Date Introduced: 11 September 1984
House: Senate
Presented by: Senator P.D. Durack, Q.C.

Short Digest of Bill

Purpose
To require that designation of the standard for the Commonwealth Government, the Commonwealth, or the Australian nation be by Regulation, subject to Parliamentary scrutiny, rather than by Proclamation; and that alteration of the Australian National Flag be by national referendum.

Background
The Australian National Flag and the Australian Red Ensign are specified in the Flags Act 1953. Section 7 of the Act enables the Governor-General to publish rules for the flying of these two ensigns or of any flag or ensign appointed under section 5. Section 5 empowers the Governor-General to appoint, by Proclamation, "such other flags and ensigns of Australia as he thinks fit".

A vice-regal proclamation on 19 April 1984 fixed "Advance Australia Fair" as the national anthem, with the Royal anthem "God Save the Queen" to be used in the presence of the Queen or a member of the Royal Family in Australia on an official visit.[1]

In respect of the Australian flag, the present situation is that additional flags may be appointed by Proclamation of the Governor-General, but that any change to the Australian National Flag requires legislative amendment.

The Bill would require appointment of additional flags to be by Regulation, subject to Parliamentary review, and any change to the Australian National Flag to be by referendum on terms similar to a constitutional referendum. The Australian National Flag would also be required to be used for certain purposes.

A Gallup poll in May 1984 showed that 52 per cent of people in an Australia-wide sample of 2053 favoured a competition for a new design for the national flag, with 43
per cent opposed and 5 per cent unsure.[2] The poll followed publicity for proposals to change the Australian flag by the Bicentennial year, 1988. The Ausflag 1988 Committee has sponsored such a proposal, including that the selection be by national poll.[3]

The Australian National Flag Association was formed in 1983 to promote maintenance of the existing flag.[4]

Main Provisions

The Bill would commence with Royal Assent and makes three changes.

A new section 5 authorizes regulations to be made by the Governor-General, appointing flags and ensigns other than the Australian National flag and Red Ensign. A new limitation is that the regulations may not appoint a flag other than the existing Australian National flag as the standard for the Australian Government, the Commonwealth of Australia, or the Australian nation.

Regulations made to appoint a flag or ensign for certain purposes or to alter a Proclamation made before commencement of the Bill, would require to be tabled in each House, under the provisions of sections 48, 49, 49A and 50 of the Acts Interpretation Act 1901.

Section 9, to be added by the Bill, prohibits alteration of the Australian National Flag except following a referendum similar to a constitutional referendum, requiring a majority in each of a majority of States and a majority of State and Territory voters overall.

For further information, if required, contact:

25 September 1984

Law & Government Group
LEGISLATIVE RESEARCH SERVICE

References

1. Commonwealth Gazette, Special, No. S142, 19 April 1984;
4. The West-Australian, 4 October 1983.