

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 8 October, 1975.*

New South Wales



ANNO VICESIMO QUARTO

ELIZABETHÆ II REGINÆ

Act No. , 1975.

An Act relating to the exercise or performance of the functions of an Executive Councillor by another Executive Councillor acting for him or on his behalf; to provide for the appointment, functions and remuneration of Parliamentary Secretaries; for these and other purposes to amend the Constitution Act, 1902, the Parliamentary Allowances and Salaries Act, 1956, the Parliamentary Contributory Superannuation Act, 1971, and the Parliamentary Remuneration Tribunal Act, 1975; to validate certain matters; and for purposes connected therewith.

BE

Constitution and Other Acts (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Constitution and Other Acts (Amendment) Act, 1975".

10 2. (1) Except as provided in this section, this Act shall commence on the date of assent to this Act. **Commence-**
ment.

(2) Sections 9 (b) and 13 shall commence on 1st January, 1976.

15 (3) Section 11 shall be deemed to have commenced on 14th April, 1975.

(4) Section 12 shall be deemed to have commenced on 1st July, 1975.

3. This Act is divided as follows:—

**Division
of Act.**

PART I.—PRELIMINARY—ss. 1-3.

20 **PART II.—PROVISIONS AS TO THE FUNCTIONS OF
EXECUTIVE COUNCILLORS—ss. 4-6.**

**PART III.—PROVISIONS AS TO PARLIAMENTARY SECRE-
TARIES—ss. 7-10.**

PART IV.—MISCELLANEOUS PROVISIONS—ss. 11-13.

PART

Constitution and Other Acts (Amendment).

PART II.

PROVISIONS AS TO THE FUNCTIONS OF EXECUTIVE
COUNCILLORS.

4. The Constitution Act, 1902, is amended—

Amendment
of Act No.
32, 1902.

- 5 (a) by inserting after the definition of “Executive Councillor” in section 35 the following definitions :—

Sec. 35.
(Interpre-
tation.)

“Functions” includes powers, authorities and duties.

- 10 “Unavailable”, in relation to an Executive Councillor, means unavailable by reason of the Executive Councillor’s absence or disability or for any other reason.

- 15 (b) by omitting sections 36, 37 and 38 and by inserting instead the following sections :—

Secs. 36–38.

36. (1) The Governor may, from time to time, authorise an Executive Councillor to act for and on behalf of another Executive Councillor for any period specified or described by the Governor.

Authority
for
Executive
Councillor
to act for
and on
behalf of
another
Executive
Councillor.

- 20 (2) Where an Executive Councillor is authorised under this section to act for and on behalf of another Executive Councillor, any function appertaining or annexed to the office of that other Executive Councillor may, while the authority remains in force, be exercised or performed from time to time by the Executive Councillor so authorised instead of by that other Executive Councillor.

- 25 (3) An authority under this section may be
30 revoked by the Governor.

(4)

Constitution and Other Acts (Amendment).

(4) An Executive Councillor may be authorised under this section by reference to his name or by reference to the title of the office which he holds as Executive Councillor.

5 (5) Notice of an authority under this section, or the revocation of such an authority, may be published in the Gazette at any time, and, where such a notice is so published, judicial notice shall be taken of the notice and of the authority or
10 revocation, as the case may be.

(6) Every authority under this section shall be recorded by the officer in charge of the records of the Executive Council.

15 37. An Executive Councillor may exercise or perform for and on behalf of another Executive Councillor a function appertaining or annexed to the office of that other Executive Councillor if the firstmentioned Executive Councillor is satisfied that that other Executive Councillor is unavailable and that any Executive Councillor authorised under
20 section 36 to exercise or perform that function is unavailable. Unavailability of Executive Councillor.

25 37A. (1) Sections 36 and 37 apply to the functions appertaining or annexed to the office of an Executive Councillor, whether those functions are conferred or imposed by the terms (express or implied) of an Act or instrument under an Act, or by or under any other law, or by official or other custom, but do not apply to the functions appertaining or annexed to that office by virtue of an
30 authority under section 36. Provisions ancillary to sections 36 and 37.

(2)

Constitution and Other Acts (Amendment).

(2) Any act, matter or thing done or omitted by an Executive Councillor while acting for or on behalf of another Executive Councillor—

(a) under an authority under section 36; or

5 (b) under the authority of section 37,

shall be as valid and effectual and shall have the same consequences as if the act, matter or thing had been done or omitted by that other Executive Councillor.

10 (3) In all proceedings and before all persons acting judicially, it shall be presumed, in the absence of evidence to the contrary, that an Executive Councillor who purports to act for or on behalf of another Executive Councillor was
15 authorised by or under section 36 or 37 so to act.

38. (1) Nothing in section 36, 37 or 37A Limitation as to exercise of Attorney-General's functions. authorises an Executive Councillor to exercise any function that is by an Act or any other law annexed or incident to the office of the Attorney-General.

20 (2) Where a function is annexed or incident to the office of the Attorney-General by reason only of the fact that the Attorney-General administers an Act or part of an Act, subsection (1) does not
25 apply in relation to that function unless the administration of that Act or part is expressly vested in the Attorney-General by any Act.

5. Any act, matter or thing done or omitted, before the Validation. date of assent to this Act, by an Executive Councillor while purporting to act for or on behalf of another Executive
30 Councillor shall be as valid and effectual and shall have the same consequences, and shall be deemed always to have been as valid and effectual and to have had the same consequences, as if the act, matter or thing had been done or omitted by that other Executive Councillor.

Constitution and Other Acts (Amendment).

6. An authority in force under section 36 of the Constitution Act, 1902, immediately before the date of assent to this Act shall be deemed to have been given under section 36 of that Act, as amended by section 4. Transitional provision.

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PART III.

PROVISIONS AS TO PARLIAMENTARY SECRETARIES.

7. The Constitution Act, 1902, is further amended— Further amendment of Act No. 32, 1902.

(a) by inserting after the matter relating to Part IV in section 1 the following matter :— Sec. 1.
(Short title and division.)

10

PART IV A.—PARLIAMENTARY SECRETARIES—
ss. 38B–38E.

(b) by inserting at the end of section 26 the following proviso :— Sec. 26.
(Offices of profit.)

15

Provided further that a person holding office as Parliamentary Secretary is capable of being elected and of sitting and voting as a Member of the said Assembly.

20

(c) by inserting in paragraph (c) of the proviso to section 27 after the word “Government” the words “, or the office of Parliamentary Secretary”; Sec. 27.
(Effect of acceptance of office of profit.)

(d) by inserting in section 29 (1) (a) after the word “Government” the words “or the office of Parliamentary Secretary”; Sec. 29.
(Exceptions.)

(e)

Constitution and Other Acts (Amendment).

(e) by inserting after Part IV the following Part :— Part IVa.

PART IVa.

PARLIAMENTARY SECRETARIES.

5 38B. (1) The Premier may, from time to time, appoint a Member or Members of the Legislative Assembly to hold office as Parliamentary Secretary. Appointment of Parliamentary Secretaries.

(2) Section 47 does not apply to or in respect of the office of Parliamentary Secretary.

10 38C. (1) A Parliamentary Secretary shall have and may perform such functions as the Premier may, from time to time, determine in respect of him. Functions of Parliamentary Secretary.

15 (2) Nothing in this section authorises a Parliamentary Secretary to perform any functions that may, by the terms (express or implied) of an Act or instrument under an Act, or by or under any other law, only be performed by some other person.

38D. (1) A person holding office as Parliamentary Secretary ceases to hold that office—

- 20 (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;
- 25 (d) if he is removed from office as such by the Premier;
- 30 (e) if his seat as a Member of the Legislative Assembly 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

How Parliamentary Secretary ceases to hold office.

(f)

Constitution and Other Acts (Amendment).

(f) upon the day appointed for the taking of the poll for the general election next following his appointment to hold that office.

5 (2) The Premier may, for any cause which appears to him to be sufficient, remove any person from office as Parliamentary Secretary.

10 38E. (1) A person shall not be appointed to hold office as Parliamentary Secretary if he is a Minister of the Crown or a member of the Executive Council. Restrictions relating to Parliamentary Secretaries.

(2) A person shall not be appointed as a Minister of the Crown or a member of the Executive Council if he is a Parliamentary Secretary.

15 **8.** The Parliamentary Allowances and Salaries Act, 1956, is amended by inserting after section 4 the following section :— Amendment of Act No. 22, 1956. Sec. 4A.

4A. There shall be payable to a Parliamentary Secretary holding office under Part IVA of the Principal Act— Salary and allowances of Parliamentary Secretary.

- 20 (a) a salary at the rate of \$20,220 per annum ;
- (b) an expense allowance at the rate of \$1,008 per annum ;
- 25 (c) an electoral allowance at the yearly rate specified in the Fifth Schedule to the Principal Act in respect of the electoral district for which he is the member; and

(d)

Constitution and Other Acts (Amendment).

5 (d) if he would be entitled to receive a special expenses allowance under section 28 of the Principal Act had he not been appointed to hold that office—a special expenses allowance at the rate at which he would be so entitled to receive that allowance.

9. The Parliamentary Remuneration Tribunal Act, 1975, is amended— Amendment of Act No. 25, 1975.

10 (a) by inserting after paragraph (q) of Schedule 1 the following paragraph :— Sch. 1. (Recognised Offices.)

(r) Parliamentary Secretary, as referred to in Part IVA of the Constitution Act, 1902.

(b) by inserting at the end of Schedule 2 the following matter :— Sch. 2. (Repeals.)

15 Constitution and Other Acts (Amendment) Act, 1975. Section 8.

20 10. The reference in section 15 (2) (c) of the Parliamentary Remuneration Tribunal Act, 1975, to section 29 (1) (a) of the Constitution Act, 1902, is a reference to section 29 (1) (a) of the lastmentioned Act, as amended by this Act as well as by the Constitution (Amendment) Act, 1968. Consequential effect of amendment.

Constitution and Other Acts (Amendment).

PART IV.

MISCELLANEOUS PROVISIONS.

11. The Parliamentary Remuneration Tribunal Act, 1975, is further amended—

Further amendment of Act No. 25, 1975.

5 (a) by inserting after section 3 (1) the following subsection :—

Sec. 3. (Interpretation.)

(1A) For the purposes of this Act, a person elected as a member of the Legislative Assembly shall be deemed—

10 (a) to become a member of that Assembly on the day of his election; and

(b) to cease to be a member of that Assembly on—

(i) the day of his death;

15 (ii) the day on which his seat as such a member becomes vacant, otherwise than by reason of the fact that that Assembly has been dissolved or has expired by the effluxion of time;

20 (iii) the day appointed for the taking of the poll for the general election next following his election,

whichever first occurs.

25 (b) by inserting after section 7 the following section :—

Sec. 7A. Report to specify certain allowances.

30 7A. Where the Tribunal makes a determination in relation to any Parliamentary remuneration, he shall specify, in the report of his determination under section 5 (3) or 7 (2), what portion (if any) of the remuneration is in the nature of an allowance for electoral or other expenses incurred in the course of the duties of a Minister of the Crown, recognised office holder or member.

Constitution and Other Acts (Amendment).

12. The Parliamentary Contributory Superannuation Act, 1971, is amended—

Amendment
of Act No.
53, 1971.

- 5 (a) (i) by inserting in section 19 (2) (b) after the words “electoral allowance” the words “or special expenses allowance”;
- (Members’
super-
annuation
benefit.)
- (ii) by inserting in section 19 (4) (b) after the words “electoral allowance” the words “, special expenses allowance”;
- 10 (b) by inserting in section 23 (4) (b) after the words “electoral allowance” the words “or special expenses allowance”.
- Sec. 23.
(Pension
for widows.)

13. The Parliamentary Contributory Superannuation Act, 1971, is further amended—

Further
amendment
of Act No.
53, 1971.

- 15 (a) by inserting in the definition of “salary” in section 3 after the word “enactment,” the words “and all remuneration payable to him under the Parliamentary Remuneration Tribunal Act, 1975, excluding any portion thereof specified under section 7A of that Act as being in the nature of an allowance for electoral or other expenses,”;
- 20 (Interpre-
tation.)
- (b) (i) by omitting section 19 (2) and by inserting instead the following subsection :—
- 25 (2) For the purpose of calculating any instalment of pension payable under subsection (1) at any particular time, “current basic salary” means—
- 30 (a) where the person entitled to the instalment last served as a member in the Legislative Council—the salary payable at that particular time to a member

Sec. 19.
(Members’
super-
annuation
benefit.)

Constitution and Other Acts (Amendment).

5 member of the Legislative Council
(other than a Minister of the Crown
or a recognised office holder within the
meaning of the Parliamentary
Remuneration Tribunal Act, 1975)
and expressed at an annual rate; or

10 (b) where the person entitled to the instal-
ment last served as a member in the
Legislative Assembly—the salary pay-
able at that particular time to a member
of the Legislative Assembly (other
than a Minister of the Crown or a
recognised office holder within the
15 meaning of the Parliamentary
Remuneration Tribunal Act, 1975)
and expressed at an annual rate.

(ii) by omitting section 19 (4) and by inserting
instead the following subsections :—

20 (4) For the purpose of subsection (1), the
total basic salary of a person who is entitled
to a pension and who last served in the Legisla-
tive Council is the sum of the following
amounts :—

25 (a) the total amount (if any) that, during
any period (not being a period before
1st January, 1952) during which that
person was entitled to salary, was
payable from time to time as salary or
allowances to a member of the Legisla-
30 tive Council under section 17G of the
Constitution Act, 1902, other than—

(i) any expense allowance or
living away from home
allowance; or

(ii)

Constitution and Other Acts (Amendment).

5 (ii) any amount payable as an allowance to that member only in his capacity as the person recognised as the principal representative of the members of the Legislative Council not being supporters of the Govern-
ment or as salary to that member only in his capacity as the President, or Chairman of Committees, of the Legislative Council; and

15 (b) the total amount (if any) that, during any period during which that person was entitled to salary, was payable from time to time as remuneration under the Parliamentary Remuneration Tribunal Act, 1975, to a member of the Legisla-
20 tive Council (other than a Minister of the Crown or a recognised office holder within the meaning of that Act), excluding any portion thereof specified under section 7A of that Act as being in the nature of an allowance for
25 expenses.

(4A) For the purpose of subsection (1), the total basic salary of a person who is entitled to a pension and who last served in the Legislative Assembly is the sum of the
30 following amounts :—

(a) the total amount (if any) that, during any period (not being a period before 1st January, 1952) during which that person was entitled to salary, was pay-
35 able from time to time as salary or

allowances

Constitution and Other Acts (Amendment).

5 allowances to a member of the Legislative Assembly under section 28 of the Constitution Act, 1902, other than any electoral allowance, special expenses allowance or additional allowance; and

10 (b) the total amount (if any) that, during any period during which that person was entitled to salary, was payable from time to time as remuneration under the Parliamentary Remuneration Tribunal Act, 1975, to a member of the Legislative Assembly (other than a Minister of the Crown or a recognised office holder within the meaning of that Act), excluding any portion thereof specified under section 7A of that Act as being in the nature of an allowance for electoral or other expenses.

20 (c) by omitting section 23 (4) and by inserting instead the following subsection :—
Sec. 23.
(Pension for widows.)

(4) For the purposes of subsections (1), (2) and (3), "current basic salary" means—

25 (a) where the member who has died last served in the Legislative Council—the salary payable from time to time to a member of the Legislative Council (other than a Minister of the Crown or a recognised office holder within the meaning of the Parliamentary Remuneration Tribunal Act, 1975) and
30 expressed at an annual rate; or

(b)

Constitution and Other Acts (Amendment).

5

(b) where the member who has died last served in the Legislative Assembly—the salary payable from time to time to a member of the Legislative Assembly (other than a Minister of the Crown or a recognised office holder within the meaning of the Parliamentary Remuneration Tribunal Act, 1975) and expressed at an annual rate.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1975
[16c]

No. , 1975.

A BILL

Relating to the exercise or performance of the functions of an Executive Councillor by another Executive Councillor acting for him or on his behalf; to provide for the appointment, functions and remuneration of Parliamentary Secretaries; for these and other purposes to amend the Constitution Act, 1902, the Parliamentary Allowances and Salaries Act, 1956, the Parliamentary Contributory Superannuation Act, 1971, and the Parliamentary Remuneration Tribunal Act, 1975; to validate certain matters; and for purposes connected therewith.

[MR PUNCH *on behalf of* MR LEWIS—18 September, 1975.]

BE

Constitution and Other Acts (Amendment).

5 **BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Constitution and Other Short title. Acts (Amendment) Act, 1975".

10 2. (1) Except as provided in this section, this Act shall **Commence-**
commence on the date of assent to this Act. **ment.**

(2) Sections 9 (b) and 13 shall commence on 1st January, 1976.

(3) Section 11 shall be deemed to have commenced
15 on 14th April, 1975.

(4) Section 12 shall be deemed to have commenced on 1st July, 1975.

3. This Act is divided as follows: —

**Division
of Act.**

PART I.—PRELIMINARY—ss. 1-3.

20 PART II.—PROVISIONS AS TO THE FUNCTIONS OF
EXECUTIVE COUNCILLORS—ss. 4-6.

PART III.—PROVISIONS AS TO PARLIAMENTARY SECRE-
TARIES—ss. 7-10.

PART IV.—MISCELLANEOUS PROVISIONS—ss. 11-13.

PART

Constitution and Other Acts (Amendment).

PART II.

PROVISIONS AS TO THE FUNCTIONS OF EXECUTIVE COUNCILLORS.

4. The Constitution Act, 1902, is amended—

Amendment
of Act No.
32, 1902.

5 (a) by inserting after the definition of "Executive Councillor" in section 35 the following definitions :—

Sec. 35.
(Interpre-
tation.)

"Functions" includes powers, authorities and duties.

10 "Unavailable", in relation to an Executive Councillor, means unavailable by reason of the Executive Councillor's absence or disability or for any other reason.

15 (b) by omitting sections 36, 37 and 38 and by inserting instead the following sections :—

Secs. 36-38.

36. (1) The Governor may, from time to time, authorise an Executive Councillor to act for and on behalf of another Executive Councillor for any period specified or described by the Governor.

Authority
for
Executive
Councillor
to act for
and on
behalf of
another
Executive
Councillor.

20 (2) Where an Executive Councillor is authorised under this section to act for and on behalf of another Executive Councillor, any function appertaining or annexed to the office of that other Executive Councillor may, while the authority remains in force, be exercised or performed from time to time by the Executive Councillor so authorised instead of by that other Executive Councillor.

25 (3) An authority under this section may be
30 revoked by the Governor.

(4)

Constitution and Other Acts (Amendment).

(4) An Executive Councillor may be authorised under this section by reference to his name or by reference to the title of the office which he holds as Executive Councillor.

5 (5) Notice of an authority under this section, or the revocation of such an authority, may be published in the Gazette at any time, and, where such a notice is so published, judicial notice shall be taken of the notice and of the authority or
10 revocation, as the case may be.

(6) Every authority under this section shall be recorded by the officer in charge of the records of the Executive Council.

15 37. An Executive Councillor may exercise or perform for and on behalf of another Executive Councillor a function appertaining or annexed to the office of that other Executive Councillor if the firstmentioned Executive Councillor is satisfied that that other Executive Councillor is unavailable and that any Executive Councillor authorised under section 36 to exercise or perform that function is unavailable. Unavaila- bility of Executive Councillor.

25 37A. (1) Sections 36 and 37 apply to the functions appertaining or annexed to the office of an Executive Councillor, whether those functions are conferred or imposed by the terms (express or implied) of an Act or instrument under an Act, or by or under any other law, or by official or other custom, but do not apply to the functions appertain-
30 ing or annexed to that office by virtue of an authority under section 36. Provisions ancillary to sections 36 and 37.

Constitution and Other Acts (Amendment).

(2) Any act, matter or thing done or omitted by an Executive Councillor while acting for or on behalf of another Executive Councillor—

(a) under an authority under section 36; or

(b) under the authority of section 37,

shall be as valid and effectual and shall have the same consequences as if the act, matter or thing had been done or omitted by that other Executive Councillor.

(3) In all proceedings and before all persons acting judicially, it shall be presumed, in the absence of evidence to the contrary, that an Executive Councillor who purports to act for or on behalf of another Executive Councillor was authorised by or under section 36 or 37 so to act.

38. (1) Nothing in section 36, 37 or 37A Limitation as to exercise of Attorney-General's functions. authorises an Executive Councillor to exercise any function that is by an Act or any other law annexed or incident to the office of the Attorney-General.

(2) Where a function is annexed or incident to the office of the Attorney-General by reason only of the fact that the Attorney-General administers an Act or part of an Act, subsection (1) does not apply in relation to that function unless the administration of that Act or part is expressly vested in the Attorney-General by any Act.

5. Any act, matter or thing done or omitted, before the date of assent to this Act, by an Executive Councillor while purporting to act for or on behalf of another Executive Councillor shall be as valid and effectual and shall have the same consequences, and shall be deemed always to have been as valid and effectual and to have had the same consequences, as if the act, matter or thing had been done or omitted by that other Executive Councillor. Validation.

Constitution and Other Acts (Amendment).

6. An authority in force under section 36 of the Constitution Act, 1902, immediately before the date of assent to this Act shall be deemed to have been given under section 36 of that Act, as amended by section 4. Transitional provision.

5

PART III.

PROVISIONS AS TO PARLIAMENTARY SECRETARIES.

7. The Constitution Act, 1902, is further amended—

Further amendment of Act No. 32, 1902.

(a) by inserting after the matter relating to Part IV in section 1 the following matter :— Sec. 1.
(Short title and division.)

10

PART IVA.—PARLIAMENTARY SECRETARIES—
ss. 38B–38E.

(b) by inserting at the end of section 26 the following proviso :— Sec. 26.
(Offices of profit.)

15

Provided further that a person holding office as Parliamentary Secretary is capable of being elected and of sitting and voting as a Member of the said Assembly.

20

(c) by inserting in paragraph (c) of the proviso to section 27 after the word “Government” the words “, or the office of Parliamentary Secretary”; Sec. 27.
(Effect of acceptance of office of profit.)

(d) by inserting in section 29 (1) (a) after the word “Government” the words “or the office of Parliamentary Secretary”; Sec. 29.
(Exceptions.)

(e)

Constitution and Other Acts (Amendment).

(e) by inserting after Part IV the following Part : — Part IVA.

PART IVA.

PARLIAMENTARY SECRETARIES.

5 38B. (1) The Premier may, from time to time, appoint a Member or Members of the Legislative Assembly to hold office as Parliamentary Secretary. Appointment of Parliamentary Secretaries.

(2) Section 47 does not apply to or in respect of the office of Parliamentary Secretary.

10 38C. (1) A Parliamentary Secretary shall have and may perform such functions as the Premier may, from time to time, determine in respect of him. Functions of Parliamentary Secretary.

15 (2) Nothing in this section authorises a Parliamentary Secretary to perform any functions that may, by the terms (express or implied) of an Act or instrument under an Act, or by or under any other law, only be performed by some other person.

38D. (1) A person holding office as Parliamentary Secretary ceases to hold that office— How Parliamentary Secretary ceases to hold office.

- 20 (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;
- 25 (d) if he is removed from office as such by the Premier;
- (e) if his seat as a Member of the Legislative Assembly 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
- 30

(f)

Constitution and Other Acts (Amendment).

(f) upon the day appointed for the taking of the poll for the general election next following his appointment to hold that office.

5 (2) The Premier may, for any cause which appears to him to be sufficient, remove any person from office as Parliamentary Secretary.

10 38E. (1) A person shall not be appointed to hold office as Parliamentary Secretary if he is a Minister of the Crown or a member of the Executive Council. Restrictions relating to Parliamentary Secretaries.

(2) A person shall not be appointed as a Minister of the Crown or a member of the Executive Council if he is a Parliamentary Secretary.

15 **8.** The Parliamentary Allowances and Salaries Act, 1956, is amended by inserting after section 4 the following section :— Amendment of Act No. 22, 1956. Sec. 4A.

4A. There shall be payable to a Parliamentary Secretary holding office under Part IVA of the Principal Act— Salary and allowances of Parliamentary Secretary.

20 (a) a salary at the rate of \$20,220 per annum;

(b) an expense allowance at the rate of \$1,008 per annum;

25 (c) an electoral allowance at the yearly rate specified in the Fifth Schedule to the Principal Act in respect of the electoral district for which he is the member; and

(d)

Constitution and Other Acts (Amendment).

5 (d) if he would be entitled to receive a special expenses allowance under section 28 of the Principal Act had he not been appointed to hold that office—a special expenses allowance at the rate at which he would be so entitled to receive that allowance.

9. The Parliamentary Remuneration Tribunal Act, 1975, is amended— Amendment of Act No. 25, 1975.

10 (a) by inserting after paragraph (q) of Schedule 1 the following paragraph :— Sch. 1. (Recognised Offices.)

(r) Parliamentary Secretary, as referred to in Part IVA of the Constitution Act, 1902.

(b) by inserting at the end of Schedule 2 the following matter :— Sch. 2. (Repeals.)

15 Constitution and Other Acts (Amendment) Act, 1975. Section 8.

20 10. The reference in section 15 (2) (c) of the Parliamentary Remuneration Tribunal Act, 1975, to section 29 (1) (a) of the Constitution Act, 1902, is a reference to section 29 (1) (a) of the lastmentioned Act, as amended by this Act as well as by the Constitution (Amendment) Act, 1968. Consequential effect of amendment.

Constitution and Other Acts (Amendment).

PART IV.

MISCELLANEOUS PROVISIONS.

11. The Parliamentary Remuneration Tribunal Act, 1975, is further amended—

Further amendment of Act No. 25, 1975.

5 (a) by inserting after section 3 (1) the following subsection :—

Sec. 3.
(Interpretation.)

(1A) For the purposes of this Act, a person elected as a member of the Legislative Assembly shall be deemed—

10 (a) to become a member of that Assembly on the day of his election; and

(b) to cease to be a member of that Assembly on—

(i) the day of his death;

15 (ii) the day on which his seat as such a member becomes vacant, otherwise than by reason of the fact that that Assembly has been dissolved or has expired by the effluxion of time;

20

or

(iii) the day appointed for the taking of the poll for the general election next following his election,

whichever first occurs.

25 (b) by inserting after section 7 the following section :—

Sec. 7A.

7A. Where the Tribunal makes a determination in relation to any Parliamentary remuneration, he shall specify, in the report of his determination under section 5 (3) or 7 (2), what portion (if any) of the remuneration is in the nature of an allowance for electoral or other expenses incurred in the course of the duties of a Minister of the Crown, recognised office holder or member.

Report to specify certain allowances.

30

Constitution and Other Acts (Amendment).

12. The Parliamentary Contributory Superannuation Act, 1971, is amended—

Amendment
of Act No.
53, 1971.

- 5 (a) (i) by inserting in section 19 (2) (b) after the words “electoral allowance” the words “or special expenses allowance”;
- (ii) by inserting in section 19 (4) (b) after the words “electoral allowance” the words “, special expenses allowance”;
- 10 (b) by inserting in section 23 (4) (b) after the words “electoral allowance” the words “or special expenses allowance”.

Sec. 19.
(Members’
super-
annuation
benefit.)

Sec. 23.
(Pension
for widows.)

13. The Parliamentary Contributory Superannuation Act, 1971, is further amended—

Further
amendment
of Act No.
53, 1971.

- 15 (a) by inserting in the definition of “salary” in section 3 after the word “enactment,” the words “and all remuneration payable to him under the Parliamentary Remuneration Tribunal Act, 1975, excluding any portion thereof specified under section 7A of that Act as being in the nature of an allowance for electoral or other expenses,”;
- 20 (b) (i) by omitting section 19 (2) and by inserting instead the following subsection :—
- (2) For the purpose of calculating any instalment of pension payable under subsection (1) at any particular time, “current basic salary” means—
- 25 (a) where the person entitled to the instalment last served as a member in the Legislative Council—the salary payable at that particular time to a
- 30 member

Sec. 3.
(Interpre-
tation.)

Sec. 19.
(Members’
super-
annuation
benefit.)

Constitution and Other Acts (Amendment).

5 member of the Legislative Council
(other than a Minister of the Crown
or a recognised office holder within the
meaning of the Parliamentary
Remuneration Tribunal Act, 1975)
and expressed at an annual rate; or

10 (b) where the person entitled to the instal-
ment last served as a member in the
Legislative Assembly—the salary pay-
able at that particular time to a member
of the Legislative Assembly (other
than a Minister of the Crown or a
recognised office holder within the
15 meaning of the Parliamentary
Remuneration Tribunal Act, 1975)
and expressed at an annual rate.

(ii) by omitting section 19 (4) and by inserting
instead the following subsections :—

20 (4) For the purpose of subsection (1), the
total basic salary of a person who is entitled
to a pension and who last served in the Legisla-
tive Council is the sum of the following
amounts :—

25 (a) the total amount (if any) that, during
any period (not being a period before
1st January, 1952) during which that
person was entitled to salary, was
payable from time to time as salary or
allowances to a member of the Legisla-
30 tive Council under section 17G of the
Constitution Act, 1902, other than—

(i) any expense allowance or
living away from home
allowance; or

(ii)

Constitution and Other Acts (Amendment).

5 (ii) any amount payable as an allowance to that member only in his capacity as the person recognised as the principal representative of the members of the Legislative Council not being supporters of the Government or as salary to that member only in his capacity as the President, or Chairman of Committees, of the Legislative Council; and

15 (b) the total amount (if any) that, during any period during which that person was entitled to salary, was payable from time to time as remuneration under the Parliamentary Remuneration Tribunal Act, 1975, to a member of the Legislative Council (other than a Minister of the Crown or a recognised office holder within the meaning of that Act), excluding any portion thereof specified under section 7A of that Act as being in the nature of an allowance for expenses.

30 (4A) For the purpose of subsection (1), the total basic salary of a person who is entitled to a pension and who last served in the Legislative Assembly is the sum of the following amounts :—

35 (a) the total amount (if any) that, during any period (not being a period before 1st January, 1952) during which that person was entitled to salary, was payable from time to time as salary or

allowances

Constitution and Other Acts (Amendment).

5 allowances to a member of the Legislative Assembly under section 28 of the Constitution Act, 1902, other than any electoral allowance, special expenses allowance or additional allowance; and

10 (b) the total amount (if any) that, during any period during which that person was entitled to salary, was payable from time to time as remuneration under the Parliamentary Remuneration Tribunal Act, 1975, to a member of the Legislative Assembly (other than a Minister of the Crown or a recognised office holder within the meaning of that Act), excluding any portion thereof specified under section 7A of that Act as being in the nature of an allowance for electoral or other expenses.

20 (c) by omitting section 23 (4) and by inserting instead the following subsection :—

Sec. 23.
(Pension
for
widows.)

(4) For the purposes of subsections (1), (2) and (3), "current basic salary" means—

25 (a) where the member who has died last served in the Legislative Council—the salary payable from time to time to a member of the Legislative Council (other than a Minister of the Crown or a recognised office holder within the meaning of the Parliamentary Remuneration Tribunal Act, 1975) and

30 expressed at an annual rate; or

(b)

Constitution and Other Acts (Amendment).

5

- (b) where the member who has died last served in the Legislative Assembly—the salary payable from time to time to a member of the Legislative Assembly (other than a Minister of the Crown or a recognised office holder within the meaning of the Parliamentary Remuneration Tribunal Act, 1975) and expressed at an annual rate.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1975

[16c]

Continuation and Other Notes (continued)

The following information was obtained from the records of the Department of the Interior, Bureau of Land Management, regarding the acquisition of the land described herein:

The land was acquired by the Department of the Interior, Bureau of Land Management, on [illegible] 1973, pursuant to the provisions of the [illegible] Act, [illegible] Statutes at Large, [illegible] pages [illegible].

The land was acquired by the Department of the Interior, Bureau of Land Management, on [illegible] 1973, pursuant to the provisions of the [illegible] Act, [illegible] Statutes at Large, [illegible] pages [illegible].

The land was acquired by the Department of the Interior, Bureau of Land Management, on [illegible] 1973, pursuant to the provisions of the [illegible] Act, [illegible] Statutes at Large, [illegible] pages [illegible].

DEPARTMENT OF THE INTERIOR
 BUREAU OF LAND MANAGEMENT
 [illegible]

PROOF

**CONSTITUTION AND OTHER ACTS (AMENDMENT)
BILL, 1975**

EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to clarify and extend the provisions of the Constitution Act, 1902, relating to the exercise or performance of the powers, authorities, duties and functions of an Executive Councillor by another Executive Councillor acting for him or on his behalf;
- (b) to provide for the appointment, functions and remuneration of Parliamentary Secretaries;
- (c) to specify the term for which a Member of the Legislative Assembly is, for the purposes of the Parliamentary Remuneration Tribunal Act, 1975, to be treated as such a Member; and
- (d) to make consequential amendments to the Parliamentary Contributory Superannuation Act, 1971, following the enactment of the Parliamentary Allowances and Salaries (Amendment) Act, 1975, and the Parliamentary Remuneration Tribunal Act, 1975.

Part I of the Bill contains preliminary provisions, as follows:—

Clause 1 specifies the short title of the Bill.

Clause 2 provides for the commencement of the proposed Act.

Clause 3 specifies the manner in which the Bill is divided into parts.

Part II of the Bill contains provisions as to the exercise of the functions of Executive Councillors, as follows:—

Clause 4 amends the Constitution Act, 1902—

- (a) to provide that, where an Executive Councillor is absent, ill or otherwise unavailable, another Executive Councillor may exercise or perform any function belonging to the firstmentioned Executive Councillor; and
- (b) to continue the restriction on the exercise or performance by other Executive Councillors of the Attorney-General's functions, except where they are conferred or imposed on the Attorney-General by reason only of the allocation of the administration of an Act to him.

Clause 5 validates any act, matter or thing done or omitted, before the enactment of the Bill, by an Executive Councillor purporting to act for or on behalf of another Executive Councillor.

Clause 6 is a transitional provision.

Part III of the Bill contains provisions as to Parliamentary Secretaries, as follows:—

Clause 7 amends the Constitution Act, 1902—

- (a) to provide for the appointment of Parliamentary Secretaries by the Premier;
- (b) to enable the functions of a Parliamentary Secretary to be determined; and
- (c) to specify when a Parliamentary Secretary ceases to hold office.

Clause 8 amends the Parliamentary Allowances and Salaries Act, 1956, to provide for the salary and allowances of a Parliamentary Secretary from the enactment of the Bill until 31st December, 1975.

Clause 9 amends the Parliamentary Remuneration Tribunal Act, 1975, to provide for the determination of the remuneration (payable as from 1st January, 1976) of a Parliamentary Secretary as the holder of a recognised office.

Clause 10 is a consequential provision relating to the repeal of section 29 (1) (a) of the Constitution Act, 1902, by the Parliamentary Remuneration Tribunal Act, 1975.

Part IV of the Bill contains miscellaneous provisions, as follows:—

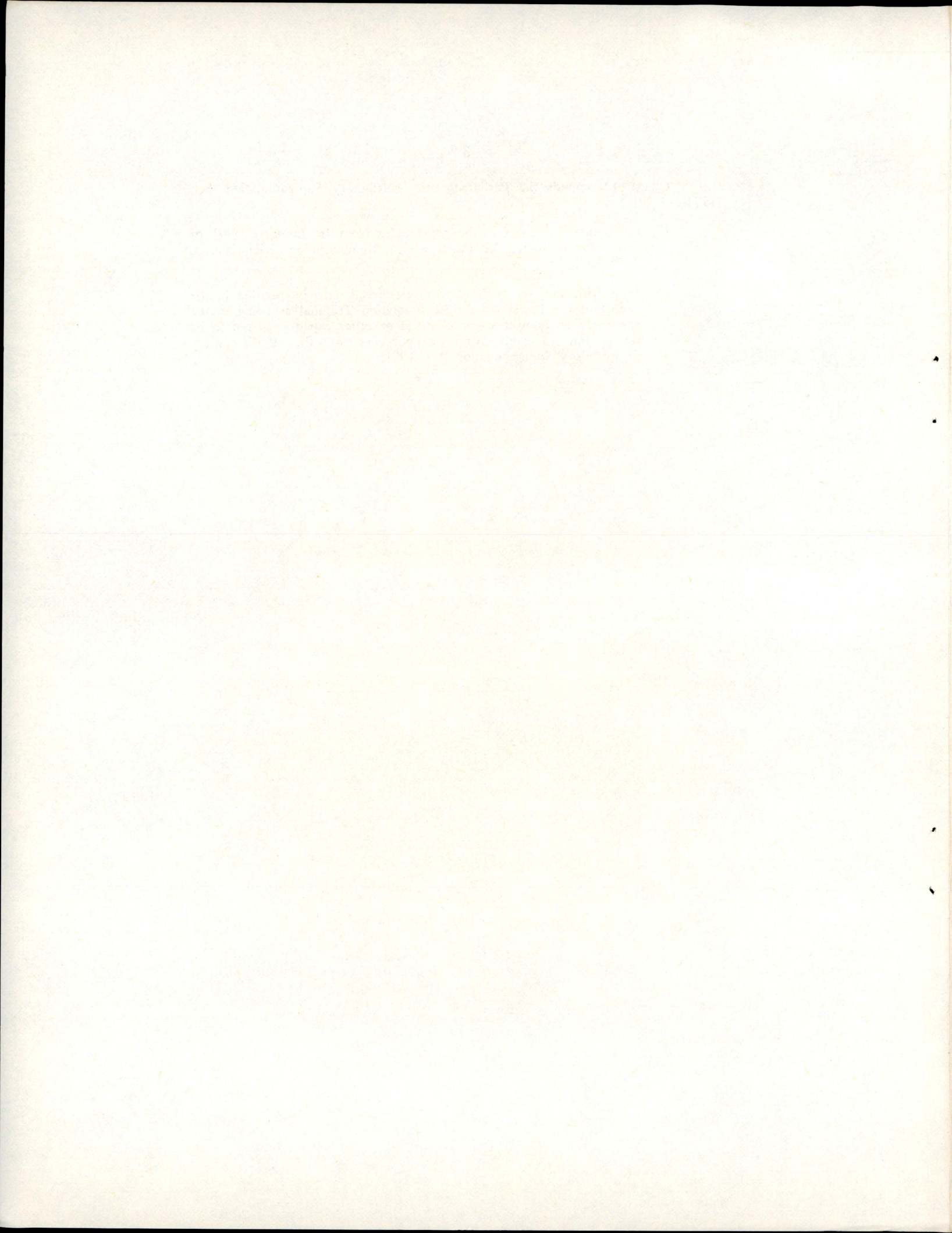
Clause 11 amends the Parliamentary Remuneration Tribunal Act, 1975—

- (a) to treat (for the purposes of that Act) a person elected a Member of the Legislative Assembly as becoming a Member on the day of his election and as continuing a Member until the polling day for the next general election (unless his seat is sooner vacated for some reason other than the dissolution or expiry of the Legislative Assembly); and
- (b) to require the Parliamentary Remuneration Tribunal to specify, in his report of a determination of Parliamentary remuneration, the portion thereof that is in the nature of an allowance for electoral or other expenses.

Clause 12 amends the Parliamentary Contributory Superannuation Act, 1971, to provide that the special expenses allowance is not to be taken into account for the purpose of determining the amount of pension payable under that Act.

Clause 13 amends the Parliamentary Contributory Superannuation Act, 1971—

- (a) to include references to the payment as from 1st January, 1976, of remuneration under the Parliamentary Remuneration Tribunal Act, 1975; and
 - (b) to provide that so much of that remuneration as is specified in the report of the Parliamentary Remuneration Tribunal as being in the nature of an allowance for electoral or other expenses is not to be taken into account for the purposes of the Parliamentary Contributory Superannuation Act, 1971.
-



PROOF

No. , 1975.

A BILL

Relating to the exercise or performance of the functions of an Executive Councillor by another Executive Councillor acting for him or on his behalf; to provide for the appointment, functions and remuneration of Parliamentary Secretaries; for these and other purposes to amend the Constitution Act, 1902, the Parliamentary Allowances and Salaries Act, 1956, the Parliamentary Contributory Superannuation Act, 1971, and the Parliamentary Remuneration Tribunal Act, 1975; to validate certain matters; and for purposes connected therewith.

[MR PUNCH *on behalf of* MR LEWIS—18 September, 1975.]

BE

Constitution and Other Acts (Amendment).

5 **B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Constitution and Other Acts (Amendment) Act, 1975". Short title.

10 **2.** (1) Except as provided in this section, this Act shall commence on the date of assent to this Act. Commence-
ment.

(2) Sections 9 (b) and 13 shall commence on 1st January, 1976.

15 (3) Section 11 shall be deemed to have commenced on 14th April, 1975.

(4) Section 12 shall be deemed to have commenced on 1st July, 1975.

3. This Act is divided as follows:—

**Division
of Act.**

PART I.—PRELIMINARY—ss. 1-3.

20 **PART II.—PROVISIONS AS TO THE FUNCTIONS OF EXECUTIVE COUNCILLORS—ss. 4-6.**

PART III.—PROVISIONS AS TO PARLIAMENTARY SECRETARIES—ss. 7-10.

PART IV.—MISCELLANEOUS PROVISIONS—ss. 11-13.

PART

Constitution and Other Acts (Amendment).

PART II.

PROVISIONS AS TO THE FUNCTIONS OF EXECUTIVE COUNCILLORS.

4. The Constitution Act, 1902, is amended—

Amendment
of Act No.
32, 1902.

5 (a) by inserting after the definition of "Executive Councillor" in section 35 the following definitions :—

Sec. 35.
(Interpre-
tation.)

"Functions" includes powers, authorities and duties.

10 "Unavailable", in relation to an Executive Councillor, means unavailable by reason of the Executive Councillor's absence or disability or for any other reason.

15 (b) by omitting sections 36, 37 and 38 and by inserting instead the following sections :—

Secs. 36-38.

36. (1) The Governor may, from time to time, authorise an Executive Councillor to act for and on behalf of another Executive Councillor for any period specified or described by the Governor.

Authority
for
Executive
Councillor
to act for
and on
behalf of
another
Executive
Councillor.

20 (2) Where an Executive Councillor is authorised under this section to act for and on behalf of another Executive Councillor, any function appertaining or annexed to the office of that other Executive Councillor may, while the authority remains in force, be exercised or performed from time to time by the Executive Councillor so authorised instead of by that other Executive Councillor.

25 (3) An authority under this section may be
30 revoked by the Governor.

(4)

Constitution and Other Acts (Amendment).

(4) An Executive Councillor may be authorised under this section by reference to his name or by reference to the title of the office which he holds as Executive Councillor.

5 (5) Notice of an authority under this section, or the revocation of such an authority, may be published in the Gazette at any time, and, where such a notice is so published, judicial notice shall be taken of the notice and of the authority or
10 revocation, as the case may be.

(6) Every authority under this section shall be recorded by the officer in charge of the records of the Executive Council.

15 37. An Executive Councillor may exercise or perform for and on behalf of another Executive Councillor a function appertaining or annexed to the office of that other Executive Councillor if the firstmentioned Executive Councillor is satisfied that that other Executive Councillor is unavailable and that any Executive Councillor authorised under
20 section 36 to exercise or perform that function is unavailable.

Unavail-
ability of
Executive
Councillor.

25 37A. (1) Sections 36 and 37 apply to the functions appertaining or annexed to the office of an Executive Councillor, whether those functions are conferred or imposed by the terms (express or implied) of an Act or instrument under an Act, or by or under any other law, or by official or other custom, but do not apply to the functions appertain-
30 ing or annexed to that office by virtue of an authority under section 36.

Provisions
ancillary
to sections
36 and 37.

Constitution and Other Acts (Amendment).

(2) Any act, matter or thing done or omitted by an Executive Councillor while acting for or on behalf of another Executive Councillor—

(a) under an authority under section 36; or

5 (b) under the authority of section 37,

shall be as valid and effectual and shall have the same consequences as if the act, matter or thing had been done or omitted by that other Executive Councillor.

10 (3) In all proceedings and before all persons acting judicially, it shall be presumed, in the absence of evidence to the contrary, that an Executive Councillor who purports to act for or on behalf of another Executive Councillor was
15 authorised by or under section 36 or 37 so to act.

38. (1) Nothing in section 36, 37 or 37A Limitation as to exercise of Attorney-General's functions. authorises an Executive Councillor to exercise any function that is by an Act or any other law annexed or incident to the office of the Attorney-General.

20 (2) Where a function is annexed or incident to the office of the Attorney-General by reason only of the fact that the Attorney-General administers an Act or part of an Act, subsection (1) does not
25 apply in relation to that function unless the administration of that Act or part is expressly vested in the Attorney-General by any Act.

5. Any act, matter or thing done or omitted, before the Validation. date of assent to this Act, by an Executive Councillor while purporting to act for or on behalf of another Executive
30 Councillor shall be as valid and effectual and shall have the same consequences, and shall be deemed always to have been as valid and effectual and to have had the same consequences, as if the act, matter or thing had been done or omitted by that other Executive Councillor.

Constitution and Other Acts (Amendment).

6. An authority in force under section 36 of the Constitution Act, 1902, immediately before the date of assent to this Act shall be deemed to have been given under section 36 of that Act, as amended by section 4. Transitional provision.

5

PART III.
PROVISIONS AS TO PARLIAMENTARY SECRETARIES.

7. The Constitution Act, 1902, is further amended— Further amendment of Act No. 32, 1902.

(a) by inserting after the matter relating to Part IV in section 1 the following matter :— Sec. 1.
(Short title and division.)

10

PART IVA.—PARLIAMENTARY SECRETARIES—
ss. 38B–38E.

(b) by inserting at the end of section 26 the following proviso :— Sec. 26.
(Offices of profit.)

15

Provided further that a person holding office as Parliamentary Secretary is capable of being elected and of sitting and voting as a Member of the said Assembly.

20

(c) by inserting in paragraph (c) of the proviso to section 27 after the word “Government” the words “, or the office of Parliamentary Secretary”; Sec. 27.
(Effect of acceptance of office of profit.)

(d) by inserting in section 29 (1) (a) after the word “Government” the words “or the office of Parliamentary Secretary”; Sec. 29.
(Exceptions.)

(e)

Constitution and Other Acts (Amendment).

(e) by inserting after Part IV the following Part : — Part IVA.

PART IVA.

PARLIAMENTARY SECRETARIES.

5 38B. (1) The Premier may, from time to time, appoint a Member or Members of the Legislative Assembly to hold office as Parliamentary Secretary. Appoint-ment of Parlia-mentary Secretaries.

(2) Section 47 does not apply to or in respect of the office of Parliamentary Secretary.

10 38C. (1) A Parliamentary Secretary shall have and may perform such functions as the Premier may, from time to time, determine in respect of him. Functions of Parlia-mentary Secretary.

15 (2) Nothing in this section authorises a Parliamentary Secretary to perform any functions that may, by the terms (express or implied) of an Act or instrument under an Act, or by or under any other law, only be performed by some other person.

38D. (1) A person holding office as Parliamentary Secretary ceases to hold that office— How Parlia-mentary Secretary ceases to hold office.

- 20 (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;
- 25 (d) if he is removed from office as such by the Premier;
- (e) if his seat as a Member of the Legislative Assembly 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)

Constitution and Other Acts (Amendment).

(f) upon the day appointed for the taking of the poll for the general election next following his appointment to hold that office.

5 (2) The Premier may, for any cause which appears to him to be sufficient, remove any person from office as Parliamentary Secretary.

10 38E. (1) A person shall not be appointed to hold office as Parliamentary Secretary if he is a Minister of the Crown or a member of the Executive Council. Restrictions relating to Parliamentary Secretaries.

(2) A person shall not be appointed as a Minister of the Crown or a member of the Executive Council if he is a Parliamentary Secretary.

15 **8.** The Parliamentary Allowances and Salaries Act, 1956, is amended by inserting after section 4 the following section :— Amendment of Act No. 22, 1956. Sec. 4A.

4A. There shall be payable to a Parliamentary Secretary holding office under Part IVA of the Principal Act— Salary and allowances of Parliamentary Secretary.

- 20 (a) a salary at the rate of \$20,220 per annum ;
- (b) an expense allowance at the rate of \$1,008 per annum;
- 25 (c) an electoral allowance at the yearly rate specified in the Fifth Schedule to the Principal Act in respect of the electoral district for which he is the member; and

(d)

Constitution and Other Acts (Amendment).

5 (d) if he would be entitled to receive a special expenses allowance under section 28 of the Principal Act had he not been appointed to hold that office—a special expenses allowance at the rate at which he would be so entitled to receive that allowance.

9. The Parliamentary Remuneration Tribunal Act, 1975, is amended— Amendment of Act No. 25, 1975.

10 (a) by inserting after paragraph (q) of Schedule 1 the following paragraph :— Sch. 1. (Recognised Offices.)

(r) Parliamentary Secretary, as referred to in Part IVA of the Constitution Act, 1902.

(b) by inserting at the end of Schedule 2 the following matter :— Sch.2. (Repeals.)

15 Constitution and Other Acts (Amendment) Act, 1975. Section 8.

10. The reference in section 15 (2) (c) of the Parliamentary Remuneration Tribunal Act, 1975, to section 29 (1) (a) of the Constitution Act, 1902, is a reference to section 29 (1) (a) of the lastmentioned Act, as amended by this Act as well as by the Constitution (Amendment) Act, 1968. Consequential effect of amendment.

PART

Constitution and Other Acts (Amendment).

PART IV.

MISCELLANEOUS PROVISIONS.

11. The Parliamentary Remuneration Tribunal Act, 1975, is further amended—

Further amendment of Act No. 25, 1975.

- 5 (a) by inserting after section 3 (1) the following subsection :—

Sec. 3.
(Interpretation.)

(1A) For the purposes of this Act, a person elected as a member of the Legislative Assembly shall be deemed—

- 10 (a) to become a member of that Assembly on the day of his election; and

- (b) to cease to be a member of that Assembly on—

- 15 (i) the day of his death;
- (ii) the day on which his seat as such a member becomes vacant, otherwise than by reason of the fact that that Assembly has been dissolved or has expired by the effluxion of time;
- 20 or

- (iii) the day appointed for the taking of the poll for the general election next following his election,

whichever first occurs.

- 25 (b) by inserting after section 7 the following section :—

Sec. 7A.

- 30 7A. Where the Tribunal makes a determination in relation to any Parliamentary remuneration, he shall specify, in the report of his determination under section 5 (3) or 7 (2), what portion (if any) of the remuneration is in the nature of an allowance for electoral or other expenses incurred in the course of the duties of a Minister of the Crown, recognised office holder or member.

Report to specify certain allowances.

Constitution and Other Acts (Amendment).

12. The Parliamentary Contributory Superannuation Act, 1971, is amended—

Amendment
of Act No.
53, 1971.

- 5 (a) (i) by inserting in section 19 (2) (b) after the words “electoral allowance” the words “or special expenses allowance”;
- (ii) by inserting in section 19 (4) (b) after the words “electoral allowance” the words “, special expenses allowance”;
- 10 (b) by inserting in section 23 (4) (b) after the words “electoral allowance” the words “or special expenses allowance”.

Sec. 19.
(Members’
super-
annuation
benefit.)

Sec. 23.
(Pension
for widows.)

13. The Parliamentary Contributory Superannuation Act, 1971, is further amended—

Further
amendment
of Act No.
53, 1971.

- 15 (a) by inserting in the definition of “salary” in section 3 after the word “enactment,” the words “and all remuneration payable to him under the Parliamentary Remuneration Tribunal Act, 1975, excluding any portion thereof specified under section 7A of that Act as being in the nature of an allowance for electoral or other expenses,”;
- 20 (b) (i) by omitting section 19 (2) and by inserting instead the following subsection :—
- (2) For the purpose of calculating any instalment of pension payable under subsection (1) at any particular time, “current basic salary” means—
- 25 (a) where the person entitled to the instalment last served as a member in the Legislative Council—the salary payable at that particular time to a
- 30 member

Sec. 3.
(Interpre-
tation.)

Sec. 19.
(Members’
super-
annuation
benefit.)

Constitution and Other Acts (Amendment).

- 5 member of the Legislative Council (other than a Minister of the Crown or a recognised office holder within the meaning of the Parliamentary Remuneration Tribunal Act, 1975) and expressed at an annual rate; or
- 10 (b) where the person entitled to the instalment last served as a member in the Legislative Assembly—the salary payable at that particular time to a member of the Legislative Assembly (other than a Minister of the Crown or a recognised office holder within the meaning of the Parliamentary Remuneration Tribunal Act, 1975) and expressed at an annual rate.
- 15
- (ii) by omitting section 19 (4) and by inserting instead the following subsections :—
- 20 (4) For the purpose of subsection (1), the total basic salary of a person who is entitled to a pension and who last served in the Legislative Council is the sum of the following amounts :—
- 25 (a) the total amount (if any) that, during any period (not being a period before 1st January, 1952) during which that person was entitled to salary, was payable from time to time as salary or allowances to a member of the Legislative Council under section 17G of the Constitution Act, 1902, other than—
- 30 (i) any expense allowance or living away from home allowance; or
- (ii)

Constitution and Other Acts (Amendment).

5 (ii) any amount payable as an allowance to that member only in his capacity as the person recognised as the principal representative of the members of the Legislative Council not being supporters of the Government or as salary to that member only in his capacity as the President, or Chairman of Committees, of the Legislative Council; and

15 (b) the total amount (if any) that, during any period during which that person was entitled to salary, was payable from time to time as remuneration under the Parliamentary Remuneration Tribunal Act, 1975, to a member of the Legislative Council (other than a Minister of the Crown or a recognised office holder within the meaning of that Act), excluding any portion thereof specified under section 7A of that Act as being in the nature of an allowance for expenses.

30 (4A) For the purpose of subsection (1), the total basic salary of a person who is entitled to a pension and who last served in the Legislative Assembly is the sum of the following amounts :—

35 (a) the total amount (if any) that, during any period (not being a period before 1st January, 1952) during which that person was entitled to salary, was payable from time to time as salary or

allowances

Constitution and Other Acts (Amendment).

- 5 allowances to a member of the Legislative Assembly under section 28 of the Constitution Act, 1902, other than any electoral allowance, special expenses allowance or additional allowance; and
- 10 (b) the total amount (if any) that, during any period during which that person was entitled to salary, was payable under the Parliamentary Remuneration Tribunal Act, 1975, to a member of the Legislative Assembly (other than a Minister of the Crown or a recognised office holder within the meaning of that Act), excluding any portion thereof specified under section 7A of that Act as being in the nature of an allowance for electoral or other expenses.
- 15
- 20 (c) by omitting section 23 (4) and by inserting instead the following subsection :—
- Sec. 23.
(Pension
for
widows.)
- (4) For the purposes of subsections (1), (2) and (3), "current basic salary" means—
- 25 (a) where the member who has died last served in the Legislative Council—the salary payable from time to time to a member of the Legislative Council (other than a Minister of the Crown or a recognised office holder within the meaning of the Parliamentary Remuneration Tribunal Act, 1975) and expressed at an annual rate; or
- 30

(b)

Constitution and Other Acts (Amendment).

5

(b) where the member who has died last served in the Legislative Assembly—the salary payable from time to time to a member of the Legislative Assembly (other than a Minister of the Crown or a recognised office holder within the meaning of the Parliamentary Remuneration Tribunal Act, 1975) and expressed at an annual rate.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1975

Continuation and Other Acts (Amendment)

1. That where the number of members of the Council of Ministers in the Legislative Assembly exceeds the number of members of the Council of Ministers in the Council of Ministers of the Government of the State, the number of members of the Council of Ministers in the Council of Ministers of the Government of the State shall be reduced to the number of members of the Council of Ministers in the Legislative Assembly.

2

New South Wales



ANNO VICESIMO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 67, 1975.

An Act relating to the exercise or performance of the functions of an Executive Councillor by another Executive Councillor acting for him or on his behalf; to provide for the appointment, functions and remuneration of Parliamentary Secretaries; for these and other purposes to amend the Constitution Act, 1902, the Parliamentary Allowances and Salaries Act, 1956, the Parliamentary Contributory Superannuation Act, 1971, and the Parliamentary Remuneration Tribunal Act, 1975; to validate certain matters; and for purposes connected therewith. [Assented to, 31st October, 1975.]

BE

Constitution and Other Acts (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title. **1.** This Act may be cited as the "Constitution and Other Acts (Amendment) Act, 1975".

**Commence-
ment.** **2.** (1) Except as provided in this section, this Act shall commence on the date of assent to this Act.

(2) Sections 9 (b) and 13 shall commence on 1st January, 1976.

(3) Section 11 shall be deemed to have commenced on 14th April, 1975.

(4) Section 12 shall be deemed to have commenced on 1st July, 1975.

**Division
of Act.** **3.** This Act is divided as follows:—

PART I.—PRELIMINARY—ss. 1–3.

PART II.—PROVISIONS AS TO THE FUNCTIONS OF
EXECUTIVE COUNCILLORS—ss. 4–6.

PART III.—PROVISIONS AS TO PARLIAMENTARY SECRE-
TARIES—ss. 7–10.

PART IV.—MISCELLANEOUS PROVISIONS—ss. 11–13.

Constitution and Other Acts (Amendment).

PART II.

PROVISIONS AS TO THE FUNCTIONS OF EXECUTIVE COUNCILLORS.

4. The Constitution Act, 1902, is amended—

Amendment
of Act No.
32, 1902.

- (a) by inserting after the definition of "Executive Councillor" in section 35 the following definitions :—

Sec. 35.
(Interpre-
tation.)

"Functions" includes powers, authorities and duties.

"Unavailable", in relation to an Executive Councillor, means unavailable by reason of the Executive Councillor's absence or disability or for any other reason.

- (b) by omitting sections 36, 37 and 38 and by inserting instead the following sections :—

36. (1) The Governor may, from time to time, authorise an Executive Councillor to act for and on behalf of another Executive Councillor for any period specified or described by the Governor.

Authority
for
Executive
Councillor
to act for
and on
behalf of
another
Executive
Councillor.

(2) Where an Executive Councillor is authorised under this section to act for and on behalf of another Executive Councillor, any function appertaining or annexed to the office of that other Executive Councillor may, while the authority remains in force, be exercised or performed from time to time by the Executive Councillor so authorised instead of by that other Executive Councillor.

(3) An authority under this section may be revoked by the Governor.

(4)

Constitution and Other Acts (Amendment).

(4) An Executive Councillor may be authorised under this section by reference to his name or by reference to the title of the office which he holds as Executive Councillor.

(5) Notice of an authority under this section, or the revocation of such an authority, may be published in the Gazette at any time, and, where such a notice is so published, judicial notice shall be taken of the notice and of the authority or revocation, as the case may be.

(6) Every authority under this section shall be recorded by the officer in charge of the records of the Executive Council.

Unavaila-
bility of
Executive
Councillor.

37. An Executive Councillor may exercise or perform for and on behalf of another Executive Councillor a function appertaining or annexed to the office of that other Executive Councillor if the firstmentioned Executive Councillor is satisfied that that other Executive Councillor is unavailable and that any Executive Councillor authorised under section 36 to exercise or perform that function is unavailable.

Provisions
ancillary
to sections
36 and 37.

37A. (1) Sections 36 and 37 apply to the functions appertaining or annexed to the office of an Executive Councillor, whether those functions are conferred or imposed by the terms (express or implied) of an Act or instrument under an Act, or by or under any other law, or by official or other custom, but do not apply to the functions appertaining or annexed to that office by virtue of an authority under section 36.

(2)

Constitution and Other Acts (Amendment).

(2) Any act, matter or thing done or omitted by an Executive Councillor while acting for or on behalf of another Executive Councillor—

- (a) under an authority under section 36; or
- (b) under the authority of section 37,

shall be as valid and effectual and shall have the same consequences as if the act, matter or thing had been done or omitted by that other Executive Councillor.

(3) In all proceedings and before all persons acting judicially, it shall be presumed, in the absence of evidence to the contrary, that an Executive Councillor who purports to act for or on behalf of another Executive Councillor was authorised by or under section 36 or 37 so to act.

38. (1) Nothing in section 36, 37 or 37A authorises an Executive Councillor to exercise any function that is by an Act or any other law annexed or incident to the office of the Attorney-General.

Limitation
as to
exercise of
Attorney-
General's
functions.

(2) Where a function is annexed or incident to the office of the Attorney-General by reason only of the fact that the Attorney-General administers an Act or part of an Act, subsection (1) does not apply in relation to that function unless the administration of that Act or part is expressly vested in the Attorney-General by any Act.

5. Any act, matter or thing done or omitted, before the date of assent to this Act, by an Executive Councillor while purporting to act for or on behalf of another Executive Councillor shall be as valid and effectual and shall have the same consequences, and shall be deemed always to have been as valid and effectual and to have had the same consequences, as if the act, matter or thing had been done or omitted by that other Executive Councillor.

Validation.

Constitution and Other Acts (Amendment).

Transitional provision.

6. An authority in force under section 36 of the Constitution Act, 1902, immediately before the date of assent to this Act shall be deemed to have been given under section 36 of that Act, as amended by section 4.

PART III.

PROVISIONS AS TO PARLIAMENTARY SECRETARIES.

Further amendment of Act No. 32, 1902.

7. The Constitution Act, 1902, is further amended—

Sec. 1.
(Short title and division.)

(a) by inserting after the matter relating to Part IV in section 1 the following matter :—

PART IVA.—PARLIAMENTARY SECRETARIES—
ss. 38B–38E.

Sec. 26.
(Offices of profit.)

(b) by inserting at the end of section 26 the following proviso :—

Provided further that a person holding office as Parliamentary Secretary is capable of being elected and of sitting and voting as a Member of the said Assembly.

Sec. 27.
(Effect of acceptance of office of profit.)

(c) by inserting in paragraph (c) of the proviso to section 27 after the word “Government” the words “, or the office of Parliamentary Secretary”;

Sec. 29.
(Exceptions.)

(d) by inserting in section 29 (1) (a) after the word “Government” the words “or the office of Parliamentary Secretary”;

(e)

Constitution and Other Acts (Amendment).

(e) by inserting after Part IV the following Part : — Part IVa.

PART IVa.

PARLIAMENTARY SECRETARIES.

38B. (1) The Premier may, from time to time, appoint a Member or Members of the Legislative Assembly to hold office as Parliamentary Secretary.

Appointment of Parliamentary Secretaries.

(2) Section 47 does not apply to or in respect of the office of Parliamentary Secretary.

38C. (1) A Parliamentary Secretary shall have and may perform such functions as the Premier may, from time to time, determine in respect of him.

Functions of Parliamentary Secretary.

(2) Nothing in this section authorises a Parliamentary Secretary to perform any functions that may, by the terms (express or implied) of an Act or instrument under an Act, or by or under any other law, only be performed by some other person.

38D. (1) A person holding office as Parliamentary Secretary ceases to hold that office—

How Parliamentary Secretary ceases to hold 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 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)

Constitution and Other Acts (Amendment).

(f) upon the day appointed for the taking of the poll for the general election next following his appointment to hold that office.

(2) The Premier may, for any cause which appears to him to be sufficient, remove any person from office as Parliamentary Secretary.

Restrictions relating to Parliamentary Secretaries.

38E. (1) A person shall not be appointed to hold office as Parliamentary Secretary if he is a Minister of the Crown or a member of the Executive Council.

(2) A person shall not be appointed as a Minister of the Crown or a member of the Executive Council if he is a Parliamentary Secretary.

Amendment of Act No. 22, 1956. Sec. 4A.

8. The Parliamentary Allowances and Salaries Act, 1956, is amended by inserting after section 4 the following section :—

Salary and allowances of Parliamentary Secretary.

4A. There shall be payable to a Parliamentary Secretary holding office under Part IVA of the Principal Act—

- (a) a salary at the rate of \$20,220 per annum;
- (b) an expense allowance at the rate of \$1,008 per annum;
- (c) an electoral allowance at the yearly rate specified in the Fifth Schedule to the Principal Act in respect of the electoral district for which he is the member; and

(d)

Constitution and Other Acts (Amendment).

- (d) if he would be entitled to receive a special expenses allowance under section 28 of the Principal Act had he not been appointed to hold that office—a special expenses allowance at the rate at which he would be so entitled to receive that allowance.

9. The Parliamentary Remuneration Tribunal Act, 1975, is amended— Amendment of Act No. 25, 1975.

- (a) by inserting after paragraph (q) of Schedule 1 the following paragraph :— Sch. 1.
(Recognised Offices.)

(r) Parliamentary Secretary, as referred to in Part IVA of the Constitution Act, 1902.

- (b) by inserting at the end of Schedule 2 the following matter :— Sch. 2.
(Repeals.)

Constitution and Other
Acts (Amend-
ment) Act, 1975.

Section 8.

10. The reference in section 15 (2) (c) of the Parliamentary Remuneration Tribunal Act, 1975, to section 29 (1) (a) of the Constitution Act, 1902, is a reference to section 29 (1) (a) of the lastmentioned Act, as amended by this Act as well as by the Constitution (Amendment) Act, 1968. Conse-
quential
effect of
amend-
ment.

Constitution and Other Acts (Amendment).

PART IV.

MISCELLANEOUS PROVISIONS.

Further
amendment
of Act No.
25, 1975.
Sec. 3.
(Interpre-
tation.)

11. The Parliamentary Remuneration Tribunal Act, 1975, is further amended—

(a) by inserting after section 3 (1) the following subsection :—

(1A) For the purposes of this Act, a person elected as a member of the Legislative Assembly shall be deemed—

(a) to become a member of that Assembly on the day of his election; and

(b) to cease to be a member of that Assembly on—

(i) the day of his death;

(ii) the day on which his seat as such a member becomes vacant, otherwise than by reason of the fact that that Assembly has been dissolved or has expired by the effluxion of time; or

(iii) the day appointed for the taking of the poll for the general election next following his election,

whichever first occurs.

Sec. 7A.

(b) by inserting after section 7 the following section :—

Report to
specify
certain
allowances.

7A. Where the Tribunal makes a determination in relation to any Parliamentary remuneration, he shall specify, in the report of his determination under section 5 (3) or 7 (2), what portion (if any) of the remuneration is in the nature of an allowance for electoral or other expenses incurred in the course of the duties of a Minister of the Crown, recognised office holder or member.

12.

Constitution and Other Acts (Amendment).

12. The Parliamentary Contributory Superannuation Act, 1971, is amended— Amendment of Act No. 53, 1971.

- (a) (i) by inserting in section 19 (2) (b) after the words “electoral allowance” the words “or special expenses allowance”; Sec. 19. (Members’ super-annuation benefit.)
- (ii) by inserting in section 19 (4) (b) after the words “electoral allowance” the words “, special expenses allowance”;
- (b) by inserting in section 23 (4) (b) after the words “electoral allowance” the words “or special expenses allowance”. Sec. 23. (Pension for widows.)

13. The Parliamentary Contributory Superannuation Act, 1971, is further amended— Further amendment of Act No. 53, 1971.

- (a) by inserting in the definition of “salary” in section 3 after the word “enactment,” the words “and all remuneration payable to him under the Parliamentary Remuneration Tribunal Act, 1975, excluding any portion thereof specified under section 7A of that Act as being in the nature of an allowance for electoral or other expenses,”; Sec. 3. (Interpretation.)
- (b) (i) by omitting section 19 (2) and by inserting instead the following subsection :— Sec. 19. (Members’ super-annuation benefit.)
- (2) For the purpose of calculating any instalment of pension payable under subsection (1) at any particular time, “current basic salary” means—
- (a) where the person entitled to the instalment last served as a member in the Legislative Council—the salary payable at that particular time to a member

Constitution and Other Acts (Amendment).

member of the Legislative Council (other than a Minister of the Crown or a recognised office holder within the meaning of the Parliamentary Remuneration Tribunal Act, 1975) and expressed at an annual rate; or

- (b) where the person entitled to the instalment last served as a member in the Legislative Assembly—the salary payable at that particular time to a member of the Legislative Assembly (other than a Minister of the Crown or a recognised office holder within the meaning of the Parliamentary Remuneration Tribunal Act, 1975) and expressed at an annual rate.
- (ii) by omitting section 19 (4) and by inserting instead the following subsections :—

(4) For the purpose of subsection (1), the total basic salary of a person who is entitled to a pension and who last served in the Legislative Council is the sum of the following amounts :—

- (a) the total amount (if any) that, during any period (not being a period before 1st January, 1952) during which that person was entitled to salary, was payable from time to time as salary or allowances to a member of the Legislative Council under section 17G of the Constitution Act, 1902, other than—
- (i) any expense allowance or living away from home allowance; or

(ii)

Constitution and Other Acts (Amendment).

(ii) any amount payable as an allowance to that member only in his capacity as the person recognised as the principal representative of the members of the Legislative Council not being supporters of the Government or as salary to that member only in his capacity as the President, or Chairman of Committees, of the Legislative Council; and

(b) the total amount (if any) that, during any period during which that person was entitled to salary, was payable from time to time as remuneration under the Parliamentary Remuneration Tribunal Act, 1975, to a member of the Legislative Council (other than a Minister of the Crown or a recognised office holder within the meaning of that Act), excluding any portion thereof specified under section 7A of that Act as being in the nature of an allowance for expenses.

(4A) For the purpose of subsection (1), the total basic salary of a person who is entitled to a pension and who last served in the Legislative Assembly is the sum of the following amounts :—

(a) the total amount (if any) that, during any period (not being a period before 1st January, 1952) during which that person was entitled to salary, was payable from time to time as salary or

(d)

allowances

Constitution and Other Acts (Amendment)

allowances to a member of the Legislative Assembly under section 28 of the Constitution Act, 1902, other than any electoral allowance, special expenses allowance or additional allowance; and

- (b) the total amount (if any) that, during any period during which that person was entitled to salary, was payable from time to time as remuneration under the Parliamentary Remuneration Tribunal Act, 1975, to a member of the Legislative Assembly (other than a Minister of the Crown or a recognised office holder within the meaning of that Act), excluding any portion thereof specified under section 7A of that Act as being in the nature of an allowance for electoral or other expenses.

Sec. 23.
(Pension
for
widows.)

- (c) by omitting section 23 (4) and by inserting instead the following subsection :—

(4) For the purposes of subsections (1), (2) and (3), “current basic salary” means—

- (a) where the member who has died last served in the Legislative Council—the salary payable from time to time to a member of the Legislative Council (other than a Minister of the Crown or a recognised office holder within the meaning of the Parliamentary Remuneration Tribunal Act, 1975) and expressed at an annual rate; or

(b)

Constitution and Other Acts (Amendment).

- (b) where the member who has died last served in the Legislative Assembly—the salary payable from time to time to a member of the Legislative Assembly (other than a Minister of the Crown or a recognised office holder within the meaning of the Parliamentary Remuneration Tribunal Act, 1975) and expressed at an annual rate.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1975

Constitution and Other Acts (Amendment)

(3) If the member who has resigned
 is the holder of a public office
 he shall continue to hold that office
 until the expiration of the term
 for which he was elected or appointed
 and until he has been re-elected or
 re-appointed to that office.

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 21 October, 1975.*

New South Wales



ANNO VICESIMO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 67, 1975.

An Act relating to the exercise or performance of the functions of an Executive Councillor by another Executive Councillor acting for him or on his behalf; to provide for the appointment, functions and remuneration of Parliamentary Secretaries; for these and other purposes to amend the Constitution Act, 1902, the Parliamentary Allowances and Salaries Act, 1956, the Parliamentary Contributory Superannuation Act, 1971, and the Parliamentary Remuneration Tribunal Act, 1975; to validate certain matters; and for purposes connected therewith. [Assented to, 31st October, 1975.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

J. H. BROWN,
Chairman of Committees of the Legislative Assembly.

Constitution and Other Acts (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title. **1.** This Act may be cited as the "Constitution and Other Acts (Amendment) Act, 1975".

**Commence-
ment.** **2.** (1) Except as provided in this section, this Act shall commence on the date of assent to this Act.

(2) Sections 9 (b) and 13 shall commence on 1st January, 1976.

(3) Section 11 shall be deemed to have commenced on 14th April, 1975.

(4) Section 12 shall be deemed to have commenced on 1st July, 1975.

**Division
of Act.** **3.** This Act is divided as follows:—

PART I.—PRELIMINARY—*ss.* 1–3.

PART II.—PROVISIONS AS TO THE FUNCTIONS OF EXECUTIVE COUNCILLORS—*ss.* 4–6.

PART III.—PROVISIONS AS TO PARLIAMENTARY SECRETARIES—*ss.* 7–10.

PART IV.—MISCELLANEOUS PROVISIONS—*ss.* 11–13.

PART

Constitution and Other Acts (Amendment).

PART II.

PROVISIONS AS TO THE FUNCTIONS OF EXECUTIVE COUNCILLORS.

4. The Constitution Act, 1902, is amended—

Amendment
of Act No.
32, 1902.

- (a) by inserting after the definition of “Executive Councillor” in section 35 the following definitions :—

Sec. 35.
(Interpre-
tation.)

“Functions” includes powers, authorities and duties.

“Unavailable”, in relation to an Executive Councillor, means unavailable by reason of the Executive Councillor’s absence or disability or for any other reason.

- (b) by omitting sections 36, 37 and 38 and by inserting instead the following sections :—

Secs. 36-38.

36. (1) The Governor may, from time to time, authorise an Executive Councillor to act for and on behalf of another Executive Councillor for any period specified or described by the Governor.

Authority
for
Executive
Councillor
to act for
and on
behalf of
another
Executive
Councillor.

(2) Where an Executive Councillor is authorised under this section to act for and on behalf of another Executive Councillor, any function appertaining or annexed to the office of that other Executive Councillor may, while the authority remains in force, be exercised or performed from time to time by the Executive Councillor so authorised instead of by that other Executive Councillor.

(3) An authority under this section may be revoked by the Governor.

(4)

Constitution and Other Acts (Amendment).

(4) An Executive Councillor may be authorised under this section by reference to his name or by reference to the title of the office which he holds as Executive Councillor.

(5) Notice of an authority under this section, or the revocation of such an authority, may be published in the Gazette at any time, and, where such a notice is so published, judicial notice shall be taken of the notice and of the authority or revocation, as the case may be.

(6) Every authority under this section shall be recorded by the officer in charge of the records of the Executive Council.

Unavaila-
bility of
Executive
Councillor.

37. An Executive Councillor may exercise or perform for and on behalf of another Executive Councillor a function appertaining or annexed to the office of that other Executive Councillor if the firstmentioned Executive Councillor is satisfied that that other Executive Councillor is unavailable and that any Executive Councillor authorised under section 36 to exercise or perform that function is unavailable.

Provisions
ancillary
to sections
36 and 37.

37A. (1) Sections 36 and 37 apply to the functions appertaining or annexed to the office of an Executive Councillor, whether those functions are conferred or imposed by the terms (express or implied) of an Act or instrument under an Act, or by or under any other law, or by official or other custom, but do not apply to the functions appertaining or annexed to that office by virtue of an authority under section 36.

(2)

Constitution and Other Acts (Amendment).

(2) Any act, matter or thing done or omitted by an Executive Councillor while acting for or on behalf of another Executive Councillor—

- (a) under an authority under section 36; or
- (b) under the authority of section 37,

shall be as valid and effectual and shall have the same consequences as if the act, matter or thing had been done or omitted by that other Executive Councillor.

(3) In all proceedings and before all persons acting judicially, it shall be presumed, in the absence of evidence to the contrary, that an Executive Councillor who purports to act for or on behalf of another Executive Councillor was authorised by or under section 36 or 37 so to act.

38. (1) Nothing in section 36, 37 or 37A authorises an Executive Councillor to exercise any function that is by an Act or any other law annexed or incident to the office of the Attorney-General.

Limitation as to exercise of Attorney-General's functions.

(2) Where a function is annexed or incident to the office of the Attorney-General by reason only of the fact that the Attorney-General administers an Act or part of an Act, subsection (1) does not apply in relation to that function unless the administration of that Act or part is expressly vested in the Attorney-General by any Act.

5. Any act, matter or thing done or omitted, before the date of assent to this Act, by an Executive Councillor while purporting to act for or on behalf of another Executive Councillor shall be as valid and effectual and shall have the same consequences, and shall be deemed always to have been as valid and effectual and to have had the same consequences, as if the act, matter or thing had been done or omitted by that other Executive Councillor.

Validation.

Constitution and Other Acts (Amendment).

- Transitional provision. 6. An authority in force under section 36 of the Constitution Act, 1902, immediately before the date of assent to this Act shall be deemed to have been given under section 36 of that Act, as amended by section 4.

PART III.

PROVISIONS AS TO PARLIAMENTARY SECRETARIES.

- Further amendment of Act No. 32, 1902. 7. The Constitution Act, 1902, is further amended—
- Sec. 1. (Short title and division.) (a) by inserting after the matter relating to Part IV in section 1 the following matter :—
- PART IV A.—PARLIAMENTARY SECRETARIES—**
ss. 38B–38E.
- Sec. 26. (Offices of profit.) (b) by inserting at the end of section 26 the following proviso :—
- Provided further that a person holding office as Parliamentary Secretary is capable of being elected and of sitting and voting as a Member of the said Assembly.
- Sec. 27. (Effect of acceptance of office of profit.) (c) by inserting in paragraph (c) of the proviso to section 27 after the word “Government” the words “, or the office of Parliamentary Secretary”;
- Sec. 29. (Exceptions.) (d) by inserting in section 29 (1) (a) after the word “Government” the words “or the office of Parliamentary Secretary”;
- (e)

Constitution and Other Acts (Amendment).

(e) by inserting after Part IV the following Part :— Part IVA.

PART IVA.

PARLIAMENTARY SECRETARIES.

38B. (1) The Premier may, from time to time, appoint a Member or Members of the Legislative Assembly to hold office as Parliamentary Secretary.

Appoint-
ment of
Parlia-
mentary
Secretaries.

(2) Section 47 does not apply to or in respect of the office of Parliamentary Secretary.

38C. (1) A Parliamentary Secretary shall have and may perform such functions as the Premier may, from time to time, determine in respect of him.

Functions
of Parlia-
mentary
Secretary.

(2) Nothing in this section authorises a Parliamentary Secretary to perform any functions that may, by the terms (express or implied) of an Act or instrument under an Act, or by or under any other law, only be performed by some other person.

38D. (1) A person holding office as Parliamentary Secretary ceases to hold that office—

How Parlia-
mentary
Secretary
ceases to
hold 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 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)

Constitution and Other Acts (Amendment).

(f) upon the day appointed for the taking of the poll for the general election next following his appointment to hold that office.

(2) The Premier may, for any cause which appears to him to be sufficient, remove any person from office as Parliamentary Secretary.

Restrictions relating to Parliamentary Secretaries.

38E. (1) A person shall not be appointed to hold office as Parliamentary Secretary if he is a Minister of the Crown or a member of the Executive Council.

(2) A person shall not be appointed as a Minister of the Crown or a member of the Executive Council if he is a Parliamentary Secretary.

Amendment of Act No. 22, 1956. Sec. 4A.

8. The Parliamentary Allowances and Salaries Act, 1956, is amended by inserting after section 4 the following section :—

Salary and allowances of Parliamentary Secretary.

4A. There shall be payable to a Parliamentary Secretary holding office under Part IVA of the Principal Act—

- (a) a salary at the rate of \$20,220 per annum;
- (b) an expense allowance at the rate of \$1,008 per annum;
- (c) an electoral allowance at the yearly rate specified in the Fifth Schedule to the Principal Act in respect of the electoral district for which he is the member; and

(d)

Constitution and Other Acts (Amendment).

- (d) if he would be entitled to receive a special expenses allowance under section 28 of the Principal Act had he not been appointed to hold that office—a special expenses allowance at the rate at which he would be so entitled to receive that allowance.

9. The Parliamentary Remuneration Tribunal Act, 1975, Amendment of Act No. 25, 1975. is amended—

- (a) by inserting after paragraph (q) of Schedule 1 the following paragraph :— Sch. 1.
(Recognised
Offices.)

- (r) Parliamentary Secretary, as referred to in Part IVA of the Constitution Act, 1902.

- (b) by inserting at the end of Schedule 2 the following matter :— Sch. 2.
(Repeals.)

Constitution and Other
Acts (Amend-
ment) Act, 1975.

Section 8.

10. The reference in section 15 (2) (c) of the Parliamentary Remuneration Tribunal Act, 1975, to section 29 (1) (a) of the Constitution Act, 1902, is a reference to section 29 (1) (a) of the lastmentioned Act, as amended by this Act as well as by the Constitution (Amendment) Act, 1968. Conse-
quential
effect of
amend-
ment.

PART

Constitution and Other Acts (Amendment).

PART IV.

MISCELLANEOUS PROVISIONS.

Further
amendment
of Act No.
25, 1975.

Sec. 3.
(Interpre-
tation.)

11. The Parliamentary Remuneration Tribunal Act, 1975, is further amended—

(a) by inserting after section 3 (1) the following subsection :—

(1A) For the purposes of this Act, a person elected as a member of the Legislative Assembly shall be deemed—

(a) to become a member of that Assembly on the day of his election; and

(b) to cease to be a member of that Assembly on—

(i) the day of his death;

(ii) the day on which his seat as such a member becomes vacant, otherwise than by reason of the fact that that Assembly has been dissolved or has expired by the effluxion of time; or

(iii) the day appointed for the taking of the poll for the general election next following his election,

whichever first occurs.

Sec. 7A.

Report to
specify
certain
allowances.

(b) by inserting after section 7 the following section :—

7A. Where the Tribunal makes a determination in relation to any Parliamentary remuneration, he shall specify, in the report of his determination under section 5 (3) or 7 (2), what portion (if any) of the remuneration is in the nature of an allowance for electoral or other expenses incurred in the course of the duties of a Minister of the Crown, recognised office holder or member.

Constitution and Other Acts (Amendment).

12. The Parliamentary Contributory Superannuation Act, 1971, is amended—

Amendment
of Act No.
53, 1971.

(a) (i) by inserting in section 19 (2) (b) after the words “electoral allowance” the words “or special expenses allowance”;

Sec. 19.
(Members’
super-
annuation
benefit.)

(ii) by inserting in section 19 (4) (b) after the words “electoral allowance” the words “, special expenses allowance”;

(b) by inserting in section 23 (4) (b) after the words “electoral allowance” the words “or special expenses allowance”.

Sec. 23.
(Pension
for widows.)

13. The Parliamentary Contributory Superannuation Act, 1971, is further amended—

Further
amendment
of Act No.
53, 1971.

(a) by inserting in the definition of “salary” in section 3 after the word “enactment,” the words “and all remuneration payable to him under the Parliamentary Remuneration Tribunal Act, 1975, excluding any portion thereof specified under section 7A of that Act as being in the nature of an allowance for electoral or other expenses,”;

Sec. 3.
(Interpre-
tation.)

(b) (i) by omitting section 19 (2) and by inserting instead the following subsection :—

Sec. 19.
(Members’
super-
annuation
benefit.)

(2) For the purpose of calculating any instalment of pension payable under subsection (1) at any particular time, “current basic salary” means—

(a) where the person entitled to the instalment last served as a member in the Legislative Council—the salary payable at that particular time to a
member

Constitution and Other Acts (Amendment).

member of the Legislative Council (other than a Minister of the Crown or a recognised office holder within the meaning of the Parliamentary Remuneration Tribunal Act, 1975) and expressed at an annual rate; or

- (b) where the person entitled to the instalment last served as a member in the Legislative Assembly—the salary payable at that particular time to a member of the Legislative Assembly (other than a Minister of the Crown or a recognised office holder within the meaning of the Parliamentary Remuneration Tribunal Act, 1975) and expressed at an annual rate.
- (ii) by omitting section 19 (4) and by inserting instead the following subsections :—

(4) For the purpose of subsection (1), the total basic salary of a person who is entitled to a pension and who last served in the Legislative Council is the sum of the following amounts :—

- (a) the total amount (if any) that, during any period (not being a period before 1st January, 1952) during which that person was entitled to salary, was payable from time to time as salary or allowances to a member of the Legislative Council under section 17G of the Constitution Act, 1902, other than—
- (i) any expense allowance or living away from home allowance; or

(ii)

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- (ii) any amount payable as an allowance to that member only in his capacity as the person recognised as the principal representative of the members of the Legislative Council not being supporters of the Government or as salary to that member only in his capacity as the President, or Chairman of Committees, of the Legislative Council; and
- (b) the total amount (if any) that, during any period during which that person was entitled to salary, was payable from time to time as remuneration under the Parliamentary Remuneration Tribunal Act, 1975, to a member of the Legislative Council (other than a Minister of the Crown or a recognised office holder within the meaning of that Act), excluding any portion thereof specified under section 7A of that Act as being in the nature of an allowance for expenses.

(4A) For the purpose of subsection (1), the total basic salary of a person who is entitled to a pension and who last served in the Legislative Assembly is the sum of the following amounts :—

- (a) the total amount (if any) that, during any period (not being a period before 1st January, 1952) during which that person was entitled to salary, was payable from time to time as salary or

allowances

Constitution and Other Acts (Amendment).

allowances to a member of the Legislative Assembly under section 28 of the Constitution Act, 1902, other than any electoral allowance, special expenses allowance or additional allowance; and

- (b) the total amount (if any) that, during any period during which that person was entitled to salary, was payable from time to time as remuneration under the Parliamentary Remuneration Tribunal Act, 1975, to a member of the Legislative Assembly (other than a Minister of the Crown or a recognised office holder within the meaning of that Act), excluding any portion thereof specified under section 7A of that Act as being in the nature of an allowance for electoral or other expenses.

Sec. 23.
(Pension
for
widows.)

- (c) by omitting section 23 (4) and by inserting instead the following subsection :—

(4) For the purposes of subsections (1), (2) and (3), “current basic salary” means—

- (a) where the member who has died last served in the Legislative Council—the salary payable from time to time to a member of the Legislative Council (other than a Minister of the Crown or a recognised office holder within the meaning of the Parliamentary Remuneration Tribunal Act, 1975) and expressed at an annual rate; or

(b)

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- (b) where the member who has died last served in the Legislative Assembly—the salary payable from time to time to a member of the Legislative Assembly (other than a Minister of the Crown or a recognised office holder within the meaning of the Parliamentary Remuneration Tribunal Act, 1975) and expressed at an annual rate.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 31st October, 1975.*

Constitution and Other Acts (Amendment).

(b) where the member who has filed last served in the Legislative Assembly—the salary payable from time to time to a member of the Legislative Assembly (other than a member of the House of a regional office holder within the meaning of the Public Service Management (Transit Act, 1975) and passed or amended) shall

For the name and on behalf of the Minister, I assent to this

Act.

A. R. CUTLER,
Governor

Government House,
Cable Street, Quebec, 1975.