

1983

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

Constitution Alteration (Parliamentary Terms) Bill 1983

EXPLANATORY MEMORANDUM

(Circulated by authority of the Attorney-General Senator  
The Hon. Gareth Evans)

OUTLINE

The Bill proposes to amend the Constitution first by extending from 3 to 4 years the maximum term of the House of Representatives and secondly, by lengthening the fixed terms of senators from 6 to 8 years, subject to certain exceptions arising from a dissolution of both Houses of Parliament. If such a dissolution occurs, the terms of all senators holding office at the time of the double dissolution would be cut short and, following the ensuing election, half of the senators for States would have fixed terms of 4 years (instead of 3 years as at present) while the remainder of the State senators would have 8 year (instead of 6 year) terms.

The transitional provisions of the Bill would not affect the terms of office of the present members of the House of Representatives. However, they would extend the terms of the present short term senators by one year (the effect being that they would expire on 30 June 1986) and the terms of the present long term senators by 2 years. Their terms would expire on 30 June 1990.

Special provision is made for the circumstance that both the Constitution Alteration (Simultaneous Elections) Bill and this Bill are endorsed in accordance with section 128 of the Constitution by the requisite majorities of electors. In that event, the provisions of this Bill providing for the fixed terms of senators (clauses 2 and 3 of the Bill) will not come into effect. The combined effect of the 2 bills would then be that the current terms of the House of Representatives and of the present short term senators would end simultaneously and subsequently there would be 4 year maximum Parliamentary terms with elections for the House of Representatives and the Senate always being held simultaneously.

NOTES ON CLAUSES

Clause 1 - This is a formal provision specifying the short title of the Act.

Clause 2 - Section 7 : The Senate

The general provision in s. 7 of the Constitution concerning the duration of senators' terms is amended by substituting "8 years" for "6 years".

Clause 3 - Section 13 : Rotation of Senators

The clause amends s. 13 of the Constitution. It extends the duration of senators' terms from fixed terms of 6 years to 8 years except in the case of senators who have short terms following a double dissolution election, in which case their term is extended from a fixed 3 years to 4 years. All terms of senators are subject to a double dissolution of both Houses of Parliament truncating them.

The amending paragraphs also make adjustments to the terms of present senators in order, initially, to phase them in with the terms of the House of Representatives. These transitional provisions extend the terms of the present short term senators (those whose terms expire on 30 June 1985) to 30 June 1986 or the day of any earlier dissolution of the Senate. They extend the terms of the present long term senators (those whose

terms will expire on 30 June 1988) to 30 June 1990 or the day of any earlier dissolution of the Senate.

Special provision is also made for 2 alternative situations which could arise when the Constitutional amendments provided for by the Bill commence operation.

The first is where a State senator is holding office by virtue of an appointment under s. 15 of the Constitution by a State Governor, with the advice of the Executive Council of the State, following the occurrence of a casual vacancy in a position occupied by a senator of that State. The second situation is one in which such a casual vacancy has not been filled at the time the constitutional amendment takes effect.

In both cases the term of service of the senator who was originally elected is deemed, for the purpose of determining the term of service of his successor, to be the term he would have had if his place had not become vacant.

Clause 4 - Section 28 : Duration of House of Representatives

The maximum term of the House of Representatives is extended from 3 to 4 years. However, the term of the present House of Representatives is not affected.

Clause 5 - Effect of other Constitutional Alteration

This clause provides that in the event that the Constitution Alteration (Simultaneous Elections)

Bill 1983 is endorsed at referendum and comes into operation, the provisions of this Bill concerning fixed terms for senators will not take effect.

Thus the combined effect of the 2 constitutional amendment bills would be that the current terms of the House of Representatives and of the present short term senators would end simultaneously, and subsequently there would be 4 year maximum Parliamentary terms, with elections for the House of Representatives and the Senate always being held simultaneously.





