

PARLIAMENT OF AUSTRALIA
THE PARLIAMENTARY LIBRARY
CONSTITUTION ALTERATION (SIMULTANEOUS ELECTIONS) 1977

Date introduced: 16 February 1977
House : House of Representatives
Presented by : Mr. Ellicott.

Short Digest of Proposed Law

Purpose

The purpose of this measure is to reduce the number of elections for the Australian Parliament by providing for the term of service of senators to last, in the normal case, until the expiry or dissolution of the Second House of Representatives after its commencement.

Provisions

Despite its long title, this proposed law does not expressly require that the times at which Senate elections are held should coincide with House of Representatives elections. The relevant provision is clause 3 which merely empowers the Australian Parliament to legislate concerning the times and places of elections of senators. Section 9 of the Constitution which that clause seeks to alter at present empowers the State Parliament to legislate on those matters.

The bulk of the proposed law is concerned with the term of service of senators. At present this matter is dealt with by the last paragraph of section 7 of the Constitution which provides that "The Senators shall be chosen for a term of six years, and". Clause 2 seeks to omit the quoted words and clause 4 seeks to substitute a new section 13 providing for the term of service of senators in all circumstances.

The fundamental proposal (proposed subsection 13 (1)) is that a senator's term is to last until the expiry or dissolution of the Second House of Representatives after he was chosen.

It is also provided, of course, that a senator's term ceases when the Senate is dissolved.

Proposed subsections 13 (2), (3), (4) and (5) provide for the rotation of senators. This is the subject-matter of existing section 13. The existing provision concerning the division of the senators into two classes following the first election of senators after Federation is omitted.

There is to be (as at present) a division of the Senate into two classes following a double dissolution. The senators in the first class are to have a term equal to two Houses and those in the second class a term equal to one House. If there is an even number of senators, both classes are to be equal. If there is an odd number of senators, the first class is to contain one more than the second class. This is more precise than the existing provision.

Proposed subsection 13 (5) deals with the situation where a senate place becomes vacant after an election but before a division into classes. In effect the vacancy is to be ignored for the purpose of the division into classes. Thus a long or a short term will be assigned for that place by the Senate.

The terms of existing senators will be altered by proposed subsection 13 (6). The terms of short-term senators are to expire when the first expiry or dissolution of the House of Representatives occurs after the proposed law comes into operation and the terms of long-term senators are to expire when the second expiry or dissolution of the House of Representatives occurs after the proposed law comes into operation.

Proposed subsection 13 (7) would apply immediately only to Senator Lewis who was appointed to fill the casual vacancy caused by the death of Senator Greenwood. It would also apply to other senators appointed to fill casual vacancies before the provision comes into operation. The term for such senators is to become one expiring at the first expiry or dissolution of the House of Representatives.

Proposed subsection 13 (8) deals with the term of the senator elected in place of Senator Lewis.

At present such a senator's term lasts "until the expiration of the term". This provision deems Senator Greenwood's term to last until the expiry or dissolution of the Second House of Representatives after the proposed law comes into operation.

Clause 5 deals with casual vacancies in the Senate. This matter is dealt with exhaustively by the Constitution Alteration Senate Casual Vacancies 1977. This clause is concerned with the term of service of persons appointed or chosen to fill casual vacancies. The term of a person chosen by a State Parliament is to end at the next expiry or dissolution of the House of Representatives and the term of a person appointed by the Governor-in-Council of a State is to end 14 days after the beginning of the next session of State Parliament or the next expiry or dissolution of the House of Representatives, whichever first happens.

Sub-clause 5 (c) specifies when an election is to occur to replace a person chosen or appointed to fill a casual vacancy: it is to be at the next election of senators for the State and not at the next Senate or House of Representatives election whichever first happens as at present.

Background

This Constitution alteration proposal is the same in substance as that submitted to the people in 1974. It does not deal with the terms of senators for the territories or their election. These are provided for in the Act made under section 122 of the Constitution which was passed at the joint sitting - the Senate (Representation of Territories) Act 1973. That Act for the first time fixed term of service of a senator by reference to the expiry or dissolution of the House of Representatives.