

1927.

Kenya

No. X 10556

SUBJECT

C0533/372

*Powers and Privileges
of the Legislative Council*

Previous

See Gov. K. 10103

27

Subsequent

KIS 240

25

X

1927

KENYA

X

1927

10556

10558

Powers and Privileges
of the Legislative Council.

Precedence

see Gov. X. 10556
27

~~E.B.~~
X.E.A. 27/2/28
Mr. Martin (N.E.S.) 27/2/28
Mr. A. H. B. 28/2/28

Subsequent

X. 13240
28

~~...~~

R.C.A.	3/1
E.A.D.	16/1
Mr. Brooke	18/1
Mr. Kelly	24/1
Mr. S. ...	25/1
S. ...	26/1
Mr. Bottomley	2/2
S. ...	4/2
Mr. ...	7/2
Mr. ...	14/2
S.A.D.	
Mr. ...	13/2/28
Mr. ...	14/2/28
Mr. ...	16/2/28
Be ...	

fully maintained notwithstanding. But I am not aware whether it has been held that they possess any such prerogatives at Common Law; if they do I have never heard of them.

May we have your Rs ^{ms} generally

R. B. Sime
16/12/8

This Bill purports to confer on the Legislative Council of Kenya most grandiloquent privileges and drastic powers.

Nothing said or done in the Council can be questioned in any Court (Section 3). In any civil or criminal procedure the production of a certificate by the President that the matter in question concerns the privilege of the Council, is sufficient to stop such proceedings finally (Section 5). A Member of any other person, may be punished summarily for contempt and imprisoned by the Council without compensation. The offences for which the Council delegates to itself the right to try and punish persons are numerous. They include disobedience to any Order for attendance or production of documents, a refusal to be examined before the Council or any committee thereof, obstructing or interfering with any member coming to or from the Council's meeting, or joining in any disturbance in the vicinity of the Council while the same is sitting, publishing a libel or any member touching his conduct as a member, and, lastly, committing any contempt which

44
which may be declared to be such in any Standing Order of the Council. (That is to say the Council declare any offence to be one which the Council may punish themselves merely by the issue of a Standing Order).

It may be, I do not know, that some precedents for all these powers and privileges can be found in the annals of Parliamentary history but it is certain that most of them are now obsolete and that those which still remain are exercised by Parliament with great discretion and subject to a wealth of restraining precedent and tradition.

The fact that these unusual powers might be re-enacted in a brand new Ordinance in relation to a new and unimportant Legislative Council in Kenya, is almost as terrifying as the contemplation of what would be likely to happen if the Council attempted to exercise one-tenth of them.

One could say a good deal more as to the demerits of this fantastic Bill, but perhaps it is unnecessary as it appears from Sir J. Risley's memorandum in G.S. 17/20 herewith that the Bill is ultra vires of the powers of the Kenya Legislative Council.

RB
18/1

The Kenya Government does not appear to appreciate the fact that the Union of South Africa Act 19 of 1911, on which this draft Ordinance is said to be based (the comparative table referred to

in paragraph 2 of the despatch has not been sent) was enacted by the Union Parliament in pursuance of the unrestricted power conferred upon it by Section 57 of the South Africa Act 1909.

By "unrestricted" I mean that the Union Parliament was not subjected by Section 57 of the South Africa Act to a restriction found in some other express grants (e.g., in the case of the Transvaal) that the powers, privileges and immunities of the Union Parliament shall be powers, etc. "not exceeding those for the time being held, enjoyed and exercised by the Commons House of the Parliament of the United Kingdom and by the Members thereof."

It may well be that the Union Act 19 of 1911 goes beyond the modern practice of the House of Commons here. C.f. the late Sir C. Ilbert's memorandum on the Transvaal^{Act} of 1907, on which the Union Act of 1911 was founded, but, however this may be, the latter Act is an example of one passed under an express grant by the Imperial Parliament, and affords no precedent for similar legislation in Kenya, nor is there any express grant of any such power in Kenya's own constitution.

The other alternative mentioned in my memorandum in C.15174/26 is "adoption", but as the Kenya Legislature is not a "representative Legislature" within Sections 1 and 5 of the Colonial Laws Validity Act, 1865, and has no power to alter its own constitution and powers, it has no power to pass legislation adopting the powers, privileges and immunities possessed by the House of Commons in this country.

I may mention that I read the above-mentioned memorandum to the Colonial Office Conference of 1927 at one of its meetings, at which Sir E. Grigg was present, but as it is not printed, or apparently even referred to in the records of that Conference (Cmd. Papers 2883 and 2884), Sir E. Grigg has no doubt forgotten all about it. [The memorandum was, however, printed or summarised in the Minutes of the Conference as I remember correcting a proof of the Minutes of the Meeting mentioned above.]

The Bill should, of course, be dropped, the general constitutional position being explained to the Governor, and, so far as the actual provisions of the Bill are concerned, something should be said on the lines of the last paragraph but two of Mr. Bushe's minute.

It is fully printed in the Proceedings.

25A

24.1.28.

Dr. J. Grigg
In view of A, and of the latter part of (2) in your memo. on the Jamaica matter, as I might be thinking that if they were given a constitution providing for an elected majority in the Council, the Council would then (in the absence of express provision to the contrary in the Constitution itself) be able (2) to alter its own constitution & powers (but not the powers of the Governor?)

The words "may" to "distinct" They are. Vide infra 25A

25.1.28.

T 0

Mr. Bostwick,

of the majority were "selected" the answer
to both your questions would be "yes"
if it were an official the answer would be "no"
unless in the case of - mixed unaffiliated
members (but nominated part related)
the elected members constituted one
half of the total number of members
when the answer would be "yes"

[The - now - definition of "Representative"
is "a person who is elected to the
legislative body of which one half
is elected by the people of the Colonies"]

JSR

I raised this point at the meeting

The chief way, require consent of
Parliament's constitution is altered after
the Commission has reported.

On the technical point, I think
there is no choice but to proceed
as Sir J. Kerley proposes in the
first minute, but we might
say that if there is any point
on which it has been found in
actual practice that action is
needed, for instance to protect
members from legal process in
respect of their conduct in
Council

Council they can be put up specially
with J. H.

[In so far as the privilege of
Parliament arose out of the struggle
with the Executive - I think that was
largely so - they are necessary about
the Executive & the majority of the
legislature are identified - i.e. in
cases
all except the half-way Colonies,
where the existence of such privileges
must be a great nuisance.]

This has been kept for discussion

16 Oct 2/4 10

Mr. Danby Jones

I think we must reply as proposed

by Mr. Bostwick

J. H.
6.9.10

I hope for answer as proposed. Sir
will like to see on his return before
the despatch goes.

I think the draft is excellent

18

noted P.L. (x)
do (C)
see depts clerk
✓ to see
H.D.

- 2 To Gov No. 144 (au. d.)
- 3 To Gov (Secret) Refers 2.

22 FEB 18

✓
✓

Mr. Seef 13.2.28
Mr. ~~Allen~~ 17/2/28
Mr. ~~Rowley~~ 13/2/28
Mr. ~~William~~ 13.2.28
Mr. ~~B. Rowley~~ 13/2

Downing Street,
22 February, 1928.

- Mr C. Strachey.
- Mr J. Shackburgh.
- Mr G. Gwynne.
- Mr G. D. ...
- Mr S. Wilson.

54

Sir,

- Mr. Ormsby-Gore.
- Lord Lond.
- Mr. Amery.

of
hereafter

DRAFT.

CONFIDENTIAL

SECRET.

Gov. Grieg.

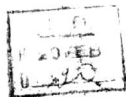
In connection with paragraph 2 of my despatch No. 144 of today's date, I would invite your attention to the memorandum by my legal adviser, on the subject of privileges of Colonial Legislatures, which is reproduced on page 18 of the ^{Stenographic notes} ~~Proceedings~~ of the 9th Meeting of the Colonial Office Conference, 1927. A bound volume containing the complete series of ^{Stenographic notes} ~~Proceedings~~ of the meetings of the Conference was enclosed with my Secret Circular despatch of the 20th September, 1927.

2 drafts

I have, etc.

(Signed) L. S. AMERY

X.10556/27 Kenya.



Downing Street,

22-February 1928.

Mr. Seel 13.2.28.
Mr. [unclear] 13/2/28
Sir J. Ransley 13/2/28
Mr. [unclear] 13.2.28
In Bottomley 13.2.28
Mr. [unclear]

Sir C. Strachey.
Sir J. Suckburgh.
Sir G. Grindle.
Sir G. [unclear]

+ Sir S. Watson. 14.2.28
* Mr. Ormsby-Gore. 16.2.28
Lord Lovat.
* Mr. Amery. 16/2

or [unclear]

DRAFT.

KENYA

NO. 144

Gov. Grieg.

2 dfts.

Sir,

I have the honour to acknowledge the receipt of your despatch No. 786, of the 8th December, in which you ask my opinion and advice on the draft of a Bill which has been prepared by the Attorney General, providing for certain matters pertaining to the powers and privileges of the Legislative Council of Kenya.

2. The Bill purports to confer upon the Legislative Council most extensive powers and privileges, on the analogy of the powers and privileges of the House of Commons of the United Kingdom; and it is therefore necessary to examine very carefully the general

matters. You will no doubt recall that the question was discussed at one of the meetings of the Colonial Office Conference, held in May last, and that my Legal Adviser then explained to the Conference that the privileges and immunities possessed by the House of Commons of the United Kingdom are not inherent in any Colonial Legislative assembly, and that such Assemblies can therefore obtain similar privileges and immunities by one of two methods only, - that is, either by express grant or by adoption.

3. I have not received The Comparative Table annexed to the Bill, which is referred to in paragraph 2 of your despatch, but I note that the Table shows that the Powers and Privileges of Parliament Act, 1911 (No. 19 of 1911) of the Union of South Africa has been taken as a model for the present Bill. The Union Act No. 19 of 1911, however, was enacted by the Union Parliament in pursuance of the unrestricted power conferred upon it by the South Africa Act, 1909, of the Imperial Parliament. The expression "unrestricted" in this connection is used

to indicate that the Union Parliament was not subjected by Section 57 of the South Africa Act to a restriction found in certain other express grants, (e.g. in the case of the Transvaal) that the powers, privileges and immunities of the Union Parliament ^{should} ~~shall~~ be powers etc. "not exceeding those for the time being held, enjoyed and exercised by the Commons House of the Parliament of the United Kingdom and by the Members thereof." Thus it may ^{be} ~~be~~ that the Union Act of 1911 goes even beyond the modern practice of the House of Commons here, but the important point in the present connection is that it is an example of an Act passed under an express grant by the Imperial Parliament, and thus affords no precedent for similar legislation in Kenya; nor is there any express grant of any such power in the constitution of Kenya itself.

4. As regards the alternative possibility of the acquisition of privileges by adoption, I am advised that, as the Legislative Assembly of Kenya is not a "representative legislature" within the meaning of sections 1 and 3 of the Colonial Laws Validity Act, 1900, and has no power to alter its own constitution and powers, it has no power to pass legislation adopting the powers, privileges and immunities possessed by the House of Commons in this country.

It will be recognised from the foregoing that the enactment by the Kenya Legislature of an Ordinance on the lines of that enclosed with your letter should be regarded as ultra vires and I am advised that, while it is possible that some precedents for all the powers and privileges which the House of Commons is entitled to claim upon the Legislature, could be found in the annals of Parliamentary history, it is certain that most of those powers and privileges are obsolete, and that those which remain are exercised by Parliament

with great discretion and subject to a wealth of restraining precedent and privilege. You will therefore, I feel sure, recognise that upon all these grounds, if such an Ordinance were enacted by the Legislature of Kenya, I should have no option but to advise His Majesty that the Ordinance should not be allowed, and in the circumstances the Bill should not be carried further.

5. At the same time, I would assure you that I am anxious to afford any assistance within my power in dealing with any special points over which difficulty has arisen, or on which it has been found in actual practice that action is required, for instance, to protect members from legal process in respect of comments in Council; and you are of course at liberty to submit any such points to me specially at any time for my consideration.

I have, etc

(Signed) G. AMERY

117



GOVERNMENT HOUSE,
NAIROBI
KENYA.

KENYA.
AS. No. 786

December, 1927.

Sir,

In continuation of paragraph 3 of Kenya Despatch No.1086 of the 31st December, 1926, I have the honour to transmit the draft of a Bill, prepared by the Attorney General, to define and declare the powers and privileges of the Legislative Council of the Colony and Protectorate of Kenya; to secure freedom of speech and debate or proceedings in the Legislative Council; and to provide for matters incidental thereto.

2. You will observe from the Comparative Table annexed to the Bill that the Powers and Privileges of Parliament Act-1911 (No.19 of 1911) of the Union of South Africa has been taken as a model.

3. The Governor desires to publish the Bill for introduction into the Legislative Council but before doing so would be glad of your opinion on the provisions of the Bill.

I have the honour to be,

Sir,

Your most obedient, humble servant,

GOVERNOR'S DEPUTY.

THE RIGHT HONOURABLE
LIEUTENANT COLONEL L.C.M.S. AMERY, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES

X 11161
27
Draft Bill.

Am. d. 10/4
28
[Handwritten scribbles]

A BILL
TO DEFINE AND DECLARE THE POWERS AND PRIVILEGES OF THE
LEGISLATIVE COUNCIL OF THE COLONY AND PROTECTORATE
OF KENYA; TO SECURE FREEDOM OF SPEECH AND
DEBATE OR PROCEEDINGS IN THE LEGISLATIVE
COUNCIL; AND TO PROVIDE FOR
MATTERS INCIDENTAL
THERE TO.

BE IT ENACTED by the Governor of the Colony of Kenya with the advice and consent of the Legislative Council thereof, as follows:-

1. This Ordinance may be cited as the Legislative Council (Powers and Privileges) Ordinance, 1927.

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

"Council" means the Legislative Council of the Colony;

"Committee" means any standing, special or select committee of the Council;

"President" means the Governor or the member for the time being presiding over the Council;

"Clerk" means the Clerk of the Council for the time being;

"Journals" includes the minutes of proceedings and the official report of the debates and proceedings of the Council.

GENERAL.

3. There shall be freedom of speech and debate or proceedings in the Council, and such freedom of speech and debate or proceedings shall not be liable to be impeached or questioned in any Court or place out of the Council.

4. For the purposes of this Ordinance the Council shall have power to possess all such powers and jurisdiction as may be necessary for organizing into, judging, and proceeding upon the commission of any such acts, matters, or things as are herein declared to be contraventions of this Ordinance and securing and carrying into execution the provisions thereof provided by this Ordinance.

PRIVILEGE OF LEGISLATIVE COUNCIL AND OF ITS MEMBERS.

Stay of process in respect of matters of privilege.

5. At any stage of any civil or criminal proceedings instituted for or on account of an aspect of any matter of privilege, upon production to the Court or Judge by the defendant or accused of a certificate by the applicant or, in his absence or other incapacity, by the Clerk, stating that the matter in question is one which concerns the privilege of the Council, that Court or Judge shall immediately stay such civil or criminal proceedings, which thereupon shall be deemed to be finally determined.

Exemption of members from service on juries. Members not to be liable to action in certain cases.

6. No member of the Council shall be required to serve on any jury.

7. No member shall be liable to any civil or criminal proceedings, arrest, imprisonment, or damages by reason of any matter or thing which he may have brought by petition, bill, resolution, motion, or otherwise, or have said before the Council.

Persons not liable in respect of acts done under authority of Council.

8. No person shall be liable in damages or otherwise for any act done under the authority of the Council and within its legal powers or under any warrant issued by virtue of those powers.

CONTEMPT OF LEGISLATIVE COUNCIL.

Council empowered to punish for contempt.

9. The Council may, for or in respect of any of the offences hereinafter mentioned, which are committed by a member or by any other person, summarily punish for contempt by fine as provided by this Ordinance; and if any such fine so imposed be not immediately paid the offender shall be committed to the custody of the Superintendent of any prison or of an Officer of Police in such place as the Council may direct until payment be made or for a period not later than the last day of the then existing session.

The said offences shall be:-

- (1) Disobedience to any order for attendance.

attendance or for production of papers, books, records, or documents made by the Council or any committee duly authorized in that behalf, unless the attendance or production be such as provided in section 17;

and relevant question put by the Council or any such committee, unless such refusal be excused as provided in section 18;

(5) The wilful failure or refusal to obey any rule, order, or resolution of the Council;

(4) The offering to or acceptance by any member of a bribe to influence him in his conduct as such member, or the offering to or acceptance by any member of any fee, compensation, gift, or reward for or in reward of the performance or of opposition to any bill, resolution, motion, title or thing submitted to or intended to be submitted to the Council or any committee;

(5) Assaulting, obstructing, or insulting any member, coming to or going from the Council or on account of his conduct in the Council, 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 the Council;

(6) Assault upon, interference with, or hindrance to any officer or member or a constable while in the execution of his duty under this Ordinance;

(7) Sending to a member any threatening letter or challenging a member to fight on account of his conduct in the Council;

(8) Creating or joining in any disturbance in the Council or in the vicinity of the Council while the same is sitting, whereby the proceedings of the Council are or are likely to be interrupted.

(9) Tampering with, deterring, threatening, beguiling, or in any way unduly influencing any witness in regard to evidence to be given by him before the Council or any committee;

(10) Presenting to the Council or to any committee any false, untrue, fabricated or falsified document with intent to deceive the Council or any committee;

(11) Fraudulation or other dishonesty as a witness before the Council or any committee;

(12) The publication of any false or scandalous libel on any member touching his conduct as a member;

(13) Any contempt from which the Council has been and declared to be such in any Standing Order of the Council.

Member not to vote upon any matter in which he has a direct pecuniary interest.

10 (1) A member shall not, in or before the Council or any committee, vote upon or take part in the discussion of any matter in which he has a direct pecuniary interest.

(2) Any member who acts in contravention of this section (may be adjudged guilty of contempt by the Council and shall be liable, to the penalties provided in this Ordinance for such contempt.

(3) The provisions of this section shall not apply to any vote or discussion concerning any remuneration or allowance to be received by members in their capacity as such, or to any interest which a member may have in any matter in common with the public generally, or with any class or section thereof.

WARRANTS AND ARRESTS.

Power of
President to
issue warrants.

11. For the purpose of punishing any of the contempts named in this Ordinance the President is hereby empowered, upon a resolution in that behalf of the Council, to issue a warrant under his hand for the apprehension and imprisonment of any person sentenced to imprisonment, or who, having been sentenced to pay a fine, fails to pay the same.

Form of
warrant.

12. Every warrant aforesaid shall contain a statement that the person therein mentioned has been adjudged guilty of contempt by the Council, and shall specify the nature of the contempt; and every such warrant shall be sufficient, if it can be reasonably inferred therefrom that the person mentioned therein has been adjudged guilty of any of the contempts aforesaid, and it shall not be necessary to observe any particular form in any such warrant.

Power to arrest
without warrant
persons
disturbing
proceedings of
Council.

13. Any person creating or joining in any disturbance in the Council during its actual sitting may be arrested without warrant on the verbal order of the President and may be kept in the custody of an officer of police until a warrant can be made out for the imprisonment of such person in manner aforesaid.

Police Officers
and others to
assist in
execution of
warrant or
verbal order.

14. All Police Officers, Constables, and other persons are hereby required to assist in the apprehension and detention of any person in pursuance of any such verbal order as aforesaid of the President, and to aid and assist in the execution of any such warrant as aforesaid, and where any such warrant directs that the person mentioned therein shall be imprisoned in any prison, the Superintendent thereof is hereby required to receive such person into his custody in the said Prison and there to imprison him according to the tenor of the warrant.

power to break open doors in execution of warrant.

15. It shall be lawful for any person charged with, or assisting in, the execution of any warrant under the hand of the President to break open, at any time, any door or window any premises in which the person for whose apprehension such warrant was issued may be, or may reasonably be suspected of being, concealed.

ARTICLE IV OF BY-LAWS CONCERNING THE EXECUTIVE COUNCIL AND COMMITTEES THEREOF

power to order the attendance of witnesses.

16. The Council, and any committee authorized by an order of the Council, for persons, documents, or papers, may order any person to attend before the Council or before such committee, and to produce any paper, book, record or document in the possession or under the control of such person.

Attendance to be notified by summons.

17. Any order to attend or to produce documents before the Council or before any committee shall be notified to the person required to attend or to produce documents, by a summons under the hand of the Clerk issued by direction of the President; and in every such summons 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, and the summons shall be served on the person mentioned therein, either by delivering to him a copy thereof or by leaving a copy thereof, at his usual or last known place of abode in the Colony, with some adult person, and there shall be paid or tendered to the person so summoned such sum for his expenses as may be prescribed in that behalf by the President.

Witnesses may be examined on oath.

18. The Council or any executive committee may require that any facts, matters, and things relating to the subject of enquiry before the Council 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 President or the Chairman of the committee or person specially appointed

appointed for the purpose may administer: provided that where any witness conscientiously objects to take an oath he may make a solemn affirmation or declaration.

Objection to answer questions or to produce papers to be reported to Council for consideration.

19. If any person ordered to attend or produce any paper, book, record, or document before the Council or any committee declines to do so or any question put may be put to him and he refuses to answer, or answers to the Council or the Council's committee, or private inquiry and does not state the reasons therefor, the President or the Chairman of the committee, as the case may be, may report such refusal to the Council, and the Council may thereupon excuse the answering of such question or the production of such paper, book, record, or document or may order the answering or production thereof.

Witness fails to answer to or sworn perjury.

20. Any person who, before the Council or any committee (and whether or not that person has been sworn or has made a solemn affirmation or declaration), after being duly cautioned as to his liability to punishment under this section, wilfully and corruptly makes a false answer to any question material to the subject of enquiry which may be put to him during the course of any examination, shall be guilty of an offence and shall be liable on conviction to the penalties...

21. The Court shall be satisfied by the evidence which may be given by the witness before the Council or any committee.

Certificate issued by witness making full disclosure to be a bar to civil or criminal proceedings.

22 (1) Every witness before the Council or a committee who shall answer fully and faithfully any questions put to him by the Council or such committee to its satisfaction shall be entitled to receive a certificate under the hand of the President or Chairman of the committee, as the case may be, stating that such

witness

witness was upon his examination so required to answer and did answer any such questions.

(3) On production of such certificate to any Court of law such Court shall stay any proceedings civil or criminal except for a charge for perjury against such witness before that time and shall pay the expenses of such witness and may in its discretion award to such witness such expenses as he may have been put to.

Evidence of proceedings in Council or committee not to be given without leave.

23. No member of the Council, nor the Clerk, nor any shorthand writer employed to take minutes of evidence before the Council or any committee, shall give evidence elsewhere in respect of the contents of such evidence or of the contents of any manuscript or document laid before the Council or any committee or in respect of any proceedings or examination had before the Council or any committee without the special leave of the Council first had and obtained. Such special leave may be given after a dissolution or during an adjournment by the President.

MISCELLANEOUS.

Certain persons not to receive compensation for production of or opposition to bills, &c.

24. (1) No member of the Council and no advocate who, in the practice of his profession, is a partner or in the service of any member shall accept or receive either directly or indirectly any fee, compensation, gift, or reward for or in respect of the production of or opposition to any bill, resolution, matter, or thing submitted or intended to be submitted for the consideration of the Council or any committee.

(2) Any person who contravenes the provisions of this section shall be liable to a penalty not exceeding one hundred pounds and, in addition, to repay the amount or the value of the fee, compensation, gift, or reward accepted or received by him.

Journals printed by order of Council to be admitted in evidence.

22. Upon any enquiry touching the privileges, immunities, and powers of the Council or of any member, any copy of the journals printed or purporting to be printed by order of the Council shall be admitted as evidence in any court in all Courts and places without any proof being given that such copy was so printed.

Penalty for printing false copy of laws, minutes, etc.

23. Any person who shall print or cause to be printed a copy of any law now or hereafter in force or a copy of any report, paper, minutes or votes and proceedings of the Council or any committee as purporting to have been printed by the Government Printer or by or under the authority of the Council or any committee, 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, shall be guilty of an offence and shall be liable upon conviction to imprisonment of either description for a period not exceeding one year.

Protection of publications of Council.

27. 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 the Council or any committee, of any reports, papers, minutes, votes, or proceedings, may, on giving to the Magistrate or Magistrates, as the case may be, twenty-four hours written notice of his intention, being before any Court in which such civil or criminal proceedings are being held, a certificate under the hand of the Magistrate 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 his servants by order or under the authority of the Council or any committee, together with an affidavit verifying such certificate, and such Court shall thereupon immediately

stay such civil or criminal proceedings in the same and every process issued therein shall be deemed to be finally determined.

Publication of Proceedings without Notice.

43. In any civil or criminal proceedings instituted for publishing any extract from or abstract of any book, report, paper, minutes, notes or proceedings, as in this Ordinance mentioned, it shall be notified that such extract or abstract was published ~~here first~~ and without notice, such extract shall be entered for the defendant or accused.

Imprisonment for Contravention of Ordinance.

44. Every person guilty of a contravention of this Ordinance may, in addition to any other penalty to which he is by this Ordinance or any other law liable, be sentenced to imprisonment or other description for such period not exceeding one year as may be determined by the Council.

Such person shall be imprisoned under warrant given under the hand of the President.

Attorney General to prosecute for Contravention of Ordinance and to sue for penalties.

39 (1) The Attorney General may, as requested by Resolution of the Council, cause any account of a contravention or offence under this Ordinance to be summoned for examination before the proper Court having over such person for preliminary enquiry with a view to prosecution before the Supreme Court. The Supreme Court shall in such a case have and exercise the powers and jurisdiction conferred by law or any other law for the time being in force.

(2) All penalties and costs which may be recovered in any Court of competent jurisdiction, in the name of the Attorney General, if authorised by the Council to take proceedings for recovery of the same, sums recovered shall be paid into general revenue.

All fines imposed for contravention of or offence under this Ordinance shall, when recovered, be paid into general revenue.

22
END

PRIVILEGES OF LEGISLATIVE COUNCIL AND OF THE
MEMBERS THEREOF.

Privileges to
be held by
the members of
the Council of
the United
Kingdom:

31. Save as is otherwise provided by this Ordinance, the Council and the members thereof shall hold, enjoy, and exercise such and the like privileges, immunities, and powers as at the commencement of this Ordinance are held, enjoyed, and exercised by the Commons House of the Parliament of the United Kingdom and by the members thereof, whether such privileges, immunities or powers are so held, possessed, or enjoyed by custom, statute, or otherwise.

Privileges, etc.,
to be judicially
noticed.

32. Such privileges, immunities, and powers shall be part of the general and public law of the Colony and it shall not be necessary to plead the same, but the same shall in all courts of the Colony be judicially noticed.

Commons Journals
to be prima
facie evidence
on enquiries
touching
privileges.

33. Subject to the provisions of this Ordinance, any copy of the Journals of the Commons House of the Parliament of the United Kingdom printed or purporting to be printed by the order or by the printer of the Commons House aforesaid shall be received as prima facie evidence without proof of its being such copy upon any enquiry touching the privileges, immunities, and powers of the Council or of any councillor or member.