

1983

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

(Presented pursuant to leave granted and read 1^o, 31 May 1983)

(SENATOR LEWIS)

No. 56

A BILL

FOR

An Act to establish Anzac Day as a national day of remembrance and to provide for observances in the Australian Capital Territory to mark Anzac Day

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title

1. This Act may be cited as the *Anzac Day Act 1983*.

Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Interpretation

3. In this Act—
“Anzac Day” means the 25th day of April in each year;
“observance” means an observance arranged by the President under section 6;
“Returned Services League of Australia” means the body of that name incorporated under the *Companies Act 1981*;

“the Court” means the Federal Court of Australia; and

“the President” means the person for the time being holding, or performing the duties of, the office of National President of the Returned Services League of Australia.

National day of remembrance

4. It is hereby declared that it is the intention of the Parliament that Anzac Day should be marked as a national day of remembrance for the purpose of commemorating members of Australian armed forces and their auxiliary services who served Australia in the cause of freedom and who suffered death, injury or loss as a result of their service as members of those forces in the course of armed conflicts in which those forces were engaged.

Function of President

5. (1) The function of the President under this Act is to arrange appropriate observances to mark Anzac Day in accordance with this Act.

(2) In respect of the performance of his function under this Act, the President shall not be subject to any directions of any person or body, but may consult with any person or body as he thinks fit.

Arrangements for observance of Anzac Day

6. (1) Subject to this Act, the President shall make such arrangements for appropriate observances to mark Anzac Day in the Australian Capital Territory as he thinks fit.

(2) Without limiting the generality of sub-section (1), observances arranged by the President under sub-section (1) shall include—

- (a) a service at dawn at an appropriate place; and
- (b) a parade of past and present members of Australian armed forces and of such other forces as the President determines.

(3) In arranging observances under sub-section (1), the President shall take care to ensure that such observances are in accordance with the purpose specified in section 4.

(4) A summary of arrangements made by the President under sub-section (1) shall be published in the *Gazette* not less than 90 days prior to any observance to which those arrangements relate.

(5) A summary published under sub-section (4) shall include—

- (a) a list of persons and classes of persons in respect of whom the President has issued, or proposes to issue permissions under section 9; and
- (b) the address of a place at which applications under section 8 may be delivered to the President.

Areas for observances

7. (1) For the purpose of arranging an observance, the President may designate an area as an area for such observance.

(2) A designation of an area under sub-section (1) shall be made and published in the *Gazette* not less than 60 days prior to the observance to which that designation relates.

Applications for permission to participate in observances

8. (1) A person may make application to the President for permission to participate in an observance.

(2) An application under sub-section (1) shall—

- (a) be in writing;
- (b) be delivered to the President, at the place designated under paragraph 6 (5) (b), not less than 60 days prior to the observance to which the application relates;
- (c) be signed by the applicant; and
- (d) contain the following particulars:
 - (i) the name and residential or business address of the applicant;
 - (ii) the name of the organization or body, if any, on behalf of which the application is made;
 - (iii) the name or names of the person or persons for whose participation approval is sought or, if approval is sought for the participation of persons included in a particular class of persons, a description of that class sufficient to enable those persons to be identified;
 - (iv) where approval is sought for the participation of persons included in a particular class of persons—an estimate of the number of persons for whose participation approval is sought;
 - (v) the purpose for which the person or persons for whose participation approval is sought wishes or wish to participate in the observance.

Permission to participate in observances

9. (1) The President may grant to a person or to a class of persons permission to participate in an observance, whether or not the President has received an application under section 8 in respect of that person or class of persons.

(2) A permission granted under sub-section (1) shall be notified in the *Gazette* as soon as practicable after the granting of that permission.

10. (1) Where the President receives an application in accordance with section 8, he shall notify the applicant whether the application is granted.

(2) A notification under sub-section (1) shall be in writing and shall be delivered to the residential or business address of the applicant as disclosed by the application not less than 30 days prior to the observance to which the application relates.

11. The President shall not grant a permission to participate in an observance unless he is satisfied that that participation is consistent with the purpose referred to in section 4.

Review by Court

12. (1) A person aggrieved by a decision of the President—

- (a) designating under section 7 an area for the purpose of an observance; or
- (b) refusing under section 10 an application for permission to participate in an observance,

may apply to the Court for a review of that decision.

(2) An application under sub-section (1) shall be made not less than 14 days prior to the observance to which the application relates.

(3) Upon an application under sub-section (1), the Court may, in its discretion—

- (a) affirm or alter a designation of an area made by the President under section 7; or
- (b) affirm a decision under section 10 refusing permission for participation in an observance, or grant that permission,

as the case may be.

(4) The Court shall not—

- (a) alter a designation of an area; or
- (b) grant a permission to participate in an observance,

unless the Court is satisfied that that alteration or that permission, as the case may be, is consistent with the purpose referred to in section 4.

(5) Where the Court—

- (a) alters the designation of an area; or
- (b) grants a permission to participate in an observance,

the designation so altered or the permission so granted, as the case may be, shall be deemed to have been made or granted by the President.

Legal immunity for participation in observances

13. A person who participates in an observance in accordance with a permission granted by the President is not, by reason only of that participation, guilty of an offence against any law of the Australian Capital Territory relating to the movement or free passage of traffic or pedestrians or the obstruction of a person or vehicle in a public place.

Offences

14. Any person who—

- (a) participates or attempts to participate in an observance without the permission of the President;
- (b) interferes with, disturbs or disrupts an observance; or
- (c) not being a person granted permission by the President to participate in an observance, enters during such observance an area designated in accordance with section 7 as an area for that observance,

shall be guilty of an offence punishable, on conviction, by a fine not exceeding \$200.

Regulations

15. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

