Lemonthyme and Southern Forests (Commission of Inquiry) Bill

Date Introduced: 26 February
House: House of Representatives
Presented by: Hon. Barry Cohen, M.P., Minister for Arts, Heritage and Environment

Digest of Bill

Purpose

To establish an inquiry into the effect of logging on the Lemonthyme and Southern Forests and to determine ways of continuing the Tasmanian logging industry without detriment to the industry or the environment.

Background

The Lemonthyme and Southern Forests are located adjacent to the Cradle Mountain-Lake Sinclair World Heritage Area in north-west Tasmania. The Cradle Mountain-Lake Sinclair area was listed on the World Heritage register in 1982 along with part of south-west Tasmania. Such World Heritage areas should be distinguished from areas listed on the National Estate which, although of recognised value, are not accorded the same degree of protection as World Heritage areas.

In December 1985 as part of renewed export licences for Tasmanian woodchips, the Commonwealth and Tasmania began to negotiate an agreement that would allow logging to continue while protecting the more valuable areas. The resulting Memorandum of Understanding (MOU) was signed in June 1986 and contained provisions for consultation in the event of a disagreement and allowing logging in the Lemonthyme Forest and Jackey’s Marsh subject to satisfactory environmental studies and management plans. Following the agreement a Commonwealth consultative committee was established to consider environmental aspects of proposed logging.

The first disagreement relating to the MOU arose as a result of the commencement of logging in the Jackey’s Marsh area, which is listed on the National Estate, on 5 November 1986. A spokesperson for the Prime Minister stated in a media release that ‘while the MOU does canvas exploitation of Jackey’s Marsh in accordance with environmental impact studies—the clause upon which the Premier (of Tasmania) appears to be relying—it also provides for a series of consultative measures in the case of areas listed as part of the National Estate...’.\(^1\) The disagreements over the interpretation of the MOU have continued.
In early November 1986 the contractor for logging in the Lemonthyme Forest, which also has National Estate status, stated that operations would be wound down and retrenchments begun if logging was not allowed in the forest by the end of the month. Losses were estimated at $17,000 per day after that time that logging did not commence. Meanwhile, the Commonwealth committee had begun an inquiry into the effects of logging in the Jackey's Marsh and Lemonthyme areas. The committees report, issued on 28 November 1986, contained majority and dissenting views on both areas. As regards Jackey's Marsh, the majority concluded that logging should be allowed so long as existing environmental controls were followed. The majority reached the opposite conclusion regarding Lemonthyme. They concluded that the effect on views from the World Heritage area was such that no further logging should be allowed. On 1 December 1986 the Tasmanian Minister for Forests announced that roadworks into the Lemonthyme would begin before Christmas and that logging was anticipated to start in the latter half of January.

The next major event was a dispute between the Federal Ministers of Primary Industry, who approved logging, and Environment, who disapproved. The matter was resolved when the two Ministers and the Prime Minister released statements affirming the desire to protect areas of the National Estate that may be of World Heritage value. The Ministers also announced that a review would be undertaken to establish if there were commercially and environmentally sound alternatives to logging in National Estate areas.

In February 1987 Dr. Thorsell (who is the main advisor to UNESCO's World Heritage Committee) a representative of the International Union for the Conservation of Nature and Natural Resources, a body which lists areas prior to World Heritage listing, reported on logging in Tasmania. He is reported as stating 'I don't think you should cut them down now but let the next generation decide'. After commenting that logging in Tasmania was a 'very ruthless form of logging' he remarked on the damage being caused next to the World Heritage area and urged the government to maintain and enhance the forests. The final conclusion was that the Lemonthyme and Southern Forests should be included on the World Heritage list.

The main arguments against logging in the Lemonthyme and Southern Forests, other than those based on the intrinsic value of the area, concern the effect on the adjacent World Heritage area. It has been reported that selective logging would occur to within 100 metres of the Forth River, the boundary between the World Heritage area and the forest. Clear felling would occur to within 300 metres of the boundary and would be visible from many areas within the World Heritage area including Cradle Mountain.

The arguments in favour of logging centre largely on economic issues. In a statement dated 13 February 1987 the Australian Timber Producers Council expressed
the view that the visual, wilderness, fauna and flora and prehistoric values of the area could be maintained at acceptable levels by the plan for controlled logging. The Council estimated the loss resulting from a prevention of logging at 'over $20 million'. As a result to the continuing disagreement between the Federal and Tasmanian governments this Bill has been introduced to prevent logging until an inquiry is completed.

Main Provisions

Clause 3 contains the interpretation provisions. The more important being

- 'inquiry period'-one year from the date that this Bill comes into operation (i.e. a day fixed by Proclamation-clause2);
- 'protected area'-the Lemonthyme area (described in Schedule 1) and the Southern Forests area (described in Schedule 2); and.
- 'qualifying area'-the Lemonthyme area, the Southern Forests and a world heritage area or other area that contributes to the value of a world heritage area that is within those forests or a nominated world heritage area. Nominated world heritage areas are excluded.

The object of the Bill is to give effect to Australia's obligations under the World Heritage Convention (clause 4).

Clause 7 will provide for the appointment of a Commission of Inquiry into the Lemonthyme and Southern Forests, consisting of a Presiding member and two other members who will be appointed by the Minister.

Clause 8 will require the Commission to inquire into the following matters and report to the Minister before the end of the inquiry period:

* If there are areas outside the qualifying areas that are not national estates and are capable of forestry exploitation in a way that would cause no detriment to the Tasmanian forestry industry (i.e. would not cause a reduction of operations or employment) and be environmentally and economically prudent.
* Where such areas are not identified, to see if there are any areas outside the qualifying areas that are capable of exploitation having regard to the same matters.
* Where there are not such areas, to determine the means of exploiting forestry resources (including those in the qualifying areas but not nominated world heritage areas) that will cause least damage to the qualifying areas.

The Commission is also to advise on whether any exploitation could be delayed having regard to proper forestry management.

The Commission is to take account of the potential for changes in forestry industry technology, plantations, the extent of thinning of regrowth forests and operations to reduce wastage of forestry resources; and the need to ensure sustainable forest yields and the application of proper forestry techniques.
Priority is to be given to identifying any parts of the Lemonthyme and Southern Forests areas that are definitely not qualifying areas. The Commission must report these to the Minister as soon as practicable.

The Commission may hold hearing inside or outside Australia at places determined by the Presiding Member, who shall preside at all hearings. If practicable, the Commission will advertise public hearings in the newspapers. People giving evidence may have legal or other representation and Commission procedure will be as directed by the Commission (clause 10).

The Commission will not be bound by the rules of evidence and may inform itself on any matter it thinks fit (clause 12).

A member of the Commission or a person authorised by a member will be able to enter and inspect the Lemonthyme and Southern Forests areas, any nominated world heritage areas, and any other part of Tasmania that they consider may be part of a qualifying area or contain forestry resources. They may use such assistance and force as is necessary and reasonable (clause 14).

It will be unlawful to do the following acts in the protected area from the time that the inquiry period starts until 42 days after it ends, without the written consent of the Minister:

- damage or remove any part of a tree from the protected area for forestry operations;
- build roads or tracks in the protected area;
- excavate;
- any other act which is prescribed as capable of adversely affecting the protected area.

It will also be unlawful if the owner or occupier of land in the area fails, without the Minister's consent, to take reasonable steps to prevent unlawful acts (clause 16).

The prevention of unlawful acts may be enforced by injunction granted by the High Court or Federal Court, upon application by the Minister (clause 17).

The Commonwealth will be liable to pay reasonable compensation for loss or damage suffered by a person who has refrained from doing an unlawful act (clause 19).

The Governor-General may make regulations consistent with this Bill (clause 24).

References

1. Prime Minister, Note for Media, 6 November 1986.

For further information, if required, contact the Science, Technology and Environment Group.

13 March 1987

Bills Digest Service
Legislative Research Service

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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