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Commonwealth of Australia

HOUSE OF REPRESENTATIVES

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Presidential Nominations Committee Bill 1999

No. , 1999

(Attorney-General)

**A Bill for an Act to establish a Committee to invite and consider
nominations for appointment as President of the Commonwealth
of Australia, and for related purposes**

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A Bill for an Act to establish a Committee to invite and consider nominations for appointment as President of the Commonwealth of Australia, and for related purposes

The Parliament of Australia enacts:

Part 1—Introduction

1 Short title

This Act may be cited as the *Presidential Nominations Committee Act 1999*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Definitions

In this Act:

Commonwealth member means a member of a Presidential Nominations Committee who is appointed under section 9.

community member means a member of a Presidential Nominations Committee who is appointed under section 11.

Convenor of a Presidential Nominations Committee means the member of the Committee who is appointed as the Convenor of the Committee under section 12.

member of a Presidential Nominations Committee includes the Convenor of the Committee.

President means President of the Commonwealth of Australia.

Presidential Nominations Committee means a Committee established under this Act.

State/Territory member means a member of a Presidential Nominations Committee who is appointed under section 10.

Part 2—Establishment, functions and powers of Presidential Nominations Committee

4 Establishment and cessation of Committee

- (1) A Presidential Nominations Committee is to be established in accordance with this Act each time that it is necessary to choose a person as President.
- (2) A Presidential Nominations Committee is established when the appointment of its 16th member comes into effect.
- (3) A Presidential Nominations Committee ceases to exist when the incoming President's term of office begins.

5 Functions and powers

- (1) The functions of a Presidential Nominations Committee are as follows:
 - (a) to invite nominations for appointment as President;
 - (b) to consider the nominations received;
 - (c) to give the Prime Minister a report on the nominations.

Note: Part 4 deals with nominations.
- (2) A Presidential Nominations Committee has power to do all things necessary or convenient to be done for or in connection with performing its functions.

6 Questions to be decided by vote

- (1) Questions to be decided by a Presidential Nominations Committee must be decided by a majority of the votes cast by members of the Committee present and voting.

- (2) The Convenor may vote on all questions and also has a casting vote.

7 Procedures

A Presidential Nominations Committee may determine its own procedures.

Part 3—Membership of Presidential Nominations Committee

8 Committee members

A Presidential Nominations Committee has 32 members appointed by the Prime Minister by giving written notice to the appointee. The membership is as follows:

- (a) 8 Commonwealth members appointed under section 9;
- (b) 8 State/Territory members appointed under section 10;
- (c) 16 community members appointed under section 11.

9 Commonwealth members

- (1) The Prime Minister must appoint to a Presidential Nominations Committee 8 members of the Commonwealth Parliament. The 8 places are allocated on the basis of the representation of political parties in the Parliament, as follows.
- (2) Only political parties with at least 5 members of the Parliament are entitled to be allocated places.
- (3) Starting with the party or parties with the most members of the Parliament and ending with the party or parties with the fewest members (but no fewer than 5), one place is allocated to each of the parties in turn.
- (4) If there are places remaining to be allocated because there are fewer than 8 parties with at least 5 members of the Parliament, those places are allocated among the parties in the same way as the other places were allocated, except that only parties with at least 15 members of the Parliament are entitled to be allocated places under this subsection.
- (5) If 2 or more parties with equal numbers of members of the Parliament are entitled to a place or places, and there are not enough places for each of those parties to be allocated a place, the remaining place or places must be allocated between them by lottery.
- (6) In filling each place that is allocated to a particular party, the Prime Minister must appoint the member of the Parliament nominated by that party's leader in the Parliament.

10 State/Territory members

The Prime Minister must appoint to a Presidential Nominations Committee:

- (a) one member of the Parliament of each State who is nominated by that Parliament; and
- (b) one member of the Legislative Assembly for the Australian Capital Territory who is nominated by that Assembly; and
- (c) one member of the Legislative Assembly of the Northern Territory who is nominated by that Assembly.

11 Community members

The Prime Minister must appoint to a Presidential Nominations Committee 16 persons who are not members of the Commonwealth Parliament or the Parliament or legislature of a State or Territory.

12 Convenor of Committee

The Prime Minister must appoint one of the members of a Presidential Nominations Committee as the Convenor of the Committee.

13 Duration of membership

- (1) A person appointed as a member of a Presidential Nominations Committee becomes a member at the time specified by the Prime Minister in the notice of appointment.
- (2) All members of a Presidential Nominations Committee cease to be members when the incoming President's term of office begins.

14 Other terms and conditions

- (1) A member of a Presidential Nominations Committee holds office on a part-time basis.
- (2) A member of a Presidential Nominations Committee is to be paid the allowances that are prescribed.
- (3) A community member of a Presidential Nominations Committee is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the member is to be paid the remuneration that is prescribed.
- (4) Subsections (2) and (3) have effect subject to the *Remuneration Tribunal Act 1973*.
- (5) A member of a Presidential Nominations Committee holds office on the terms and conditions (if any), in relation to matters not covered by this Act, that are determined by the Prime Minister.

15 Resignation and termination of membership

- (1) A member of a Presidential Nominations Committee may resign by giving the Prime Minister a written resignation.
- (2) If a member of a Presidential Nominations Committee is nominated for appointment as President (see Part 4), the person ceases to be a member of the Committee when the Committee receives the nomination.

16 Replacement appointments

- (1) If a vacancy in the membership of a Presidential Nominations Committee arises, the Prime Minister may appoint a person to fill the vacancy.
- (2) If the vacancy is for a Commonwealth member for a particular political party, the person appointed must be the member of the Commonwealth Parliament nominated by the party's leader in the Parliament.

- (3) If the vacancy is for a State/Territory member, the person appointed must be the member of the relevant State's Parliament, or the relevant Territory's Legislative Assembly, nominated by the Premier of that State or Chief Minister of that Territory.
- (4) For the purposes of this Act, a person appointed under this section is taken to have been appointed under whichever of sections 9, 10 and 11 is relevant.

17 Effect of vacancies

- (1) Subject to subsection (2), a vacancy or vacancies in the membership of a Presidential Nominations Committee does not affect the performance of the functions or the exercise of the powers of the Committee.
- (2) A Presidential Nominations Committee may only perform functions or exercise powers if there are at least 16 members, at least 8 of whom are community members.

Part 4—Nominations

18 Inviting nominations

As soon as practicable after a Presidential Nominations Committee is established, the Committee must invite the public to make nominations for appointment as President.

19 Nominations from Australian citizens

Any Australian citizen or group of citizens may nominate a person for President.

20 Content and form of nomination

A nomination must be in writing in the form determined by the Presidential Nominations Committee and must be accompanied by:

- (a) the nominee's written consent to being nominated; and
- (b) a written statement in support of the nomination, including a statement indicating whether the nominee is qualified to be chosen as President; and
- (c) any other information or material required by the Committee.

21 Withdrawal of nomination

A person or group that has made a nomination, or the nominee who consented to it, may withdraw the nomination at any time by giving the Presidential Nominations Committee a written withdrawal.

22 Committee's report

- (1) The Presidential Nominations Committee must give to the Prime Minister a written report on the nominations received.
- (2) The report must include a short list of nominees whom the Committee considers to be the most suitable candidates to be appointed as President.
- (3) In considering the nominations received and preparing the report, the Committee must consider:
 - (a) the diversity of the Australian community; and
 - (b) the ability of the nominees to command the respect and support of the

Australian community.

- (4) The Committee may consider any other matter that it considers relevant to the suitability of the nominees for appointment as President and may have regard to any material it considers appropriate. However, the Committee is not required to give any person an opportunity to be heard on any matter.

Part 5—Confidentiality

23 Application and definitions

- (1) This Part applies to the following persons (*entrusted persons*):
- (a) persons who are or have been members of a Presidential Nominations Committee;
 - (b) persons who are or have been staff members assisting a Presidential Nominations Committee.
- (2) In this Part:
- court* includes any tribunal, authority or person having the power to require the production of documents or the answering of questions.
- disclose* means divulge or communicate.

24 Protection of confidentiality of nominations

- (1) This section restricts what entrusted persons may do with information relating to nominations received by a Presidential Nominations Committee. It applies:
- (a) even if a nomination has been withdrawn; and
 - (b) even after the incoming President has been appointed.
- (2) An entrusted person must not make a record of, or disclose, the identity of, or information that might tend to identify, a person who has been nominated for President and whose nomination the Committee has received, unless:
- (a) the nominee has given written consent to the recording or disclosure; or
 - (b) the recording or disclosure happens in the course of the performance of the duties of the entrusted person as a member of the Committee or the Committee's staff.
- (3) An entrusted person is not to be required to:
- (a) produce to a court any record that identifies, or might tend to identify, a person who has been nominated for President and whose nomination the Committee has received; or
 - (b) disclose to a court the identity of, or information that might tend to identify, such a person;
- unless the nominee has given written consent to the production or disclosure, or the production or disclosure is for the purposes of proceedings in respect of a contravention of this Act or in respect of the performance of functions, or exercise of powers, under this Act.

25 Protection of confidentiality of report

- (1) This section restricts the circumstances in which entrusted persons may produce a section 22 report, or part of such a report. It applies even after the incoming President has been appointed.

- (2) An entrusted person must not produce to any person a section 22 report, or part of such a report, except in the course of the performance of the duties of the entrusted person as a member of the Committee or the Committee's staff.
- (3) An entrusted person is not to be required to produce to a court a section 22 report, or part of such a report, unless the production is for the purposes of proceedings in respect of a contravention of this Act or in respect of the performance of functions, or exercise of powers, under this Act.

Part 6—Miscellaneous

26 Staff

A Presidential Nominations Committee may be assisted by a staff consisting of officers and employees of Departments of the Australian Public Service, and of Commonwealth authorities, whose services are made available to the Committee in connection with the performance of any of its functions.

27 Indemnity

A person is not subject to any liability to any person in respect of anything done, or omitted to be done, in good faith in the exercise or performance of powers, functions or duties under this Act.

28 Regulations

- (1) The President may make regulations prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient for carrying out or giving effect to this Act.
- (2) However, before the commencement of Schedule 1 to the *Constitution Alteration (Establishment of Republic) 1999* on 1 January 2001, the Governor-General may instead make regulations prescribing those matters.