

CHAPTER 9

PARLIAMENT (PRIVILEGES, IMMUNITIES AND POWERS) 1963-6

This Act came into operation on 9th April, 1964.

Amended by:

1964-15

1967/168

Guide to symbols in historical notes:

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument

CHAPTER 9

PARLIAMENT (PRIVILEGES, IMMUNITIES AND POWERS) 1963-6

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**BARBADOS**

PARLIAMENT (PRIVILEGES, IMMUNITIES AND POWERS)

1963-6

An Act to determine and regulate the powers, privileges and immunities of both Houses of Parliament, and of the members thereof; to regulate the conduct of members and other persons in connection with the proceedings thereof; to give protection to persons employed in the publication of the reports and other papers of Parliament; to regulate admittance to the precincts of Parliament; and for purposes incidental to the matters aforesaid.

[Commencement: 9th April, 1964]

Short title

1. This Act may be cited as the Parliament (Privileges, Immunities and Powers) Act.

PART I

PRELIMINARY

Interpretation

2. For the purposes of this Act, the expression—

“Clerk” means—

- (a) in relation to the Senate, the Clerk of the Senate;
- (b) in relation to the House of Assembly, the Clerk of the House of Assembly;

“committee” means any select, sessional, special, standing or other committee of either House or joint committee;

“joint committee” means any committee composed of members of both Houses appointed by corresponding orders of both Houses;

“meeting” means any sitting or sittings of a House commencing when the House first meets after being summoned at any time and terminating when the House is adjourned *sine die* or at the conclusion of a session;

“member” means a member of either House;

“officer of the House” means any person who may from time to time be appointed to the staff of the House, whether permanently or temporarily and includes the Clerk and any police officer on duty within the precincts of either House;

“order of a House” includes the standing orders of that House;

“police officer” means a member of the Police Force;

“President” includes the Deputy President and any member for the time being presiding over the Senate under the provisions of section 51 of the Constitution;

[1967/168]

“Speaker” includes the Deputy Speaker and any member for the time being presiding over the House of Assembly;

[1967/168]

“standing orders” means the standing orders of the House of Assembly or the Senate, as the case may be;

“stranger” means, in relation to each House, any person other than a member or an officer of that House.

PART II IMMUNITIES

President, Speaker and officers not subject to jurisdiction of courts

3. Neither the President, the Speaker nor any officer of either House shall be subject to the jurisdiction of any court in respect of the exercise of any power conferred on or vested in the President, the Speaker or such officer by or under this Act, any other law in force in the Island or any order of the House of Assembly.

[1967/168]

Immunity of member in respect of statements, etc., in Parliament

4. No civil or criminal proceedings may be instituted against any member—

- (a) in respect of words spoken before; or
- (b) in respect of words written in a report to; or
- (c) by reason of any matter or thing brought by petition, bill, motion or otherwise, before the House to which he belongs, or to a committee thereof, or a joint committee.

Immunity of member from arrest on civil process

5.(1) No member shall, during a session, be liable to arrest or imprisonment on any civil process, except for a debt the contraction of which constitutes a criminal offence.

(2) When a member of either House is—

- (a) arrested or detained in custody upon the warrant or order of a court; or
- (b) sentenced by a court to a term of imprisonment,

the court shall, as soon as practicable, inform the President or the Speaker, as the case may be.

Immunity of persons acting under authority of either House

6. No person shall be liable for any act done under the authority of either House and within its legal powers or under any warrant issued by virtue of those powers.

Exemption of members, etc., from jury service, etc.

7.(1) It shall not be lawful to require any member or any officer of either House—

- (a) to serve on any jury or as an assessor in any court; or
- (b) during a sitting of the House of which he is a member or an officer, as the case may be, or on any day on which a committee of which he is a member or which he is required to attend as such officer, as the case may be, is sitting, to attend as a witness in any civil proceedings in a court or at any commission of enquiry or before any like authority empowered to summon witnesses.

(2) The production of a certificate signed by the President or the Speaker, as the case may be, shall be deemed sufficient proof of attendance on the Senate or the House of Assembly respectively.

PART III

SUMMONING AND EXAMINATION OF WITNESSES

Houses or committees may summon witnesses

8. Either House or any committee authorised by an order of the House by which it was appointed or any joint committee authorised by an order of each House to send for persons, papers and records, may order any person—

- (a) to attend before it and to give evidence;
- (b) to attend before it and produce any paper, book, record or other document in the possession or under the control of such person.

Service of summons

9.(1) Any order to attend to give evidence or produce documents before either House or before a committee (including a joint committee) in accordance with section 8 shall be notified to the person required to attend or to produce documents by a summons under the hand of the Clerk, or the chairman of the committee, as the case may be.

(2) In every summons issued in accordance with subsection (1) there shall be stated the time when and the place where the person summoned is required to attend and the document which he is required to produce.

(3) Every such summons shall be served by delivering it to the person to whom it is directed:

Provided that the President or the Speaker, as the case may be, may, if he is satisfied that for any reason personal service of a summons cannot be effected, order that service be effected by forwarding the same by registered post addressed to the person to whom it is directed at his last known place of abode or business.

(4) A summons issued in accordance with this section may be served—

- (a) when issued from a House, by an officer of that House;

- (b) when issued from a committee, by an officer of the House or Houses by which the committee was appointed,

or by a police officer.

(5) There shall be paid or tendered to any person summoned under this section, if he does not reside within four miles of the place of attendance specified in the summons, such sum for his expenses as may be authorised by order of the House concerned.

Issue of warrant if person evades service of summons or refuses to attend

10.(1) If a person to whom a summons under section 9 is directed does not attend before the House or the committee at the time and place mentioned therein, the appropriate authority may, upon being satisfied that the summons was duly served or that the person to whom the summons is directed wilfully avoids service, issue a warrant to apprehend him and bring him, at a time and place to be stated in the warrant, before the House or the committee.

(2) A warrant issued under this section shall be executed by a police officer.

(3) The appropriate authority, on issuing a warrant under this section, may, if he thinks fit, by ordering an appropriate endorsement on the warrant, direct that the person mentioned in the warrant be released after arrest upon his entering into such a recognisance as may be required in the endorsement before a magistrate's court conditioned for his appearance before the House or the committee, as the case may be.

(4) For the purposes of this section the appropriate authority shall be—

- (a) in the case of a summons issued for the attendance of a person before either House or a committee thereof (other than a joint committee), the President or the Speaker, as the case may be;
- (b) in the case of a summons issued for the attendance of a person before a joint committee, either the President or the Speaker.

Witnesses may be examined on oath

11. Either House or any committee authorised to send for persons, papers and records may require that any facts, matters and things relating to the subject of enquiry before the House or such committee be verified or otherwise ascertained by the oral examination of witnesses, and may cause any such witnesses to be examined upon oath, which, in the case of either House, the Clerk, or in the case of a committee, the chairman or clerk attending the committee is hereby authorised to administer.

Recalcitrant witnesses

12.(1) When a person attending before either House or a committee pursuant to a summons issued under section 9, or brought before a House or committee by virtue of a warrant issued under section 10, refuses to answer any questions put by the House or committee, or to produce any paper, book, record or other document which he has been required to produce by an order made under section 8 (such person being in this section referred to as “ the witness ”), and in the opinion of the President, the Speaker or the chairman, as the case may be—

- (a) such question, paper, book, record or other document is material to the subject of the enquiry of the House or the committee; and
- (b) no privilege exists in relation to such question, paper, book, record or other document under section 13,

the President, Speaker or chairman, as the case may be, may refer such refusal to the High Court.

(2) The Registrar of the Supreme Court shall fix a date for the consideration by the High Court at the earliest opportunity of any reference made under this section, and shall cause notice of the date so fixed to be given to the Clerk of the House or Houses concerned and to the witness.

- (3) Upon consideration of a reference made under this section and—
- (a) upon proof by affidavit or otherwise of the relevant facts; and

- (b) after giving the witness an opportunity of showing cause why an order should not be made against him under this subsection,

the High Court may make an order that the witness answer the question, or produce such paper, or other document, either forthwith or within such time as may be specified in the order.

(4) Any person who fails, without lawful excuse, to comply with an order made under subsection (3) shall be guilty of contempt of court and may be proceeded against and punished accordingly.

(5) Rules of Court may be made by the Chief Justice for the purpose of regulating the practice and procedure relating to the consideration by the High Court of references made under this section, and such rules may—

- (a) prescribe the matters required to be set forth in any affidavit made for the purpose of this section and the person who shall depose to the facts contained in any such affidavit;
- (b) prescribe the manner in which proof shall be given of the facts relevant to the subject-matter of any reference made under this section.

PART IV

PRIVILEGES AND PROTECTION

Privileges of witnesses and privileged evidence

13.(1) Every person summoned to attend, to give evidence or to produce any paper, book, record or document before either House or a committee shall be entitled, in respect of such evidence or the disclosure of any communication or the production of any such paper, book, record or document, to the same right or privilege as before the Supreme Court.

(2) No public officer, except with the consent of the Governor-General, shall be required—

(a) to produce before either House or a committee any paper, book, record or other document; or

(b) to give before either House or a committee any evidence on any matter,

if such paper, book, record or other document or such evidence is stated by the public officer to form part of or to relate to the unpublished official records of any naval, military, air force or civil department, or to relate to any affairs of State nor shall evidence on such matter or of the contents of any such paper, book, record or other document be given by any other witness or in any other manner.

Evidence of witnesses before House or committee privileged

14.(1) Subject to subsection (3), a person who gives evidence before either House or a committee shall not be liable to any civil or criminal proceedings by reason of anything which he may have said in such evidence.

(2) Except in proceedings referred to in subsection (3), no statement made by any person in evidence given before either House or a committee shall be admissible in evidence against that person in any civil or criminal proceedings.

(3) Nothing in the preceding provisions of this section shall be construed to prevent the institution or maintenance of any proceedings against any person for an offence under section 20 or section 21.

Evidence of proceedings before House or committee not admissible except with consent of President or Speaker

15. No evidence relating to any of the following matters, that is to say—

(a) debates or proceedings in either House;

- (b) the contents of the minutes of evidence taken or any document laid before either House or a committee or any proceedings of or before, or any examination had before, either House or any such committee,

shall be admissible in any proceedings before a court or person authorised by law to take evidence unless the court or such last-mentioned person is satisfied that permission has been given—

- (a) in the case of either House or a committee thereof (other than a joint committee), by the President or the Speaker, as the case may be;
- (b) in the case of a joint committee, by either the President or the Speaker,

for such evidence to be given.

Protection of person responsible for publications authorised by House

16. Any person, being a defendant in any civil or criminal proceedings instituted for or on account or in respect of the publication by such person or by his servant, by order or under the authority of either House, of any report, papers, minutes, votes or proceedings, may, on giving to the plaintiff or prosecutor (as the case may be) twenty-four hours written notice of his intention, bring before the court in which such civil or criminal proceedings are being held a certificate under the hand of the President, or the Speaker, as the case may be, or of the Clerk stating that the reports, papers, minutes, votes or proceedings in respect whereof such civil or criminal proceedings have been instituted were published by such person or by his servant by order or under the authority of the House, with an affidavit verifying such certificate and such court shall thereupon immediately stay such civil or criminal proceedings and the same and every process issued therein shall be deemed to be finally determined.

Protection of persons publishing extracts of proceedings, etc., *bona fide*

17. In any civil or criminal proceedings instituted for publishing any extract from or abstract of any report, papers, minutes, votes or proceedings of either House, other than proceedings instituted for publishing any such extract

or abstract contrary to the provisions of this Act, if the court or jury, as the case may be, is satisfied that such extract or abstract was published *bona fide* without malice, judgment shall be entered for the defendant, or the accused shall be acquitted, as the case may be.

Proceedings, etc., published in *Official Gazette* admissible in evidence

18. Upon any enquiry touching the privileges, immunities, and powers of either House or any member, any copy of the minutes or proceedings of the House published in the *Official Gazette* shall be admitted as evidence of such minutes or proceedings in all courts and places.

PART V

OFFENCES BY WITNESSES

Witnesses failing to attend, or refusing to answer questions or produce documents, etc., guilty of an offence

- 19.** Any person who—
- (a) fails without reasonable excuse, the proof whereof shall be upon him, to attend before either House or a committee when so required by an order made under the provisions of section 8; or
 - (b) refuses to be examined before, or to answer any questions put by, the House or a committee, or to produce any paper, book, record or other document which he has been required to produce by an order made under the provisions of section 8, unless such question or paper, book, record or other document is not, in the opinion of the President, the Speaker or the chairman of the committee, as the case may be, material to the subject of the enquiry of the House or committee or such refusal is allowed under the provisions of section 13,

is guilty of an offence and liable on conviction thereof by a magistrate's court to a fine of one hundred and twenty dollars or to imprisonment for three months, or to both such fine and imprisonment.

Making false statements to House, or committee an offence

20. Any person who in the course of giving evidence before either House or a committee wilfully makes a statement material to the subject of the enquiry of the House or committee knowing the statement to be false or not believing it to be true, is, if the statement was made otherwise than on oath, guilty of an offence and liable on conviction thereof by a magistrate's court to a fine of five hundred dollars or to imprisonment for twelve months, or to both such fine and imprisonment.

Presenting false documents to House or committee an offence

21. Any person who presents to either House or a committee any false, untrue, fabricated or falsified document with intent to deceive the House or committee is guilty of an offence and liable on conviction thereof by a magistrate's court to a fine of five hundred dollars or to imprisonment for twelve months or to both such fine and imprisonment.

PART VI

RIGHTS OF AND OFFENCES BY STRANGERS

Restrictions on rights of strangers to enter either House

22.(1) No stranger shall be entitled to enter or remain within either House or the precincts of either House without the authority of the President, or the Speaker, as the case may be.

(2) The President, in the case of the Senate, and the Speaker in the case of the House of Assembly, may at any time order any stranger to withdraw from the House or from the precincts of the House, and if any such person fails to obey such order he may be forcibly removed from the House or from the precincts of

the House by any officer of the House and no proceedings shall lie in any court against the President, or the Speaker, as the case may be, or against such officer in respect of such removal.

(3) Nothing in this section shall be construed so as to prevent any member from going to or coming from the House or the precincts of the House of which he is a member.

Offences by strangers with respect to right of entry into House

23. Any person who—

- (a) being a stranger enters either House or the precincts of that House without permission duly granted under the authority of the President or the Speaker, as the case may be, contrary to the provisions of section 22, or being therein with such permission refuses to leave at the order of the President or the Speaker, as the case may be; or
- (b) being admitted to either House or to the precincts of that House as a stranger contravenes any rule made by the President or the Speaker, as the case may be, under any standing orders of the House in question relating to the admission of strangers; or
- (c) attends any sitting of either House as a representative of any journal after a general permission granted under any standing orders of that House to the representative or representatives of that journal has been revoked,

is guilty of an offence and liable on conviction thereof by a magistrate's court to a fine of one hundred and twenty dollars or to imprisonment for three months or to both such fine and imprisonment.

Offences by strangers with respect to interference with members or privileges of House

24. Any stranger who—

- (a) assaults, hinders, obstructs or insults any member coming to, going from or being within the House or the precincts of the House to which the member belongs; or
- (b) interferes with, resists or obstructs any officer of either House while in the execution of his duty; or
- (c) creates or joins in any disturbance which interrupts or is liable to interrupt the proceedings of either House while it is sitting,

is guilty of an offence and liable on conviction thereof by a magistrate's court to a fine of two hundred and fifty dollars or to imprisonment for six months or to both such fine and imprisonment.

Arrest of persons committing offences against sections 23 and 24

25.(1) An officer of either House may, without an order from a court and without a warrant, arrest—

- (a) any person who commits, in relation to the House of which he is an officer, an offence contrary to section 23 or section 24 in his presence;
- (b) any person within the House or the precincts of the House of which he is an officer whom he reasonably suspects of having committed an offence contrary to either of the said sections.

(2) Any person arrested under this section may be kept in custody within the precincts of the House until the President or the Speaker, as the case may be, orders his release but no such person shall be kept in custody after the termination of the sitting of the House during which he was arrested.

PART VII
CONDUCT OF MEMBERS

Acts constituting contempt by members

- 26.** Any member who—
- (a) being a member of a committee, publishes to any person not being a member of the House or Houses by which the committee was appointed any evidence taken by the committee before it has been reported to that House or both Houses, as the case may be; or
 - (b) assaults or obstructs any officer of the House to which he belongs while in the execution of his duty; or
 - (c) is convicted of any offence under this Act, is guilty of contempt of the House to which he belongs.

Suspension of member guilty of contempt

27. Where any member is guilty of contempt under this Act, the House may order such member to be reprimanded by the President or the Speaker, as the case may be, or suspend him from the service of the House for such period as it may determine; but such period shall not extend beyond the last day of the meeting next following that in which the resolution is passed, or of the session in which the resolution is passed, whichever first occurs.

No salary payable during period of suspension

28. No salary or allowance payable to a member for his service as such shall be paid in respect of any period during which he is suspended under this Act from the service of the House to which he belongs.

Saving

29. Nothing in sections 26, 27 or 28 shall be construed so as to preclude the bringing of proceedings, civil or criminal, against any member in respect of any act or thing done contrary to paragraph (b) of section 26.

Members to disclose interest before entering discussion

30.(1) A member shall not in or before the House to which he belongs take part in the discussion of any matter in which he has a direct pecuniary interest nor vote on any such matter without disclosing the extent of that interest.

(2) Any member who acts in contravention of this section may be adjudged guilty of contempt by the House and is liable to the penalties provided in this Act for such contempt.

Suspended member excluded from House

31. A member who has been suspended from the service of the House to which he belongs shall not enter or remain within the House or the precincts of the House while such suspension remains in force, and, if any such member is found within the House or the precincts of the House in contravention of this section, he may be forcibly removed therefrom by any officer of the House and no proceedings shall lie in any court against such officer in respect of such removal.

Member seeking or accepting bribes commits an offence

32. Any member who accepts or obtains or attempts to obtain for himself or for any other person any bribe, fee, compensation, gift, reward or benefit of any kind for speaking, voting or acting as such member or for refraining from so speaking, voting or acting or on account of his having so spoken, voted or acted or having so refrained is guilty of an offence and liable on conviction thereof by a magistrate's court to a fine of one thousand dollars or to imprisonment for two years or to both such fine and imprisonment, and, in addition, shall forfeit the

amount of the value of the bribe, fee, compensation, gift, reward or benefit accepted or received by him.

PART VIII
OTHER OFFENCES

Bribery of, violence or threats to, a member an offence

- 33.** Any person who—
- (a) offers to any member any bribe, fee, compensation, gift or reward or benefit of any kind for speaking, voting or acting as such member or for refraining from so speaking, voting or acting or on account of his having so spoken, voted or acted or having so refrained; or
 - (b) makes use of or threatens to make use of any force, violence or restraint or inflicts or threatens to inflict any temporal or spiritual injury, damage, harm or loss upon or against a member—
 - (i) with the intent thereby to influence such member in the manner in which he discharges his functions as a member in the House to which he belongs or in any committee thereof; or
 - (ii) on account of the manner in which he had discharged his functions as a member in the House to which he belongs or in any committee thereof,

is guilty of an offence and liable on conviction thereof by a magistrate's court to a fine of one thousand dollars or to imprisonment for two years or to both such fine and imprisonment.

Defamatory, misleading or prohibited publications—offences

- 34.(1)** Any person who—
- (a) publishes any statement, whether in writing or otherwise, which falsely or scandalously defames either House or any committee, or which

reflects on the character of the President or the Speaker or the chairman of a committee in the discharge of his duty as such; or

- (b) publishes any writing containing a gross, wilful or scandalous misrepresentation of the proceedings of either House or any committee thereof or of the speech of any member in the proceedings of either House or any committee thereof; or
- (c) publishes any writing containing any false or scandalous libel on any member touching his conduct as a member; or
- (d) publishes to any person other than a member of the House by which a committee was appointed, or in the case of a joint committee, other than a member of either House, any report of the committee or of any evidence given before or any documents presented to the committee or any extract from such documents, before such committee has presented its report to the House or Houses by which the committee was appointed; or
- (e) publishes any report or statements purporting to be a report of the proceedings of either House in any case—
 - (i) where such proceedings have been conducted after exclusion of the public by order of the House; or
 - (ii) where such publication has been expressly prohibited by order of the House,

is guilty of an offence and liable on conviction thereof by a magistrate's court to a fine of one thousand dollars or to imprisonment for twelve months or to both such fine and imprisonment.

(2) In this section, the expression “publish”, in relation to any writing, means exhibiting in public or causing to be read or seen or showing or delivering, or causing to be shown or delivered, with intent that the writing may be read or seen by any person.

Unauthorised printing of Acts, etc., an offence

35. Any person who prints or causes to be printed a copy of any Act now or hereafter in force, or a copy of any report, paper, minutes or votes or proceedings of either House or a committee as purporting to have been printed at the Government Printer or by or under the authority of either House or by or under the authority of the President or the Speaker, and the same is not so printed, or shall tender in evidence any such copy as purporting to be so printed knowing that the same was not so printed, is guilty of an offence and liable upon conviction thereof by a magistrate's court to a fine of five hundred dollars or to imprisonment for twelve months or to both such fine and imprisonment.

PART IX

MISCELLANEOUS

Powers of President and Speaker under Act supplemental

36. The powers of the President or the Speaker under this Act are supplemental to any powers conferred on him by any law for the time being in force in the Island or by standing orders.

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Speaker to act notwithstanding dissolution of House of Assembly

37. For the purposes of this Act, it shall be lawful for the person who fills the office of Speaker at the time of dissolution of the House of Assembly to exercise all the powers conferred by this Act on the Speaker until the House of Assembly is again summoned or until another person has been elected as Speaker.

No prosecution without consent of the Director of Public Prosecutions

38.(1) No prosecution for an offence under this Act shall be instituted—

- (a) unless the matter giving rise to the prosecution has been reported to the Director of Public Prosecutions, in the case of a matter relating to the Senate, by the President, and in the case of a matter relating to the House of Assembly, by the Speaker; or
- (b) except by or on behalf of the Director of Public Prosecutions.

(2) A certificate under the hand of the Director of Public Prosecutions that the requirement of paragraph (a) of subsection (1) has been complied with shall be conclusive evidence of the fact of such compliance.