



Legislative Council

Coal Industry Amendment

(Validation) Bill Hansard - Extract

07/05/2002

The Hon. IAN MACDONALD (Parliamentary Secretary) [3.50 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The Coal Industry Act 2001 was passed by this Parliament in its last sittings without opposition.

That Act, lawfully proclaimed by the Governor to commence on 1 January 2002, provides for altered arrangements in the NSW coal industry in respect of the delivery of occupational health and safety, workers compensation and mines rescue services. In effect, those functions are now to be performed by private corporations approved by the Minister for Industrial Relations.

Moreover, under the authority of the Act, orders were made by myself as the Minister for Industrial Relations to transfer the assets, liabilities and staff of the Joint Coal Board to one of the approved companies, Coal Services Pty Limited, with effect from the Act's commencement date.

The successful introduction of these altered arrangements required the co-ordinated proclaimed commencement of the Commonwealth's Coal Industry Repeal Act 2001 to achieve the legal dissolution of the Joint Coal Board which had been established under complementary Coal Industry Acts 1946 of the Commonwealth and NSW Parliaments.

Indeed, the Coal Industry Act 2001 was drafted on the basis that the Joint Coal Board's cessation and the transfer of its assets, liabilities and staff to Coal Services Pty Limited were to be effected on the same date as that on which the Commonwealth Coal Industry Repeal Act 2001 commenced.

The problem that has arisen in the agreed planned commencement of the Commonwealth and NSW Acts on a common 1 January date is that the Commonwealth's proclamation, having been made by the Governor-General in Council on 20 December 2001, was not gazetted before 1 January.

The effect of the Commonwealth's error is that the Commonwealth Act has not lawfully come into force and there is no 'dissolution date' for the purposes of provisions under the NSW Act relevant to the dissolution of the Joint Coal Board and the transfer of its assets, liabilities and staff.

I am pleased to advise the House that the Commonwealth Coal Industry Repeal (Validation of Proclamation) Bill 2002 passed all stages in the Australian Parliament on 14 March 2002 and awaits the Governor-General's assent.

That bill corrects the Commonwealth's error. It declares that the Commonwealth's proclamation commencing its 2001 Act is as effective as if it had been gazetted before 1 January 2002, so ensuring that that Act did in law commence on that date.

The Commonwealth bill contains further provisions ensuring that all actions taken on the assumption that 1 January 2002 was the commencement date are valid. This validation provision has effect to the extent permitted by the legislative power of the Commonwealth and the bill expressly authorises the making of a law by this State of a like validating nature for past Acts.

There is a need for accompanying validating NSW legislation in this matter in respect of past Acts taken by this State—notably the Minister for Industrial Relation's orders under the NSW Act transferring the assets, liabilities and staff of the dissolved Joint Coal Board to a new approved company) and the approved companies—in their dealings with such assets, liabilities and staff since 1 January 2002), being acts based upon the erroneous assumption that the Commonwealth Act did commence on 1 January 2002.

The bill which I have now introduced is to the effect that, to the extent permitted by the legislative power of the NSW Parliament and consistent with the permission granted by Commonwealth validating legislation, past Acts based upon the assumed 1 January 2002 'dissolution date' commencement of the Commonwealth Act are valid.

The Coal Industry Amendment (Validation) Bill 2002 is purely correctional in nature and follows in the wake of initiating Commonwealth legislation of a like character. I can assure honourable members that the bill is not contentious.

I commend the bill to the House.