts of proceedings in Parliament

A live broadcast, by any broadcaster, of proceedings in Parliament is protected by absolute privilege.

Compare: 1992 No 105 s 13(2)

15

12 Ordered or authorised delayed broadcasts or rebroadcasts of proceedings in Parliament

A delayed broadcast or a rebroadcast, by any broadcaster, of proceedings in Parliament, if made by order or under the authority of the House, is protected by absolute privilege. 20

Compare: 1992 No 105 s 13(2)

13 Publication of certain parliamentary documents or reports

The following publications are protected by absolute privilege: 25

(a) the publication, by or under the authority of the House, of any document:

(b) the publication, to the House, of any document, either by presenting the document to, or laying the document before, the House: 30

(c) the publication, by or under the authority of the House, or under the authority of any enactment, of an offi-

cial or authorised report (including, without limitation, *Hansard*) of proceedings in Parliament:

- (d) the publication of a correct copy of any document or report specified in **paragraph (a) or (c)**.

Compare: 1992 No 105 s 13(3)

5

Official report of proceedings in Parliament

14 *Hansard*

- (1) An official report (to be known as *Hansard*) must be made of all the portions of proceedings in Parliament (if any) that are portions of that kind for the time being determined for the purposes of this subsection by the House or by the Speaker.

10

- (2) The report must be made in the form (if any), and subject to the rules (if any), as may be from time to time approved for the purposes of this subsection by the House or by the Speaker.

Compare: 1908 No 101 s 253A; 1991 No 146 s 11

15

Stays of court or tribunal proceedings in respect of specified publications

15 **Parliamentary paper published by order or under authority of House**

- (1) This section applies if civil or criminal proceedings in a court or tribunal are commenced against a person in respect of the publication, by the person or the person's employee, by order or under the authority of the House, of a parliamentary paper.

20

- (2) The person may produce to the court or tribunal a certificate signed by the Speaker stating that the parliamentary paper in respect of which the proceedings are commenced was published, by the person or the person's employee, by order or under the authority of the House.

25

- (3) But the certificate cannot be produced in accordance with this section unless counsel for, or the party who is, the plaintiff or prosecutor in the proceedings, is given at least 24 hours' notice of the person's intention to produce the certificate.

30

- (4) On the production in accordance with this section of the certificate, the court or tribunal must immediately stay the proceedings.

35

- (5) The stayed proceedings are required by this section to be taken to be finally determined.

Compare: 1954 No 46 s 18; 1992 No 106 ss 2, 4; Parliamentary Papers Act 1840 s 1 (UK)

16 Publication of copy of authorised parliamentary paper 5

- (1) This section applies if civil or criminal proceedings in a court or tribunal are commenced against a person in respect of the publication of a copy of an authorised parliamentary paper.

- (2) The person may, at any stage of the proceedings, produce to the court or tribunal the following documents: 10

- (a) the authorised parliamentary paper and the copy of it:
 (b) an affidavit verifying the authorised parliamentary paper and the correctness of the copy of it.

- (3) On the production of the documents required by **subsection (2)**, the court or tribunal must immediately stay the proceedings. 15

- (4) The stayed proceedings are required by this section to be taken to be finally determined.

Compare: 1954 No 46 s 19; 1992 No 106 ss 2, 5; Parliamentary Papers Act 1840 s 2 (UK)

20

Qualified privilege

17 Effect and operation of qualified privilege under this Act

- (1) Qualified privilege under this Act is an immunity from any civil or criminal liability for the relevant broadcast, rebroadcast, or publication. 25

- (2) The immunity is a defence to liability, but the defence is available to the defendant only if—

- (a) the defence is pleaded, or otherwise raised as a defence, by or on behalf of the defendant; and

- (b) the defence is not made unavailable by **subsection (3)**. 30

- (3) The defence is unavailable if, in proceedings against the defendant that relate to the relevant broadcast, rebroadcast, or publication, the plaintiff or prosecutor proves that, in publishing the matter that is the subject of the proceedings, the defendant— 35

- (a) was predominantly motivated by ill will towards the person who is the subject of that matter; or
- (b) otherwise took improper advantage of the occasion of publication.
- (4) The defence does not fail because the defendant was motivated by malice, unless the defence is made unavailable by **subsection (3)**. 5
- Compare: 1992 No 105 ss 16(1), (3), 17, 19, Schedule 1 Part 1 cl 1
- 18 Other delayed broadcasts or rebroadcasts of proceedings in Parliament** 10
- A delayed broadcast or a rebroadcast, by any broadcaster, of proceedings in Parliament, if not made by order or under the authority of the House, is protected by qualified privilege.
- Compare: 1992 No 105 ss 16(1), (3), 17, 19, Schedule 1 Part 1 cl 1
- 19 Publication of certain parliamentary documents or reports** 15
- (1) The following publications are protected by qualified privilege:
- (a) the publication of a fair and accurate report of proceedings in Parliament: 20
- (b) the publication of a fair and accurate extract from, or summary of, a document or report specified in **section 13(a) or (c)**.
- (2) A document or report is (for the purposes of **subsection (1)(b)**) specified in **section 13(a) or (c)** if the document or report is— 25
- (a) a document published by or under the authority of the House; or
- (b) an official or authorised report (including, without limitation, *Hansard*) of proceedings in Parliament, published by or under the authority of the House or under the authority of any enactment. 30
- Compare: 1992 No 105 ss 16(1), 17, 19, Schedule 1 Part 1 cls 2, 3

*Relationship with other laws***20 Other laws about absolute privilege or qualified privilege unaffected**

This Act does not limit or affect any other laws relating to absolute privilege or qualified privilege. 5

Compare: 1992 No 105 ss 15, 16(3)

Subpart 4—House’s power to fine
for contempt

21 House may impose fine on person determined by House to have committed contempt of House 10*Power to fine for contempt of House*

- (1) The House may impose on a person, for a contempt of the House determined by the House to have been committed by that person, a fine not exceeding \$1,000.

Enforcement 15

- (2) A fine imposed on a person under **subsection (1)** is payable and enforceable under Part 3 (and all other relevant provisions) of the Summary Proceedings Act 1957 as if it were a fine (as defined in section 79(1) of that Act) that is, or is a part of, an amount of money that the person is obliged to pay under an order imposed by a court for a contempt of court. 20

Power to fine is exclusive, but other penalty powers unaffected

- (3) This section replaces all other powers, if any, of the House, under any other laws, to impose a fine on a person for a contempt of the House determined by the House to have been committed by that person, but does not limit or affect the House’s powers to penalise the person for the contempt otherwise than by imposing a fine on the person (whether the other penalty is instead of, or as well as, the imposition of a fine). 25

Power to fine is for avoidance of doubt 30

- (4) **Subsection (1)** (except for the \$1,000 maximum) declares and enacts, for the avoidance of doubt, part of the effect that section 242 of the Legislature Act 1908 had, on its true construction, before this Act’s commencement.

Compare: Parliamentary Privileges Act 1987 s 7(5)–(8) (Aust)

35

Subpart 5—House has no power to expel
from membership of House

22 Members' seats become vacant only as provided in Electoral Act 1993

- (1) The House has no power to make a member's seat become vacant by expelling the member (whether to discipline or punish the member, to protect the House by removing an unfit member, or for any reason or purpose) from membership of the House. 5
- (2) **Subsection (1)** overrides any law to the contrary. 10
Compare: Parliamentary Privileges Act 1987 s 8 (Aust)

Subpart 6—Parliamentary witnesses

23 House or committee may administer oath or affirmation

The House or a committee respectively may, for the purpose of taking evidence on oath or affirmation from a witness examined before the House or that committee, administer an oath or affirmation to the witness. 15
Compare: 1908 No 101 s 252

24 Privileges and immunities of witness giving evidence on oath or affirmation

- (1) A witness examined before the House or a committee and giving evidence on oath or affirmation has, in respect of that evidence, the same privileges and immunities as has a witness giving evidence on oath or affirmation in a court. 20
- (2) This section is subject to any contrary enactment. 25
Compare: 1875 No 20 s 2; 1908 No 101 s 253(5)

Subpart 7—Members' and certain officers'
participation in court or tribunal proceedings

25 Member or officer may apply to Speaker for certificate exempting from attendance

A member (other than the Speaker) or officer may apply to the Speaker to be exempted from attendance if the member or officer is required by a court's or tribunal's summons to attend personally at the court or tribunal— 30

- (a) as a party or witness in a civil proceeding; or
- (b) as a witness in a criminal proceeding.

Compare: 1908 No 101 ss 257, 261

26 Speaker determines application for exemption certificate

- (1) The Speaker must, on an application under **section 25**, grant the member or officer an exemption certificate unless satisfied, after any inquiry the Speaker thinks fit to make, that non-compliance with the summons would—

- (a) delay injuriously, or defeat, the interests of justice; or
- (b) cause irreparable injury to a party to the proceeding.

- (2) The certificate must be signed by the Speaker, attach a copy of the summons, and identify the attendance concerned.

Compare: 1908 No 101 s 263

27 Extent of exemption under certificate granted

An exemption certificate granted to a member or an officer under **section 26** exempts the member or officer from attendance (whether in compliance with the summons, or otherwise) until the earlier of the following times:

- (a) the end of the session during which the certificate was granted:
- (b) the end of the calendar year after the calendar year during which the certificate was granted.

Compare: 1908 No 101 s 264

28 Order or certificate exempting Speaker from attendance

When and how House to consider making exempting order

- (1) This subsection applies if the Speaker—
- (a) is required by a court's or tribunal's summons to attend personally at the court or tribunal—
 - (i) as a party or witness in a civil proceeding; or
 - (ii) as a witness in a criminal proceeding; and
 - (b) either has already acted under **subsection (5)** but can now submit the matter to the House without delay because the House has since ceased to be adjourned, or cannot act under **subsection (5)** because—
 - (i) the House is not adjourned; or

- (ii) the House is adjourned but the Speaker is not satisfied that it is necessary to act without delay.
- (2) The Speaker must if **subsection (1)** applies submit the matter to the House at the first convenient opportunity.
- (3) The House may, on a matter submitted under **subsection (2)**, make any order the House thinks fit, but an order of the House that the Speaker be exempted from attendance exempts the Speaker from attendance (whether in compliance with the summons, or otherwise) until the earlier of the following times: 5
- (a) the end of the session during which the order was made: 10
- (b) the end of the calendar year after the calendar year during which the order was made.
- Speaker to grant temporary exempting certificate if House adjourned, etc* 15
- (4) This subsection applies if the Speaker—
- (a) is required by a court’s or tribunal’s summons to attend personally at the court or tribunal—
- (i) as a party or witness in a civil proceeding; or 20
- (ii) as a witness in a criminal proceeding; and
- (b) cannot submit the matter to the House without delay because the House is adjourned; and
- (c) is satisfied that it is necessary to act without delay; and
- (d) is not satisfied, after any inquiry the Speaker thinks fit to make, that non-compliance with the summons would— 25
- (i) delay injuriously, or defeat, the interests of justice; or
- (ii) cause irreparable injury to a party to the proceeding.
- (5) The Speaker must if **subsection (4)** applies grant to the Speaker an exemption certificate. 30
- (6) The certificate must be signed by the Speaker, attach a copy of the summons, and identify the attendance concerned.
- (7) An exemption certificate granted under **subsection (5)** exempts the Speaker from attendance (whether in compliance with the summons, or otherwise) until both of the following have occurred: 35

- (a) the matter is submitted at the first convenient opportunity to the House, under **subsection (2)**; and
- (b) the House has made an order on the matter, under **subsection (3)**.

Compare: 1908 No 101 s 260

5

29 Effect of certificate or order

If a certificate granted, or order made, under **section 26 or 28**, is presented to the court or tribunal,—

- (a) the member, officer, or Speaker is exempted from attendance as provided in (as the case requires) **section 27, 28(3), or 28(7)**; and 10
- (b) no proceedings (civil or criminal) may be commenced or continued against the member, officer, or Speaker in respect of his or her non-compliance with the summons, or other non-attendance during his or her exemption; 15
and
- (c) the court or tribunal may adjourn the proceeding on any terms it thinks convenient and just in light of that exemption.

Compare: 1908 No 101 s 264

20

Subpart 8—Judicial notice of Speaker's certificates

30 Judicial notice must be taken of Speaker's signature

All courts and all persons acting judicially must take judicial notice of the Speaker's signature on a certificate granted under **section 15, 26, or 28**. 25

Compare: 1908 No 101 s 268

Part 2

Savings provisions, related amendments, and repeals

30

Savings provisions

31 Existing court or tribunal proceedings

This Act's provisions (other than this section) do not apply to proceedings—

- (a) in a court or a tribunal; and
- (b) that commenced before this Act's commencement.

Compare: Parliamentary Privileges Act 1987 s 16(7) (Aust)

32 Existing determinations, and approved form or rules, relating to *Hansard* 5

- (1) Any determinations made for the purposes of section 253A(1) of the Legislature Act 1908, and in force immediately before the commencement of this Act, after that commencement continue in force, and may be amended, revoked, or revoked and replaced, as if they were made for the purposes of **section 14(1)** of this Act. 10

- (2) Any form, or rules, approved for the purposes of section 253A(2) of the Legislature Act 1908, and in force immediately before the commencement of this Act, after that commencement continue in force, and may be amended, revoked, or revoked and replaced, as if they were approved for the purposes of **section 14(2)** of this Act. 15

Related amendments

33 Defamation Act 1992 amended

- (1) This section amends the Defamation Act 1992. 20

- (2) Replace section 13 with:

“13 Absolute privilege in relation to proceedings in Parliament
The Parliamentary Privilege Act **2013** protects by absolute privilege the proceedings, statements, broadcasts or rebroadcasts, and publications specified in **sections 9 to 13** of that Act.” 25

- (3) In Schedule 1, Part 1, repeal clauses 1 to 3.

34 Intelligence and Security Committee Act 1996 amended

- (1) This section amends the Intelligence and Security Committee Act 1996. 30

- (2) In section 16(1), after “Article 9 of the Bill of Rights 1688”, insert “and the Parliamentary Privilege Act **2013**”.

- (3) In section 16(2), replace “of the House of Representatives” with “in Parliament (as defined in **section 8(2)** of the Parliamentary Privilege Act **2013**)”. 35

Repeals

**35 Legislature Act 1908 and Legislature Amendment Act
1992 repealed**

- (1) The Legislature Act 1908 (1908 No 101) is repealed.
 - (2) The Legislature Amendment Act 1992 (1992 No 106) is re- 5
pealed.
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