Aboriginal Land (Lake Condah and Framlingham Forest) Amendment Bill 1994
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Aboriginal Land (Lake Condah and Framlingham Forest) Amendment Bill 1994

Date Introduced: 24 March 1994
House: Senate
Portfolio: Prime Minister
Commencement: Royal Assent

Purpose

To ensure that future mining carried out on Aboriginal land in the Lake Condah and Framlingham Forest area is carried out in accordance with the current Victorian mining legislation. The Bill is of an administrative nature, and deletes references to the now repealed Mines Act 1958 (Vic).

Background

The Aboriginal Land (Lake Condah and Framlingham Forest) Act 1987 (the Principal Act) was passed by the Commonwealth at the request of the Victorian Government, under paragraph 51 (xxvi) of the Constitution, which gives power to make laws in respect of a race.

In 1986, a number of Bills seeking to transfer title to land in the south of Victoria to its traditional owners were introduced into the Victorian Parliament. The land at Lake Condah, near Hamilton in Victoria's Western District comprised some 0.5 km$^2$ and that at Framlingham Forest, 30 km North East of Warrnambool some 11 km$^2$. These Bills were to give the land's traditional owners inalienable title and to allow Aboriginal communities a direct say in the preservation of their cultural heritage. At the time, the Victorian Government did not have a majority in the Legislative Council, which led to Opposition attempts to significantly amend the Bills. A stalemate was reached whereupon the Victorian Government requested the Commonwealth to enact legislation dealing with the issue.

The Commonwealth passed the Aboriginal Land (Lake Condah and Framlingham Forest) Act 1987 which vested the lands defined in the Schedules, the Lake Condah land and the Framlingham Forest land, in their traditional owners. The Act sets up procedures for management of the land by a corporation of Aboriginal elders, compensation for land compulsorily acquired and specifies rights of access to the land.

Part V of the Act deals with mining, and gives the corporation of Aboriginal elders which manages the land, the right to grant, with or without conditions, or refuse mining rights affecting the land.

Section 3 of the Act contains the definition of "mineral" which means mineral as defined in the Mines Act 1958 (Vic), petroleum as defined in the Petroleum Act 1958 (Vic) and stone within the meaning of the Extractive Industries Act 1966 (Vic). "Mining tenement" is defined as meaning a variety of mining interests granted under the Mines Act 1958 (Vic), the Petroleum Act 1958 (Vic) or the Extractive Industries Act 1966 (Vic).

Main Provision

Clause 3 replaces the definition of “mineral” in section 3 with the new definition being any substance, other than water, occurring naturally as part of the earth's crust including:-

(i) oil shale;
(ii) coal;
Aboriginal Land (Lake Condah and Framlingham Forest) Amendment Bill 1994.

(iii) hydrocarbons;

(iv) minerals contained in oil shale or coal or extracted from oil shale or coal by industrial processes;

(v) petroleum as defined by the *Petroleum Act 1958* (Vic); and

(vi) stone as defined by the *Extractive Industries Act 1966* (Vic).

The definition of "mining tenement" is also amended to delete references to the *Mines Act 1958* (Vic) which has been repealed by section 126 of the *Mineral Resources Development Act 1990* (Vic), and to replace them with matching references to the *Mineral Resources Development Act 1990* (Vic).

Marco Bini Ph. 06 277 2476
Bills Digest Service
Parliamentary Research Service

30 March 1994

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