

STATUTORY APPOINTMENTS LEGISLATION
(PARLIAMENTARY VETO) AMENDMENT BILL 1992

MR. PRESIDENT,

I MOVE,

THAT THIS BILL BE NOW READ A SECOND TIME

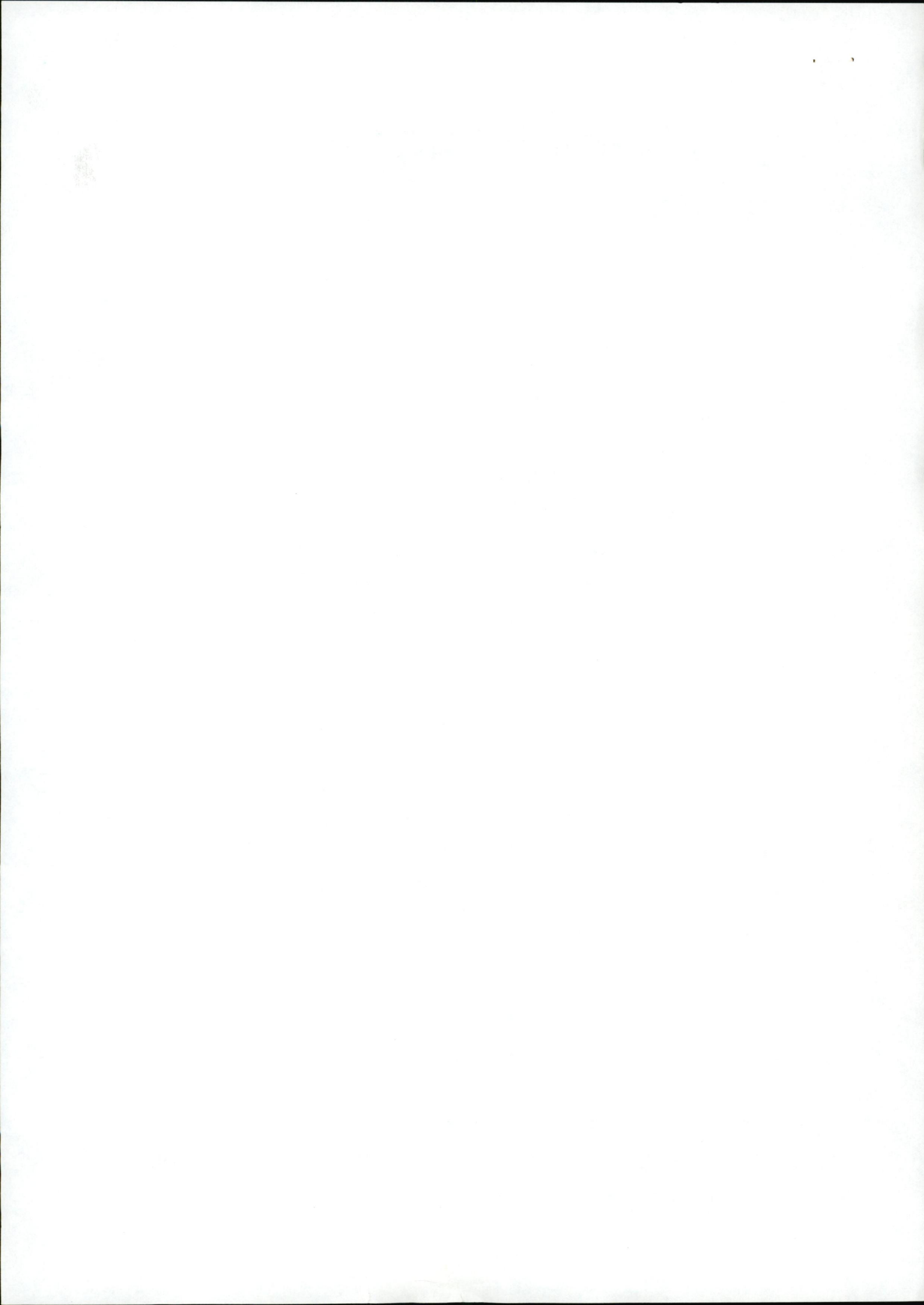
MR. PRESIDENT,

THE MAIN PURPOSE OF THIS BILL IS TO PROVIDE THAT THE PUBLIC ACCOUNTS COMMITTEE, THE ICAC COMMITTEE AND THE OMBUDSMAN COMMITTEE MAY VETO THE APPOINTMENT OF THE AUDITOR-GENERAL, COMMISSIONER FOR THE ICAC, OMBUDSMAN AND DIRECTOR OF PUBLIC PROSECUTIONS RESPECTIVELY.

MR PRESIDENT,

THE AMENDMENTS CONTAINED IN THIS BILL REPRESENT A FURTHER STEP IN THE IMPLEMENTATION OF THE CHARTER OF REFORM WHICH THE GOVERNMENT ENTERED INTO WITH THE MEMBERS OF THE LEGISLATIVE ASSEMBLY FOR THE SOUTH COAST, BLIGH AND MANLY.

I AM SURE THAT HONOURABLE MEMBERS WOULD ACKNOWLEDGE THAT THE PUBLIC ACCOUNTS COMMITTEE, ICAC COMMITTEE AND OMBUDSMAN COMMITTEE HAVE DEMONSTRATED THAT THEY ARE EFFECTIVE BIPARTISAN COMMITTEES WHICH PLAY AN IMPORTANT ROLE IN OVERSEEING THE OFFICES OF THE AUDITOR-GENERAL, ICAC AND OMBUDSMAN.



AS THERE IS NO COMMITTEE WHICH OVERSEES THE OPERATIONS OF THE OFFICE OF THE DPP, THE BILL PROVIDES THAT THE OMBUDSMAN COMMITTEE BE GIVEN THE OPPORTUNITY TO VETO ANY PROPOSED APPOINTMENT TO THE POSITION OF DPP.

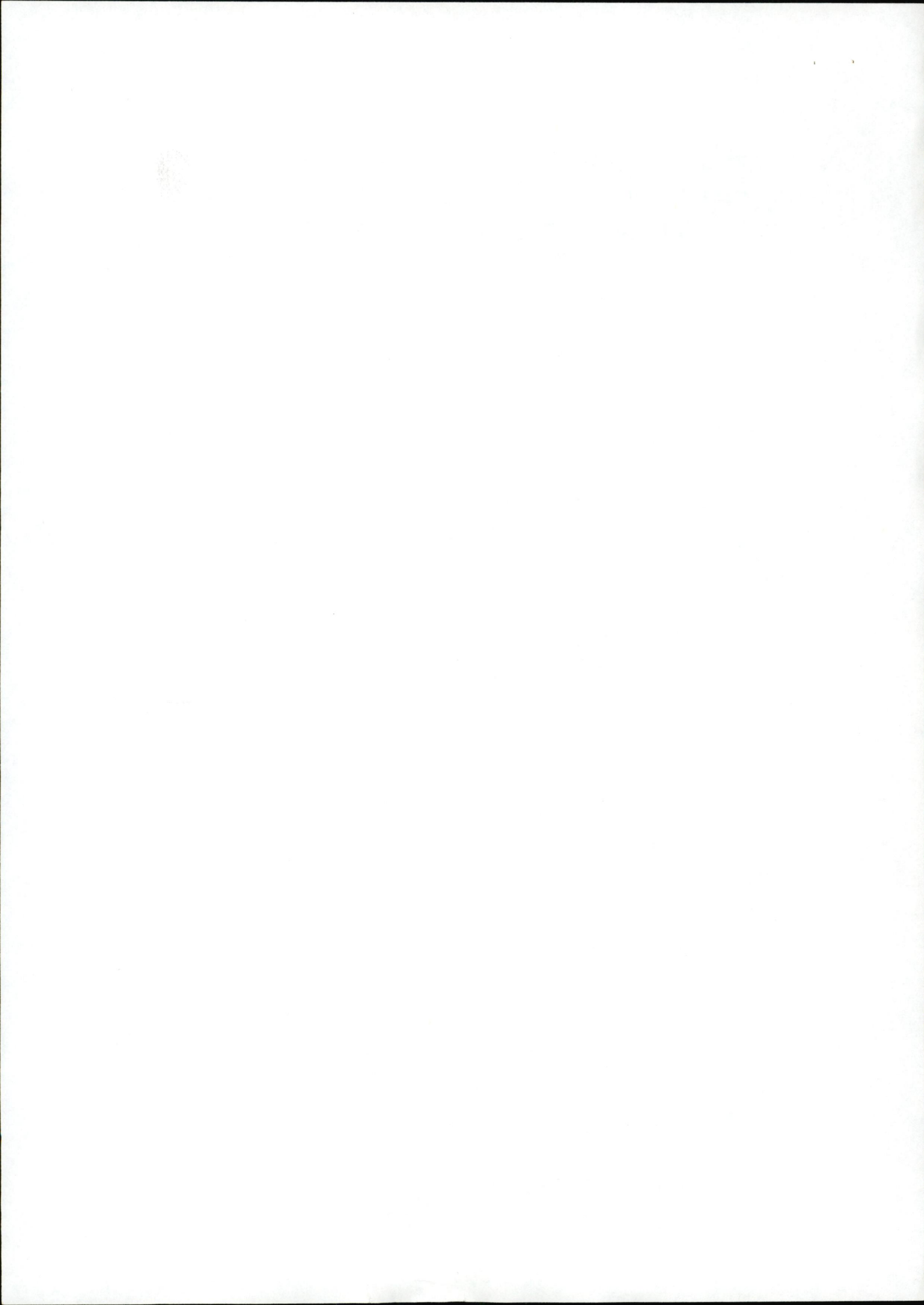
ACCORDINGLY, THE GOVERNMENT HAS TAKEN THE VIEW THAT RATHER THAN CREATING YET ANOTHER PARLIAMENTARY COMMITTEE, IT IS LOGICAL FOR THE RESPONSIBILITY OF VETOING PROPOSED APPOINTMENTS TO THE RELEVANT POSITIONS TO REST WITH THE APPROPRIATE EXISTING COMMITTEE. THE MEMBERS OF THOSE COMMITTEES WILL, AS A RESULT OF SERVING ON THE COMMITTEES, HAVE DEVELOPED A MORE DETAILED KNOWLEDGE OF THE OPERATIONS OF THE OFFICES CONCERNED AND SHOULD, THEREFORE, HAVE A GREATER APPRECIATION OF THE SUITABILITY OF A PARTICULAR CANDIDATE.

MR PRESIDENT,

THE BILL PROVIDES THAT THE MINISTER RESPONSIBLE FOR RECOMMENDING AN APPOINTMENT TO ANY OF THE ABOVE POSITIONS IS TO NOTIFY THE RELEVANT COMMITTEE OF THE PROPOSED APPOINTMENT.

THE COMMITTEE WILL BE REQUIRED TO ADVISE THE APPROPRIATE MINISTER WITHIN 14 DAYS WHETHER IT REQUIRES FURTHER TIME TO CONSIDER THE PROPOSED APPOINTMENT IN GREATER DETAIL.

IF IT DOES SO ADVISE THE MINISTER, THEN THE COMMITTEE WILL HAVE A FURTHER PERIOD OF 30 DAYS TO ADVISE THE



MINISTER WHETHER OR NOT THE PROPOSED APPOINTMENT IS VETOED.

IF THE COMMITTEE FAILS TO INFORM THE MINISTER WITHIN THE INITIAL 14 DAY PERIOD OR DURING THE FURTHER PERIOD OF 30 DAYS THE COMMITTEE WILL BE DEEMED TO HAVE NOT VETOED THE PROPOSED APPOINTMENT .

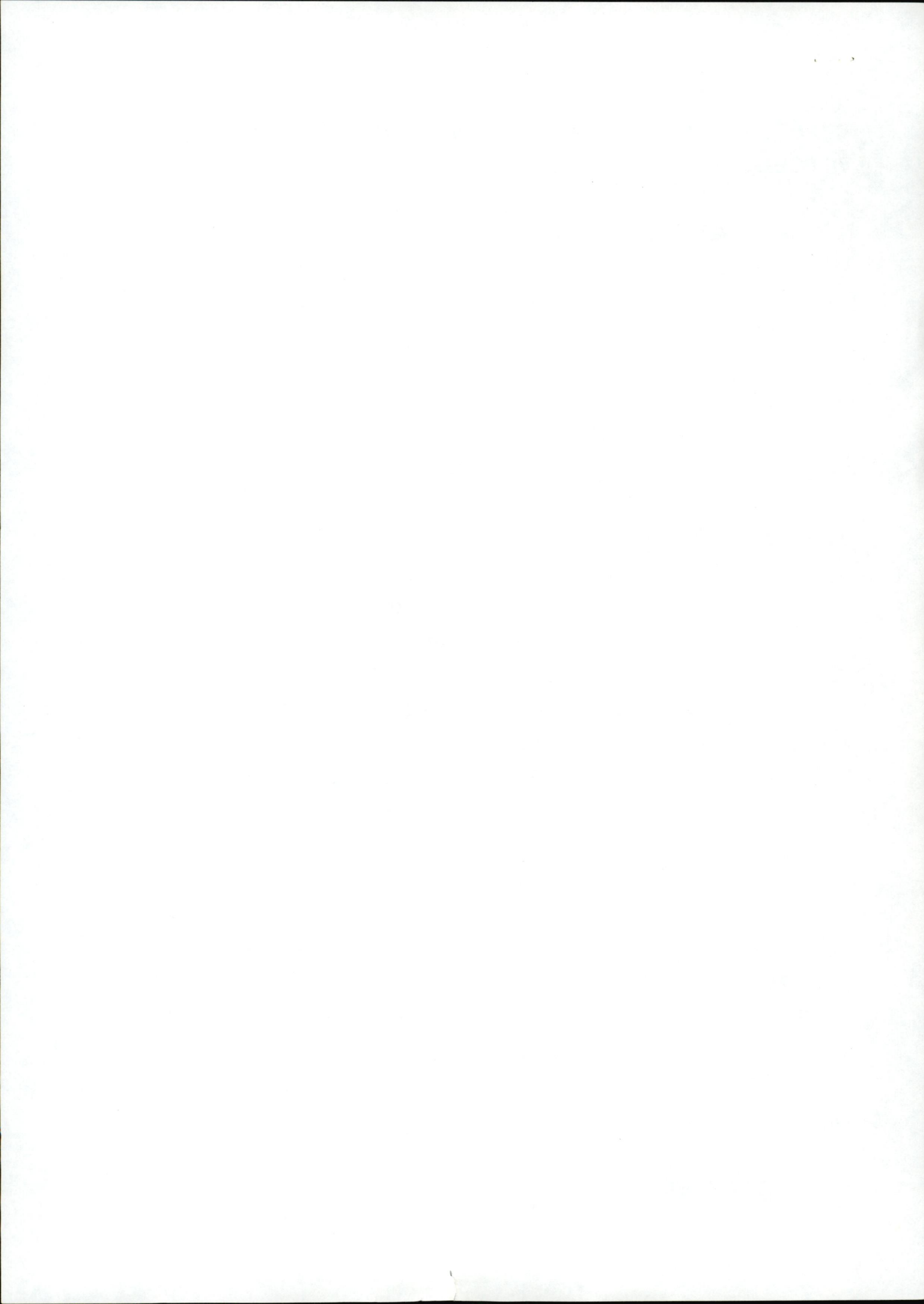
MR. PRESIDENT,

THESE PROVISIONS BALANCE THE LEGITIMATE RIGHT OF PARLIAMENT TO HAVE AN OPPORTUNITY TO SCRUTINISE THESE APPOINTMENTS WHILST AT THE SAME TIME ENSURING THAT APPOINTMENTS TO THE ABOVE POSITIONS ARE MADE IN A TIMELY FASHION AND THAT THESE IMPORTANT POSITIONS ARE NOT LEFT VACANT FOR LONG PERIODS OF TIME. IT IS LIKELY THAT IN MANY CASES THE PARLIAMENTARY COMMITTEE WILL HAVE NO DIFFICULTY WITH THE PROPOSED APPOINTEE AND IN THESE CIRCUMSTANCES A LONGER PERIOD OF TIME WILL NOT BE REQUIRED TO CONSIDER THE PROPOSED APPOINTMENT.

MR PRESIDENT,

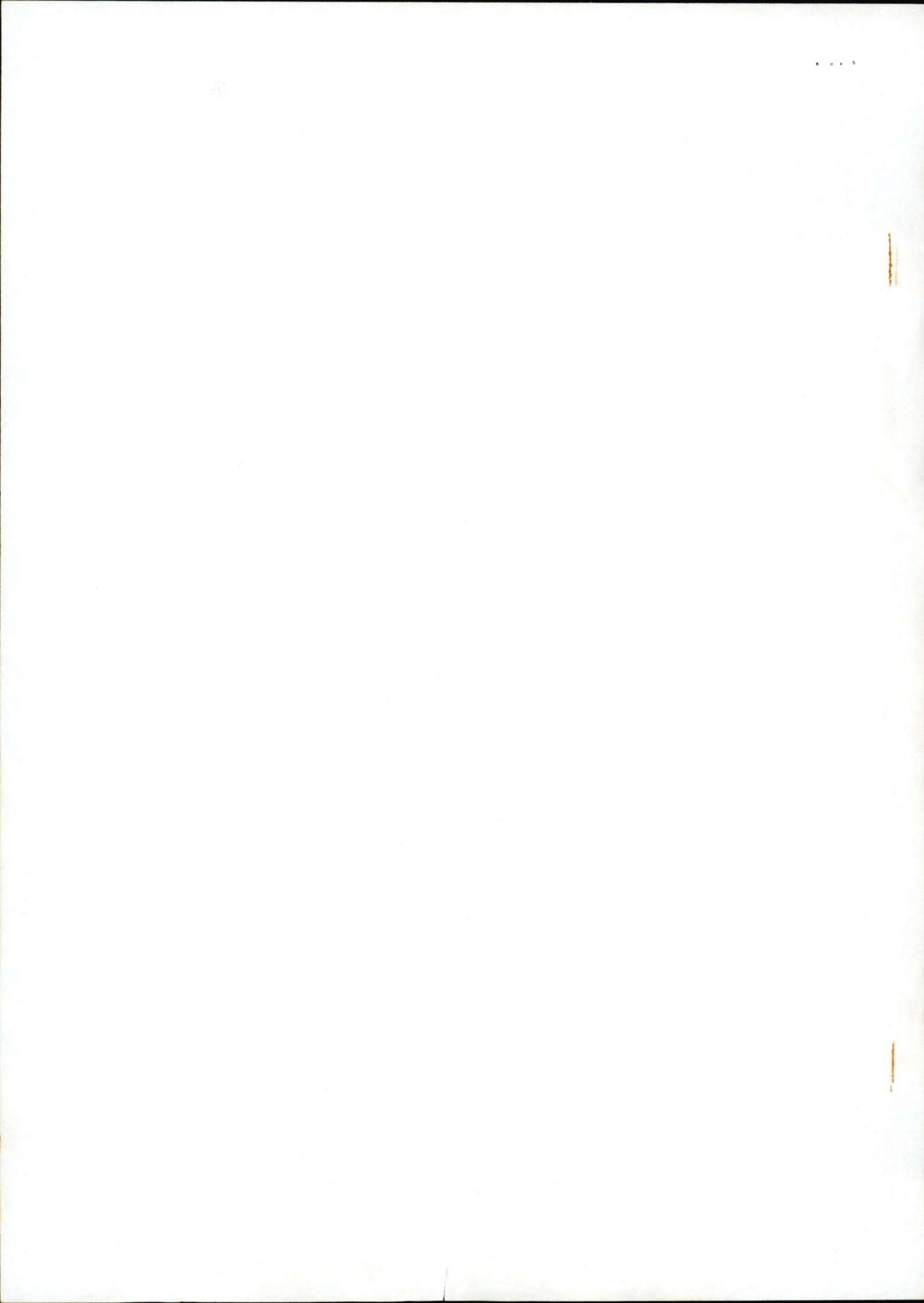
THE BILL PROVIDES THAT THE COMMITTEE WILL BE REQUIRED TO HEAR ANY EVIDENCE OR CONSIDER ANY DOCUMENTS RELATING TO A RECOMMENDED APPOINTMENT IN PRIVATE AND TO TREAT SUCH INFORMATION AS CONFIDENTIAL. THIS IS AIMED AT AVOIDING UNNECESSARY HARM TO AN INDIVIDUAL'S REPUTATION AND THE AIRING IN THE MEDIA OF IRRELEVANT DETAILS OF THE PERSON'S PRIVATE LIFE.

MR PRESIDENT,



IN ADDITION, IT WILL ENSURE THAT THE SELECTION
PROCEDURE FOR THE RELEVANT POSITIONS REMAINS
CONFIDENTIAL AND THAT THE COMMITTEES ARE NOT SEEN AS
DEFACTO APPEAL BODIES.

I COMMEND THE BILL TO THE HOUSE.



FIRST PRINT

**STATUTORY APPOINTMENTS LEGISLATION
(PARLIAMENTARY VETO) AMENDMENT BILL 1992**

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to give certain existing Parliamentary Committees the power to veto proposed appointments to the office of Auditor-General, Commissioner for the Independent Commission Against Corruption, Director of Public Prosecutions and Ombudsman.

The Committees to be given this power of veto are as follows:

- in the case of the office of Ombudsman or Director of Public Prosecutions—the Joint Committee constituted under the Ombudsman Act 1974;
- in the case of the office of the Commissioner for the Independent Commission Against Corruption—the Joint Committee constituted under the Independent Commission Against Corruption Act 1988;
- in the case of the office of Auditor-General—the Public Accounts Committee constituted under the Public Finance and Audit Act 1983.

The Bill provides that the procedure for the vetoing of a proposed appointment is as follows:

- (a) the appointment is not to be made until the proposed appointment has been referred to the appropriate Committee and is not to be made during the period that the Committee has to veto it (unless the Committee decides before the end of that period not to veto it);
- (b) the Committee has 14 days within which to veto the proposed appointment unless it notifies the Minister that more time is needed to consider the matter, in which case it has a further 30 days (after the initial 14 days) to veto the proposed appointment.

The Committees have existing powers to send for persons, papers and records to assist them in considering matters and these powers will extend to consideration of the proposed appointments. The Bill provides that a Committee, a member of a Committee or any other person must not disclose or publish any evidence heard or any document received in respect of a Committee's deliberations on a proposed appointment.

Statutory Appointments Legislation (Parliamentary Veto) Amendment 1992

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 gives effect to Schedule 1 which makes the amendments described above.

FIRST PRINT

**STATUTORY APPOINTMENTS LEGISLATION
(PARLIAMENTARY VETO) AMENDMENT BILL 1992**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendments

SCHEDULE 1—AMENDMENTS

**STATUTORY APPOINTMENTS LEGISLATION
(PARLIAMENTARY VETO) AMENDMENT BILL 1992**

NEW SOUTH WALES



No. , 1992

A BILL FOR

An Act to amend certain Acts to provide for the vetoing by certain Parliamentary Committees of proposed appointments to the office of Auditor-General, Commissioner for the Independent Commission Against Corruption, Director of Public Prosecutions and Ombudsman, and for related purposes.

Statutory Appointments Legislation (Parliamentary Veto) Amendment 1992

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Statutory Appointments Legislation (Parliamentary Veto) Amendment Act 1992.

5 **Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

Amendments

10 3. Each Act specified in Schedule 1 is amended as set out in that Schedule.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

Independent Commission Against Corruption Act 1988 No. 35

(1) Section 5A:

15 After section 5, insert:

Veto of proposed appointment as Commissioner

5A. (1) A person is not to be appointed as Commissioner until:

- 20 (a) a proposal that the person be appointed has been referred to the Joint Committee under section 64A; and
- (b) either the period that the Joint Committee has under that section to veto the proposed appointment has ended without the Committee having vetoed the proposed appointment or the Committee notifies the Minister that it has decided not to veto the proposed appointment.
- 25

(2) A person may be proposed for appointment on more than one occasion.

30 (3) In this section and section 64A, "appointment" includes re-appointment.

SCHEDULE 1—AMENDMENTS—*continued*

(2) Section 64A:

After section 64, insert:

Power to veto proposed appointment of Commissioner

64A. (1) The Minister is to refer a proposal to appoint a person as Commissioner to the Joint Committee and the Committee is empowered to veto the proposed appointment as provided by this section. The Minister may withdraw a referral at any time. 5

(2) The Joint Committee has 14 days after the proposed appointment is referred to it to veto the proposal and has a further 30 days (after the initial 14 days) to veto the proposal if it notifies the Minister within that 14 days that it requires more time to consider the matter. 10

(3) The Joint Committee is to notify the Minister, within the time that it has to veto a proposed appointment, whether or not it vetoes it. 15

(4) A referral or notification under this section is to be in writing.

(3) Section 70 (Confidentiality): 20

After section 70 (1), insert:

(1A) If any evidence proposed to be given before, or the whole or a part of a document produced or proposed to be produced in evidence to, the Joint Committee relates to the proposed appointment of a person as Commissioner, the Committee must (despite any other provision of this section): 25

(a) take the evidence in private; or

(b) direct that the document, or the part of the document, be treated as confidential.

(1B) Despite any other provision of this section except subsection (6), the Joint Committee must not, and a person (including a member of the Committee) must not, disclose any evidence or the contents of a document or that part of a document to which subsection (1A) applies. 30

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both. 35

SCHEDULE 1—AMENDMENTS—*continued***Ombudsman Act 1974 No. 68**

(1) Section 6A:

After section 6, insert:

5 **Veto of proposed appointment of Ombudsman**

6A. (1) A person is not to be appointed as Ombudsman until:

- 10 (a) a proposal that the person be appointed has been referred to the Joint Committee under section 31BA; and
- 15 (b) either the period that the Joint Committee has under that section to veto the proposed appointment has ended without the Committee having vetoed the proposed appointment or the Committee notifies the Minister that it has decided not to veto the proposed appointment.

(2) A person may be proposed for appointment on more than one occasion.

20 (3) In this section and section 31BA, “**appointment**” includes re-appointment.

(2) Section 31BA:

After section 31B, insert:

25 **Power to veto proposed appointment of Ombudsman or Director of Public Prosecutions**

31BA. (1) The Minister is to refer a proposal to appoint a person as Ombudsman or Director of Public Prosecutions to the Joint Committee and the Committee is empowered to veto the proposed appointment as provided by this section. The Minister may withdraw a referral at any time.

30 (2) The Joint Committee has 14 days after the proposed appointment is referred to it to veto the proposal and has a further 30 days (after the initial 14 days) to veto the proposal if it notifies the Minister within that 14 days that it requires more time to consider the matter.

35 (3) The Joint Committee is to notify the Minister, within the time that it has to veto a proposed appointment, whether or not it vetoes it.

SCHEDULE 1—AMENDMENTS—*continued*

- (4) A referral or notification under this section is to be in writing.
- (5) In this section, a reference to the Minister is:
- (a) in the context of an appointment of Ombudsman, a reference to the Minister administering section 6A of this Act; and 5
- (b) in the context of an appointment of Director of Public Prosecutions, a reference to the Minister administering section 4A of the Director of Public Prosecutions Act 1986. 10
- (3) Section 31H (**Confidentiality**):
- After section 31H (1), insert:
- (1A) If any evidence proposed to be given before, or the whole or a part of a document produced or proposed to be produced in evidence to, the Joint Committee relates to the proposed appointment of a person as Ombudsman or Director of Public Prosecutions, the Committee must (despite any other provision of this section): 15
- (a) take the evidence in private; or 20
- (b) direct that the document, or the part of the document, be treated as confidential.
- (1B) Despite any other provision of this section except subsection (6), the Joint Committee must not, and a person (including a member of the Committee) must not, disclose any evidence or the contents of a document or that part of a document to which subsection (1A) applies. 25
- Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.
- Public Finance and Audit Act 1983 No. 152** 30
- (1) Section 28A:
- After section 28, insert:
- Veto of proposed appointment of Auditor-General**
- 28A. (1) A person is not to be appointed as Auditor-General until: 35

SCHEDULE 1—AMENDMENTS—*continued*

- 5 (a) a proposal that the person be appointed has been referred to the Public Accounts Committee under section 57A; and
- 10 (b) either the period that the Committee has under that section to veto the proposed appointment has ended without the Committee having vetoed the proposed appointment or the Committee notifies the Treasurer that it has decided not to veto the proposed appointment.
- (2) A person may be proposed for appointment on more than one occasion.

(2) Section 57A:

After section 57, insert:

15

Power to veto proposed appointment of Auditor-General

20 57A. (1) The Treasurer is to refer a proposal to appoint a person as Auditor-General to the Committee and the Committee is empowered to veto the proposed appointment as provided by this section. The Treasurer may withdraw a referral at any time.

25 (2) The Committee has 14 days after the proposed appointment is referred to it to veto the proposal and has a further 30 days (after the initial 14 days) to veto the proposal if it notifies the Treasurer within that 14 days that it requires more time to consider the matter.

(3) The Committee is to notify the Treasurer, within the time that it has to veto a proposed appointment, whether or not it vetoes it.

30 (4) A referral or notification under this section is to be in writing.

(3) Section 58 (**Evidence**):

After section 58 (2), insert:

35 (2A) If any evidence proposed to be given before, or the whole or a part of a document produced or proposed to be produced in evidence to, the Committee relates to the proposed appointment of a person as Auditor-General, the Committee must (despite any other provision of this section):

- (a) take the evidence in private; or

SCHEDULE 1—AMENDMENTS—*continued*

(b) direct that the document, or the part of the document, be treated as confidential.

(2B) Despite any other provision of this section except subsection (7), the Committee must not, and a person (including a member of the Committee) must not, disclose any evidence or the contents of a document or that part of a document to which subsection (2A) applies. 5

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both. 10

Director of Public Prosecutions Act 1986 No. 207

Section 4A:

After section 4, insert:

Veto of proposed appointment of Director

4A. (1) A person is not to be appointed as Director until: 15

(a) a proposal that the person be appointed has been referred to the Committee on the Office of the Ombudsman under section 31BA of the Ombudsman Act 1974; and

(b) the period that the Committee has under that section to veto the proposed appointment has ended without the Committee having vetoed the proposed appointment or the Committee notifies the Minister that it has decided not to veto the proposed appointment. 20

(2) A person may be proposed for appointment on more than one occasion. 25

(3) In this section, “**appointment**” includes re-appointment.

STATUTORY APPOINTMENTS LEGISLATION (PARLIAMENTARY VETO)
AMENDMENT BILL

Schedule of the amendments referred to in the Legislative Council's
Message of 6 May 1992

No. 1 Page 3, Schedule 1. After line 36, insert:

(1C) Despite any other provision of this section except subsection (6), the Joint Committee (including a member of the Committee) must not, and any person assisting the Committee or present during the deliberations of the Committee must not, except in accordance with section 64A (3), disclose whether or not the Joint Committee or any member of the Joint Committee has vetoed, or proposes to veto, the proposed appointment of a person as Commissioner.

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.

No. 2 Page 5, Schedule 1. After line 29, insert:

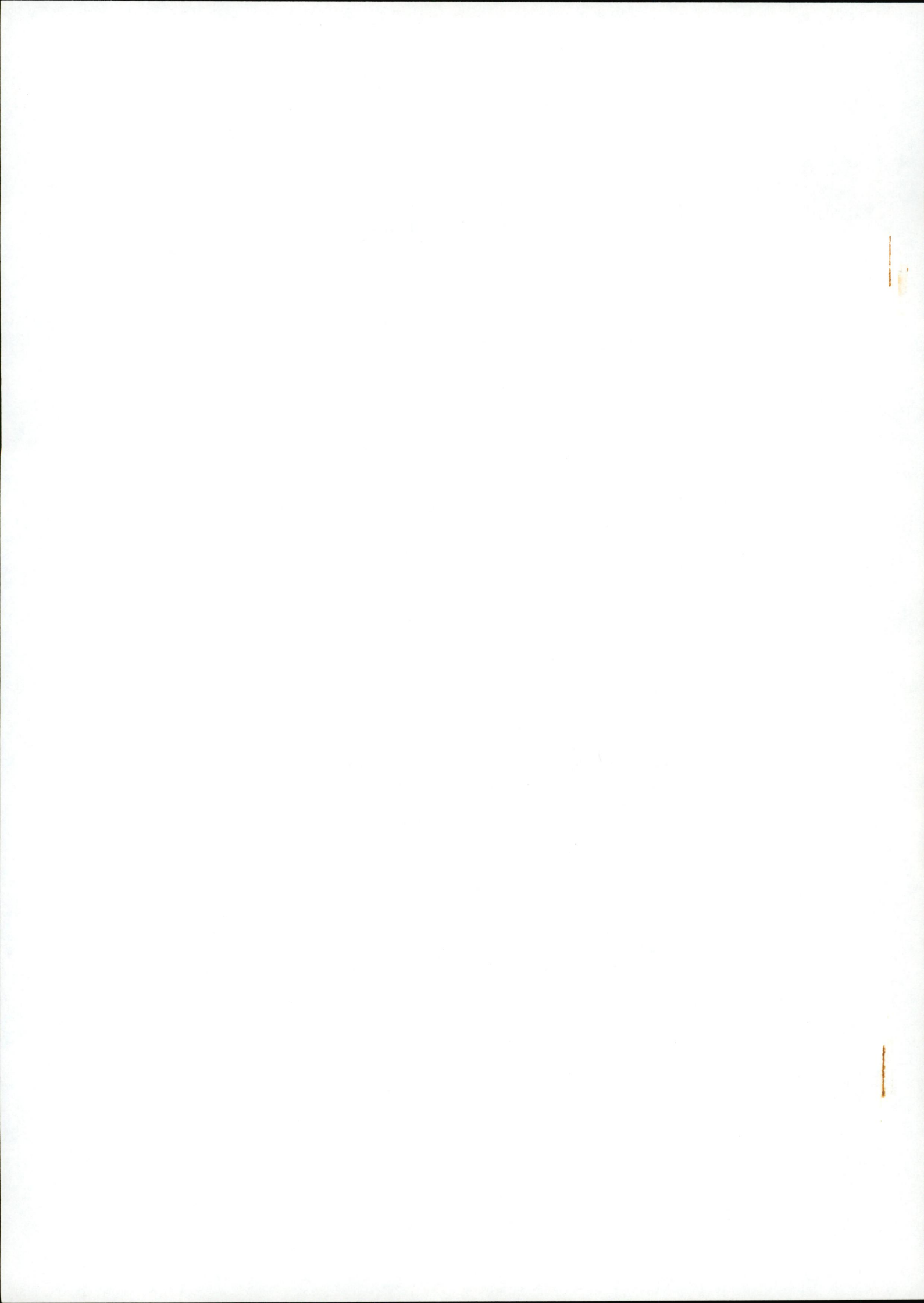
(1C) Despite any other provision of this section except subsection (6), the Joint Committee (including a member of the Committee) must not, and any person assisting the Committee or present during the deliberations of the Committee must not, except in accordance with section 31BA (3), disclose whether or not the Joint Committee or any member of the Joint Committee has vetoed, or proposes to veto, the proposed appointment of a person as Ombudsman or Director of Public Prosecutions.

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.

No. 3 Page 7, Schedule 1. After line 10, insert:

(2C) Despite any other provision of this section except subsection (7), the Committee (including a member of the Committee) must not, and any person assisting the Committee or present during the deliberations of the Committee must not, except in accordance with section 57A (3), disclose whether or not the Committee or any member of the Committee has vetoed, or proposes to veto, the proposed appointment of a person as Auditor-General.

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.



SECOND PRINT

**STATUTORY APPOINTMENTS LEGISLATION
(PARLIAMENTARY VETO) AMENDMENT BILL 1992**

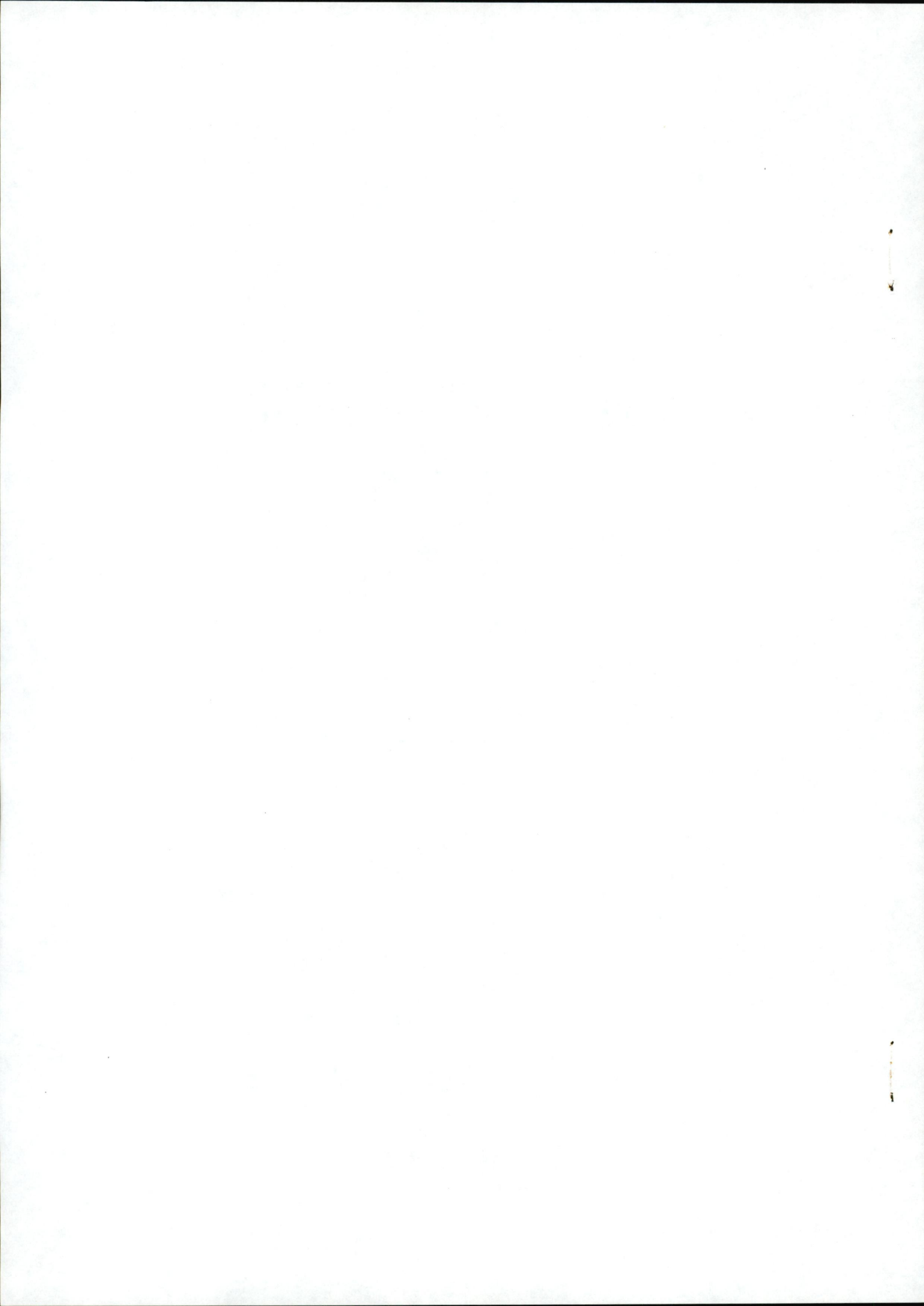
NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendments

SCHEDULE 1—AMENDMENTS



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.

Legislative Assembly

Clerk of the Legislative Assembly.

NEW SOUTH WALES



Act No. , 1992

An Act to amend certain Acts to provide for the vetoing by certain Parliamentary Committees of proposed appointments to the office of Auditor-General, Commissioner for the Independent Commission Against Corruption, Director of Public Prosecutions and Ombudsman, and for related purposes.

Statutory Appointments Legislation (Parliamentary Veto) Amendment 1992

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Statutory Appointments Legislation (Parliamentary Veto) Amendment Act 1992.

5 Commencement

2. This Act commences on the date of assent.

Amendments

3. Each Act specified in Schedule 1 is amended as set out in that Schedule.

10

SCHEDULE 1—AMENDMENTS

(Sec. 3)

Independent Commission Against Corruption Act 1988 No. 35

(1) Section 5A:

After section 5, insert:

15

Veto of proposed appointment as Commissioner

5A. (1) A person is not to be appointed as Commissioner until:

20

- (a) a proposal that the person be appointed has been referred to the Joint Committee under section 64A; and
- (b) either the period that the Joint Committee has under that section to veto the proposed appointment has ended without the Committee having vetoed the proposed appointment or the Committee notifies the Minister that it has decided not to veto the proposed appointment.

25

(2) A person may be proposed for appointment on more than one occasion.

(3) In this section and section 64A, "appointment" includes re-appointment.

SCHEDULE 1—AMENDMENTS—continued

- (2) Section 64A:
- After section 64, insert:
- Power to veto proposed appointment of Commissioner**
- 64A. (1) The Minister is to refer a proposal to appoint a person as Commissioner to the Joint Committee and the Committee is empowered to veto the proposed appointment as provided by this section. The Minister may withdraw a referral at any time. 5
- (2) The Joint Committee has 14 days after the proposed appointment is referred to it to veto the proposal and has a further 30 days (after the initial 14 days) to veto the proposal if it notifies the Minister within that 14 days that it requires more time to consider the matter. 10
- (3) The Joint Committee is to notify the Minister, within the time that it has to veto a proposed appointment, whether or not it vetoes it. 15
- (4) A referral or notification under this section is to be in writing.
- (3) Section 70 (**Confidentiality**): 20
- After section 70 (1), insert:
- (1A) If any evidence proposed to be given before, or the whole or a part of a document produced or proposed to be produced in evidence to, the Joint Committee relates to the proposed appointment of a person as Commissioner, the Committee must (despite any other provision of this section): 25
- (a) take the evidence in private; or
- (b) direct that the document, or the part of the document, be treated as confidential.
- (1B) Despite any other provision of this section except subsection (6), the Joint Committee must not, and a person (including a member of the Committee) must not, disclose any evidence or the contents of a document or that part of a document to which subsection (1A) applies. 30
- Maximum penalty: 20 penalty units or imprisonment for 3 months, or both. 35

SCHEDULE 1—AMENDMENTS—*continued***Ombudsman Act 1974 No. 68**

(1) Section 6A:

After section 6, insert:

5 **Veto of proposed appointment of Ombudsman**

6A. (1) A person is not to be appointed as Ombudsman until:

- 10 (a) a proposal that the person be appointed has been referred to the Joint Committee under section 31BA; and
- 15 (b) either the period that the Joint Committee has under that section to veto the proposed appointment has ended without the Committee having vetoed the proposed appointment or the Committee notifies the Minister that it has decided not to veto the proposed appointment.

(2) A person may be proposed for appointment on more than one occasion.

20 (3) In this section and section 31BA, “**appointment**” includes re-appointment.

(2) Section 31BA:

After section 31B, insert:

25 **Power to veto proposed appointment of Ombudsman or Director of Public Prosecutions**

31BA. (1) The Minister is to refer a proposal to appoint a person as Ombudsman or Director of Public Prosecutions to the Joint Committee and the Committee is empowered to veto the proposed appointment as provided by this section. The Minister may withdraw a referral at any time.

30 (2) The Joint Committee has 14 days after the proposed appointment is referred to it to veto the proposal and has a further 30 days (after the initial 14 days) to veto the proposal if it notifies the Minister within that 14 days that it requires more time to consider the matter.

35 (3) The Joint Committee is to notify the Minister, within the time that it has to veto a proposed appointment, whether or not it vetoes it.

SCHEDULE 1—AMENDMENTS—*continued*

- (4) A referral or notification under this section is to be in writing.
- (5) In this section, a reference to the Minister is:
- (a) in the context of an appointment of Ombudsman, a reference to the Minister administering section 6A of this Act; and 5
- (b) in the context of an appointment of Director of Public Prosecutions, a reference to the Minister administering section 4A of the Director of Public Prosecutions Act 1986. 10
- (3) Section 31H (**Confidentiality**):
- After section 31H (1), insert:
- (1A) If any evidence proposed to be given before, or the whole or a part of a document produced or proposed to be produced in evidence to, the Joint Committee relates to the proposed appointment of a person as Ombudsman or Director of Public Prosecutions, the Committee must (despite any other provision of this section): 15
- (a) take the evidence in private; or 20
- (b) direct that the document, or the part of the document, be treated as confidential.
- (1B) Despite any other provision of this section except subsection (6), the Joint Committee must not, and a person (including a member of the Committee) must not, disclose any evidence or the contents of a document or that part of a document to which subsection (1A) applies. 25
- Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.
- Public Finance and Audit Act 1983 No. 152** 30
- (1) Section 28A:
- After section 28, insert:
- Veto of proposed appointment of Auditor-General**
- 28A. (1) A person is not to be appointed as Auditor-General until: 35

SCHEDULE 1—AMENDMENTS—*continued*

- (a) a proposal that the person be appointed has been referred to the Public Accounts Committee under section 57A; and
- 5 (b) either the period that the Committee has under that section to veto the proposed appointment has ended without the Committee having vetoed the proposed appointment or the Committee notifies the Treasurer that it has decided not to veto the proposed
- 10 appointment.

(2) A person may be proposed for appointment on more than one occasion.

(2) Section 57A:

After section 57, insert:

15 **Power to veto proposed appointment of Auditor-General**

57A. (1) The Treasurer is to refer a proposal to appoint a person as Auditor-General to the Committee and the Committee is empowered to veto the proposed appointment as provided by this section. The Treasurer may withdraw a

20 referral at any time.

(2) The Committee has 14 days after the proposed appointment is referred to it to veto the proposal and has a further 30 days (after the initial 14 days) to veto the proposal if it notifies the Treasurer within that 14 days that it requires

25 more time to consider the matter.

(3) The Committee is to notify the Treasurer, within the time that it has to veto a proposed appointment, whether or not it vetoes it.

(4) A referral or notification under this section is to be in

30 writing.

(3) Section 58 (Evidence):

After section 58 (2), insert:

(2A) If any evidence proposed to be given before, or the whole or a part of a document produced or proposed to be

35 produced in evidence to, the Committee relates to the proposed appointment of a person as Auditor-General, the Committee must (despite any other provision of this section):

- (a) take the evidence in private; or

SCHEDULE 1—AMENDMENTS—*continued*

(b) direct that the document, or the part of the document, be treated as confidential.

(2B) Despite any other provision of this section except subsection (7), the Committee must not, and a person (including a member of the Committee) must not, disclose any evidence or the contents of a document or that part of a document to which subsection (2A) applies. 5

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both. 10

Director of Public Prosecutions Act 1986 No. 207

Section 4A:

After section 4, insert:

Veto of proposed appointment of Director

4A. (1) A person is not to be appointed as Director until: 15

(a) a proposal that the person be appointed has been referred to the Committee on the Office of the Ombudsman under section 31BA of the Ombudsman Act 1974; and

(b) the period that the Committee has under that section to veto the proposed appointment has ended without the Committee having vetoed the proposed appointment or the Committee notifies the Minister that it has decided not to veto the proposed appointment. 20

(2) A person may be proposed for appointment on more than one occasion. 25

(3) In this section, “**appointment**” includes re-appointment.

**STATUTORY APPOINTMENTS LEGISLATION
(PARLIAMENTARY VETO) AMENDMENT ACT 1992 No. 43**

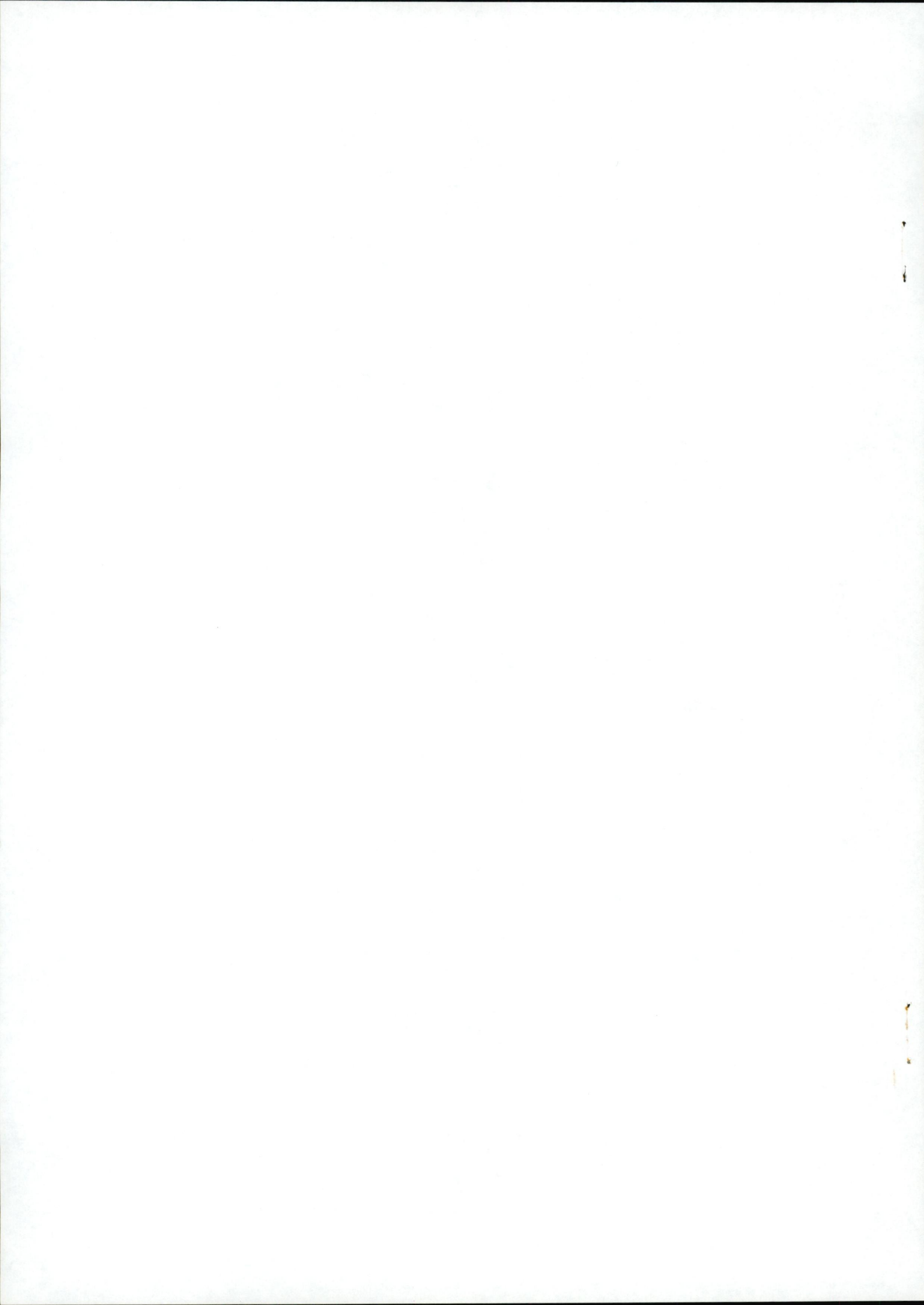
NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
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SCHEDULE 1—AMENDMENTS



**STATUTORY APPOINTMENTS LEGISLATION
(PARLIAMENTARY VETO) AMENDMENT ACT 1992 No. 43**

NEW SOUTH WALES



Act No. 43, 1992

An Act to amend certain Acts to provide for the vetoing by certain Parliamentary Committees of proposed appointments to the office of Auditor-General, Commissioner for the Independent Commission Against Corruption, Director of Public Prosecutions and Ombudsman, and for related purposes. [Assented to 19 May 1992]

Statutory Appointments Legislation (Parliamentary Veto) Amendment Act 1992
No. 43

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Statutory Appointments Legislation (Parliamentary Veto) Amendment Act 1992.

Commencement

2. This Act commences on the date of assent.

Amendments

3. Each Act specified in Schedule 1 is amended as set out in that Schedule.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

Independent Commission Against Corruption Act 1988 No. 35

(1) Section 5A:

After section 5, insert:

Veto of proposed appointment as Commissioner

5A. (1) A person is not to be appointed as Commissioner until:

- (a) a proposal that the person be appointed has been referred to the Joint Committee under section 64A; and
- (b) either the period that the Joint Committee has under that section to veto the proposed appointment has ended without the Committee having vetoed the proposed appointment or the Committee notifies the Minister that it has decided not to veto the proposed appointment.

(2) A person may be proposed for appointment on more than one occasion.

(3) In this section and section 64A, "appointment" includes re-appointment.

SCHEDULE 1—AMENDMENTS—*continued*

(2) Section 64A:

After section 64, insert:

Power to veto proposed appointment of Commissioner

64A. (1) The Minister is to refer a proposal to appoint a person as Commissioner to the Joint Committee and the Committee is empowered to veto the proposed appointment as provided by this section. The Minister may withdraw a referral at any time.

(2) The Joint Committee has 14 days after the proposed appointment is referred to it to veto the proposal and has a further 30 days (after the initial 14 days) to veto the proposal if it notifies the Minister within that 14 days that it requires more time to consider the matter.

(3) The Joint Committee is to notify the Minister, within the time that it has to veto a proposed appointment, whether or not it vetoes it.

(4) A referral or notification under this section is to be in writing.

(3) Section 70 (**Confidentiality**):

After section 70 (1), insert:

(1A) If any evidence proposed to be given before, or the whole or a part of a document produced or proposed to be produced in evidence to, the Joint Committee relates to the proposed appointment of a person as Commissioner, the Committee must (despite any other provision of this section):

- (a) take the evidence in private; or
- (b) direct that the document, or the part of the document, be treated as confidential.

(1B) Despite any other provision of this section except subsection (6), the Joint Committee must not, and a person (including a member of the Committee) must not, disclose any evidence or the contents of a document or that part of a document to which subsection (1A) applies.

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.

SCHEDULE 1—AMENDMENTS—*continued*

(1C) Despite any other provision of this section except subsection (6), the Joint Committee (including a member of the Committee) must not, and any person assisting the Committee or present during the deliberations of the Committee must not, except in accordance with section 64A (3), disclose whether or not the Joint Committee or any member of the Joint Committee has vetoed, or proposes to veto, the proposed appointment of a person as Commissioner.

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.

Ombudsman Act 1974 No. 68

(1) Section 6A:

After section 6, insert:

Veto of proposed appointment of Ombudsman

6A. (1) A person is not to be appointed as Ombudsman until:

- (a) a proposal that the person be appointed has been referred to the Joint Committee under section 31BA; and
- (b) either the period that the Joint Committee has under that section to veto the proposed appointment has ended without the Committee having vetoed the proposed appointment or the Committee notifies the Minister that it has decided not to veto the proposed appointment.

(2) A person may be proposed for appointment on more than one occasion.

(3) In this section and section 31BA, “appointment” includes re-appointment.

(2) Section 31BA:

After section 31B, insert:

Power to veto proposed appointment of Ombudsman or Director of Public Prosecutions

31BA. (1) The Minister is to refer a proposal to appoint a person as Ombudsman or Director of Public Prosecutions to the Joint Committee and the Committee is empowered to

SCHEDULE 1—AMENDMENTS—*continued*

veto the proposed appointment as provided by this section. The Minister may withdraw a referral at any time.

(2) The Joint Committee has 14 days after the proposed appointment is referred to it to veto the proposal and has a further 30 days (after the initial 14 days) to veto the proposal if it notifies the Minister within that 14 days that it requires more time to consider the matter.

(3) The Joint Committee is to notify the Minister, within the time that it has to veto a proposed appointment, whether or not it vetoes it.

(4) A referral or notification under this section is to be in writing.

(5) In this section, a reference to the Minister is:

- (a) in the context of an appointment of Ombudsman, a reference to the Minister administering section 6A of this Act; and
- (b) in the context of an appointment of Director of Public Prosecutions, a reference to the Minister administering section 4A of the Director of Public Prosecutions Act 1986.

(3) Section 31H (**Confidentiality**):

After section 31H (1), insert:

(1A) If any evidence proposed to be given before, or the whole or a part of a document produced or proposed to be produced in evidence to, the Joint Committee relates to the proposed appointment of a person as Ombudsman or Director of Public Prosecutions, the Committee must (despite any other provision of this section):

- (a) take the evidence in private; or
- (b) direct that the document, or the part of the document, be treated as confidential.

(1B) Despite any other provision of this section except subsection (6), the Joint Committee must not, and a person

SCHEDULE 1—AMENDMENTS—*continued*

(including a member of the Committee) must not, disclose any evidence or the contents of a document or that part of a document to which subsection (1A) applies.

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.

(1C) Despite any other provision of this section except subsection (6), the Joint Committee (including a member of the Committee) must not, and any person assisting the Committee or present during the deliberations of the Committee must not, except in accordance with section 31BA (3), disclose whether or not the Joint Committee or any member of the Joint Committee has vetoed, or proposes to veto, the proposed appointment of a person as Ombudsman or Director of Public Prosecutions.

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.

Public Finance and Audit Act 1983 No. 152

(1) Section 28A:

After section 28, insert:

Veto of proposed appointment of Auditor-General

28A. (1) A person is not to be appointed as Auditor-General until:

- (a) a proposal that the person be appointed has been referred to the Public Accounts Committee under section 57A; and
- (b) either the period that the Committee has under that section to veto the proposed appointment has ended without the Committee having vetoed the proposed appointment or the Committee notifies the Treasurer that it has decided not to veto the proposed appointment.

(2) A person may be proposed for appointment on more than one occasion.

SCHEDULE 1—AMENDMENTS—*continued*

(2) Section 57A:

After section 57, insert:

Power to veto proposed appointment of Auditor-General

57A. (1) The Treasurer is to refer a proposal to appoint a person as Auditor-General to the Committee and the Committee is empowered to veto the proposed appointment as provided by this section. The Treasurer may withdraw a referral at any time.

(2) The Committee has 14 days after the proposed appointment is referred to it to veto the proposal and has a further 30 days (after the initial 14 days) to veto the proposal if it notifies the Treasurer within that 14 days that it requires more time to consider the matter.

(3) The Committee is to notify the Treasurer, within the time that it has to veto a proposed appointment, whether or not it vetoes it.

(4) A referral or notification under this section is to be in writing.

(3) Section 58 (Evidence):

After section 58 (2), insert:

(2A) If any evidence proposed to be given before, or the whole or a part of a document produced or proposed to be produced in evidence to, the Committee relates to the proposed appointment of a person as Auditor-General, the Committee must (despite any other provision of this section):

- (a) take the evidence in private; or
- (b) direct that the document, or the part of the document, be treated as confidential.

(2B) Despite any other provision of this section except subsection (7), the Committee must not, and a person (including a member of the Committee) must not, disclose any evidence or the contents of a document or that part of a document to which subsection (2A) applies.

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.

SCHEDULE 1—AMENDMENTS—*continued*

(2C) Despite any other provision of this section except subsection (7), the Committee (including a member of the Committee) must not, and any person assisting the Committee or present during the deliberations of the Committee must not, except in accordance with section 57A (3), disclose whether or not the Committee or any member of the Committee has vetoed, or proposes to veto, the proposed appointment of a person as Auditor-General.

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.

Director of Public Prosecutions Act 1986 No. 207

Section 4A:

After section 4, insert:

Veto of proposed appointment of Director

4A. (1) A person is not to be appointed as Director until:

- (a) a proposal that the person be appointed has been referred to the Committee on the Office of the Ombudsman under section 31BA of the Ombudsman Act 1974; and
- (b) the period that the Committee has under that section to veto the proposed appointment has ended without the Committee having vetoed the proposed appointment or the Committee notifies the Minister that it has decided not to veto the proposed appointment.

(2) A person may be proposed for appointment on more than one occasion.

(3) In this section, “**appointment**” includes re-appointment.

[Minister's second reading speech made in—
 Legislative Assembly on ~~5 March 1992~~ 9 April 1992
 Legislative Council on 6 May 1992]