

Australian Constitution^[1]

Section 128 Modification

Last edit: 3 January 2024

Robert A. Beatty BE (Minerals) FausIMMCP (ret)

BobBeatty@bosmin.com

ABSTRACT

This proposal is to alter The Australian Constitution to include a provision for Citizen's Initiated Referendum, and thereby embody a system of Direct Democracy in Australia.

Keywords:

Direct Democracy, Citizen's Initiated Referendum, CIR, The Australian Constitution, Section 128, Initiating Petition, IP, Electronic Voting, EV

1) Introduction:

There is growing distrust of Australian government processes which are often cumbersome, and introduce changes unsupported by a majority of citizens. What can be done to improve our system of democracy?

The basic shortcoming is a lack of Direct Democracy, and highlights a requirement to introduce a Citizen's Initiated Referendum (CIR) provision into our constitution, so that 'we the people' get a say in how our country runs. This change alters our existing 'top down' system of government to a 'bottom up' system of democracy.

Section 128 allows for referendum, but only if the government calls them. Australia will be better served by replacing the existing words to include a CIR facility, similar to the Swiss system.²

It is up to our politicians to fix this shortcoming in our constitution, by calling a referendum to approve the change.

2) Section 128 states^[3]:

“COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT - SECT 128.

Mode of altering the Constitution.

This Constitution shall not be altered except in the following manner:--

The proposed law for the alteration thereof must be passed by an absolute majority of each House of the Parliament, and not less than two nor more than six months

¹ https://www.aph.gov.au/about_parliament/senate/powers_practice_n_procedures/constitution

² https://en.wikipedia.org/wiki/Direct_democracy

³ http://classic.austlii.edu.au/au/legis/cth/consol_act/coaca430/s128.html

after its passage through both Houses the proposed law shall be submitted in each State and Territory to the electors qualified to vote for the election of members of the House of Representatives.

But if either House passes any such proposed law by an absolute majority, and the other House rejects or fails to pass it or passes it with any amendment to which the first-mentioned House will not agree, and if after an interval of three months the first-mentioned House in the same or the next session again passes the proposed law by an absolute majority with or without any amendment which has been made or agreed to by the other House, and such other House rejects or fails to pass it or passes it with any amendment to which the first-mentioned House will not agree, the Governor-General may submit the proposed law as last proposed by the first-mentioned House, and either with or without any amendments subsequently agreed to by both Houses, to the electors in each State and Territory qualified to vote for the election of the House of Representatives.

When a proposed law is submitted to the electors the vote shall be taken in such manner as the Parliament prescribes. But until the qualification of electors of members of the House of Representatives becomes uniform throughout the Commonwealth, only one-half the electors voting for and against the proposed law shall be counted in any State in which adult suffrage prevails.

And if in a majority of the States a majority of the electors voting approve the proposed law, and if a majority of all the electors voting also approve the proposed law, it shall be presented to the Governor-General for the Queen's assent.

No alteration diminishing the proportionate representation of any State in either House of the Parliament, or the minimum number of representatives of a State in the House of Representatives, or increasing, diminishing, or otherwise altering the limits of the State, or in any manner affecting the provisions of the Constitution in relation thereto, shall become law unless the majority of the electors voting in that State approve the proposed law.

In this section, "Territory" means any territory referred to in section one hundred and twenty-two of this Constitution in respect of which there is in force a law allowing its representation in the House of Representatives."

From this section, it is quite clear that nothing will happen to the Constitution unless 'the government' agrees. This puts the elites firmly in the driver's seat with the 'forgotten people' staying 'forgotten' until the next election.

However, if we replace the constitution Section 128 with the following paragraph, Menzies' radio broadcast words concerning the 'forgotten people' have practical impact:[¹]

¹ <https://www.robertmenziesinstitute.org.au/on-this-day/the-forgotten-people-broadcast>

3) **Revised Section 128:**

COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT - SECT 128.

Mode of altering the Constitution.

This Constitution shall not be altered except in the following manner:—

The proposed law for the alteration, initiated by a group of Australian Citizens not less than 1% of the Australian population at Council, Territory, State, or Commonwealth levels as applicable signing an Initiating Petition (IP) within a five-month period, and the proposed law shall be submitted in each Council, Territory, State, or Commonwealth as applicable to the electors qualified to vote by a simple majority, within a contiguous period of less than six months.

In this section, "Initiating Petition (IP)" means a written discussion of the proposal, together with "For" and "Against" assessments of the proposed change. The IP to be legibly signed and witnessed by all initiating persons, or electronically signed. The IP must be supported by not less than 1% of the eligible populations, before the IP is presented to the electorates.

More than one IP may be proposed at the same time, with each IP addressing a single proposed law for alteration.

No issue can be voted again within a 5-year period of a previous similar IP proposal.

4) **Electronic Voting (EV):**

Secure internet facility provides access to EV, and will compliment postal voting, as required.

EV may be made available through myGov site,^[1] or other secure facility.

5) **Historical Perspective**

During the sixteen years that the Menzies' government ruled, no public attempt was made to alter the Constitution so as to give the forgotten people a voice, and that is where they stayed - forgotten - until PM Anthony Albanese ran a referendum called 'The Voice' on 14th October 2023. The result was quite clear. The forgotten class of people wanted a say on how their country was run, and they rejected the advice offered, in so many ways, by the elites.

This is a small sample of what Australia can become if a new party promoted CIR as a central policy. The party should be named The CIR Australia Party. Other policies which could be included in referendums are discussed at^[2]

¹ <https://my.gov.au/mygov>

² <https://bosmin.com/ICS/CIR-Australia.pdf>