AUSTRALIAN WATERS (NUCLEAR-POWERED SHIPS AND NUCLEAR WEAPONS PROHIBITION) BILL 1984 [1985]
(Private Senator's Bill)

Date Introduced: 25 February 1985
House: Senate
Presented by: Senator Don Chipp

Short Digest of Bill

Purpose

To prohibit the entry of nuclear-powered or armed ships and aircraft from Australian waters and airspace.

Background

The Bill was first introduced into the Senate on 11 September 1984. However, it lapsed with the dissolution of Parliament in October 1984. It has since been restored to the notice paper pursuant to a Senate Resolution of 22 February 1985.

The Bill was introduced to supplement the Nuclear Weapons Prohibition Bill 1984 which was introduced into the Senate on 15 June 1984 but lapsed with the dissolution of Parliament. That Bill sought to create a Nuclear Weapons Free Zone (NWFZ) in Australia. A South Pacific NWFZ was discussed at the South Pacific Forums of 1983 and 1984 and will be taken further at the 1985 meeting. The proposed treaty prohibits the manufacture, testing or storage of nuclear arms in the area and allows individual countries to determine whether nuclear-powered or armed vessels may enter their territory.

Although the Bill's prohibition on nuclear-powered ships will apply to commercial shipping, there are currently no nuclear-powered commercial ships on Australian runs, and interest in nuclear power for commercial shipping has declined following the accident to the Japanese Mutsu in 1974. The ban will principally effect visits by ships of the US Navy. There were 78 visits to Australian ports by nuclear-powered ships of the US Navy in the decade 1974-84.

It is difficult to determine whether a ship or aircraft is nuclear-armed. Vessels most likely to bring nuclear weapons into Australia are those of the US and UK defence forces, and it is the policy of both Governments to neither confirm nor deny the presence of nuclear arms. The Bill aims to remove this uncertainty by empowering
Commonwealth Officers to search ships or aircraft suspected of carrying nuclear weapons.

The question of nuclear-powered or armed ships has come to prominence, recently, following the New Zealand Government's decision to prohibit such vessels from its territory.

Main Provisions

Clause 5 contains the substantive provisions prohibiting the entry of nuclear-powered or armed ships and aircraft. Such ships may enter only in an emergency which threatens the safety of the ship, its cargo or crew or in the exercise of its right of innocent passage. Nuclear-armed aircraft may enter only in an emergency.

Clause 6 imposes a duty on the Government to take all reasonable measures to exclude such vessels. The measures that may be taken include the use of force where, in the Minister's opinion, is considered necessary (sub-clause (2)). The remainder of the clause deals with the liability of persons taking such measures. Their actions will be deemed lawful and no liability will lie for loss or damage suffered in consequence of the action (sub-clause (4)).

Clause 7 details the powers given to certain Commonwealth officers to determine whether a ship or aircraft is nuclear-powered or armed. They include the powers to board, search, question and to inspect or copy any document relating to the vessel, its cargo or armaments.

Clause 8 makes it an offence to fail to comply with an officer acting under clause 7. Proposed penalty - $1,000 fine or 6 months imprisonment.

Remarks

The Bill was considered by the Senate Standing Committee for the Scrutiny of Bills, which noted of clause 6 'that sub-clause (4) might be considered to trespass unduly on personal rights and liberties and sub-clause (2) to make those rights and liberties dependant upon non-reviewable administrative decisions'.[1]

For further information, if required, contact:

Defence Group
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Reference