

Western Australia

Parliamentary Privileges Act 1891

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Parliamentary Privileges Act 1891

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Parliamentary Privileges Act 1891

An Act for defining the privileges, immunities, and powers of the Legislative Council and Legislative Assembly of Western Australia, respectively.

Preamble

Whereas by the *Constitution Act 1889* it is enacted that it is lawful for the Parliament of the State by any Act to define the privileges, immunities, and powers to be held, enjoyed, and exercised by the Legislative Council and Legislative Assembly and by their members:

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows: —

[Preamble amended by No. 41 of 2004 s. 6.]

1. Privileges, immunities and powers of Council and Assembly

The Legislative Council and Legislative Assembly of Western Australia, and their members and committees, have and may exercise —

- (a) the privileges, immunities and powers set out in this Act; and
- (b) to the extent that they are not inconsistent with this Act, the privileges, immunities and powers by custom, statute or otherwise of the Commons House of Parliament of the United Kingdom and its members and committees as at 1 January 1989.

[Section 1 amended by No. 41 of 2004 s. 7.]

2. Printed copies of journals of House of Commons to be evidence

Subject to the provisions of this Act, any copy of the journals of the House of Commons printed, or purporting to be printed by the order or printer of the House of Commons, shall be received as *prima facie* evidence without proof of its being such copy, upon any inquiry touching the privileges, immunities, and powers of the said Council or Assembly, or of any Committee or member thereof respectively.

3. Designation of Legislature

The Legislature of Western Australia shall be and is hereby designated 'The Parliament of Western Australia'.

4. Power to order the attendance of persons

Each House of the Parliament of the said Colony, and any Committee of either House, duly authorised by the House to send for persons and papers, may order any person to attend before the House or before such Committee, as the case may be, and also to produce to such House or Committee any paper, book, record, or other document in the possession or power of such person.

5. Order to attend to be notified by summons

- (1) Any such order to attend or to produce documents before either House shall be notified to the person required to attend or to produce documents by a summons under the hand of the President or Speaker as the case may be, and any such order to attend or to produce documents before any such Committee shall be notified to the person required to attend or to produce documents by a summons under the hand of the Clerk of the House authorised by the Chairman of the Committee.
- (2) In every such summons shall be stated the time and place when and where the person summoned is to attend, and the particular documents which he is required to produce.

- (3) The summons shall be served on the person mentioned therein, either by delivering to him a correct copy of such summons, or by leaving a correct copy of the same with some adult person at his usual or last known place of abode in the Colony.
- (4) There shall be paid or tendered to the person so summoned a reasonable sum for his expenses of attendance.

[Section 5 amended by No. 19 of 2010 s. 51.]

6. Attendance of members

A member of either House may be ordered by the House of which he is a member to attend before either House, or before any Committee of either House, without summons.

7. Objection to answer questions or produce documents to be reported to the House

If any person ordered to attend or produce any paper, book, record, or other document to either House, or to any Committee of either House, shall object to answer any question that may be put to him, or to produce any such paper, book, record, or other document on the ground that the same is of a private nature and does not affect the subject of inquiry, the President, or Speaker, or Chairman of the Committee, as the case may be, shall report such refusal, with the reason thereof, to the House, who shall thereupon excuse the answering of such question, or the production of such paper, book, record, or other document, or order the answering or production thereof, as the circumstances of the case may require.

8. Houses empowered to punish summarily for certain contempts

Each House of the said Parliament is hereby empowered to punish in a summary manner as for contempt by fine according to the Standing Orders of either House, and in the event of such fine not being immediately paid, by imprisonment in the custody of its own officer in such place within the Colony as the

House may direct until such fine shall have been paid, or until the end of the then existing session or any portion thereof, any of the offences hereinafter enumerated whether committed by a member of the House or by any other person —

- (a) disobedience to any order of either House or of any Committee duly authorised in that behalf to attend or to produce papers, books, records, or other documents, before the House or such Committee, unless excused by the House in manner aforesaid;
- (b) refusing to be examined before, or to answer any lawful and relevant question put by the House or any such Committee, unless excused by the House in manner aforesaid;
- (c) assaulting, obstructing, or insulting any member in his coming to or going from the House, or on account of his behaviour in Parliament or endeavouring to compel any member by force, insult, or menace to declare himself in favour of or against any proposition or matter depending or expected to be brought before either House;
- (d) sending to a member any threatening letter on account of his behaviour in Parliament;
- (e) sending a challenge to fight a member;
- (f) offering a bribe to, or attempting to bribe a member;
- (g) creating or joining in any disturbance in the House, or in the vicinity of the House while the same is sitting, whereby the proceedings of such House may be interrupted.

[Section 8 amended by No. 19 of 2010 s. 51.]

9. President or Speaker to issue warrant

For the purpose of punishing any of the contempts aforesaid, the President or Speaker, as the case may be, is hereby empowered upon the resolution in that behalf of the House to issue his warrant under his hand for the apprehension and imprisonment

as aforesaid of any person adjudged by the House guilty of any such contempt, if such fine shall not have been paid as aforesaid.

10. Persons disturbing proceedings of House may be arrested without warrant

Any person creating or joining in any disturbances in the House during its actual sitting may be apprehended without warrant on the verbal order of the President or Speaker as the case may be, and may be kept in the custody of the officer of the House until a warrant can be made out for the imprisonment of such person in the manner aforesaid.

11. Form of warrant

- (1) Every such warrant shall contain a statement that the person therein mentioned has been adjudged guilty of contempt by the House, the President or Speaker whereof shall have issued the same, specifying the nature of such contempt in the words of this Act defining the same, or in equivalent words.
- (2) Every warrant shall be sufficient from which it can be reasonably collected that the person mentioned therein has been adjudged guilty of any of the contempts aforesaid, and no particular form shall be necessary to be observed in such warrant.

[Section 11 amended by No. 19 of 2010 s. 51.]

12. Sheriff's officers, constables and others to assist in execution of warrant or verbal order

- (1) The Sheriff and his officers, and all constables and other persons, are hereby required to assist in the apprehension and detention of any person in pursuance of the verbal order as aforesaid of the President or Speaker, as the case may be, and also to be aiding and assisting in the execution of any such warrant as aforesaid.

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- (2) Where any such warrant directs that the person mentioned therein shall be imprisoned in any gaol, the keeper thereof is hereby required to receive such person into his custody in the said gaol, and there to imprison him according to the tenor of the warrant.

[Section 12 amended by No. 19 of 2010 s. 51.]

13. Doors may be broken open in executing a warrant

It shall be lawful for any person charged with, or assisting in the execution of any warrant under the hand of the President or Speaker issued under the authority of this Act, to break open in the daytime all doors of places where the person for whose apprehension such warrant was issued is concealed.

14. House may direct Attorney General to prosecute instead of proceeding summarily

- (1) The publishing of any false or scandalous libel of any member touching his conduct as a member by any person other than a member is hereby declared to be a crime.
- (2) It shall be lawful for either House to direct the Attorney General to prosecute before the Supreme Court any such person committing any such crime.
- (3) Any such person convicted before the said Court of any such crime shall be liable to imprisonment for any period not exceeding 2 years, or to a fine not exceeding \$200 or to both such punishments.

[Section 14 amended by No. 70 of 2004 s. 82; No. 19 of 2010 s. 51.]

15. House may direct Attorney General to prosecute for other contempts

It shall be lawful for either House to direct the Attorney General to prosecute before the Supreme Court any such person guilty of

any other contempt against the House which is punishable by law.

[16. Deleted by 1 & 2 Edw. VII. No. 14 s. 3(2).]

17. Short title

This Act may be cited as the *Parliamentary Privileges Act 1891*¹.

[Section 17 inserted by No. 81 of 1966 s. 2.]

Notes

¹ This is a compilation of the *Parliamentary Privileges Act 1891* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
Untitled ³	54 Vict. No. 4	26 Feb 1891	26 Feb 1891
<i>Criminal Code Act 1902</i> s. 3(2)	1 & 2 Edw. VII No. 14	19 Feb 1902	1 May 1902 (see s. 2)
<i>Statute Law Revision</i> (<i>Short Titles</i>) Act 1966 s. 2	81 of 1966	12 Dec 1966	12 Dec 1966
Reprint of the <i>Parliamentary Privileges Act 1891</i> as at 9 Oct 1987			
Reprint 2: The <i>Parliamentary Privileges Act 1891</i> as at 6 Jun 2003 (includes amendments listed above)			
<i>Constitution (Parliamentary Privileges) Amendment Act 2004 Pt. 3</i>	41 of 2004	3 Nov 2004	3 Nov 2004 (see s. 2)
<i>Criminal Law Amendment (Simple Offences) Act 2004</i> s. 82	70 of 2004	8 Dec 2004	31 May 2005 (see s. 2 and <i>Gazette</i> 14 Jan 2005 p. 163)
<i>Standardisation of Formatting Act 2010</i> s. 51	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)

² 52 Vict, No. 23.

³ Now called the *Parliamentary Privileges Act 1891*; short title inserted (see note to s. 17).