

No. XXIV.

PRIVILEGES.

AN ACT to declare certain Privileges of Legislative Bodies and Officers of the Government of the Colony and Provinces of New Zealand, to confer certain Powers on the said Legislative Bodies, and to give Protection to Persons employed in the Publication of Papers under the authority of the same. [14th August, 1856.]

Preamble.

WHEREAS it is essential to the due and effectual exercise and discharge of the duties and functions of the several Legislative Bodies in the Colony of New Zealand, and of the officers of the Government of the said Colony and of the several Provinces thereof, that certain of the privileges immunities and powers of the said Legislative Bodies and of the said officers should be defined and declared by Legislative enactment: And whereas it is also essential for the objects aforesaid that certain powers should be conferred on the said Legislative Bodies, and that no obstruction or impediment should exist to the publication of such of the reports papers votes and proceedings of the said Legislative Bodies as they shall respectively deem fit or necessary to be published:

BE IT THEREFORE DECLARED AND ENACTED by the General Assembly of New Zealand as follows:—

Persons refusing to obey Speaker liable to a penalty.

1. The Speaker of any such Legislative Body, acting under a standing or special order of the Legislative Body over which he presides, hath and hereafter shall have power to direct all such proceedings as he may consider essential to the maintenance of order within such Legislative Body during the sittings thereof, and if any person, whether a Member of such Legislative Body or not, being within the place of assembling of any such Legislative Body, shall refuse or neglect to obey the order of the Speaker, or shall otherwise wilfully disturb the said Legislative Body, he may by warrant of the Speaker be forthwith

*Privileges.*

forthwith committed to the custody of the Sergeant-at-Arms or other officer of such Legislative Body who may be appointed in that behalf, and such person so offending shall be liable to pay such penalty, not exceeding twenty pounds, as shall be imposed by such Legislative Body, and in default of payment thereof shall be liable to be imprisoned in some common gaol or other convenient place to be named by the Speaker, for any period not exceeding one month, to be fixed by such Legislative Body, or until such fine shall be paid.

2. The two Houses of the General Assembly shall severally have power, by the warrant of the Speakers thereof respectively, to require all persons whomsoever, except the Governor, to attend such House or any Committee of the same for the purpose of giving evidence, and also to require all public officers of the Colony (except the Governor) and all public officers of any Province thereof to produce any books papers and documents relating to the public service.

Powers of the two Houses of the General Assembly to compel attendance to give evidence.

3. The Provincial Councils of the Provinces of New Zealand shall severally have power, by warrant of the Speakers thereof respectively, to require all persons whomsoever within any such Province, except the Governor, the Judges of the Supreme Court, the Members of the Executive Council of the Colony, the Members of the General Assembly, and the Superintendents of Provinces, to attend such Provincial Council, or any Committee of the same, for the purpose of giving evidence on any matter relating to the public service of the Province, and also to require all such persons within such Province, except as aforesaid, to produce any books papers and documents relating to the public service thereof: Provided that no such attendance before such Council or Committee shall be required to continue beyond a longer period than six consecutive days during any one Session.

Power of Provincial Council to compel attendance of persons to give evidence &c.

4. Any person refusing or neglecting to obey any such warrant as aforesaid, to attend or to produce such papers as aforesaid, or to answer any questions pertinent to the matter in question put to him by such Legislative Body or Committee, shall be liable, unless some reasonable cause shall be shown, to such penalty not exceeding twenty pounds as shall be imposed by such Legislative Body, and in default of payment thereof may be committed to a common gaol or other convenient place to be named by the Speaker for a period not exceeding one month, to be fixed by such Legislative Body, or until such fine shall be paid: Provided always that such person's attendance as a witness or a juror in any Court of Justice, after having been duly required to attend by lawful process, shall (amongst others) be deemed a reasonable excuse, and no person shall be compelled to answer any question to which an answer could not be required from a witness on examination in the Supreme Court: Provided also that every person who shall attend to give evidence in obedience to any such warrant shall be entitled to receive expenses equal in amount to those allowed to witnesses under like circumstances by the Supreme Court.

Persons refusing or neglecting to obey warrant liable to penalty.

5. Nothing in the foregoing provisions of this Act shall apply to any officer or other person serving on full pay in Her Majesty's Army or Navy, unless such officer or other person shall hold some civil appointments in the Colony, and the purposes for which the said provisions are enforced shall have reference to the civil government thereof.

Nothing in these provisions to apply to officers of the Army or Navy.

6. All words spoken by any Member of any Legislative Body in his place therein or in any Committee thereof, and all words spoken by any person in evidence before any such Legislative Body or any Committee of the same, and all words spoken by the Superintendent of any Province in addressing any Provincial Council, and all written communications from any officer of the Government of the Colony,

Members or persons giving evidence and officers of Government not liable to actions for libel in certain cases.

*Privileges.*

or of any Province thereof, to any other person whomsoever, on or relating to the public service of the said Colony or of such Province, shall be taken and deemed to be words spoken or communications written under privilege, and no such person shall be liable to any action suit prosecution or other proceeding for libel or scandal on account of such words or communications, in any Court of Law, unless it shall be proved that the same were spoken or written without probable cause, and that the person speaking or writing the same was actuated by malice towards the person affected thereby, or if it shall be proved that the same were substantially true.

Act to be deemed in force from proclamation of Constitution Act.

7. The privileges and immunities hereinbefore declared or conferred shall be deemed to have existed in full force from the date of the proclamation of the Constitution Act within the said Colony, and no person shall be liable to any action suit prosecution or other legal proceedings in respect of any communication or words written or spoken by him which are declared to be privileged by this Act; and all actions suits prosecutions or other legal proceedings which have been brought or commenced in respect of any such communications or words shall forthwith abate and discontinue, and no execution or other proceedings shall be allowed to issue or be taken in respect thereof: Provided always that the plaintiff in any such action suit prosecution or other proceedings so abating or being discontinued by virtue hereof as aforesaid, shall be entitled to his taxed costs up to the day of such abatement or discontinuance.

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

8. It shall be lawful for any person who now is or hereafter shall be a defendant in any civil or criminal proceeding commenced or prosecuted in any manner soever for or on account or in respect of the publication of any report paper votes or proceedings by such person or by his servant, or by or under the authority of any such Legislative Body, to bring before the Court in which such proceeding shall have been or shall be so commenced or prosecuted, or before any Judge of the same, first giving twenty-four hours' notice of his intention so to do to the prosecutor or plaintiff in such proceeding, or to his solicitor, a certificate under the hand of the Speaker of such Legislative Body, 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 Legislative Body, together with an affidavit verifying such certificate, and such Court or Judge shall thereupon immediately stay such civil or criminal proceeding, and the same and every writ or process issued therein shall be and shall be deemed and taken to be finally put an end to determined and superseded by virtue of this Act.

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

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

In proceedings for printing any extract or abstract of any report &c. if shown that such extract or abstract was *bond*

10. It shall be lawful, in any civil or criminal proceeding heretofore or to be hereafter commenced or prosecuted for printing any extract from or abstract of any such report paper votes or proceedings, to give in evidence under the general issue such report paper votes or proceedings,

*Customs Duties.*

proceedings, and to show that such extract or abstract was published *bonâ fide* and without malice, and if such shall be the opinion of the jury, a verdict of not guilty shall be entered for such defendant.

*fide* made, defendant entitled to verdict of not guilty.

11. All Members of the Executive Council of the Colony, and all Superintendents of Provinces, shall be exempt from serving on any jury whatever, and all Members of the General Assembly shall be exempt from serving on any jury and from attending any Court of Justice as a witness during any Session of the General Assembly, and during such time as shall be reasonably required for going to or returning from the place of meeting of such Assembly, to attend any Session thereof.

Exemption from serving on juries and attendance as a witness or juror during Session.

12. Nothing in this Act contained shall be deemed taken held or construed, directly or indirectly, by implication or otherwise, to restrict in any manner whatsoever the privileges or immunities of any such Legislative Body, or of any person or persons not expressly named in this Act.

Act not to affect privileges of any Legislative Body or other persons.

13. The word "Governor" shall mean the person for the time being lawfully administering the Government of the Colony; the word "Officer of the Government," when referable to any Province, shall be deemed to include the Superintendent of such Province; the words "Legislative Body" shall be taken to include the Legislative Council, the House of Representatives, and the several Provincial Councils now or hereafter existing within the Colony; and words importing the masculine gender only, shall include females.

Interpretation of words "Governor," "Legislative Body," &c.

14. This Act may be cited for all purposes as "*The Privileges Act, 1856.*"

Short Title.