

1983

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

Constitution Alteration (Removal of Outmoded and  
Expended Provisions) Bill 1983

EXPLANATORY MEMORANDUM

(Circulated by authority of the Attorney-General Senator  
the Hon. Gareth Evans)

OUTLINE

The purpose of the Bill is to remove outmoded and expended provisions from the Constitution. The main categories of such provisions are:

- . transitional provisions which no longer have any application; and
- . provisions which are included in resolutions of the Hobart (1976) and Adelaide meetings of the Australian Constitutional Convention as ones that should be removed as outmoded or spent.

NOTES ON CLAUSES

Clause 1 - This is a formal provision specifying the short title of the Bill.

Clause 2 - Commencement

The Act other than s.7 commences on the date of Royal Assent. Section 7 (repeal of the Queen's power of disallowance of Bills) comes into operation on 1 January 1984 so as to take account of residual Colonial Stock Act matters (see note on clause 7).

Clause 3 - Casual Vacancies

Repeals transitional provisions relating to the Constitutional amendment in 1977 concerning Senate casual vacancies.

Clause 4 - Provision as to Races Disqualified from Voting

Repeals s.25 of the Constitution which no longer has any practical operation, as early discriminatory laws of States have been repealed.

Clause 5 - Representatives in first Parliament

Repeals s.26 which provides for the number of members to be chosen in each State at the election for the first Parliament.

Clause 6 - Royal Assent to Bills

Repeals the reference in s.58 to the Governor-General's outmoded power to reserve Bills for the Queen's assent. The clause implements part of a resolution adopted unanimously at the Adelaide plenary session of the Australian Constitutional Convention.

Clause 7 - Disallowance by the Queen

Repeals s.59 which provides that the Queen may disallow any law within one year of the Governor-General's assent. Under clause 2 this would not come into operation until 1 January 1984. The proposal is in accordance with a unanimous resolution adopted at the Adelaide meeting of the Australian Constitutional Convention as well as the unanimous Hobart resolution on the removal of outmoded provisions.

The commencement date is delayed until 1 January 1984 so as to ensure that stock issued under the Colonial Stock Act retains its trustee status. The last of that stock matures on 1 December 1983.

Clause 8 - Signification of Queen's Pleasure on Bills Reserved

Repeals s.60 concerning signification of the Queen's pleasure on Bills reserved. This clause is related to clause 6 which repeals the provisions of s.58 (Bills reserved for the Queen's assent).

Clause 9 - Appeal to Queen in Council

Repeals the reference in s.74 to the Governor-General's power to reserve for the Queen's assent Bills limiting the matters in which leave to appeal to the Privy Council may be asked. This accords with a resolution unanimously adopted at the Adelaide plenary session of the Australian Constitutional Convention.

Clause 10 - Money to be Appropriated by law

Repeals the second paragraph of s.83 which provides for money to be appropriated by law until the expiration of one month after the first meeting of the Parliament after the establishment of the Commonwealth.

Clause 11 - Transfer of Officers

Repeals the last paragraph of s.84 which deals with the rights of State officers transferred to the Commonwealth public service at the establishment of the Commonwealth.

Clause 12 - Transfer of Property of a State

Repeals the reference in s.85 to the possibility of a transfer back to the States of State property used exclusively in connexion with a State Department that was transferred following the establishment of the Commonwealth.

Clause 13 - Repeals ss.86, 87 and 89

Section 86 provides that, on the establishment of the Commonwealth, the collection and control of customs and excise and the control of the payment of bounties passes to the Commonwealth.

Section 87 deals with the application of Commonwealth revenue during the first 10 years of Federation.

Section 89 provided for the distribution of the 'federal surplus' before the uniform tariff was imposed. It has had no application since then.

The repeal of ss.86 and 87 was unanimously recommended by the Hobart Convention. Section 89 was inexplicably left out of the Hobart Resolution.

Clause 14 - State Bounties

Repeals the reference in s.90 to grants or agreements for State bounties made before 30 June 1898.

Clause 15 - Trade, Commerce and intercourse among States to be free

Repeals the second paragraph of s.92 which enabled duty to be charged by the States until the uniform tariff was imposed.

Clause 16 - Payment to States for 5 Years after Uniform Tariffs

Repeals s.93 which was a transitional provision lasting for 5 years after the introduction by the Commonwealth of the uniform tariff.

Clause 17 - Customs Duties of Western Australia

Repeals s.95 which was designed to alleviate the special difficulties of Western Australia during the first five years after the imposition of the uniform tariff.

Clause 18 - Seat of Government

Repeals the last paragraph of s.125 which provides that the Parliament shall sit at Melbourne until it meets at the seat of Government.





