

REPORT

OF A

SELECT COMMITTEE ON PRIVILEGES

OF

MEMBERS OF PARLIAMENT.

BROUGHT UP 22ND AUGUST, AND ORDERED TO BE PRINTED.

WELLINGTON.

—
1866.

REPORT OF A SELECT COMMITTEE ON PRIVILEGES OF MEMBERS OF PARLIAMENT.

THAT on the 4th day of August, the Speaker of this House, Sir David Monro, was served with a summons issued at the instance of Mr. Arthur Beauchamp, also a Member of this House, requiring him to pay ten shillings and sixpence, or appear at the Resident Magistrate's Court at Picton, on the 3rd of September next.

The summons was laid on the Table by Mr. Speaker, and the attention of the House called to it; whereupon a Committee was appointed to search for precedents, and to report to the House as to the liability of Members to be impleaded in civil suits during a Session of the Assembly.

Your Committee have investigated and considered the matter referred to them, and now report the result.

It appears that from very early times Members of the Imperial Parliament claimed and were allowed exemption from being impleaded "in Parliament time," in the various Courts of Law; and in the reign of Edward the Second, writs of "Supersedias" were issued to the Justices of Assize, to prevent actions from being maintained against Members in their absence by reason of the inability to defend their rights, while in attendance upon Parliament."

This privilege appears to have been afterwards disallowed, but again subsequently allowed, and continued to be exercised until the reign of William the Third, when it was limited in its operation; and such limitations were from time to time extended by subsequent Acts of Parliament, and especially by the 10th of George III., c. 50.

The result of all the legislation is thus stated in "May's Treatise on Parliament." "Under these Acts Members of Parliament may be coerced by every legal process, except attachment of their bodies."

The privilege of exemption from being impleaded appears to have been extended originally to all Courts; but limitations by Statute have included only Courts of Record, and other superior Courts, (for instance, the Admiralty Court,) leaving unaffected by their provisions, Courts of inferior jurisdiction.

"The Privileges Act, 1865," passed in the last session of the Assembly, confers on the two Houses of the Parliament of New Zealand, the same privileges as are enjoyed by the House of Commons of the Imperial Parliament. The privilege, therefore, of exemption from being impleaded in the civil jurisdiction of the Resident Magistrate's Court, appears to exist; and in the case specially under the consideration of the Committee, would be available to prevent the continuation of the suit.

In the Legislatures of the United States, both Federal and States privileges, in respect of the process of the Courts, stand much on the same footing as in England as regards the Imperial Parliament, with the exception of two States, in which, in addition to freedom from arrest, Members are not subject to any civil process.

The Committee do not consider the state of the law as regards privilege in reference to the process of the Courts in New Zealand, to be altogether satisfactory.

Having regard to the scattered population, and the various Courts in operation, many of them at great distances from the seat of Government, it is easy to foresee that great inconvenience may result from requiring the personal attendance of Members of the Assembly during the Session. They may be forced either to comply with demands not in themselves just, and which could only be successfully resisted by personal attendance, at great personal inconvenience and expense, or they must absent themselves for a lengthened period from their duties in the Legislature, often to the great detriment of the public service.

The Committee think that Members should not be liable to be placed in a position to be compelled to choose between these alternatives; but at the same time they also feel that the privilege of delaying the due course of law should be confined within the narrowest possible limits consistent with relieving Members from the dilemma which the Committee have pointed out may result from the use which may be made of the law as it at present stands.

The Committee recommend that in the present case the House order a letter to be addressed to the Resident Magistrate at Picton, directing him to stay the suit against Sir David Monro until ten days after the termination of the present Session.

The Committee also recommend that an Act should be passed declaring the privileges of Members of the Assembly in respect of the process of the Civil Courts; that that privilege should be confined to delaying the proceedings of Civil Courts to those cases in which it is satisfactorily shown that their personal attendance is required for the proper administration of justice; and that the delay should only be authorized to extend to the termination of the Session, and for a reasonable time afterwards.

FREDK. WHITTAKER,
Chairman.

