This Bill is a reprint (with two clauses, 30, 31, added) of the Bill prepared by the Statutes Revision Commission in 1881, showing the additions made therein by the House of Representatives, which were a matter of conference between the two Houses in that year.

# PARLIAMENTARY PRIVILEGES AND PRACTICE, 1883.

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## A BILL INTITULED

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

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 and Practice Short Title. Act, 1883."

2. In this Act,—

"Speaker" includes the Acting-Speaker and any other person for the time 1878, No. 16, s. 3. 1866, No. 73, s. 2. 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 subpœna.

No. 17—1.

PRIVILEGES.

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.

Exception as to aids and supplies.

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, upou 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 5 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 for the time being in force, whether such privileges, immunities, or powers were so held, possessed, or enjoyed by custom, statute, or otherwise.

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.

Nothing herein contained shall confer on the Legislative Council any power or 15 privilege exclusively possessed by the House of Commons in respect of money Bills, or the granting of aids and supplies.

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 20 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.

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 30 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 35 House, together with an affidavit verifying such certificate.

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.

Such Court or Judge shall thereupon immediately stay such civil or criminal 40 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 45 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 50 shall be and shall be deemed and taken to be finally put an end to, determined, and superseded by virtue of this Act.

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

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

that such abstract was bona fide made, verdict of not guilty. 1865, No. 13, s. 9.

# EXEMPTION FROM ATTENDANCE IN COURTS, ETC,

8. Whenever the Speaker of the Legislative Council, or the Speaker of the Speaker in attended 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 tendence on Courts 10 personally, either as a party or a witness in any civil proceeding, or as a witness upon resolution of or prosecutor in any criminal proceeding, he shall submit the matter to the 1866, No. 73, s. 6. 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 15 presented in like manner and shall have the same effect as the certificate hereinafter mentioned in respect of any other member.

dance on Parliament exempted from at-Council or House.

Provided that, if the Council or House be under adjournment, and it be Power to Speaker to necessary to act without delay, it shall be competent for the Speaker whose sign a certificate in his own favour in attendance is required to sign a certificate to the like effect as is hereinafter certain cases. 20 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.

9. Whenever any member of the Legislative Council, or any member of Members and officers 25 the House of Representatives, other than the Speakers thereof respectively, or of Assembly may apply during session any of the officers specified in the First Schedule hereto, being in attendance on to Speaker for ex-Parliament, shall be required by the process of any Court of record to attend emption from attendance in civil Courts. thereat personally, either as a party or a witness in any civil proceeding, or as a Ib., s. 7. witness in any criminal proceeding, such member or officer, being a member or 30 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.

10. When any such member or officer as aforesaid, being in attendance on Members and officers Parliament, shall have been bound by recognizance to prosecute or to give bound by recognizance may apply for 35 evidence at any sitting of a Court of record to be holden during any session of exemption. the General Assembly, or within ten days before the commencement thereof or Ib., s. 8. 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 40 Speaker thereof, to be exempted from such attendance.

11. On any such application to a Speaker, unless it shall appear to his satis- Speaker to make faction, on such inquiry as he may think fit to make into the circumstances of certificate. the case, that the ends of public justice would be defeated or injuriously Ib., s. 9. delayed, or that irreparable injury would be caused to any party to proceedings 45 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.

12. On such certificate being presented to the Court in which the attendance Effect of certificate. 50 of such member or officer is required, he shall be thereby exempted from attend- Ib., s. 10. ing therein until ten days after the termination of the session then being held,

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

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

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

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

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

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.

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 10 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.

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 15 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.

15. On any such application for an exemption from attendance being made 20 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 25 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 30 such Court or Judge may think fit.

- 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 35 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 40 conditions following:-
  - (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 45 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 mem- 50 ber 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.

(2.) When such member or officer shall be in attendance on Parliament, and When member or 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 must apply to during a session of Parliament or within thirty days thereafter, then such member or officer shall apply to the Speaker of the Council or to procure an House of which he is member or officer for a certificate entitling him to an adjournment of such trial or hearing.

officer in attendance on Parliament, he Speaker for certificate entitling him 1872, No. 73, s. 3.

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.

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.

17. The Court in which such civil proceedings shall be pending shall, in either Power of Court in of the above-mentioned cases, cause the trial or hearing of such proceedings to which proceedings 25 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.

Provided, however, that, in the case provided for by the first subsection of Proviso. section sixteen, the Court may make the same inquiries as the Speaker of either 30 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.

18. Nothing in this Act contained shall be construed to limit or abridge in Members may attend 35 any respect the power of the Legislative Council or of the House of Representa-Council or House of Council or House. tives to give leave to any of the members or officers of either House respectively 1866, No. 73, s. 13. 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.

And 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.

19. It shall be the duty of all Courts, Judges, and Justices, and all other Court to take judicial persons, to take judicial notice of the signatures of the Speaker of the Legislative notice of signature of Speaker. 45 Council, and the Speaker of the House of Representatives, when affixed to any Ib., s. 11. certificate granted under this Act.

20. If any person shall serve or cause to be served any summons or process Service of process of issued out of any Court not of record, other than a summons or warrant on a Courts not of record to be void. charge of felony or misdemeanour, upon any such member or officer as aforesaid, Ib., s. 12. Electua or for such member or officer, by sending, leaving, or delivering the same in any 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.

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#### PRIVATE ESTATE BILLS.

Allegation of petition. 1867, No. 17, s. 3.

Copy petition and proposed Bill may be filed in Supreme Court. Ib., s. 4.

Judge may direct how inquiry to be carried on, &c. 1867, No. 17, s. 5.

Judge may hear evidence. Ib., s. 6.

Judge may cause jury to be summoned. Ib., s. 7.

Judge to report or certify facts found. Ib,, s. 8.

And whether legislation requisite and proposed Act suitable to effect its objects. Ib., s. 9.

21. Every petition for and preamble to a Private Estate Bill shall contain an allegation that the objects of the proposed Bill are not attainable otherwise than by legislation.

22. At any time within one month after the publication in the Gazette, and in a newspaper published in the provincial district in which any estate the subject of or to be affected by an intended application to the General Assembly for a Private Estate Bill shall be situated, of a notice, signed by one or more of the intending petitioners for such Private Estate Bill, of his or their intention to apply by petition to the General Assembly for the passing of such Private Estate Bill, the person or persons signing such notice may file in the office of 10 the Registrar or one of the Registrars of the Supreme Court of the judicial district in which the hereditaments to be affected by such Private Estate Bill shall be situated a copy of such petition and of the proposed Bill, and may apply to a Judge of the Supreme Court in such judicial district for an order that such inquiry shall be held as is hereinafter provided.

23. Such Judge may thereupon direct how such inquiry shall be carried on. who shall be the parties to such inquiry, and what notices thereof shall be served, and on whom and in what manner such notices shall be served, and shall give such other directions concerning the conduct of the inquiry as may seem to him fit.

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24. Thereupon such Judge, or any other one of the Judges acting in and for the judicial district aforesaid (at such time and place, and in such manner, and upon such proof of notice to parties interested, if any, other than the petitioners as to such Judge shall seem meet), may take and hear evidence, upon oath or affirmation, and either orally or by affidavit, in support of or in opposi- 25 tion to the allegations contained in such petition and in the preamble to such proposed Bill, other than the allegation that the objects of the proposed Bill are not attainable otherwise than by legislation.

25. The Judge to whom any application shall be made for an order for the holding of any such inquiry, or the Judge before whom any inquiry shall be 30 commenced, if he shall think fit, may order that a special jury shall be summoned to attend before him at a convenient time and place, to be by him fixed, to hear the evidence in support of the allegations in such petition and preamble, and the evidence, if any, in opposition thereto; and such jury, subject to the direction of the Judge before whom the evidence is taken, as to the legal effect of such 35 evidence, by special verdict may find or negative the existence of the facts so stated.

If a special jury shall be directed to be summoned, it shall be struck and summoned in like manner as special juries are struck and summoned in civil actions in the Supreme Court.

26. The Judge before whom such evidence shall be taken, or such verdict shall be found as aforesaid, shall, by a report or certificate, under his hand and under the seal of the Supreme Court, addressed to the Speaker of the Legislative Council, report or certify to such Legislative Council the result of the evidence adduced before him if taken without a jury, or the verdict of the jury 45 if such evidence shall have been heard before a jury.

27. The Judge shall also in like manner report or certifiy to the Legislative Council whether or not the objects of the proposed Bill are such as may, in his opinion, be attained by proceedings in the Supreme Court or otherwise than by a special Act of the Legislature, and whether the provisions of the 50 proposed Bill are such as will, if the same be passed into law, effect the proposed objects of such Bill.

Such Judge may, if he shall think fit, request one or more Judges of the Supreme Court to peruse such report or certificate, and to consider so much thereof as shall relate to the objects of the proposed Bill, and may abstain from signing so much of the said report or certificate as shall relate to such objects, 5 unless some Judge whom he shall request to consider the same shall concur with him in and sign so much of the said report or certificate.

28. In the summoning of witnesses, and in the holding of and in all proceeding relating to the inquiry, and in the taking of evidence as aforesaid, the practice and procedure of the Supreme Court, for the time being, relating to 1867, No. 17, s. 10. 10 civil actions shall be followed, so far as they may be found or made applicable to such proceedings.

Jurors and witnesses summoned upon such inquiries, and parties to and parties (having notice) concerned in such inquiries, shall be subject to the same liabilities (except as to costs by persons making no opposition) as jurors, 15 witnesses in, and parties to, and parties (having notice) concerned in the trial of an action in the Supreme Court would be subject to in like cases.

29. No petition for a Private Estate Bill shall be proceeded with unless No petition for and until there shall be filed in the Private Bill Office a report or certificate of Private Estate Bill a Judge of the Supreme Court in the judicial district in which the estate to be until reported upon. 20 affected thereby is situated, addressed as aforesaid, and setting forth that the Ib., s. 11. allegations contained in the petition and in the preamble of the proposed Bill, other than the allegation that the objects of the proposed Bill are not attainable otherwise than by legislation, have been proved before him, or have been found by a jury, as the case may be; and certifying that the objects of the proposed 25 Bill are not attainable otherwise than by legislation.

Rules of Supreme Court, when applicable, to be followed.

### GENERAL PROVISIONS.

30. The necessary number of members of the Legislative Council to con- Quorum of stitute a quorum shall be regulated from time to time by rules or orders of the Legislative Council.

31. The present Clerk of the House of Representatives, so long as he shall hold such office, shall be the Clerk of Parliaments, and whensoever he shall cease to hold the office of Clerk of Parliaments the appointment to such office shall be, as nearly as may be, in accordance with the law and usage of the Imperial Parliament.

32. The Legislative Council and House of Representatives, and any Com- Legislative Council mittee 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 minister oaths. be referred by such Council or House, may respectively administer an oath to 1865, No. 13, s. 6. the witnesses examined before such Council, or House, or Committee.

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Any person examined as aforesaid who shall wilfully give false evidence shall Ib., s. 3. be liable to the penalties of perjury.

33. Every witness sworn and examined under the provisions of this Act has Immunities to 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 40 possessed by or belong to any witness sworn and examined in the Supreme Court.

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

Legislative Council. 1865, No. 20, s. 3.

Appointment of Clerk of Parliaments. 1872, No. 2, ss. 2, 3.

and House of Repre-

1875, No. 20, s. 2.

Repeal. Second Schedule. Schedules.

# SCHEDULES.

## FIRST SCHEDULE.

1866, No. 73. 1878, No. 16. 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.

1861, No. 33.—The Parliamentary Costs Taxation Act, 1861.

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.

1860, No. 1.—The Private Bills Evidence Act, 1860.

1867, No. 17.—The Private Estate Bills Act, 1867.

1865, No. 20.—The Legislative Council Quorum Act, 1865.

1872, No. 2.—The Clerk of Parliaments Act, 1872.

By Authority: George Didsbury, Government Printer, Wellington.-1883.