Date Introduced: 12 May 1983
House: Senate
Presented by: Attorney-General, Senator the Hon. Gareth Evans

Purpose

To remove outmoded and expended provisions from the Constitution.

Background

The Constitution contains a number of transitional provisions which by virtue of the effluxion of time or the enactment of legislation satisfying the "Until the Parliament otherwise provides" formula have become redundant. This Bill proposes that subject to approval by referendum these provisions be repealed.

As well as the redundant provisions the Bill also seeks to refer to the electorate a number of matters which resolutions passed by the 1976 and 1983 Australian Constitutional Conventions categorised as no longer appropriate to Australia's status as a fully sovereign state.

Main Provisions

(a) Redundant Provisions in the Constitution.

The redundant provisions and the clauses of the Bill seeking their repeal are as follows:

(i) Section 15 paragraphs 5, 6, 7, 8 - transitional provisions following the Senate Casual Vacancies amendment of 1977. (Clause 3)

(ii) Section 25 - persons of any race disqualified from voting at State elections - no longer has any practical operation as
early discriminatory laws of States have been repealed. (Clause 4)

(iii) Section 26 - number of members for each State to be chosen at the election for the first Parliament. (Clause 5)

(iv) Section 83 paragraph 2 - expenditure during the first month of the first Parliament. (Clause 10)

(v) Section 84 paragraph 4 - transfer of State public servants at the establishment of the Commonwealth. (Clause 11)

(vi) Section 85(i) - so much of that paragraph as refers to the possibility of a transfer back to the States of property transferred to the Commonwealth on Federation. Such transfer can be effected independently of Section 85. (Clause 12)

(vii) Section 86 - providing for the transfer of the collection and control of customs and excise and the control of payment of bounties to the Commonwealth on its establishment. (Clause 13)

(viii) Section 86 - application of revenue for first 10 years of Parliament. (Clause 13)

(ix) Section 89 - distribution of surplus revenue to the States until the imposition of uniform tariff. (Clause 13)

(x) Section 90 - saving provision in respect of grant of or agreement for State Bounties made before 30 June 1898. (Clause 14)

(xi) Section 92 paragraph 2 - duties to be imposed on the inter-state movement of goods imported into a state prior to the imposition of uniform tariff. (Clause 15)

(xii) Section 93 - payment to States for 5 years after the imposition of uniform tariff. (Clause 16)

(xiii) Section 95 - customs duties of Western Australia for 5 years after the imposition of uniform tariff. (Clause 17)
(xiv) Section 125 paragraph 3 - Parliament to sit at Melbourne until it meets at the seat of Government. (Clause 18)

(b) Provisions no longer appropriate.

The following provisions in the Constitution were accepted by the Hobart (1976) and Adelaide (1983) meetings of the Australian Constitutional Convention as no longer appropriate to Australia's status as a fully sovereign State:

(i) Section 58 - reservation of Bills for Royal Assent. The words "or that he reserves the law for the Queen's pleasure" are omitted by clause 6. This clause implements part of a resolution adopted unanimously at the Adelaide plenary session of the Australian Constitutional Convention.

(ii) Section 59 - disallowance by the Queen. Again in accordance with the unanimous resolution of the Adelaide convention Clause 7 repeals this Section which enables the Queen to disallow any law within one year of the Governor-General's assent. The commencement date of this provision is postponed by Clause 2 to 1 January 1984 to avoid any potential problem in respect of stock issued under the Colonial Stock Act, the last of such stock maturing on 1 December 1983.

(iii) Section 60 - signification of Queen's pleasure on Bills reserves. With the removal of the power to reserve Bills for the Queen's pleasure by Clause 6 this section would become redundant and accordingly Clause 8 seeks to remove the section.

(iv) Section 74 - appeal to Queen in Council. Clause 9 repeals the provision in Section 74 requiring the Governor-General to reserve for the Queen's assent any Bill limiting the matters in respect of which leave to appeal to the Privy Council may be asked. This
also accords with a resolution unanimously adopted at the Adelaide Convention.

For further information, if required, contact:

19 May 1983

Law & Government Group
LEGISLATIVE RESEARCH SERVICE