Date Introduced: 30 August 1979
House: House of Representatives
Presented by: The Honourable Kevin Newman, M.P.,
Minister for National Development

Short Digest of Bill

Purpose

To amend the Atomic Energy Act 1953 to provide among other things for State consent prior to a Commonwealth authority to mine prescribed substances in that State.

Background

This Bill will overcome certain difficulties and doubts which were inherent in the Atomic Energy Act 1953 following amendments which came into force in 1978. The Act, as it stands, gives the Commonwealth very wide control over the mining of uranium and other prescribed substances. Operations closely connected with uranium mining are also embraced by the legislation. The major difficulty or doubt concerned the extent to which it would be possible for the Commonwealth to authorize or undertake uranium mining without regard to the wishes of a State.

The basic problem arises because of the strategic nature of uranium and other prescribed substances. As Mr. Justice Fox says in his Second Ranger Uranium Environmental Inquiry Report: "In our First Report we explained the very special nature of uranium, and described it as being a highly strategic material. It is therefore necessary that there be close government controls. This does not necessarily mean that actual mining operations must be conducted on behalf of the Government".

It is possible that circumstances could arise where there would be a conflict of interests between a State and the Commonwealth. The exploitation of mineral resources is, generally speaking, a State matter. The Bill makes it clear that Commonwealth authority to mine prescribed substances will be subject to the consent of the State concerned, unless such authority is given only for the purposes of the defence of the Commonwealth.

The Minister indicated in his Second Reading Speech that the amendment will not apply to the Northern Territory.
However he explained that, apart from the Ranger Project, future uranium mining should be authorised under Northern Territory Legislation.

Certain police powers and penal provisions in the Atomic Energy Act are inappropriate if they were to apply to the commercial mining of uranium. The Bill makes changes to correct this situation.

Provisions

Sub-clause 3(b) inserts a new sub-section 41(2B). This requires the Minister to obtain a State's consent to authorisation of mining for prescribed substances on that State's land except where the mining is for defence purposes.

Clause 4 repeals section 54. This removes the very wide provision relating to police powers of arrest, search, seizure, etc. which could be exercised without any action lying against the Commonwealth, a State, the Atomic Energy Commission or a constable.

Clause 5 repeals section 58 thus removing the provision that an act preparatory to the commission of an offence relating to security is itself an offence.

Clause 6 repeals section 60 which brought all projects initiated under the Act within the provisions of the Defence Projects Protection Act. New section 60 restricts the operation of that Act to projects declared by the Minister in a notice published in the Gazette as being defence projects.

Defence, Science & Technology Group

LEGISLATIVE RESEARCH SERVICE

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