

New Zealand.

ANNO TRICESIMO

V I C T O R I Æ R E G I N Æ .

No. 73.

ANALYSIS.

<p>Title. Preamble. 1. Short Title. 2. Construction. 3. Member and Officers of Assembly may apply before Session to Court for exemption from attendance therein. 4. Members and Officers bound by recognizance may apply for exemption. 5. Duty of Court to make inquiry and grant exemption. 6. Speaker in attendance on Parliament exempted from attendance on Courts.</p>	<p>7. Member of Assembly may apply during Session to Speaker for exemption from attendance in civil Courts. 8. Member and Officers bound by recognizance may apply for exemption. 9. Speaker to make inquiry and grant certificate. 10. Effect of certificate. 11. Service of process of Courts not of record to be void. 12. Court to take judicial notice of signature of Speaker. 13. Members may attend Court by leave of Council or House. Schedule.</p>
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AN ACT to exempt Members of the General Assembly from attendance in certain cases in Courts of Law. Title.

[8th October 1866.]

WHEREAS compelling Members of the General Assembly and certain Officers thereof to absent themselves from attendance on Parliament in obedience to the process of Courts of Law may in certain cases be very prejudicial to the public service and from the great distance from the Seat of Government at which many of the said Courts are held attendance therein may subject such Members and Officers to much personal inconvenience and expense And whereas such attendance may often be dispensed with or postponed without prejudice to the due administration of justice Preamble.

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

I. The Short Title of this Act shall be “The Privileges Act 1866.” Short Title.

II. The term “Speaker” shall include the person for the time being acting in that capacity the term “Court of Record” shall include the Court of Appeal the Supreme Court the Court of Vice-Admiralty and District Courts and no other Court and the word “process” shall include every writ summons and subpoena. Construction.

III. Whenever any Member of the Legislative Council or any Member of the House of Representatives or any of the Officers specified in the Schedule to this Act not being in attendance on Parliament shall be required by the process of any Court of Record to attend thereat personally either during any Session of the General Assembly or within ten days before the commencement thereof either as a party or a witness in any civil proceeding or as a witness in any criminal proceeding it shall be lawful for such Member or Officer to apply to Member and Officers of Assembly may apply before Session to Court for exemption from attendance therein.

Supplement to the New Zealand Gazette No. 47, of 17th August, 1866.

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the Court from which such process issued to be exempted from attendance on such Court.

Members and Officers bound by recognizance may apply for exemption.

IV. When any such Member or Officer as aforesaid shall have been bound by recognizance to prosecute or to give evidence at any Sitting of a Circuit Court of the Supreme Court or of any District Court to be holden during any Session of the General Assembly or within ten days before the commencement thereof or ten days after the termination thereof in any case of felony or misdemeanour such Member or Officer may apply for exemption from attendance at such Court to a Judge of the Supreme Court or a Judge of the District Court as the case may be.

Duty of Court to make inquiry and grant exemption.

V. On any such application for an exemption from attendance being made to any such Court as aforesaid 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 as aforesaid such Court or Judge shall order that such Member or Officer shall be discharged from attendance in obedience to such process and in pursuance of such recognizance until the expiration of ten days from the termination of the Session of the General Assembly in respect of which such exemption is claimed and may make order for the attendance of such Member or Officer at the Sitting of such Court at such future date after the expiration of such ten days as such Court or Judge may think fit.

Speaker in attendance on Parliament exempted from attendance on Courts.

VI. Whenever the Speaker of the Legislative Council or the Speaker of the House of Representatives being in attendance on Parliament shall be required by the process of any Court or by recognizance to attend thereat personally either as a party or a witness in any civil proceeding or as a witness or prosecutor in any criminal proceeding he shall submit the matter to the Legislative Council or House of Representatives respectively and such order may be made thereon as the Council or House may think fit and if it be resolved that the Speaker shall be exempted from attendance such resolution shall be presented in like manner and shall have the same effect as the certificate hereinafter mentioned in section ten in respect of any other member not being a Speaker Provided that if the Council or House be under adjournment and it be necessary to act without delay it shall be competent for the Speaker whose attendance is required to sign a certificate to the like effect as is hereinafter provided in section ten in respect of any other member not being a Speaker 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.

Member of Assembly may apply during Session to Speaker for exemption from attendance in civil Courts.

VII. Whenever any Member of the Legislative Council or any Member of the House of Representatives other than the Speakers thereof respectively or any such Officer as aforesaid being in attendance on Parliament shall be required by the process of any Court to attend thereat personally either as a party or a witness in any civil proceeding or as a witness in any criminal proceeding it shall be lawful for such Member or Officer being a Member or Officer of the Legislative Council to apply to the Speaker thereof or being a Member or Officer of the House of Representatives to apply to the Speaker thereof to be exempted from such attendance on such Court.

Member and Officers bound by recognizance may apply for exemption.

VIII. When any such Member or Officer as aforesaid being in attendance on Parliament shall have been bound by recognizance to prosecute or to give evidence at any Sitting of a Circuit Court or of any District Court to be holden during any Session of the General

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Assembly or within ten days before the commencement thereof or ten days after the termination thereof in any case of felony or misdemeanour such Member or Officer of the Legislative Council may apply to the Speaker thereof or being a Member or Officer of the House of Representatives may apply to the Speaker thereof to be exempted from such attendance on such Court.

IX. On any such application to a Speaker as aforesaid unless it shall appear to his satisfaction on such inquiry as he may think fit to make into the circumstances of the case that the ends of public justice would be defeated or injuriously delayed or that irreparable injury would be caused to any party to proceedings in such Court of Record by the non-attendance of such Member or Officer in obedience to such process or in pursuance of such recognizance such Speaker shall grant a certificate under his hand to the effect that the attendance in the General Assembly of the Member or Officer therein named is required during the Session.

Speaker to make inquiry and grant certificate.

X. On such certificate being presented to the Court in which the attendance of such Member or Officer is required he shall be thereby exempted from attending therein until ten days after the termination of the Session then being held 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 seem convenient and just regard being had to such exemption as aforesaid.

Effect of certificate.

XI. If any person shall serve or cause to be served any summons or process issued out of any Court not of Record other than a summons or warrant on a charge of felony or misdemeanour upon any such Member or Officer as aforesaid or for such Member or Officer by sending leaving or delivering the same in any 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.

Service of process of Courts not of record to be void.

XII. It shall be the duty of all Courts Judges and Justices and all other persons to take judicial notice of the signatures of the Speaker of the Legislative Council and the Speaker of the House of Representatives when affixed to any such certificate as aforesaid.

Court to take judicial notice of signature of Speaker.

XIII. Nothing in this Act contained shall be construed to limit or abridge in any respect the power of the Legislative Council or of the House of Representatives to give leave to any of the Members or Officers of either House respectively to attend any Court in respect of which it may appear desirable to the Council or House as the case may be that such leave should be granted Provided always that any Member of either House having obtained leave of absence without any reference to the process of any Court shall so far as regards any Court not being a Court of Record but not as regards a Court of Record be considered as in attendance upon his duties in Parliament.

Members may attend Court by leave of Council or House.

SCHEDULE.

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

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