CONSTITUTION ALTERATION (INTERCHANGE OF POWERS) BILL 1984

Date Introduced: 13 June 1984
House: Senate
Presented by: Senator Evans

Short Digest of Bill

Purpose
To provide for a Constitutional amendment setting up a procedure for the Commonwealth and States to exchange legislative powers.

Background

On 12 May 1983 an almost identical Bill to the present one was introduced into the Senate on 12 May 1983 and passed the House of Representatives on 17 November 1983. That proposal was not put to the electorate within the 6 month period stipulated by section 128 of the Constitution. The present Bill, apart an alteration to the long title following the prescription of the form of referendum questions in the Referendum (Machinery Provisions) Bill, differs from the 1983 Bill in only one respect. The proposed section 108A has been altered by the substitution of the words, "the powers of the Parliament of each State" for "the powers of the Parliament of a State" in sub-clause (1). In his Second Reading Speech the Attorney-General advised that the purpose of this alteration is clarify the point that any reference of power from the Commonwealth is to be equally available to all States.

Main Provisions

Two new sections (108A and 108B) are proposed to be inserted into the Constitution. Proposed sub-section 108A(2) sets out matters which the Commonwealth Parliament can refer to the States. These matters are excise, Commonwealth places, any other exclusive Commonwealth power, investing a federal court with State jurisdiction.

The purpose of proposed section 108B is to expand on the power set out in paragraph 51 (xxxvii) of the Constitution to make laws on matters referred to the Commonwealth by the States. The proposed new section also applies to references made by the Commonwealth to the States.
under proposed section 108A. The provision sets out the procedure for these referrals. They are to be made by Act of Parliament (new 108B(1)(a)). They can apply at a future time or upon a condition precedent (new 108B(1)(b)) and can be revoked at any time (new 108B(1)(d)) or cease to have effect at a stated time (new 108B(1)(c)). A reference can be extended in duration (new 108B(1)(e)), made subject to conditions (new 108B(1)(f)), and does not prevent the Parliament which made the reference from exercising the power (new 108B(1)(g)). Proposed sub-section 108B(2) provides that once a reference ceases to have effect any laws made pursuant to the reference also cease to have effect.

For further information, if required, contact:

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Law & Government Group
LEGISLATIVE RESEARCH SERVICE