



# Constitution Amendment (Speaker) Bill 2007

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Extract from NSW Legislative Council Hansard and Papers Thursday 28 June 2007.

### Second Reading

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [9.10 p.m.], on behalf of the Hon. John Della Bosca: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

#### Leave granted.

This bill will amend the Constitution Act 1902 to enable the Speaker of the Legislative Assembly to participate in debates and discussions and to enable the Speaker of the Legislative Assembly to cast a deliberative vote when another Member is presiding.

The Constitution Act does not currently contain any express provision which would permit a Speaker to take a position during debate or to exercise a deliberative vote on matters which come before the House.

That includes matters which specifically affect the Speaker's electorate.

While the Speaker is able to exercise a casting vote in the event of an equality of votes, the instances where this occurs are rare. As such, the Speaker is generally unable to reflect the views of his electorate.

This issue has been highlighted by the decision of the Legislative Assembly to elect an independent Member of this House as Speaker.

Further, the issue is now of even greater importance given the recent adoption of new Standing Orders for the Legislative Assembly, which have dispensed with the Committee of the Whole procedure.

Under the previous Standing Orders, amendments to bills were debated by the Committee of the Whole. The Committee was presided over by the Chairman of Committees.

The Speaker was able to participate in debates and cast a deliberative vote in Committee.

This bill will amend the Constitution Act to ensure that, if a matter arises upon which the Speaker needs to take a position in the interests of his or her electorate the Speaker will be able to do so.

The Speaker like every other Member of this House represents a particular electorate. It is important for the Speaker to be able to give a voice to that electorate.

This is especially critical where the Speaker is not affiliated with a political party which has other representatives in the House.

Where matters come before the House which particularly affect the Speaker's electorate the Speaker should be able to relinquish the Chair in order to participate in debates and to exercise a deliberative vote.

The amendments proposed in this bill will not undermine the status or role of the Speaker. Nor will they affect the Speaker's ability to perform the functions of a presiding officer in a fair and proper manner.

Clearly, confidence in the impartial exercise of functions by the Speaker is essential

for the effective working of the Parliament.

However, the Speaker also has responsibilities to the electorate which elected him or her.

The Speaker needs to be able to perform and balance both responsibilities: as fair and impartial presiding officer and as the representative of a particular electorate. Experience demonstrates that the ability of a Member to discharge the duties as a presiding officer with fairness and impartiality is not affected by the fact that the Member may have taken a position on a particular issue during debate.

Further, allowing the Speaker to vote when not presiding should not affect his or her capacity to exercise the functions of a presiding officer at other times.

Deputy and acting speakers already do this. The Speaker also used to be able to do this under the previous arrangements, which allowed the Speaker to participate in proceedings in the Committee of the Whole.

I turn now to the particular provisions of the bill.

Item 1 of the schedule amends section 31 of the Constitution Act by inserting a new sub-section (4). The new sub-section provides that the Speaker may take part in any debate or discussion and vote on any question in the Legislative Assembly, when he or she is not presiding.

It is noted that a new Standing Order may be required to provide for the circumstances in which the Speaker may relinquish the Chair in order to participate in debates and vote.

Item 2 of the schedule amends section 32(1) of the Constitution Act to clarify that it is the presiding Member whether that be the Speaker or another Member who is excluded for the purposes of determining whether there is a quorum.

If the Speaker is present in the House, but is not presiding, then the Speaker will be counted for the purposes of determining whether there is a quorum.

Item 3 of the schedule amends section 32(2) of the Constitution Act to clarify that it is the presiding Member again whether that be the Speaker or another Member who is precluded from casting a deliberative vote, but who has a casting vote in the event of an equality of votes.

I note that this bill does not expressly or by implication amend any of the provisions of the Constitution Act relating to the proceedings in the Legislative Council.

The bill is not intended to affect or change in any way the position or powers of the President of that House.

This bill is consistent with the democratic principles of this House. It is about ensuring that the constituents of every electorate in New South Wales are properly represented.

I commend the bill to the House.