



## ANALYSIS

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1967, No.3

An Act to provide for the powers, privileges and immunities of the Legislative Assembly

(4 September 1967)

BE IT ENACTED by the Legislative Assembly of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Short Title - This Act may be cited as the Legislative Assembly Powers and Privileges Act 1967.

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

"Assembly" means the Legislative Assembly of the Cook Islands constituted pursuant to the terms of Part III of the Constitution:

"Bribe" includes any money, valuable consideration, inducement, reward, or benefit of any kind whatsoever:

"Chamber" means the place where the Assembly sits in Session for the transaction of business:

"Clerk" means the Clerk of the Legislative Assembly appointed pursuant to Article 38 of the Constitution:

"Committee" means a standing, select or other committee of the Assembly and includes a Committee of the Whole Assembly:

"High Commissioner" means the High Commissioner of the Cook Islands:

"Journals" means the Minutes of the Assembly or the official records of the proceedings thereof:

"Member" means a Member of the Legislative Assembly:

"Minutes" means the official record of the proceedings of the Assembly:

"Officer of the Assembly" means the Clerk or any other officer or person acting within the Chamber or the precincts thereof with the authority of the Assembly or the Speaker and includes any police officer on duty within the precincts of the Assembly:

"Police Officer" means a constable or officer of police of the Cook Islands Public Service:

"Precincts of the Assembly" means the Offices of the Assembly and places provided for the use or accommodation of strangers, members of the public and representatives of the press and included, while the Assembly is sitting and subject to any exceptions made by direction of the Speaker, the entire building in which the Chamber is situated and any enclosure or open space adjoining or appertaining to such building and used or provided for the purposes of the Assembly:

"Publication" includes the broadcasting of words by a broadcasting station or wireless telegraphy:

"Session" means the sittings of the Assembly commencing when the Assembly first meets after its prorogation or dissolution at any time or the first meeting of the Assembly summoned in each year; and terminating when the Assembly is prorogued or is dissolved without having prorogued or when the last meeting in each year is adjourned sine die:

"Sitting" means a period during which the Assembly is sitting continuously without adjournment, and includes any period during which the Assembly is in Committee:

"Speaker" means the Speaker of the Legislative Assembly and includes the Deputy Speaker or other member presiding at a Sitting:

"Standing Orders" means the Standing Orders or other rules or practice of the Assembly for the time being in force:

"Stranger" means any person who is not a member or officer of the Assembly.

#### PART I - PRIVILEGES AND IMMUNITIES

3. Immunity from legal proceedings - No civil or criminal proceedings may be instituted against any member for words spoken before, or written in a report to, the Assembly or to a committee thereof, or by reason of any matter or thing so brought or introduced by him by Bill, motion, petition or otherwise.

4. Freedom from arrest - No member shall be liable to arrest:

- (a) For any civil debt whilst going to, attending at, or returning from a sitting of the Assembly or any committee thereof; or
- (b) Within the precincts of the Assembly while the Assembly or a committee thereof is sitting, for any criminal offence without the consent of the Speaker.

5. Exercise of process - No process issued by any Court in the exercise of its jurisdiction shall be served or executed within the Chamber or precincts of the Assembly while the Assembly is sitting or through the Speaker or any officer of the Assembly.

#### PART II - EVIDENCE

6. Power to order attendance of witnesses - The Assembly or any committee may, subject to the provisions of sections 11 and 22 of this Act, order any person to attend before the Assembly or before such committee and to give evidence or to produce any paper, book, record or document in the possession or under the control of such person.

7. Attendance to be notified by summons - (1) Any order to attend to give evidence or to produce documents before the Assembly or a committee shall be notified to the person required to attend or produce documents by a summons under the hand of the Clerk issued by direction of the Speaker or, in the case of a committee, by the Chairman.

(2) Every summons issued under the provisions of this section and every endorsement upon such summons shall, if purporting to bear the signature of the Clerk, be deemed prima facie to be lawful and to be issued by the direction of the Speaker or the Chairman, as the case may be.

(3) In every summons under this section there shall be stated the time when and the place where the person summoned is required to attend and the particular documents which he is required to produce.

(4) Subject to the provisions of subsection (5) of this section every summons shall be served on the person mentioned therein by delivering to him a copy thereof.

(5) A summons issued under this section may be served by an officer of the Assembly or by a police officer: provided that the Speaker or in the case of a Committee, the Chairman may, if he is satisfied that for any reason personal service of a summons cannot be effected, direct 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.

8. Power to issue warrant to compel attendance - (1) If a person to whom a summons under section 7 of this Act is directed does not attend before the Assembly or the Committee at the time and place mentioned therein, the Speaker 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, in such form as may be prescribed, to apprehend him and bring him, at a time and place to be stated in the warrant, before the Assembly or committee.

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

(3) The Speaker on issuing a warrant for the arrest of any person under this section may, if he thinks fit, by endorsement on the warrant, direct that the person named in the warrant be released after arrest on his entering into such recognizance before a Judge, Commissioner or Registrar of the High Court for his appearance before the Assembly or committee as may be required in the endorsement.

9. Witnesses may be examined on oath - (1) The Assembly or any committee empowered to order the attendance of witnesses may require that any facts, matters and things relating to the subject of the enquiry before the Assembly 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 the Clerk or the Chairman of such committee is hereby authorised to administer.

(2) For the purpose of examining witnesses on oath the Assembly or any committee shall have the power of a Judge of the High Court in respect of administering oaths, hearing evidence and maintaining order at the hearing.

(3) Any witness who conscientiously objects to taking an oath may make a solemn affirmation.

10. Refusal to answer or produce papers - Subject to the provisions of section 11 of this act, where any person ordered to attend to give evidence or to produce any paper, book, record or document before the Assembly or any Committee refuses to answer any question that may be put to him or to produce any such paper, book, record or document on the ground that the same is of a private nature and does not affect the subject of enquiry, the Speaker may excuse the answering of such question or the production of such paper, book, record or document, or may order the answering or production thereof.

11. Privileges of witnesses - (1) Every person summoned to attend to give evidence or to produce any paper, book, record or document before the Assembly or any 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 a Court of Law.

(2) Except with the consent of the High Commissioner no Government employee shall before the Assembly or a committee:

(a) Give evidence; or

(b) Produce any paper, book, record or document, concerning any naval, military or air force matter, nor shall secondary evidence be received by or produced before the Assembly or a committee of the contents of any such paper, book, record or document.

(3) Except when in the opinion of the High Commissioner it would be contrary to the public interest and the High Commissioner so directs, no Government employee shall refuse:

(a) To give evidence before the Assembly or a Committee; or

(b) To produce before the Assembly or a committee any paper, book, record or document, relating to the correspondence of any department of Government or to any matter affecting the public service, nor shall secondary evidence be received by or produced before the Assembly or a committee of the contents of any such paper, book, record or document which the High Commissioner has directed shall not be produced.

12. Answer by witness not admissible in proceedings - An answer by a person to a question put by the Assembly or a committee shall not be admissible in evidence against him in any civil or criminal proceedings except in the case of criminal proceedings for an offence against this Act or for perjury, subornation of perjury or defeating or obstructing the course of justice.

13. Penalty for false answers - Any person who, whether he has or has not taken an oath or made an affirmation, wilfully makes a false answer before the Assembly or a committee to a question material to the subject of inquiry which may be put to him during the course of examination after he has been cautioned of his liability to punishment under this section, commits an offence and shall be liable on conviction by the High Court to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding six months or to both.

14. Witnesses' expenses - Allowances and travelling expenses may be paid by the Clerk out of the Cook Islands Government Account to any person appearing before the Assembly or a Committee thereof, and shall be the same as would be payable to such person if he were a witness attending the High Court.

#### PART III - CONDUCT OF STRANGERS

15. Entry to Assembly - No stranger shall be entitled, as of right, to enter or to remain within the precincts of the Assembly.

16. Admission of strangers to Assembly - (1) The Speaker is hereby authorised to issue such orders as he may in his discretion deem necessary for the regulation of the admission of strangers to the precincts of the Assembly.

(2) Copies of orders made under this section shall be duly authenticated by the Clerk and exhibited in conspicuous places in the precincts of the Assembly and such copies when so authenticated and exhibited shall be deemed to be sufficient notice to all persons affected thereby.

17. Order of withdrawal from Assembly - The Speaker may at any time order any stranger to withdraw from the precincts of the Assembly.

18. Offences relating to admission to the Assembly - Any person being a stranger commits an offence and shall be liable on conviction by the High Court to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding three months or to both who:

(a) Enters or attempts to enter the precincts of the Assembly in contravention of any order of the Speaker; or

(b) Fails or refuses to withdraw from the precincts of the Assembly when ordered to withdraw therefrom by the Speaker; or

(c) Being a stranger, contravenes any order made under the provisions of this Act by the Speaker regulating the admission of strangers to the precincts of the Assembly.

#### PART IV - CONDUCT OF MEMBERS

19. Exclusion of suspended Member - A Member who has been suspended from the service of the Assembly shall not enter or

remain within the precincts of the Assembly whilst such suspension remains in force, and if any such Member is found within the precincts of the Assembly in contravention of this section he may be forcibly removed therefrom by any officer thereof.

20. Acceptance of bribes by Members - Any Member who corruptly accepts or obtains or attempts to obtain for himself or for any other person any bribe 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 commits an offence and shall be liable on conviction by the High Court to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding one year or to both.

#### PART V - EVIDENCE OF PROCEEDINGS

21. Restriction on evidence as to certain matters - No evidence relating to any of the following matters:

- (a) Debates or other proceedings in the Assembly or a committee:
- (b) Contents of the minutes of evidence taken or any documents laid before a committee or any proceedings or examinations held before any such committee,

by any Member or officer of the Assembly or any stenographer employed to take minutes of any such evidence or proceedings or in respect of any of the matters specified in paragraph (b) of this section by any person who was a witness before the 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 by the Speaker or the Chairman of the Committee, as the case may require, for such evidence to be given.

22. Determination of questions relating to evidence and production of documents - where at any time any question arises in the Assembly or in a Committee in regard to:

- (a) The right or power of the Assembly or a committee to hear, admit or receive oral evidence: or
- (b) The right or power of the Assembly or a committee to peruse or examine any paper, book, record or document, or to summon, direct or call upon any person to produce any paper, book, record or document before the Assembly or committee: or
- (c) The right or privilege of any person (including a Member of the Assembly or committee) to refuse to produce any paper, book, record or document or to lay any paper, book, record or document before the Assembly or committee,

that question shall, subject to the provisions of this Act and except insofar as express provision is made in those provisions for the determination of that question, be determined in accordance with the Standing Orders of the Assembly or if there be no relevant Standing Order, or provision therein shall seem doubtful or inadequate then by resolution of the Assembly.

#### PART VI - PUBLICATIONS AND REPORTS

23. Journals of Assembly admissible as evidence - Upon any inquiry touching the privileges, immunities and power of the

Assembly or of any Member, any copy of the journals printed or purporting to be printed by the Government Printer or by order or under the authority of the Assembly shall be admitted as prima facie evidence of such journals in all courts and places without any proof being given that such copy was so printed.

24. Penalty for printing false copy of law or proceedings - Any person who shall print or cause to be printed a copy of any Act or law now or hereafter in force, or a copy of any report, paper, minutes or votes and proceedings of the Assembly as purporting to have been printed by the Government Printer or by order or under the authority of the Assembly, and the same is not so printed, or shall tender in evidence any such copy as purporting to be so printed having reasonable cause to know that it is not so printed, commits an offence and shall be liable on conviction by the High Court to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding six months or to both.

25. Protection of persons responsible for publications authorised by Assembly - 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 the Assembly, 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 Speaker stating that the reports, papers, minutes or votes and proceedings in respect of which such civil or criminal proceedings have been instituted were published by such person or his servant by order or under the authority of the Assembly 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 issued therein shall be deemed to have been finally determined.

26. Publication of proceedings without malice - In any civil or criminal proceedings for publishing any report or summary of or any extract from or an abstract of any report, paper, minutes or votes and proceedings published by or under the authority of the Assembly, if the Court is satisfied that such report, summary, extract or abstract was published in good faith and without malice, judgement shall be entered for the defendant.

27. Speaker may order words out of order not to be published - (1) Where the Speaker under the provisions of the Standing Orders rules any words used by a Member to be out of order the Speaker may, in his absolute discretion, order that such words, or any words out of which they arose or arising out of them, shall not be published in any manner.

(2) Any person who publishes any words which are the subject of an order made under the provision of subsection (1) of this section commits an offence and shall be liable on conviction by the High Court to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding one year or to both.

#### PART VII - OFFENCES AND PENALTIES

28. Proceedings to be deemed judicial proceedings for certain purposes - When a person gives evidence or produces a paper, book, record or document before the Assembly or a committee in pursuance of this Act, the proceedings shall be deemed to be judicial proceedings for the purposes of a prosecution for perjury,

subornation of perjury or defeating or obstructing the course of justice.

29. Other offences and penalties - Any person commits an offence and shall be liable on conviction by the High Court to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding one year or to both who:

- (a) Disobeys any order made by the Assembly or a committee for attendance or for production of papers, books, documents or records, unless such attendance or production be excused as hereinbefore provided: or
- (b) Refuses to be examined before, or to answer any lawful and relevant question put by the Assembly or a committee unless such refusal be excused as herein before provided: or
- (c) Corruptly offers, whether directly or indirectly, to any Member or officer of the Assembly any bribe, in order to influence him in his conduct as a member or officer, or for or in respect of the promotion of or opposition to any Bill or matter submitted to or intended to be submitted to the Assembly or any committee: or
- (d) Assaults, obstructs, molests or insults any Member coming to, being within, or going from the precincts of the Assembly or endeavours to compel any Member by force, insult or menace to declare himself in favour of or against any proposition or matter pending in or expected to be brought before the Assembly or any committee: or
- (e) Assaults, molests, insults, resists, or obstructs any officer of the Assembly while in the execution of his duty or while proceeding to or from the Assembly knowing or having reasonable grounds for believing him to be such an officer: or
- (f) Creates or joins in any disturbance, or incites any other person to create or join in any disturbance, which interrupts or is likely to interrupt the proceedings of the Assembly or any committee while the Assembly or such committee is sitting: or
- (g) Presents to the Assembly or a committee any false, untrue, fabricated or falsified document with intent to deceive the Assembly or such committee: or
- (h) Utters or publishes any false or scandalous slander or libel on the Assembly or upon any Member in his capacity as such: or
- (i) Attempts, directly or indirectly, by fraud, or by threats or intimidation of any kind, to influence a Member in his vote, opinion, judgement or action, upon any question arising in the Assembly or in a committee, or to induce him to absent himself from the Assembly or any committee: or
- (j) Threatens or assaults a member or an officer of the Assembly on account of his conduct as such member or officer: or

- (k) Gives false evidence or is guilty of misconduct as a witness before the Assembly or a committee: or
- (l) Destroys any document which has been ordered to be produced before the Assembly or a committee: or
- (m) Abstracts any record or other document from the custody of the Clerk, or falsifies or improperly alters any records or documents presented to the Assembly or any committee: or
- (n) Endeavours, directly or indirectly, to deter or hinder any person from appearing or giving evidence before the Assembly or a committee: or
- (o) Tampered with a witness in regard to evidence to be given by him before the Assembly or a committee: or
- (p) Threatens or in any way punishes, damns or injures, or attempts to punish, damnify or injure any person for having given evidence before the Assembly or a committee, or on account of the evidence which he has given before the Assembly or a committee: or
- (q) Publishes any evidence taken by or document presented to, a committee where such evidence has been taken or such document presented within closed doors, and where its publication has been expressly prohibited by the Assembly or the committee.

#### PART VIII - MISCELLANEOUS PROVISIONS

30. Powers of Speaker to be supplementary - The powers of the Speaker conferred by this Act shall be supplementary to any powers conferred on him by the Constitution or by Standing Orders of the Legislative Assembly.

31. Court not to exercise jurisdiction over acts of Speaker or officers - Neither the Speaker nor any officer of the Assembly shall be subject to the jurisdiction of any Court in respect of the exercise of any power conferred on or vested in him by or under this Act or the Standing Orders of the Legislative Assembly.

32. Powers of officers - Every officer of the Assembly shall for the purposes of this Act and for the application within the precincts of the Assembly of the provisions of the criminal law, have all the powers of a police officer.

33. Power of arrest - An officer of the Assembly may arrest without warrant:

- (a) Any person who commits in his presence any offence contrary to the provisions of sections 18 or 29 of this Act:
- (b) Any person within the precincts of the Assembly whom he reasonably suspects of having committed, or being about to commit, an offence contrary to the provisions of either of the said sections.

34. Authority for prosecutions - No prosecution for an offence under this Act shall be instituted without the written authority of the Advocate-General and the consent of the Speaker.