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CONSTITUTION ALTERATION (APPROPRIATION BILLS)
BILL 1984

Date Introduced: 13 June 1984
House: Senate
Presented by: Senator Peter Rae

Short Digest of Bill

Purpose

To amend the constitution so that a double dissolution will automatically occur upon failure by the Senate to pass Supply Bills.

Background

The Constitutional Convention has been considering this matter for several years as an option for dealing with the situation where there is disagreement between the two Houses in relation to money Bills.

At the Perth meeting of the Convention in 1978 it was agreed that Standing Committee D would draft a proposed amendment to the Constitution. Standing Committee D gave detailed consideration to the drafting of this provision. The Adelaide meeting of the Convention in April 1983 carried a motion approving the Constitutional amendment drafted by Standing Committee D. The Convention also approved an amendment moved to the Committee's draft by Senator Rae inserting the new section 53A. On 17 May 1983 Senator Rae introduced into the Senate the Constitution Alteration (Appropriation Bills) Bill 1983 which was identical in its terms to the present Bill. The second reading of that Bill was agreed to in Committee without amendment and the report of the Committee adopted. The third reading of the Bill was moved by leave but the motion not being carried by an absolute majority the Bill was laid aside.

Main Provisions

Clause 2 of the Bill adds the words "of a particular year only" to the second paragraph of the present s.53. This is in line with the new sub-section 54(1) which replaces present s.54 of the Constitution. The additional words are added to these provisions in order to exclude from their operation standing or permanent appropriations. The practice of Parliament has been that laws on permanent
appropriations may cover other matters (i.e. that they are excluded from the s.54), and also that the Senate may amend such Bills (i.e. they are excluded from the prohibition in the second paragraph of section 53). The new second paragraph of section 53 and new sub-section 54(1) formalise this practice.

The purpose of the new section 53A inserted by clause 3 of the Bill is to remove doubts as to what are "ordinary annual services" of Government for the purposes of sections 53, new section 54 and new section 54A. New Section 54, inserted by clause 4 of the Bill, elaborates on what is an Appropriation Bill. Proposed sub-section 54(2) would prevent circumvention of the new provisions by appropriating less than once a year for what are in fact annual services of Government. Proposed sub-section 54(3) enables the Senate to pass an Appropriation Bill in its original form if the House of Representatives does not give effect to amendments requested by the Senate. Proposed sub-section 54(4) provides for the bringing of a High Court action to determine whether an Act deals with non appropriation matters. To the extent that it does the High Court can declare that it has no effect.

Proposed section 54A is the main provision of the Bill. The Governor-General must dissolve both Houses of Parliament if the Senate does not pass a law appropriating money for ordinary annual services of Government within 30 days of it reaching the Senate (proposed sub-section 54A(1)). If the Senate rejects outright such a Bill then the Governor-General may dissolve both Houses of Parliament (Proposed sub-section 54A(2)). If he does not do so, then sub-section 54A(1) will still apply forcing the Governor-General to dissolve both Houses once 30 days has lapsed. Proposed sub-section 54A(3) prevents the operation of 54A(1) in certain situations where the Senate requests amendments and the House spends some time returning the Bill to the Senate.

Proposed sub-section 54A(5) provides that after a double dissolution in accordance with the section, the House of Representatives may present the proposed law to the Governor-General without the need for it to be passed by the Senate. Proposed sub-section 54A(6) provides for the supply of funds during the course of the double dissolution process.

Clause 5 of the Bill inserts new paragraphs into section 57 of the Constitution which provides for double dissolutions when there is disagreement between the Houses over the passage of legislation. The new paragraphs would exclude the operation of section 57 procedures where the
legislation in question is an appropriation bill. In that case the new procedure set out in proposed section 54A would apply. The final paragraph for insertion into s.57 provides however that once double dissolution stage is reached, the Proclamation can proceed on the basis that conditions of both s.54A and s.57 have given rise to a double dissolution.

For further information, if required, contact:

29 June 1984

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