Legislative Initiative Bill 1989
(Private Senator's Bill)

Date Introduced: 24 April 1989
House: Senate
Presented by: Senator Michael Macklin

Digest of Bill

Purpose
To allow electors to propose laws that will be subject to a referendum.

Background
Refer to the Digest for the Constitution Alteration (Electors' Initiative) Bill 1989.

Main Provisions
'Eligible elector' is defined in clause 3 as a person who, at the time of the last general election of the House of Representatives, was qualified to vote for the election to that House.

'Prescribed number of eligible electors' is defined in clause 3 as 2.5% of eligible electors who voted at the last general election of the House of Representatives.

Initiator's of a proposed bill may apply to the Australian Electoral Commission (AEC) to be registered as initiator's. Where an application is made by a body of persons, whether incorporated or unincorporated, the AEC is not to register them unless their objects include the proposing of bills for enactment and the bill is primarily concerned with matters within the objects of the body (clause 4). Objectors to a proposed bill may apply to the AEC to be registered as the opponent of the proposed bill (clause 7).

Registered initiator's of a proposed bill may submit a draft petition and copy of the proposed bill to the AEC asking the Governor-General to have a referendum held in relation to the proposed bill. The AEC is to print, at the cost of the initiator's, copies of the petition, bill, and forms, for person who wish to sign the petition (clause 5).

Petition signatures will have to be collected within six months (the signature period) of the date fixed by the AEC, which is not to be before seven days after the initiator receives copies of the petition and forms for signatures (clause 6).
Clause 8 provides that eligible electors may, within the signature period, sign a petition for a proposed bill. Petitioners are to provide their full name and address. A petitioner is not, in relation to their signature, to knowingly provide false or misleading information. The maximum penalty for breach of this provision will be a fine of $1,000.

Clauses 10–12 deal with verification of petition signatures, the presentation of petitions to the Governor-General, and the calling of a referendum in relation to a proposed bill. The AEC is to verify the validity of a petition by a random sampling of at least 5% of signatures. Where the AEC is satisfied that a petition contains the prescribed number of eligible electors, it will present the petition to the Governor-General who, at the next general election of the Lower House, is to put the bill to a referendum. Invalid signatures, which include those where a person has signed a petition more than once or is not an eligible elector, will be disregarded. Where, prior to a referendum being held, an Act substantially the same as the proposed bill is enacted, a referendum on the proposed bill is not to be held.

Where a majority of voters at a referendum vote for a proposed bill, a Minister is to introduce the bill into a House of the Parliament (clause 14).

Clause 15 provides that nothing in this Bill is to limit the existing powers of the Parliament to pass or reject a bill, or repeal or amend an Act. Basically, this means that Parliament will still hold the power to decide the fate of a legislative initiative.

Initiator's of a proposed bill are to reimburse the Commonwealth for the costs of postage related to the random sampling of signatures. In addition, initiator's and registered opponents will be responsible for the cost of posting to electors arguments for and against the proposed bill (clause 16).

Amendments to the Referendum (Machinery Provisions) Act 1984

A new section 11A will be inserted into the Act by the Schedule to the Bill that deals with advertising relating to referendums. Basically, the Commonwealth, a State, Territory or a local government body is not to spend money, without AEC permission (i.e. an approval certificate), on promoting/advertising in favour or against a proposed bill. The AEC is not to approve proposed expenditure unless it is satisfied details of the expenditure are set out correctly in an AEC approved form, and a government has paid into a fund established for promoting the other side of the argument an amount at least equal to the proposed expenditure (proposed sub-section 11A (4)). The AEC, the Commonwealth, a State, a Territory, a local government body, or an elector may institute proceedings in the Federal Court for an injunction preventing the broadcasting or printing of an advertisement relating to a referendum where an approval certificate has not be issued (proposed sub-section 11A (7)).