

1986

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

PARLIAMENTARY COMMISSION OF INQUIRY (REPEAL) BILL 1986

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Honourable Lionel Bowen
Deputy Prime Minister and Attorney-General)

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GENERAL OUTLINE

This Bill provides for the repeal of the Parliamentary Commission of Inquiry Act 1986.

On assent to the Bill the Commission established by the repealed Act and the inquiry it was thereby established to conduct will be terminated.

The Bill will also make consequential and savings provisions, in particular providing for the custody, care and confidentiality of documents in the possession of the Commission immediately before the commencement of the repealing Act and making it an offence to publish allegations relating to Mr Justice Murphy derived from the Commission's work.

NOTES ON CLAUSES

Clause 1 - Short Title

Formal.

Clause 2 - Commencement

The Bill will come into operation on the day it receives the Royal Assent.

Clause 3 - Repeal

This clause repeals the Parliamentary Commission of Inquiry Act 1986.

Clause 4 - Interpretation

This clause contains definitions of words and phrases used in the Bill.

Clause 5 - Statement made by witness not admissible in evidence

This clause continues the effect of section 16 of the repealed Act, which prevents evidence given by a witness before the Commission being given in civil or criminal proceedings. As regards documents, however, the clause only applies to documents created for the purposes of the Commission.

Clause 6 - Protection of persons

This clause continues for the future the protection given by section 21 of the repealed Act.

Clause 7 - Custody of documents

Clause 7(1) and (2) make provision for the transfer into the care of the President of the Senate and the Speaker of the House of Representatives of the documents in the physical possession of the Commission immediately before the commencement of the repealing Act.

As regards documents which contain any material relating to the conduct of Mr Justice Murphy, provision is made in clause 7(3) to exclude access under any other Federal, State or Territory law, including the Freedom of Information Act 1982, the Archives Act 1983 and any law which provides for the production of documents. Evidence concerning these documents by the persons referred to in clause 7(3) is also excluded.

As regards documents which do not contain material relating to the conduct of Mr Justice Murphy, access may be obtained but only under the exclusive code provided in clause 7(4). Access may only be obtained with the written authority of the Presiding Officers. As indicated clause 7(4) is an exclusive code; in particular, access under the Freedom of Information Act 1982 or the Archives Act will be excluded, as will any law which provides for the production of documents.

At the winding up of the Commission, there will be some documents with agencies covered by the Freedom of Information Act 1982. Clause 7(5) has the effect that the agencies are exempt from the operation of the Freedom of Information Act in relation to documents that have been created for the purposes of the Commission.

Clause 8 - Publication

Clause 8(1) makes it a criminal offence to publish any allegation relating to the conduct of Mr Justice Murphy derived from materials before the Commission, or any information relating to consideration in the Commission of any particular allegation.

Clause 9 - Legal and financial assistance

This clause provides that the Commonwealth shall provide assistance in accordance with an authorization made by the Attorney-General in respect of Mr Justice Murphy under section 22 of the repealed Act.

Clause 10 - Act to bind the Crown

This clause ensures that the Bill will bind all Governments in Australia both present and future.

Clause 11 - Appropriation

This clause appropriates the necessary monies to pay the remuneration and allowances of persons who were members of the Commission, and any other expenses occasioned by the operation of the repealed Act.

