SHORT DIGEST OF BILL

Purpose

To implement the recommendations of the Joint Select Committee on Electoral Reform in respect of political advertising and to amend section 273(20) of the Commonwealth Electoral Act 1918 to provide that the provisions contained therein in respect of the determination of the order of election of Senators will apply to the transitional arrangements contained in section 5 of the Representation Act 1983.

Background

As part of its electoral platform for the 1983 elections the Australian Labor Party stated that if it were elected to Government it would undertake extensive reforms of Australian electoral laws. On 4 May 1983 the House of Representatives resolved to appoint a Joint Select Committee on Electoral Reform and the Senate concurred on 11 May 1983. The Committee's First Report was tabled on 13 September 1983 and contained some 132 recommendations, the majority of which were adopted by the Government and incorporated in the Commonwealth Electoral Legislation Amendment Act 1983.

The Commonwealth Electoral Legislation Amendment Act 1984 effected a number of amendments resulting from a further review of electoral legislation, the majority of which were of a minor or machinery nature.

On 24 August 1984 the Second Report of the Joint Select Committee on Electoral Reform was tabled in the Parliament. This report contained 10 recommendations the majority of which were related to the subject of political advertising. The effect of these recommendations was that fair advertising of political parties' election promises although a desirable objective was not one that could be obtained through legislation.
The background to the proposed amendment of section 273(20) of the Commonwealth Electoral Act 1918 applying its provisions to the transitional arrangements contained in section 5 of the Representation Act is detailed in Bills Digest 132 of 1984 which discusses a similar proposal contained in a Private Member's Bill, the Representation Amendment (Order of Election of Senators) Bill 1984 introduced into the Senate by the Australian Democrats Senator M. Macklin on 11 September 1984.

Main Provisions

Clause 4 of the Bill amends section 273(20) of the Commonwealth Electoral Act 1918 by adding the words "and the Representation Act 1983" after "For the purposes of this Act". The effect of this amendment would be that in determining the Senator last elected for the purposes of section 5(4) of the Representation Act 1983, i.e. the Senator whose place would become vacant on 30 June 1988 the provisions of the Electoral Act would apply. The effect of this provision is that if the last and second-last Senators are elected as a result of the same transfer of votes the order in which they are taken to be elected will be in accordance with the relative number of total votes received by them.

The existing provisions in respect of untrue, misleading or deceptive political advertising are contained in section 329(2) of the Commonwealth Electoral Act 1918 and similar provisions relating to referendums are contained in section 122(2) of the Referendum (Machinery Provisions) Act of 1984. Clause 5(a) of the Bill repeals section 329(2) of the Electoral Act whilst clause 8(a) has the same effect in respect of the Referendum Act. Consequential amendments to the Electoral Act and the Referendum Act are made by clauses 5(b) and (c) and 8(b) and (c) respectively. Clause 6 of the Bill repeals section 362(4) of the Electoral Act which currently provides that the Court of Disputed Returns shall not declare an election void on the grounds that a person contravened the provisions of section 329(2) unless his actions also amounted to a contravention of section 329(1).

For further information, if required, contact:

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