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CHAPTER 8

POWERS AND PRIVILEGES (SENATE AND HOUSE OF ASSEMBLY)

An Act to amend and consolidate the law relating to the privileges, immunities and powers of the Senate and the House of Assembly and Senators and the Members of the said House, and for purposes incidental thereto or connected therewith.

*10 of 1969
E.L.A.O., 1974
5 of 1987*

[Commencement 17th April, 1969]

PART I PRELIMINARY

1. This Act may be cited as the Powers and Privileges (Senate and House of Assembly) Act. Short title.

2. In this Act, unless the context otherwise requires- Interpretation.

“Chamber” means the Senate or the House or the room where either the Senate or the House is sitting, as the context may require;

“Clerk” or “Assistant Clerk” means any holder for the time being of the office of Clerk or Assistant Clerk of the Senate or of the House, as the case may be;

“committee” includes any committee of the Senate and any standing or sessional or select committee of the House;

“House” means the House of Assembly;

“House of Assembly Chamber” means the room in which the House sits;

“journals” means the minutes of the Senate or of the House or the official records of the votes and proceedings thereof;

“Member” means any member of the House;

“oath” includes any form of declaration or affirmation permitted or prescribed by law to be taken as or in lieu of an oath;

“officer” means officer of the Senate or officer of the House;

“officer of the House” means the Clerk or an Assistant Clerk or any person acting within the Chamber or the precincts of the House under the orders of the Speaker, and includes any peace officer on duty within the Chamber or the precincts of the House;

“officer of the Senate” means the Clerk or an Assistant Clerk or any person acting within the Senate under the orders of the President, and includes any peace officer on duty within the Chamber or the precincts of the Senate;

“precincts” means —

- (a) in respect of the Senate, all the offices, rooms and galleries of the Senate and the places provided for the use or accommodation of members of the public and representatives of the press on, and includes while the Senate is sitting, the staircase leading to the first floor of the building in which the Senate Chamber is situated, but subject to any exceptions made from time to time by the President; and
- (b) in respect of the House, the offices and rooms of the House and the galleries and places provided for the use or accommodation of members of the public and representatives of the press and includes while the House is sitting, but subject to any exemptions made by the Speaker, the entire building in which the House of Assembly Chamber is situated;

“President” means the person for the time being holding or acting in the office of President or the office of Vice-President of the Senate, when acting in the capacity of President or Vice-President;

“Printer to the Senate” and “Printer to the House” mean the persons appointed as such by the President and by the Speaker respectively in accordance with the Rules;

“Rules”, subject to subsection (4) of section 28 and to section 32 of this Act, means Rules of Procedure made by the Senate or the House, as the case may be, under the provisions of Article 55(1) of the Constitution;

“Senate Chamber” means the room in which the Senate sits;

“Speaker” means the person for the time being holding or acting in the office of Speaker or the office of Deputy Speaker of the House, when acting in the capacity of Speaker or Deputy Speaker;

“stranger” means any person who is not a member or officer of the Senate or of the House, as the case may be.

PART II PRIVILEGES AND IMMUNITIES OF SENATORS AND MEMBERS

3. Senators and Members shall have the like privileges and immunities as are enjoyed for the time being in the United Kingdom by members of the Commons House of Parliament, and without derogation from the generality of the privileges and immunities conferred by this section, in particular shall have such privileges and immunities as are provided hereafter in this Act.

General privileges and immunities of Senators and Members.

4. No civil or criminal proceedings may be instituted against any Senator or Member for words spoken before, or written in a report to, the Senate or the House respectively or a committee, or by reason of any matter or thing so brought by him by petition, bill, motion or otherwise.

Freedom of speech.

- 5.** No Senator or Member shall be liable to arrest —
- (a) for any civil debt whilst going to, attending at or returning from any sitting of the Senate or the House respectively or any committee;
 - (b) within the precincts of the Senate or the House while the Senate or the House or a committee is sitting, for any criminal offence, without the consent of the President or the Speaker, as the case may be.

Freedom from arrest.

Restriction on
service of
process.

6. No process issued by any court in the exercise of its jurisdiction shall be served or executed within the precincts of either Chamber while that Chamber is sitting or through the President or any officer of the Senate or the Speaker or any officer of the House.

PART III SUSPENSION OF SENATORS AND MEMBERS

Enforcement of
suspension of
Senators and
Members.

7. A Senator or a Member who has been suspended, under the provisions of any Rules, from the service of the Senate or the House shall not enter or remain within the Senate Chamber or the House of Assembly Chamber, as the case may be, or the precincts thereof whilst such suspension remains in force, and, if any such Senator or Member is found within such Chamber or the precincts thereof in contravention of this section, he may be forcibly removed therefrom by any officer of such Chamber, and no proceedings shall lie against such officer in respect of such removal, provided no more force shall have been used by such officer than is reasonably necessary in the circumstances.

PART IV POWERS OF THE PRESIDENT AND THE SPEAKER

Powers of the
President.

8. The President shall have and exercise such powers as are conferred upon the President by this Act or by any other Act.

Powers of the
Speaker.

9. (1) Subject to the provisions of this Act, the Speaker shall have the like powers as are exercised and held for the time being in the United Kingdom by the Speaker of the Commons House of Parliament and, without derogation from the generality of the powers conferred by this section, in particular shall exercise and have such powers as are provided hereafter in this Act:

Provided that in respect of any matter in relation to which in the United Kingdom any power derives from Standing Orders of the said Commons House of Parliament, the Speaker shall have only such powers as are expressly conferred by any Rules.

(2) Nothing in this section shall be construed as purporting to confer upon the Speaker any power the exercise of which would permit any person to be deprived of his personal liberty save in accordance with the provisions of Article 19 of the Constitution.

10. Neither the President nor the Speaker shall be subject to the jurisdiction of any court in respect of the exercise of any power conferred upon or vested in him under the provisions of this Act or of any Rules.

Courts not to exercise jurisdiction over acts of the President or Speaker.

PART V ADMISSION OF STRANGERS

11. No stranger shall be entitled to enter or to remain within the Senate Chamber or the precincts thereof or the House of Assembly Chamber or the precincts thereof if seating accommodation is not available within that Chamber.

Entry to Senate or House.

12. (1) The President and the Speaker are hereby authorised to issue such orders as each may deem necessary for the regulation of the admission of strangers respectively to the Senate Chamber and the precincts thereof and the House of Assembly Chamber and the precincts thereof.

Orders relating to admission to Senate or House.

(2) Copies of orders made under subsection (1) of this section shall be duly authenticated by the Clerk and exhibited in a conspicuous position in the precincts of the Chamber to which they relate, and such copies when so authenticated and exhibited shall be deemed to be sufficient notice to all persons affected thereby:

Provided that in the case of a temporary order for the exclusion of a stranger under the provisions of this section the President or the Speaker, as the case may be, if he considers the matter to be one of urgency, may issue an oral direction, and such direction shall be lawful and shall be subsequently confirmed in writing as soon as may be, and exhibited in accordance with the provisions of this subsection.

13. (1) Any stranger may be ordered —
(a) by the President, to withdraw from the Senate Chamber, the precincts thereof or both;

Order for withdrawal.

(b) by the Speaker, to withdraw from the House of Assembly Chamber, the precincts thereof or both.

(2) Any stranger who fails forthwith to comply with an order made under the provisions of subsection (1) of this section may be forcibly removed from the Senate Chamber and the precincts thereof, or from the House of Assembly Chamber and the precincts thereof as the order may require, by any officer of the Senate or of the House, as the case may be, and no proceedings shall lie against such officer in respect of such removal, provided that no more force shall have been used by such officer than is reasonably necessary in the circumstances.

PART VI EVIDENCE

Power to issue summons for attendance of a witness.

14. (1) When the attendance of any person is required to give evidence before a Chamber or a committee with regard to any matter, the President or the Speaker, acting upon the resolution of the Chamber in question or, in a case where such evidence is required to be given before a committee, upon the resolution of the committee transmitted through the chairman of such committee, shall inform the Clerk accordingly, and the Clerk shall issue a summons under his hand requiring the attendance of such person at a time and place to be specified in such summons to give evidence of the facts appertaining to such matter or to produce any written or other evidence in his custody:

Provided that no such summons may issue to require the attendance before a Chamber or a committee thereof of a member of the other Chamber:

Provided further that a committee may not require the attendance of witnesses or the production of documents without express authority from the Chamber by which it is appointed signified by resolution.

(2) A summons issued under the provisions of subsection (1) of this section may be served by any officer or by any peace officer and shall be served on the person named therein either by delivering a copy thereof to him or by leaving a copy thereof at his usual or last known place of abode in The Bahamas; and there shall be paid or

tendered to the person so summoned, if he does not live within four miles of the place of attendance specified in the summons, such sum for his expenses as may be prescribed by Rules.

15. Any person appearing before either Chamber or a committee thereof to give evidence may be required by the president if before the Senate, or by the Speaker if before the House, or by the chairman of such committee if before such a committee, to give his evidence on oath, and such oath may be administered to such person by the Clerk or Assistant Clerk.

Witnesses may be examined on oath.

16. An answer by a person to a question put by either Chamber or a committee, or a statement made by a person in evidence before either Chamber or a committee, shall not, except in criminal proceedings under this Act or under section 424 or 427 of the Penal Code, be admissible in evidence against him in any proceedings in a court of law, civil or criminal.

Privilege of witness.

17. Without prejudice to the provisions of section 16 of this Act, no evidence in respect of the contents of minutes of evidence before either Chamber or a committee thereof shall be admissible before a court of law or a person authorised by law to take evidence, unless the court or such person is satisfied that permission has been given by the President or by the Speaker (as the case may require) for such evidence to be given.

Restriction on evidence as to certain matters.

18. Any proceedings before either Chamber or any committee thereof at which any person gives evidence or produces any paper, book, record or document shall be deemed to be judicial proceedings for the purposes of sections 423 and 424 of the Penal Code.

Application of certain provisions of the Penal Code in relation to witnesses.

Ch. 84.

PART VII PUBLICATIONS AND REPORTS

19. Subject to the provisions of this Act, a copy of the Journals of the Commons House of Parliament of the United Kingdom printed or purporting to be printed by order of or by the Printer to the Commons House aforesaid shall be received as *prima facie* evidence without

Commons journals to be *prima facie* evidence in inquiries touching privilege.

proof of its being such a copy upon any inquiry touching the privileges, immunities and powers of either Chamber or any Senator or Member.

Journals printed by the Printer to either Chamber to be admitted as *prima facie* evidence.

20. Upon any inquiry touching the privileges, immunities and powers of either Chamber or of any Senator or Member any copy of the journals printed or purporting to be printed by the Printer to the Senate or by the Printer to the House shall be admitted as *prima facie* evidence of such journals in all courts.

Penalty for printing false copy of Act, journal, etc.

21. Any person who shall print or cause to be printed a copy of any Act now or hereafter in force, or a copy of any report, paper, minutes, votes or proceedings of either Chamber as purporting to have been printed by the Printer to the Senate or the Printer to the House or by order or under the authority of either Chamber or by order or under the authority of the President or the Speaker, and the same is not so printed, shall be guilty of an offence and shall, on summary conviction, be liable to a fine not exceeding three thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Protection of persons responsible for publications of either Chamber.

22. 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 or agent, by order or under the authority of either Chamber, the President or the Speaker, of any reports, papers, minutes, votes or proceedings, may on giving to the plaintiff or the 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, stating that the reports, papers, minutes, votes or proceedings in respect of which such civil or criminal proceedings have been instituted were published by such person or by his servant or agent by order or under the authority of the Senate or the House or the President or the Speaker, together with an affidavit verifying such certificate, and such court shall thereupon immediately stay such civil or criminal proceedings and the same and every process therein shall be deemed to be finally determined.

23. In any civil or criminal proceedings for printing any copy of any report, paper, minutes, votes or proceedings of either Chamber or any summary of, extract from or abstract of any such report, paper, minutes, votes or proceedings, if the court is satisfied that such publication was in substance true and correct or was made in good faith and without malice, judgment or verdict, as the case may be, shall be entered for the defendant or the accused.

Protection of proceedings without malice.

PART VIII OFFENCES

24. Any person who —

- (a) being a stranger, enters or attempts to enter the precincts of either Chamber in contravention of this Act or of any Rules; or
- (b) being a stranger, fails or refuses to withdraw from the precincts of either Chamber when ordered to withdraw therefrom in accordance with the provisions of this Act or any Rules; or
- (c) being a stranger, fails or refuses to comply with a resolution made by a Chamber under section 28 of this Act affecting him,

Offences relating to admission to Chambers.

shall be guilty of an offence and shall on summary conviction be liable to a fine not exceeding six hundred dollars or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

25. Any person who —

- (a) assaults, molests or obstructs any Senator coming to, being within or going from the precincts of the Senate, or any Member coming to, being within or going from the precincts of the House; or
- (b) assaults, interferes with, resists or obstructs any officer of either Chamber while in the execution of his duty; or
- (c) threatens or assaults a Senator, a Member or an officer of either Chamber on account of his conduct as such Senator, Member or officer; or
- (d) creates or joins in any disturbance which interrupts or is likely to interrupt the proceedings of either Chamber or any committee while the Chamber or committee is sitting; or

Assaulting members or officers, creating disturbances or publishing evidence taken in private by committee, etc.

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- (e) commits any gross breach of any Rules; or
 - (f) wilfully damages or attempts to damage —
 - (i) any part of either Chamber or the precincts thereof; or
 - (ii) any books, furniture, fittings, paintings, equipment or other thing (whether similar to the foregoing or not) belonging to, or used or set aside for the purposes of, the Senate or the House or the President or the Speaker or any officer of either Chamber; or
 - (g) without the permission of the President or the Speaker, as the case may be, publishes outside a committee any evidence taken by, or document presented to, that committee, where such evidence has been taken within closed doors, and which has not been reported to the Chamber appointing such committee, or where its publication has been expressly prohibited by such Chamber or the committee; or
 - (h) assaults, molests, obstructs, intimidates or attempts to intimidate any witness required to give evidence before either Chamber or a committee under the provisions of Part VI of this Act, with intent to deter him from giving evidence or to influence the evidence which he shall give, or on account of any evidence which he has given before either Chamber or a committee; or
 - (i) wilfully refuses, without reasonable cause, to attend before either Chamber or a committee, or to take the oath or give evidence or to produce any written or other evidence in his custody when duly required to do so in accordance with the provisions of section 14 or 15 of this Act,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding six hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

Fabricating
documents and
false evidence.

- 26.** Any person who —
- (a) presents to either Chamber or a committee or an officer of either Chamber any false, untrue, fabricated or falsified document, knowing the

same to be false, untrue, fabricated or falsified, with intent to deceive the Chamber or such committee; or

- (b) knowingly gives false evidence (in the case of a witness not examined on oath) as a witness before either Chamber or a committee,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding six hundred dollars or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

27. Any person who —

- (a) offers to any Senator, Member or officer any bribe, in order to influence him in his conduct as such Senator, Member or officer, or offers to any Senator, Member or officer any fee, compensation, gift or reward for or in respect of the promotion of or opposition to any Bill or matter submitted or intended to be submitted to either Chamber or a committee; or
- (b) being a Senator or a Member, accepts or agrees to accept or obtains or attempts to obtain for himself or for any other person any bribe, fee, compensation, reward or benefit of any kind for speaking, voting or acting as such Senator or Member in proceedings of the Senate or the House or a committee, as the case may be, or for refraining from so speaking, voting or acting, or for absenting himself from such proceedings, or on account of his having so spoken, voted, acted, refrained or absented himself; or
- (c) being a Senator or a Member, brings forward, promotes or advocates in the Senate or the House, as the case may be, any proceedings or measure in which he may have acted or been concerned for or in consideration of any pecuniary fee or reward,

Offer or acceptance of bribes.

shall be guilty of an offence and shall be liable on conviction before the Supreme Court upon trial upon information to a fine not exceeding three thousand dollars or to imprisonment for a term not exceeding three years or to both such fine and such imprisonment.

False reports to
be contempt.

28. (1) Subject to the provisions of this section, where it appears to either Chamber, after comparing any report or account of its proceedings published by any person with the official record of those proceedings, that such report or account is a contempt of the Chamber as being false or misleading in a material respect, then such Chamber may punish such contempt by excluding by resolution such person from the precincts of the Chamber for a period not exceeding twelve months from the passing of the resolution.

(2) A Chamber shall not in relation to any person exercise the power of exclusion conferred by subsection (1) of this section in any case where —

(a) it is satisfied that publication of an apology in writing by that person in a form and manner satisfactory to the Chamber would be sufficient to purge the contempt; and

(b) that person so publishes such an apology.

(3) Where a report or account such as is referred to in subsection (1) of this section is published in a newspaper, this section shall have effect in relation to such account or report so as to empower a Chamber, subject to the provisions of subsection (2) of this section, to exclude from the precincts of the Chamber for a period not exceeding that mentioned in the said subsection (1) any person, or, if the Chamber so resolves, all persons, connected with such newspaper or with the publication therein of the report or account in question, as to the Chamber may seem fitting.

(4) Nothing in subsection (1) or (3) of this section shall extend so as to authorise the exclusion from a Chamber of any person, being a member of either Chamber, who publishes any such report or account, or is connected with any such newspaper, as is referred to in that subsection, but instead any such person shall be dealt with in such manner as may be provided for by Rules; and for the avoidance of doubt it is hereby declared that, subject to the provisions of Articles 42, 48 and 53(1) of the Constitution, each Chamber has power to make Rules for that purpose.

(5) In this section the expression —

“newspaper” means any paper containing public news or observations thereon, or consisting wholly or mainly of advertisements, which is published in

The Bahamas either periodically or in parts or numbers at intervals not exceeding thirty-six days;

“official record” in relation to the proceedings of a Chamber means the record of those proceedings made by or under the authority of that Chamber, being a verbatim record, and no other record.

PART IX MISCELLANEOUS

- 29.** No officer shall be subject to the jurisdiction of any court in respect of the lawful exercise of any power conferred upon or vested in him by or under this Act or any Rules or in carrying out any lawful order of the President or the Speaker. Courts not to exercise jurisdiction over acts of officer.
- 30.** Every officer shall, for the purposes of this Act and the Rules and of the application by this Act of the provisions of the Penal Code, have all the powers and enjoy all the privileges of a peace officer. Powers of officers.
Ch. 84.
- 31.** An officer may arrest without warrant — Power of arrest.
- (a) any person who commits an offence contrary to section 24 or 25 of this Act in his presence;
- (b) any person within the precincts of either Chamber whom he reasonably suspects of having committed, or being about to commit, an offence contrary to either of the said sections.
- 32.** Except as may be otherwise provided by Article 55 of the Constitution, the Rules of Procedure in force in the Senate and (notwithstanding the repeal of the House of Assembly (Powers and Privileges) Act, 1966) in the House immediately before the commencement of this Act shall continue in full force and effect as the Rules of each respective Chamber. Rules.
5 of 1987, Sch.
No. 27 of 1966.
- 33.** No prosecution for a criminal offence under this Act shall be instituted except in pursuance of a fiat of the Attorney-General. Restriction on prosecution.