



Quaker Peace & Legislation Committee

ACTION ALERT AA21-2: Defence Amendment (Parliamentary Approval of Overseas Service) Bill 2020

INQUIRY – SUBMISSIONS CLOSE 15 OCTOBER 2021

As Quakers we seek a world without war. We seek a sustainable and just community. We have a vision of an Australia that upholds human rights and builds peace internationally, with particular focus on our region. In our approach to government we will promote the importance of dialogue, of listening and of seeking that of God in every person. We aim to work for justice and to take away the occasion for war.

A Roy Morgan opinion poll in November 2020 showed that 83.3% of Australians want Parliament to decide whether our troops are sent into armed conflict abroad. In the aftermath of recent events in Afghanistan and troubling questions about the actions of some Australian special forces in Afghanistan, not to mention the recently announce AUKUS security pact, this percentage is likely to increase.

On 7 December 2020, Senator Steele-John (WA) introduced a Private Members Bill for an Act to amend the Defence Act 1903 to provide for parliamentary approval of overseas service members by the Defence Force and for related purposes.

The Bill and all First and Second Reading speeches can be found on the Australian Parliament website at

https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=s1281

Friends are encouraged to make a submission

On 2 September 2021, the Senate referred the bill to the Senate Foreign Affairs, Defence and Trade Legislation Committee for Inquiry and report by 30 November 2021. Submissions close on 15 October 2021. Information about the bill, Inquiry and details on uploading a submission is at

https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Foreign_Affairs_Defence_and_Trade/OverseasServiceBill

Information about making submission is also available on the AYM website Peace in Action section <https://www.quakersaustralia.info/peace-action-resources> QPLC will be making a submission.

Friends may be interested in the work and useful resources of the Australians for War Powers Reform <https://warpowersreform.org.au/>

In his Second Reading speech on 30 August 2021, Senator Steele-John made the following point: *Australia is one of the few remaining democracies that can legally deploy its defence forces into conflict zones without recourse to the Parliament: the decision is reserved for the executive alone. As kindred democracies around the world have enacted reforms to vest the so-called 'War Power' in elected Parliaments, Australia has remained anchored to a pre-democratic tradition founded in hereditary monarchies and feudal states.*

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This Bill's proposed amendments to the Defence Act 1903 include:

- New section to require that decisions to deploy members of the Australian Defence Force beyond the territorial limits would be made not by the executive alone, but by parliament as a whole. This would include debate in both houses, and a vote.
- There are exemptions in the Bill to avoid interfering with the non-warlike overseas service with which Australian troops are engaged.
- There are also exemptions in the Bill to provide for practical matters where there is an emergency or Parliament cannot immediately meet. In such cases, the Governor-General, acting on advice of the Prime Minister, can make a proclamation regarding the declaration of war, as long as Parliament is recalled within a period of two days.
- When Members of the Defence Forces are deployed overseas, the Minister of Defence must reporting in writing to each House of Parliament every two months on the status, legality, scope and anticipated duration of the deployment, on efforts to resolve the circumstances requiring the deployment and on any reasons why the Parliament should allow the deployment to continue.
- Circumstances requiring parliamentary approval are not limited to war or warlike action, but can include any service that could well lead to hostilities.

The Bill enhances what many regard as pre-eminent human rights to peace, safety and stability and gives effect to the UN Declaration on the Right of Peoples to Peace. It also would play a key role in ensuring that we do not have another situation like Afghanistan.

It would 'ensure that should America or any other power ever ask us to go with them into war, should an Australian Prime Minister ever again come before the nation and make a case for war, that would have to be fully and transparently scrutinized by the parliament not once but continually over the life of the deployment, the goal being to bring that deployment to an end and restore peace' (Senator Steele-John, Second Reading speech, 30 August 2021).

Senators David Fawcett, Kristina Keneally, Rex Patrick, Eric Abetz and Janet Rice also delivered Second Reading speeches on 30 August:

- Senator Fawcett counters that all other western powers consult with their parliaments. He gives clear evidence that most of our allies can, and do, deploy defence personnel overseas without going to Parliament or Congress.
- Senator Keneally as Leader of the Opposition in the Senate state that Labour will oppose the bill as it does not address the deficiencies which had been identified by the Foreign Affairs, Defence and Trade Legislation Committee in their February 2010 report and seeks to refer the bill to the next parliament.
- Senator Patrick strongly supported the aims of the bill. He believes that the next appropriate step is to refer the bill (again) during this parliament to the Senate's Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report.
- Senator Abetz says that the bill is seriously ill considered and 'provides another example of and insight into how Green ideology is never tested against the practicalities of real life...the bill could rightly be renamed the Prejudicing Our Troops and Giving Our Enemies a Head Start (Another Bad Idea by the Greens) Bill'.
- Senator Rice, Deputy Australian Greens Whip, raises the point 'If we had had parliamentary oversight of sending Australians off to war [in Afghanistan] as we did 20 years ago, would we have made a different decision...you need to be able to justify it to the public to say: Australians are going to die...We are going to be at war. There needs to be the ability to justify that to the public in no uncertain terms'.

Bill's history

This Bill was initiated in 1985 by the Australian Democrats and supported by the Australian Greens who took responsibility for it after 2007. In 2009, the Senate referred the Bill to the Foreign Affairs, Defence and Trade Legislation Committee which made a critique of the Bill without undermining its essential purpose. The Committee's report was released in February 2010.

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