Date Introduced: 11 May 1983
House: House of Representatives
Presented by: Hon. M.J. Duffy, M.P., Minister for Communications

Short Digest of Bill

Purpose

To remove those provisions of the Broadcasting and Television Act 1942 (the Principal Act) which prevent the broadcasting or televising of news and comment relating to an election between midnight on the Wednesday preceding the election and the close of the polls. This bill does not affect the existing prohibition on political advertising on the electronic media during that period, except as regards the procedure for notifying stations of their obligations under this provision.

Background

The election blackout was implemented on the recommendation of the Joint Parliamentary Committee on Wireless Broadcasting (the Gibson Committee) in 1942, and formed part of the Australian Broadcasting Act 1942, which subsequently became the Broadcasting and Television Act 1942. The provision was based on s.22 of the Canadian Broadcasting Act 1936.

The section, despite significant rewording, has undergone only one amendment of substance since 1942. This was the addition in 1969 of the present subsection 116 (4A), meaning that it was no longer necessary for a blackout to be applied throughout the Commonwealth if the election in question involved the electors of only a single State or electorate. However, the onus remained on the Broadcasting Control Board - and subsequently the Australian Broadcasting Tribunal (ABT) - to notify those stations which were not subject to the blackout. The present Bill aims to reverse this arrangement, requiring the ABT to notify only those stations which are required to observe the residual blackout provisions, i.e. those which relate to political advertising. Except in the case of a general election for a
Federal House, this will mean a considerably reduced workload for the ABT.

Main Provisions

Subclause 3(a) deletes s.116(4) and (4A) of the Principal Act which prohibit the broadcasting of any election matter within the prescribed period, and inserts new subsections requiring the ABT to notify broadcasting and television stations in an area affected by an election 14 days in advance of the relevant period, and requiring stations when so notified to refrain from broadcasting election advertisements during the relevant period.

Subclause 3(b) replaces s.116(6) of the Principal Act with a new subsection inserting new definitions of

- "election advertisement"
- "election period"
- "relevant period"

and further definitions of "broadcasting station" and "television station" excluding the Australian Broadcasting Commission and the Special Broadcasting Service from the compass of s.116. (The sole effect of the latter is to absolve the ABT from the need to notify ABC and SBS stations in an area affected by elections, since these two authorities are prevented in any case from carrying advertisements under other provisions of the Principal Act.)

Remarks

1. The Canadian provision on which the present s.116 (4) is based has since been amended to reduce the blackout period to the day immediately preceding the election. So far as can be ascertained from the available sources, no other such law now exists in any other democratic country.

2. The Minister has indicated in his Second Reading Speech that this Bill should be seen in conjunction with the ABT's forthcoming inquiry into the feasibility of a fairness code covering political broadcasting in Australia.

3. Clause 51(b) and (c) of the Australian Broadcasting Commission Bill (Transitional Provisions and
Consequential Amendments) 1983 will become redundant after this Bill is passed.

For further information, if required, contact:

17 May 1983

Education and Welfare Group
LEGISLATIVE RESEARCH SERVICE

References


