Date Introduced: 8 September 1981
House: Senate
Presented by: Senator S.M. Ryan

Short Digest of Bill

**Purpose**

To amend the Customs Act 1901 to require ratification by both Houses of Parliament of any permission granted for the export of minerals extracted from sand from any place listed in the Register of the National Estate.

**Background**

The Customs (Prohibited Exports) Regulations list in Schedule 7 the minerals Ilmenite, Rutile, and Zircon (the minerals commonly extracted from sand) as being minerals the export of which is prohibited unless the permission of the Minister for Business and Consumer Affairs or an Authorised Officer is obtained. Currently the Queensland Government permits the mining of sand in the environmentally sensitive areas of Moreton Island and Fraser Island. By this Bill Senator Ryan seeks to have any approval given by the Minister or his Authorised Officer, for the export of minerals extracted from sand mined from any place listed in the Register of the National Estate made subject to ratification by both Houses of Parliament.

**Main Provision**

Clause 3 of the Bill inserts a new Section 112A in the Customs Act 1901. Sub-section (1) of that section requires a statement setting out particulars of any permit given for the export of minerals extracted from sand from a prescribed place to be laid before each House of the Parliament within 5 sitting days of that House after the granting of the permission.

By sub-section (5) of the proposed new section "prescribed place" is defined as meaning any place listed in the Register of the National Estate kept by the Australian Heritage Commission pursuant to section 22 of the Australian
Heritage Commission Act 1975, (Fraser Island was listed on 13 September 1977 and Moreton Island was listed on 25 August 1981.)

Sub-section (2) of the new section provides that if the permission is not laid before both Houses of Parliament within the specified period it shall be "void and of no effect". As with Senator Macklins Bill (B.D. 81/129) this leaves open an interesting question of law as to the validity of anything done pursuant to such permission prior to it becoming void by virtue of the operation of sub-section 121. It seems likely that any such action would be legitimate as being done under a permit that was valid at the time of its commission. By sub-section (3) of the proposed Section 112A unless each House of Parliament within 10 days of its tabling approves the permission, it shall be deemed to have been revoked. Under this provision it is clear that any act done between the granting of the permission and its revocation would be valid.

For further information, if required, contact:

14 September 1981

Law & Government Group
LEGISLATIVE RESEARCH SERVICE