

CONSTITUTION (PARLIAMENTARY SECRETARIES) AMENDMENT BILL 1988

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Constitution Act 1902, so that Members of the Legislative Council may be appointed as Parliamentary Secretaries. That Act already enables Members of the Legislative Assembly to be appointed to that office.

The Bill also makes a consequential amendment to the Parliamentary Remuneration Tribunal Act 1975.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act is to commence on the date of assent.

Clauses 3 and 4 are formal provisions that give effect to the Schedules of amendments.

Clause 5 makes it clear that the amendments do not affect the office or remuneration of an existing Parliamentary Secretary in the Legislative Assembly.

SCHEDULE 1—AMENDMENT OF CONSTITUTION ACT 1902

Amendment of section 13B

Schedule 1 (1) makes a consequential amendment to section 13B of the Constitution Act. The section provides for the seat of a Member of Parliament to become vacant if the Member holds an office of profit under the Crown, with certain exceptions. At present, one of the exceptions is the office of Parliamentary Secretary in the Legislative Assembly. The proposed amendment will extend the exceptions to cover the office of Parliamentary Secretary in the Legislative Council.

The amended section 13B (3) will read (in part) as follows:

(3) Notwithstanding subsection (1) or (2)—

- ...
- (c) a person who holds or accepts the office of Parliamentary Secretary shall be capable of being elected and of sitting and voting as a Member of [*the Legislative Assembly*] **either House of Parliament.**

Matter to be omitted is shown in italics and matter to be inserted is shown in bold type.

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Amendment of section 38B

Schedule 1 (2) makes the main amendment, to section 38B of the Constitution Act, and enables Parliamentary Secretaries to be appointed from the Legislative Council in the same way as they may be appointed from the Legislative Assembly.

The amended section 38B (1) will read as follows:

(1) The Premier may, from time to time, appoint a Member or Members of [*the Legislative Assembly*] **either House of Parliament** to hold office as Parliamentary Secretary.

Amendment of section 38D

Schedule 1 (3) makes consequential amendments to section 38D of the Constitution Act. The section states how a Parliamentary Secretary ceases to hold office. The proposed amendments will result in a Parliamentary Secretary ceasing to hold office (as well as on other grounds)—

- on a casual vacancy; or
- on polling day for the next general election.

The amended section 38D (1) will read as follows:

(1) A person holding office as Parliamentary Secretary ceases to hold that office—

- (a) if he dies;
- (b) if the person by whom he was appointed as such ceases to be Premier;
- (c) if he resigns his office as such by writing under his hand addressed to the Premier;
- (d) if he is removed from office as such by the Premier;
- (e) if his seat as a Member of [*the Legislative Assembly*] **either House of Parliament** becomes vacant, otherwise than by reason of the fact that the Legislative Assembly has been dissolved or has expired by the effluxion of time; or
- (f) upon the day appointed for the taking of the poll for the general election **of Members of the Legislative Assembly** next following his appointment to hold that office.

**SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF PARLIAMENTARY
REMUNERATION TRIBUNAL ACT 1975**

Schedule 2 makes a consequential amendment to the Parliamentary Remuneration Tribunal Act, so that specific reference is made to the office of Parliamentary Secretary in each House of Parliament.
