Briefing Note

Resource Security

by

Rebekah Jenkin

No 017/94

Resource Security

by

Rebekah Jenkin

Researchers in the NSW Parliamentary Library

Dr Gareth Griffith (Xtn 2356) Research Officer, Politics and Government, and Acting Bills Digester

Ms Vicki Mullen (Xtn 2768) Research Officer, Law

Ms Jan Newby (Xtn 2483) Senior Research Officer, Statistics

Ms Marie Swain (Xtn 2003) Research Officer, Law

Mr John Wilkinson (Xtn 2006) Research Officer, Economics

This *Briefing Note* was prepared by Rebekah Jenkin, Researcher in the NSW Parliamentary Library. The views expressed are those of the author. Should Members or their staff require further information about this *Briefing Note*, please contact Gareth Griffith, Parliamentary Research Service, NSW Parliamentary Library (phone ext 2356).

August 1994

Briefing Note is published by the NSW Parliamentary Library

CONTENTS

1. INTRODUCTION

Resource security is not a new issue. As long as there has been development and investment in natural resources, there has been concern as to the security of that investment and the certainty and sustainability of supply of resources. Resource security in Australia dates back to the pre-war era when contracts between forestry companies and the Government of the day were backed by legislation. Both statutory and contractual agreements form the basis of resource security measures undertaken in the various Australian jurisdictions today, the emphasis depending upon political factors such as the influence of environmental and industry lobby groups and the dependence of the jurisdiction upon natural resources for economic growth and income. Australia has seen a relatively rapid shift of focus in environmental policy dealing with resource security over the last three to four years with the Federal Government moving from a legislative to Intergovernmental Agreement centred approach. Likewise, resource security is tackled by the States and Territories using one or the other or both approaches. Any resource security development in the States and Territories, however, must be considered in the context of an increasing concern as to the legality and validity of any approach without Federal ratification and/or companion legislation.

There have been recent indications from the New South Wales Government that it may look at introducing a form of resource security legislation into Parliament in the forthcoming Parliamentary session. The Minister for Land and Water Conservation, the Hon. G. Souris, MP, told a National Party Conference that the Government would bring forward a package of legislative changes designed to guarantee long-term wood supply agreements.[1] Mr Souris' statement followed an announcement by the Premier that the State Government would introduce resource security legislation to guarantee harvesting rights for private landholders who plant hardwood plantations.[2] New South Wales already has a form of resource security in the *Timber Industry (Interim Protection) Act* which provides guaranteed access to certain areas of southern forests. However, it is not yet clear whether any new resource security will provide similar guarantees or whether the legislation would accompany industry-Government agreements.

This briefing note outlines: the principle of resource security, its advantages and disadvantages; the approach taken to resource security by the different jurisdictions across Australia; and the arguments for and against the use of resource security as a means of sustaining and promoting investment and

---

[1] Coultan, M., 'Souris pledges timber security', *The Sydney Morning Herald*, 20 June 1994.

[2] Coultan, M., 'Pledge on timber farming', *The Sydney Morning Herald*, 25 May 1994.

growth in ventures dependent upon the exploitation of natural resources. This paper is not intended as an analysis of the implications of resource security for environmental law in Australia, although mention is made of possible difficulties eventuating from the implementation of any form of resource security in a legal sense.

2. DEFINITIONS

Resource security has been defined by different people to mean different things, (largely as a result of the vested interest of the relevant group.) The definition circulated by then Federal Minister for Resources, Mr Alan Griffiths, MP, at the time of the Federal Government's resource security initiative was:

> a process to identify the environmental and heritage values of our forests and importantly, to enhance employment through encouraging a thriving secure, forest products industry.[3]

Although Mr Griffiths limited his definition of resource security to the forest industry, in actual fact, resource security is applicable to any industry which relies upon natural resources. Thus the mining, pastoral and fishing industries have also been active lobbyists for some form of resource security directed at their industry. Resource security essentially seeks to provide industries relying upon natural resources with guaranteed access to these resources over a set period of time. Most governments, however, stress that resource security is also aimed at providing security for the public in terms of the management and protection of public assets such as the land, water and sky. Hence Mr Griffiths in the second reading speech pertaining to the Federal Government's *Forest Conservation and Development Bill 1991* listed the principal objectives of the bill as:

- to provide security and certainty to industry so it can make significant long term investments with confidence that governments of the future will not prevent or obstruct that investment's productive outcome;

- to provide security and certainty to the Australian community that all of its interests, whether they be for values that are environmental, cultural, heritage, social or economic - both for the current and future generations

---

[3] Gill, Nick, 'Resource Security - a leap backwards', *Chain Reaction*, 63/64, 57 - 59.

- are adequately and comprehensively safeguarded.[4]

Admirable as these dual objectives may be, most commentators argue they are difficult if not impossible to achieve[5]. Further, the conflict between these objectives exemplifies the nature of the wider conflict between industry groups and environmental groups concerning the validity and value of resource security:

> ...demands for resource security by one sector of society are but a claim for the use of natural resources in competition with claims laid by other sectors of society to a different use of those natural resources.[6]

On one side, industry groups see resource security as essential to the survival of forestry, pastoral and mining industries, particularly in the wake of the *Mabo* decision and resulting legislation, and in order to ensure the viability of these industries in the face of permanent and increasing environmental lobbying for the prevention of agricultural, forestry and mining activities in many areas across Australia. On the other environmental groups see resource security as spelling disaster for the conservation movement and the preservation of Australia's environmental heritage. For example, as noted by the Resource Assessment Commission "resource security has emerged as an issue in public native forest use as the wood and wood products industry has interpreted recent allocations of production forests to conservation tenures as a threat to future investment".[7]

Having set out there opposing standpoints, it remains the case that the resource security debate in 1994 seems, in the main, to reflect the growing concern across the community as to how to best achieve sustainable use of our natural resources.[8]

---

[4] Griffiths, A., Second Reading Speech, Hansard (HR), 28 November 1991, p3665.

[5] Bates, G, 'Economic, political and legal problems with resource security', in: *The Challenge of Resource Security: Law and Policy*, Sydney: Federation Press, 1993.

[6] Gardner, A., *The Challenge of Resource Security: Law and Policy*, Sydney: Federation Press, p viii, 1993.

[7] Resource Assessment Commission, *Forest and Timber Inquiry Final Report*, Canberra: AGPS, March 1992, volume 1, p289.

[8] One of the most interesting aspects of the debate concerning resource security at the Federal level is, as noted by Nicholas Economou in his article 'Resource Security Legislation and National Environmental Policy: new objectives, old dynamics' (*Current Affairs Bulletin*, March 1992, pp17 - 26), how it reflects the dynamic nature of the Government's relationship with the environmental lobby.

One final point which requires discussion is the scope and target of resource security. Essentially, resource security can be applied to either volumes of resources or to actual resources. Thus any resource security agreement could guarantee either access to pre-determined volumes of timber, minerals or marine catches, or it could guarantee access to certain areas of land or sea for logging, mining, fishing etc for a set period of time. Just as there is a divergence of opinion as to the necessity or otherwise of resource security per se, there is also considerable argument as to which option is most beneficial. Each has its limitations, but it is probably true to say that in light of the drive for economically sustainable development of our resources, guaranteeing access to amounts of resources as opposed to actual resources has met with more favour. The reasons for this are manifold, but important among them are: the capacity for this approach to include mechanisms whereby areas of land or ocean can be declared totally off-limits to any industrial exploitation; the capacity of this approach to permit industry to move from area to area in balance with the sustainability and renewability of the resource; the capacity for this option to allow and encourage governments to look at other sources of the resource, for example, establishing plantations instead of just allocating logging rights to native forests; and, the fact that this approach encourages the global rather than local approach to resource management. Thus it is felt that resource security which involves guaranteeing access to amounts of resource reserves over a period of time is best able to ensure sustainable development and a national rather than regional management of resources. One of the principal arguments against this approach is the fact that it does tend to subordinate regional concerns to national ones. For example, in logging areas where there is a high degree of dependence upon industry for employment and general economic viability, it is felt that guaranteeing access to forests within that region is the only means of ensuring the survival of communities within the region.

Prior to the 1990 election, the Hawke labour government showed a great willingness to permit the domination of environmental policies by battles over specific land areas, for example the Daintree Forest in Queensland. After 1990, with a lessening of the capacity, and perhaps willingness, of the environmental lobby to deliver preferences to the Government in return for an opening up of channels of communication, the influence of the pragmatic relationship established between ALP leaders and environmental group leaders waned. The Government indicated its intention to remove land-use issues from the debate and apply instead processes of forward planning with the aim of establishing industry and economic policy which facilitated development. This approach continues to dominate government policy regarding environmental issues with the added complication of the question of native title and Aboriginal land rights.

3. WAYS AND MEANS OF ACHIEVING RESOURCE SECURITY

Although there are a variety of ways of achieving resource security, they all rely upon establishing a solid legal basis, whether that be through legislation, intergovernmental agreements or legally enforceable contracts. Mechanisms for achieving resource security (either absolute or a degree thereof) recognised by the legal system include:

- adoption of rules of international law
- reference to international arbitration for dispute settlement
- formulation of contractual arrangements
- creation of joint venture structures
- creation of particular corporate structures
- reliance upon rights of property
- presumptions against non-compensable acquisition of rights of property
- formulation of codes of practice
- formulation of management plans
- formulation of statements of public policy
- creation of rigorous administrative systems
- finality of decision-making in particular circumstances
- limited power to vary or revoke particular administrative decisions
- contractual limitations upon the exercise of powers
- statutory limitations upon the exercise of powers[9]

Most important for resource security in Australia are:

- legislation;
- intergovernmental agreements; and
- industry-government contracts.

Each of these approaches will be discussed in turn in the context of resource security across the various Australian jurisdictions. Thus, for example, the legislative approach will be discussed in the context of the Tasmanian *Public Land (Administration and Forests) Act 1991* and the Commonwealth *Forest Conservation and Development Bill 1991*; the intergovernmental agreement approach in terms of the *Intergovernmental Agreement on the Environment* (between the Commonwealth, States, Territories and Local Government); and industry-government agreements in the context of contracts established between Victorian, Western Australian and Tasmanian Governments and various industry groups. Before doing so, however, it is important to look at the legal

---

[9] Fisher, D.E., 'The meaning and significance of resource security', *The Challenge of Resource Security: Law and Policy*, Sydney: Federation Press, 1993, p17.

position that operates in Australia in relation to which level of government has responsibility for the environment and how far that responsibility extends.

Responsibility for the environment

The Commonwealth Constitution does not contain a direct federal 'environmental' head of power ostensibly, therefore, responsibility for the environment, its management, use and protection rests, with the States and, through their delegative powers, with Local Government. The Commonwealth Government has no direct power to legislate on environmental matters within the States. The Federal Government is, however, able to use its powers under the Constitution in a number of other ways to achieve environmental goals and to oversee the efforts of the States in relation to ensuring compliance with international treaties to which Australia is a signatory and also to ensure the maintenance and protection of the cultural, heritage and conservation value of the land and its resources for the public and future generations.

Environmental commentators and advocates draw attention to the apparently dynamic and increasing nature of the Commonwealth's role under the Constitution especially in light of the interpretation placed by the High Court upon the scope and range of the Commonwealth powers of control in relation to the environment.[10] In 1990, Crawford argued that:

> Within the States [Federal] power over environmental matters is not plenary, but as the legislation and litigation of the last fifteen years has shown, it is certainly substantial. Indeed it can be argued that the real opposition now is between State title and federal power ... the assumptions which that underlying State prerogative or title tended to create, of general State authority over the environment, can be seen to be defective. The lesson of a careful study of the last fifteen years experience is that the Commonwealth has, one way or another, legislative power over most large-scale mining and environmental matters.[11]

This view is to be contrasted with that adopted historically by forums such as the Senate Select Committees on Air and Water Pollution which attributed the States "with the principal legislative capacity to protect the environment" and commented in 1969 that:

---

[10] Farrier, D., *The Environmental Law Handbook*, Sydney: Redfern Legal Centre Publishing, 1993, p10.

[11] Crawford, J.R., 'The Constitution and the Environment', in *Our Common Future*, Hobart: University of Tasmania, 1991.

> It is apparent that, within the existing constitutional framework, joint Commonwealth-State action is the only way in which uniformity of policy and standards can be attained ...[12]

To some extent the division of opinion surrounding the actual power of the Commonwealth to legislate with respect to environmental matters reflects the divergence of opinion as to the appropriateness of Commonwealth interference in State environmental control and where exactly ultimate control should rest. Thus bodies such as the National Association of Forest Industries (NAFI) feel strongly that "the autonomy of the States in forest planning and forest management must be respected and maintained" with a system developed "whereby State processes are agreed to and accredited by management plans through legislation in the knowledge that Commonwealth obligations have been met."[13] In contrast, the Australian Conservation Foundation (ACF) noted in its recent review of New Zealand's Resource Management Act that:

> Existing Australian legislation and institutional arrangements tend to fragment natural resources management, economic and land planning use and environmental protection ... Legislation has largely been retrospective and ad hoc. It has tended to follow environmental problems rather than seek to prevent them. Any holistic, integrated approach to environmental and resource management in Australia has been retarded by the very nature of our mode of government. The environmental problems do not respect state and territory and local government borders ...[14]

Furthermore, in another ACF report, Fowler notes that even the then Prime Minister, Bob Hawke, acknowledged that "because of its constitutional powers relating to such matters as foreign affairs, trade and commerce and foreign investment, the Federal Government also has a role in relation to the use of resources"[15] and argues that on this basis and in light of the High Court decisions "... the Federal Government must assume a more significant role in responding to the deterioration of the environment ... to urge the fullest use of

---

[12] Senate Air Pollution Committee, *Air Pollution in Australia*, Commonwealth Parliamentary Paper No 91/1969.

[13] National Association of Forest Industries, *Building a competitive forest and forest products industry: a policy statement*, Canberra, 1992, pp 16 - 18.

[14] Alexandra, J., *New Zealand Legislates for Sustainable Development. Lesson for Australia.* Melbourne: Australian Conservation Foundation, April 1994, p21.

[15] Hawke, R.J.L., *Our country, Our future - A statement of the Environment*, Canberra: AGPS, 1989, p9.

available constitutional powers for this purpose also."[16]

What then are the powers available to the Federal Government under the Constitution to regulate the environment ? Most of these powers arise under s51 of the Constitution and are detailed in the following paragraphs.

(1) The Corporations Power (s.51(xx))

Section 51 (xx) provides the Commonwealth with power to make laws with respect to "foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth". Thus the Federal Government is able to regulate any activities of a foreign corporation undertaken in Australia and regulate trading and incidental activities of trading corporations formed under Australian law.[17] The most famous (or infamous depending on your perspective) High Court decision in relation to the corporations power is that in the *Tasmanian Dam* case[18] where the majority held that the corporations power extended to the regulation of **any** acts undertaken by trading corporations for the purpose of engaging in trading activities. This judgment essentially held that the Commonwealth could regulate all acts of trading and financial corporations done for the purposes of trade, including practically all such activities performed by mining, manufacturing or agricultural corporations. Unsurprisingly, this decision was not welcomed by all parties and although there are theoretical limitations to the power as interpreted by the High Court,[19] including the fact that it does not extend to the activities of State governments undertaken by departments rather than as statutory corporations, it is generally felt that, in combination with obligations imposed upon the Federal Government as a signatory to international environmental treaties such as "Agenda 21" and "the Earth Charter", this power provides the Federal Government with "a significant foundation for ... activity in the environment area"[20].

---

[16] Fowler, R.J., *Proposal for a Federal Environment Protection Agency*, Melbourne: ACF, 1991, p18.

[17] *Strickland v Rocla Concrete Pipes* (1971) 124 CLR 468.

[18] (1983) 158 CLR 1

[19] For example, the power only applies to corporations and does not cover the formation of corporations. Thus companies may seek to avoid Federal regulation by not becoming corporatised, that is by trading as individuals or partnerships, or by seeking to change their status from that of a trading corporation.

[20] Bingham, R. and Tsamenyi, B.M., 'Recent Developments in Environmental Law in Tasmania", *University of Tasmania Law Review*, 11, 248 - 260, 1992.

(2) The trade and commerce power (s.51(i))

Under s.51(i), the Federal Government has the power to make laws with respect to "trade and commerce with other countries and among the States". Thus the Federal Government has direct control over the issuing of export and import licences and thus over most manufacturing and resource development which is undertaken for the purpose of interstate or overseas trade. The scope of this Federal power was defined in *Murphyphores v The Commonwealth*[21] to enable the Federal Government to prohibit exports both absolutely or conditionally. For example, the Commonwealth may block resource developments such as woodchip or mineral exports even though these have been sanctioned under State land-use legislation by refusing to grant an export licence under the *Customs Act 1901*.[22] The Federal Government is also able to link compliance with certain environmental assessment or protection procedures as defined under the *Environment Protection (Impact of Proposals) Act 1974-75* with the issuing or approval of export licences. In respect of procedures relating to projects financed through foreign investment, the Federal Government also has the capacity under s.51 (i) to deny entry to such capital so as to impose conditions, including on environmental grounds, on its entry.

The other, and, as yet largely unexplored, aspect of s.51(i) power is its capacity to permit the Federal Government to regulate interstate trade. Section 92 of the Constitution precludes the Federal Government from interfering with or restricting the freedom of interstate trade. Thus it was widely believed until recently that s.92 restricted the application of s.51(i) in respect of interstate trade. However, the decision in *Cole v Whitfield*[23] has potentially transformed this interpretation of the Constitution by limiting the application of s.92 to "laws which are protectionist and discriminatory". Thus under s.51(i) the Federal Government has the capacity to require compliance in practice with environmental standards in the production, manufacture or mining of goods for interstate and overseas trade. Furthermore, inability to determine the precise destination of the goods at the time of application of standards has been held to be insufficient to avoid application of s.51(i).[24] It should be noted, however, that s.92 does have the capacity to affect environmental regulation of interstate trade in a situation where a State law is made purportedly to achieve environmental objectives but which achieves this through means which are

---

[21] (1976) 136 CLR 1.

[22] Farrier, D. 1993, op cit, p10.

[23] (1988) 165 CLR 360.

[24] *Redfern V Dunlop Rubber Australia Ltd* (1964) 110 CLR 194.

found to be "discriminatory, and hence protectionist"[25]. This occurred recently in South Australia where the High Court held that a provision in the *Beverage Container Act 1975* which was supposed to encourage recycling of beer bottles was in fact aimed at excluding interstate beer traders from trading in South Australia[26].

(3) Financial powers - s.51(ii), s.96 and ss.81-83

The taxation power (s.51(ii))

Under s.51(ii) the Federal Government may tax environmentally harmful practices such as pollution discharge, or provide tax exemptions or deductions for environmentally friendly activities such as recycling or solar energy generation. The decision in *Murphyphores*[27] extended the application of laws under the taxation power designed to collect revenue to include laws intended to induce particular behaviours[28]. Thus the Commonwealth is able to impose charges on waste discharges such as pollution in order to discourage such activities. In contrast, section 90 of the Constitution prohibits the States from imposing duties of excise and thus similar provisions would be unlikely to succeed if imposed by the States upon industry. However, the High Court has clarified this to make it clear that a State-imposed royalty payment on the right to exploit a public resource is not an excise[29] and thus the States may be able to couple environmental royalties with the exploitation of natural resources although any such activities will no doubt be subject to scrutiny and legal challenge as industry seeks to further clarify the extent of application of s.90 in limiting the powers granted under s.51(ii).

Specific purpose grants and loans (s.96)

The Federal Government has the capacity under s.96 of the Constitution to supply specific purpose loans and grants to the States and, in doing so, to link granting of such funds with the achievement of environmentally friendly goals or projects. Indeed, the Federal Government is also able to make such grants for the specific purpose of realising environmental aims such as pollution management, forest conservation etc. However, there is a growing displeasure on the part of the States with such grants and at the 1990 Premiers Conference

---

[25] Fowler, 1991, op cit, p23.

[26] *Castlemaine Tooheys Ltd v South Australia* (1990) 90 ALR 371.

[27] op cit

[28] Fowler, 1991 op cit, p24.

[29] *Harper v Minister for Sea Fisheries* (1988) 88 ALR 38.

it was agreed that "there should be a substantial reduction in such grants as a total proportion of Federal grants"[30]. Although it remains to be seen whether the Federal Government will continue to recognise the dissatisfaction of the States with this practice as valid, it is clear that this capacity could potentially enable the Federal Government to significantly influence the implementation of environmental protection or indeed resource security at the State level.

Federal spending powers (ss.81 - 83)

In fairly recent times the High Court has made it apparent that the Federal Government has at least some capacity under s.81 of the Constitution to spend money for purposes incidental to the legislative powers of the Parliament[31], although the extent of that capacity remains undefined. The Federal Government has always had the right to set up authorities to engage in scientific research or the like and such undertakings can obviously extend to the environmental area. However, under s.81 the Federal Government cannot spend money on regulating the research of others and thus application of this power to spend monetary resources on monitoring developments with clear implications for environmental protection and conservation such as biotechnology are limited, especially where such research can be defined as essential for the purposes of evaluating future commercial applications.[32]

(4) External affairs (s.51(xxix))

The power awarded the Commonwealth under s.51 (xxix) of the Constitution enables the Federal Government to implement international conventions to which Australia is a signatory. The Federal Government has largely used this power in relation to heritage and conservation legislation; for example, under the *World Heritage Convention* the Commonwealth has facilitated and implemented the listing of tracts of Australia as World Heritage Areas and thus guaranteed their protection and conservation, even in the face of State resistance to such listings. The *Tasmanian Dam* case exemplifies utilisation of this power by the Commonwealth, although it should also be noted that this case made it clear that any legislation pertaining to Federal implementation of the conditions of international treaties signed by Australia must be in "reasonable conformity with the treaty upon which it is based".[33]

---

[30] "towards a Closer Partnership", Communique, Special Premiers' Conference, Brisbane, October 1990.

[31] *Davis v The Commonwealth* (1988) 63 ALJR 35.

[32] Fowler, 1991, op cit, p27.

[33] Fowler, 1991, op cit, p27; *Tasmanian Dam* case (1983) 158 CLR 1.

In addition, the external affairs power extends to control of the seas and oceans within Australia's territorial limits. Thus the Federal Government is able to regulate environmental degradation of the sea in off-shore waters; *NSW v Commonwealth* (1975) 135 CLR 337.

(5) Decision-making powers (s.51(xxxix))

Under section 51 (xxxix) the Commonwealth is able to pass legislation relating to the decision making processes of the Commonwealth Government and bureaucracy and public bodies set up at a Commonwealth level provided that those processes relate to areas of Commonwealth power. Thus the Commonwealth is able to use this capacity to require such agencies to take into account environmental factors when making or reaching decisions.

It should be noted that although the Commonwealth has the capacity to exert power over environmental decisions and practices of the States as described in the preceding paragraphs, it is under no obligation to do so. Furthermore, even where the Commonwealth has intervened in environmental issues it has tended to do so in response to single land-use issue events rather than legislating generally. Thus the hope of the environmental groups that the Commonwealth will use its constitutional powers to impose more strict and Federally determined environmental regulation on the States would herald an unprecedented degree of interventionism by the Commonwealth in State affairs and one which would appear relatively unlikely if the terms of agreement of the *Intergovernmental Agreement on the Environment* are adhered to.[34] Where the Commonwealth has not intervened to legislate regarding an environmental issue, then valid State (in this case New South Wales) law will operate. Where the Commonwealth has legislated, it is possible for the two pieces of legislation to co-exist if they are not in conflict; thus industry may have to seek both State and Commonwealth licences to undertake certain activities. Where the State legislation is inconsistent with the Commonwealth legislation, the Commonwealth legislation will have precedence over the State legislation; thus State authorisation for industry to undertake certain activities will be ineffectual if there is a valid Commonwealth law preventing such activities. Thus, any resource security legislation passed by the States, or indeed any contractual agreements entered into by the States with industry may be invalid

---

[34] More mention is made of this agreement later. However, it is important to note that the agreement clearly states, and repeats the notion that the States have "responsibility for the policy, legislative and administrative framework within which living and non living resources are managed within the State" (*Intergovernmental Agreement on the Environment* (IGAE), May 1992, p7) and that "within the policy, legislative and administrative framework applying in each State, the use of natural resources and land, remain a matter for the owners of the land or resources, whether they are Government bodies or private persons" (IGAE, op cit, p20.).

if inconsistent with Commonwealth law operating in that area.

4. RESOURCE SECURITY ACROSS AUSTRALIA

(i) Legislation

A legislative approach to achieving some form of resource security has been attempted by the Commonwealth and some of the States, notably Tasmania, Western Australia and Victoria. The Commonwealth approach, and its demise, together with the situation in Tasmania are discussed here in most detail, with reference made in passing to the contrasting approaches using legislation in Victoria and Western Australia.

The Commonwealth

The Commonwealth Government has used legislation in the past to ratify agreements with the States concerning resource management. In particular, in the area of forestry management, the Commonwealth and the States signed a number of agreements which were ratified by the corresponding Acts; there was a series of Softwood Forestry Agreement Acts operating from 1967 to 1978 between the Commonwealth and the States; the Tasmanian Government and the Commonwealth made a specific arrangement under the *Tasmanian Native Forestry Agreement Act 1979* which authorised the Commonwealth to enter into the agreement and to appropriate funds to support the project under s.96 of the Constitution. This form of legislative resource security was different, however, to the approach adopted by the Commonwealth in its 1991 *Forest Conservation and Development Bill* in that the aim of such legislation was the guaranteed supply of funds to the States to undertake such projects. In addition, the legislation was predicated upon Parliament approving the agreements reached between the States and the Commonwealth and in no way required the Commonwealth to guarantee that it would not exercise its constitutional powers. The *Forest Conservation and Development Bill* therefore heralded new developments in the Commonwealth's approach to resource security and has changed the debate regarding resource security in relation to both its form and substance.

The Commonwealth most recently introduced resource security legislation into Parliament in the form of the *Forest Conservation and Development Bill 1991* as part of the March 1991 Industry Statement. The bill was introduced into the House of Representatives and read a first time on 29 November 1991. It was passed after second and third readings on 2 March 1992 by 67 votes to 63. It was read a first time in the Senate on 3 March 1992 and on its second reading on 26 March 1992 passed by 51 votes to 7 and was referred to the Standing Committee on Rural and Regional Affairs for consideration and report on before 2 April 1992. The bill was considered by the Senate in Committee on 4 May 1992 when an amendment was proposed. After a debate

lasting nearly five hours and after several divisions, the question that the Bill as amended be agreed to and that the Bill be reported as amended was defeated by a vote of 38 to 28.

The Opposition then introduced the *Forest Conservation and Development Bill 1992* into the House of Representatives on 4 June 1992. This bill substantially resembled the Government's 1991 bill in its objectives but differed significantly in its form and approach. The bill provided for the Commonwealth to act on resource security only after it received an application for resource security from a State. The Government would then assess whether the proposal complied with the relevant Commonwealth Acts and, if so, provide an instrument in writing to the applicant guaranteeing resource security. The bill would have applied to projects irrespective of the level of investment and allowed the Commonwealth 12 months to investigate the proposal and raise any objections. Once the project had been approved, the Commonwealth Government would then guarantee not to use its powers to interfere in the agreement between the State and the industry entrepreneur unless there was a discovery of some previously unknown species and the continued forestry activities were considered to pose a major threat to it. Importantly, in such cases, the bill would also have guaranteed compensation to the entrepreneurs for the loss of resource. The bill was debated on 17 September 1992 and then did not proceed beyond the second reading.

The discussion here is henceforth confined to the Federal Government's 1991 bill. However, the brief consideration above of the Opposition's bill is useful to highlight a number of important issues associated with resource security and the differing approaches suggested for their resolution by the various interest groups.

There are a number of notable characteristics and features of the Federal Government's 1991 *Forest Conservation and Development Bill* and the debate that surrounded it. First, it was limited totally in its application to the forestry industry and did not involve any other industry, despite the existence of pronounced and ongoing demands by other natural resource driven industries such as the Mining industry for similar legislation protecting the right of access of industry to those resources.[35] Secondly, the bill was intended to provide resource security on a project by project basis and would only apply to projects involving more than $1 million of investment:

> If the Minister is satisfied that the conditions imposed by sections 11 to 15 (inclusive) have been met in relation to a particular wood-processing project, the Minister must by

---

[35] Morgan, H., 'World Heritage listings and the threat to sovereignty over land and its use.', *The Mining Review*, December 1993, pp 26 - 28.

> instrument in writing declare that this Act applies to the project.[36]

Thirdly, the Federal Government proceeded with the bill in part because it had received high level legal advice which indicated that a legislative approach was the only reliable means of guaranteeing the degree of security sought by industry and promised by the Government:

> The Government decided on resource security legislation only after receiving unqualified legal advice that it was the sole way the Commonwealth could provide a binding undertaking of the kind necessary to get major projects started which would provide new exports and new jobs.[37]

Fourthly, the bill involved the Commonwealth, the relevant State and the project entrepreneur and legislated to guarantee ratification of the agreements reached between these parties concerning the project without actually seeking Parliamentary approval of the agreements:

> ...in this case the agreement is not approved or ratified in any way by subsequent legislation. The proposed legislation is expected to authorise the Commonwealth to implement the undertaking to which it has committed itself under the agreement.[38]

Fifthly, and perhaps most importantly, the bill consisted of a series of general but suspended applications that required the Commonwealth to guarantee that it would **not** use its powers to interfere with, alter or stop the progress or the terms of the project once authorisation to proceed had been granted in regulations prescribed under the Act. The Commonwealth guarantee was intended to last for the life of the project:

> [The bill] will confer on the Commonwealth statutory authority for the Commonwealth to undertake that it will not exercise powers that would otherwise be available to it to thwart the implementation of the project ... in terms of the Commonwealth-State agreement. The legislation itself ... does not approve or ratify the Commonwealth-State agreement. Nor does the legislation simply enable the Commonwealth to implement the

---

[36] *Forest Conservation and Development Bill* 1991, clause 11(1).

[37] The Hon. R.J.L. Hawke, *Industry Statement*, March 12 1991.

[38] Fisher, D.E., 'The Proposed Forest Resource Security Scheme: Sovereign Risk or Resource Security ?', *The Australian Law Journal*, 65, 453 - 467, 1991.

> Commonwealth-State agreement in whatever way is appropriate. Nor does the legislation authorise the Commonwealth to adhere to certain positive undertakings. What it does is authorise the Commonwealth to implement certain negative undertakings.[39]

The subject-matter of those undertakings was, however, limited and did not extend to, fetter or override existing Commonwealth legislation in five areas:

- provisions in existing environmental legislation;
- obligations derived from international agreements;
- provisions in existing Aboriginal or Torres Strait Islander legislation;
- taxation; and,
- foreign investment review.[40]

In addition to these limitations which essentially required that the appropriate responsible Ministers considered the environmental, cultural, heritage, social or economic issues raised by the project in question in regard to the responsibilities of the Federal Government, the bill also provided in clause 17 an overall exception which allowed the Commonwealth to remove its guarantee not to exercise its powers if any major or unforeseen environmental or cultural impact emerged after authority had been given. In addition, the Commonwealth had the capacity to limit the resource security in response to a material breach of either the State-enterprise agreement or the Commonwealth-State agreement, or in response to a breach of a condition imposed by the Commonwealth at, during or after the assessment process took place. In contrast to the Opposition bill, the Government bill also did not make any provision for the awarding of compensation to either the State or the enterprise should the Commonwealth breach its self-imposed embargo on interference. This latter matter was of major concern to industry and environmental groups who had diametrically opposed views on the issue.[41]

It is not intended here to completely review the *Forest Development and Conservation Bill 1991*. However, it is important to note a number of significant criticisms of the bill that remained unanswered at the time of its defeat:

---

[38] Fisher, D.E., 1991, op cit, p456.

[40] Fisher, D.E., 1991, op cit, p457.

[41] See Bates, G., 1993, op cit, p12 for an environmentalist's perspective on this issue, and NAFI, 1993 op cit, p4 for the opposing view.

- that the bill was too restrictive in that it only addressed one area of resources, namely that available to the forestry industry, and because its application was limited to projects involving investments over $1 million;

- that the bill presupposes that the Australian native timber forestry industry is a viable prospect;

- that the bill fails to provide a clear definition of the meaning and scope of the "major unforeseen impacts" exception;

- that the bill provided no clear provision for ongoing monitoring and review of projects;

- that the bill failed to clarify the extent of environmental assessments required to fulfil the bill's provisions and also in no way tackled the issue of State and Commonwealth duplication of environmental assessment processes and the need for an accreditation process;

- that the bill failed to focus on the correct issue, that is the forest resource rather than the wood processing projects. The issue of whether resource security should be directed at actual land areas or specific volumes of a resource is not adequately addressed in the bill and remains a contentious issue, particularly in the face of large tracts of land being removed from availability for industry exploitation by heritage and conservation declarations;

- that the bill failed to address the need for National Forest Management Plans, and indeed for national management plans for other resources;

- that the bill raised the difficult legal question of whether the Commonwealth Government is actually able to legislate to restrict its use and application of its own powers and given that the success of the bill depended on the answer to this question being positive, the answer should have been determined prior to the introduction of the bill.[42]

---

[42] It is important to note that the debate concerning this issue has been quite extensive and largely remains unresolved.

In addition, it should be noted that the defeat of the bill corresponded with a complete turn around in the Federal Government's approach to resource security despite continuing acknowledgments by the Government of the importance of the issue to industry and thus economic development. Even before the final demise of the bill, Prime Minister Paul Keating indicated the Federal Government's intention to develop alternative, non-legislative forms of resource security:

> The government remains committed to facilitating major investment in the forest industry by providing security for industry while at the same time ensuring that environmental standards are not compromised.[43]

The approach outlined by the Prime Minister in this statement was one relying upon joint Commonwealth and State assessments of regions and the development of intergovernmental agreements. This approach will be discussed in a later section.

State resource security legislation

There are two major forms of resource security which can be created at a State level. The first is a statutory guarantee - so called resource security legislation - and the second is through an administrative guarantee of the granting of rights to resources under existing legislation. Both alternatives may include provision for compensation in the case of withdrawal of access or rights to the resource, but it would appear more likely that compensation would feature more highly in the second rather than the first alternative.[44]

Tasmania, Victoria and Western Australia all have some form of State-level resource security legislation. Tasmania, however, is the only State to date which has focussed upon a predominantly statutory approach.

Tasmania

The Tasmanian Government first introduced resource security legislation into Parliament in the form of the *Forest Reform Bill 1991* which was defeated in concert with a no-confidence vote in the Government in October 1991. The Tasmanian Labour Government then introduced the *Public Land (Administration and Forests) Bill 1991* into Parliament on 12 November 1991. This bill was similar in both form and substance to the *Forest Reform Bill* and

---

[43] Keating, P., *Economic Statement*, 26 February 1992.

[44] Fowler, R.J., 'Implications of Resource Security for Environmental Law', *The Challenge of Resource Security; Law and Policy*, Sydney: Federation Press, 1993, p59.

was finally passed on 28 November 1991 when the Legislative Council agreed to the bill without amendment. The legislation is most notable in that its enactment was predicated upon the enactment of the Commonwealth's resource security legislation[45] which, as discussed above, did not eventuate.

The Tasmanian legislation does not make any explicit mention of resource security. Instead it makes substantial amendments to the *Forestry Act 1920* to provide for the creation of a **Register of Multiple Use Forest Land** and a **Register of Deferred Forest Land**. Under this system, much of Tasmania has been listed as either being a conservation area where no logging is able to be carried out, multiple use forest which cannot be declared as a conservation area and which must provide a minimum aggregate quantity of timber, and deferred forest land upon which no decisions concerning the usage of the land have yet been made. The Tasmanian legislation is not project specific and does not make any overt provisions for compensation to industry should the statutory timber quotas not be made available or be changed. In addition, the Act creates a Public Land Use Commission which is responsible for inquiring into the use of public land. The Commission thus is able to look at grounds whereby land should be deleted from the Multiple Land Use Registry or the Deferred Land Registry. Such grounds include the discovery of endangered, vulnerable or rare flora or fauna and heritage or cultural features which, if left unprotected, might also suffer adverse effects.[46] It should be noted, however, that the Public Land Use Commission is not a decision making body and thus it may only make recommendations, albeit ones open to public scrutiny, not decisions regarding future land use.[47] It is also the case that, in the absence of any corresponding Commonwealth legislation recognising or ratifying the Tasmanian legislation, it is always open for the Commonwealth to overturn any decision concerning land usage made at a State-level. The Tasmanian legislation therefore must be considered to be effective in the sense that it establishes relatively clear processes of assessment of land for forest usage, but limited in its sovereignty by the lack of Federal ratification. This limitation applies generally to all such State-level resource security legislation and is unlikely to be overcome without Federal Government cooperation.

---

[45] The Hon. G. Gray, (Hansard (HA), 13 November 1991, p5232) noted that:
We need resource security legislation but in order to make State resource security legislation effective we need complementary Federal legislation and, without that complementary Federal legislation ... this legislation will be no better than the legislation we had before which guaranteed the forest industries 317 000 cubic metres of sawlog and which set aside dedicated State forest for use by the forest industries.

[46] *Forestry Act 1920* s.17(7)(b).

[47] Bingham and Tsamenyi, 1992, op cit, p249.

State-industry agreements as the basis of resource security

As indicated earlier, the alternative approach for States seeking to establish resource security in relation to resources within their jurisdiction is the Government-industry agreement which may or may not be accompanied by ratifying legislation. Almost inevitably such agreements do become the subject of supportive legislation which seeks not only to entrench the conditions of the agreement but also to validate the capacity of the State to be a party to the agreements:

> State agreements are, in fact, invariably given legislative support. This places beyond doubt the power of the State to make the agreement, and the authority of the person signing on behalf of the Crown. If the endorsing Act is properly drafted, the legislative endorsement gives effect to any necessary modification of existing State law. In addition, there are two other reasons for legislative endorsement. In the first place, there are constitutional limits on the State's executive power; for example a State government is not competent to dispose of interests in Crown land or to grant exemptions from statutory liability without specific legislative authority. Second, legislative endorsement enhances the security of the agreement against inconsistent action by the State government in its executive capacity.[48]

Even legislative ratification of Government-industry agreements does not, however, ensure their security. Legislation may always be repealed and/or replaced by other legislation, and where there is no major financial or electoral disincentive for Governments to change or alter legislation in response to competing influences, such agreements may be only as stable as the opinion or policy of the current Government. It is also open to question as to whether Governments can validly legislate to preclude the use of their discretionary powers. In *Ansett Transport Industries (Operations) Pty Ltd v Commonwealth* (1977) 139 CLR 54, Mason J said:

> There is a general principle of law that a public authority cannot preclude itself from exercising important discretionary powers or performing public duties by incompatible contractual or other undertakings.

Although his Honour also indicated that the situation may be different where the legislation itself is the source of such undertakings.

---

[48] Warnick, L., 'State Agreements', 62 ALJ 878, 1988.

Victoria

Victoria has had a form of resource security, focussed upon legislative support for industry-Government agreements, for many years. Once again the resource security has largely been confined to the forestry industry. The first of such agreements was struck in the 1930s to guarantee the supply of paper to a large newspaper. Similar agreements were signed in the late 1950s and early 1960s to guarantee the supply of pulpwood to businesses. These agreements were ratified by the Government of the day in the *Forest (Pulpwood) Agreement 1959* and the *Forest (Woodpulp) Agreement 1961*. In 1987 Victoria, after the development of the *Timber Industry Strategy 1986*, legislated to enable the granting of 15 year licences to industry accounting for the allocation of around 98 per cent of estimated timber volumes outside existing reserves. The licences were granted on the basis of the *Timber Industry Strategy* having identified sustainable yields for all areas subject to licensing agreements with the *Forests Act* consequentially amended to provide for such identification and to guarantee the availability of these timber reserves for long term yields. The granting of the licences has resulted in the refusal to grant protection for a number of newly identified endangered species and wilderness areas on the basis of licence commitments and the costs of compensation.[49] The current Government has not withdrawn any of these licences and has recently granted even longer ones. It should be noted that the licences granted apply to both softwoods and hardwoods, and to wood used for sawlogs and for woodchipping so that many such agreements require export licences to ensure adequate markets for the forestry products. It should also be noted that a condition of implementation of the *Timber Industry Strategy* was a requirement that all calculated sustainable yields for identified Forest Management Areas be put into legislation along with compulsory review of those yields every five years.

Western Australia

The Western Australian Government, like Victoria, has also provided resource security through Government and industry contracts which have been ratified in legislation. The Western Australian Department of Conservation and Land Management adopted in 1987 a system which granted up to 80 per cent of sawlogs to industry under licences valid for 10 to 15 years. The system operated under Forest Management Plans and a Timber Strategy set pursuant to conditions detailed in the *Environment Protection Act 1986*. Under the plans sustainable yields of jarrah sawlog and karri harvest across the State were guaranteed with licences issued in respect of a volume of sawn timber rather than through guaranteed access to specific areas. The present Government in Western Australia is intending to review the licensing system

---

[49] Krockenberger, M., *Australian Environmental Law News*, 2/1992.

and to amend the *Conservation and Land Management Act* before the end of the year. However, the review is expected to strengthen resource security for the forestry industry rather than weaken it.[50] In addition, the Western Australian Government has recently enacted legislation guaranteeing access to a largely foreign owned paper manufacturing company to plantation timbers grown on private property.[51] Although the legislation does not involve forest activities in native or State owned forests, it does indicate the possibilities available to Governments in terms of guaranteeing both security of resource supply and economic viability to industry and the public through resource security.

The Western Australian Government has also indicated its in principle support for some form of resource security for the mining industry. In particular, in its pre-election Mining policy statement, the Coalition stated that it would "ensure that once an area is found to be 'clear' of Aboriginal sites of significance that it remains a 'clear site' and not subject to further studies and challenges to development".

The Resource Assessment Commission (RAC) examined the choice between specific resource security legislation and administrative granting of resource security under existing legislation in its Forest and Timber Inquiry (1992). The RAC's preferred approach was to "strengthen and revise agreements between forest management agencies and industry, particularly through the development of enforceable contracts that make clear provision for compensation".[52]

Intergovernmental Agreements

Australia has an *Intergovernmental Agreement on the Environment* which was signed on May 1 1992 by the Commonwealth, the States and Territories and the Australian Local Government Association. The IGAE formally recognised "environmental concerns and impacts respect neither physical nor political boundaries"[53] and outlined the responsibilities of both the Commonwealth and the States and Territories regarding the environment. Primary Commonwealth responsibilities listed included:

---

[50] Minster for the Environment, Hon Mr Minson MP, Media Statement 7 May 1994.

[51] *Albany Hardwood Plantation Agreement Act 1994.*

[52] Resource Assessment Commission, *Forest and Timber Inquiry Final Report: Overview*, Canberra: AGPS, March 1992, p40.

[53] IGAE, May 1992, p2.

- matters of foreign policy relating to the environment including negotiating, signing and ensuring Australia's compliance with the obligations of international treaties and agreements;

- ensuring compliance of all jurisdictions with external affairs limitations relating to other States and Territories and maritime waters;

- facilitating the cooperative development of national environmental standards and guidelines.[54]

State obligations included "responsibility for the development and implementation of policy in relation to environmental matters ... responsibility for the policy, legislative and administrative framework within which living and no living resources are managed within the State ... and an interest in the development of Australia's position in relation to any proposed international agreements ..."[55]

What is most interesting, however, concerning the agreement is its statement concerning the "full faith and credit" the Commonwealth will give to State assessments of land use control and resource management as a basis for its own decision-making. This development was widely sought by the States which felt that they had suffered too long under Commonwealth requirements for land use and management assessment procedures which often either duplicated or usurped their own environmental assessments. Thus the IGAE appeared to present an agreement between the States and the Commonwealth to rationalise and streamline resource assessment, land use decisions and approval processes so that each could rely upon the outcome of the others' procedures. Other significant features of the IGAE include:

- an undertaking by the Commonwealth and the States to improve consultation between them in relation to international agreements and the possible financial ramifications of entering into such agreements;

- the establishment of a National Environmental Protection Authority comprised of State and Commonwealth Ministers charged with the responsibility of setting national environmental standards;

---

[54] IGAE, 1992, op cit, p6.

[55] IGAE, 1992, op cit, pp 6 - 7.

- joint Commonwealth-State assessment of National Estate values;

- consultation between the Commonwealth and the States in relation to the declaration of World Heritage areas and an undertaking by the Commonwealth to endeavour to obtain State agreement for proposed listings.[56]

Many commentators saw the signing of the IGAE together with the release of the National Forest Policy Statement later in 1992 as signalling a new consensus and stability between the States and the Commonwealth in relation to environmental issues[57]. However, the extent of the stability and effectiveness of what the IGAE can deliver remains largely undetermined. Schedule Two of the agreement seems to imply that the Commonwealth will "voluntarily restrict the exercise of its decision-making powers generally in relation to land use and resource management matters through accreditation of State processes"[58]. The National Forest Policy Statement provided support for this view with a section entitled **Intergovernmental arrangements** outlining an accreditation process between the Commonwealth and the States which is described as in keeping with the IGAE. In addition, the National Forest Policy Statement provides clear recognition of the importance of sustainable environmental development and emphasises the importance of the forestry industry to the economic welfare of Australia[59]. However, the Agreement is just that and provides neither legislative nor financial imperative for either the Commonwealth or the States to adhere to the principles outlined in it. The lack of such imperatives and the looming possibility of the Commonwealth imposing even more stringent environmental assessment procedures on the States is reason enough for at least one State - Tasmania - to refrain from signing the National Forest Policy Statement and would appear to exemplify the limitations of this approach to resource security.

---

[56] Bingham and Tsamenyi, 1992, op cit, p259.

[57] Farrier, D., 1993, op cit, p12.

[58] Fowler, 1993, op cit p81.

[59] Commonwealth of Australia, *National Forest Policy Statement*, 1992, pp 12 - 13, 15.

5. CRITICISMS AND CONCERNS REGARDING RESOURCE SECURITY

The Environmentalist perspective[60]:

- resource security locks public forests into the control of private interests;

- resource security seems to involve a once only assessment of the resource area and that assessment occurs for one purpose and remains in place irrespective of developments in knowledge concerning that area. Thus, for example, the granting of resource security licences in Victoria has prevented the declaration of areas of forest as conservation areas despite the discovery of endangered species or wilderness values in those areas;

- it is a fallacy that resource security will result in a reduction in conflict within the community concerning environmental issues;

- resource security agreements are developed without any cost-benefit analyses of potential investment returns and such agreements are put in place without any guarantees that the investment potential will be realised;

- resource security implies that it is acceptable to log old growth native forests;

- resource security makes an assumption and perpetuates the myth that Australia is richly endowed with forest resources;

- resource security distracts the environmental argument from the key issues, namely the importance of switching logging operations from native forests to plantations, and the need to stop subsidising an economically unsustainable industry.

---

[60] Gill, N., 'Resource security - a leap backwards', *Chain Reaction*, 63/64, pp 57 - 59, provides a succinct summary of the environmental groups main objections to resource security.

Other concerns:

- the issue of compensation has never been properly addressed. It is not clear how the economic value of natural resources such as forests could be determined, especially in relation to aesthetic or biodiversity value. Guaranteed rights to the exploitation of public resources should require full payment for the value of such resources, and in those circumstances, full right to compensation for interference with or removal of those rights;

- comprehensive environmental assessment of all resources and resource areas is essential before any resource security agreements predicated upon determined sustainable yields can be granted;

- resource security should not guarantee access to specific areas but should only apply in respect of specific volumes;

- resource security legislation may substantially interfere with the establishment of new National Parks in forests covered by such legislation. In addition, the operation of resource security legislation may restrict the operation of Commonwealth Acts designed to provide conservation, heritage and cultural protection to areas of Australia valuable in those regards;

- resource security, in the form of either legislation or contractual agreements ratified in legislation requires combined Commonwealth and State statutes to be effective and relies upon the Commonwealth guaranteeing not to use its considerable powers under the Constitution to interfere with projects covered by that legislation once enacted. Such a guarantee may not be legally valid and is certainly questionable in terms of the responsibility of the Commonwealth to the public.

***Arguments for Resource Security*:**

- according to the forestry and other resource based industries, resource security would provide an environment in which industry would be prepared to invest in the long term. Without resource security it is unlikely that Australia will be able to attract foreign investment or maintain domestic economic growth;

- resource security provides security for both industry and the public. Resources must be properly assessed before allocation and this provides an ideal opportunity for the rationalization of the future management and use of our resources;

- resource security provides stability for the local and regional centres which depend upon that resource for their economic viability. Such stability encourages growth and promotes social stability;

- resource security will enable the development of plantations on private land, a move that will not only relieve the pressure on native forests but which will also provide pastoralists with an alternative source of income;

- resource security is the best means of achieving economically sustainable development whilst at the same time protecting large tracts of native forest from further exploitation.

Index to NSW Parliamentary Library Publications

To identify and fulfil the information needs of Members of Parliament and the Parliamentary Institution.

[Library Mission Statement]

(A) BACKGROUND PAPER/OCCASIONAL PAPER
(B) BILLS DIGEST
(C) BRIEFING NOTE
(D) STATISTICS

(A) BACKGROUND PAPER/OCCASIONAL PAPER

TITLE	NUMBER
Sydney's Transport: Contemporary Issues, 1988-1992 by John Black and Peter Rimmer	1992/1
Capital Punishment in New South Wales by Catherine Gilbert	1993/1
Women's Refuges by Jaleen Caples	1993/2
Censorship: Law and Administration by Gareth Griffith	1993/3
Lead by Rebekah Jenkin	1993/4
Cannabis: The Contemporary Debate by Gareth Griffith and Rebekah Jenkin	1994/1
NSW Elections 1984 to 1991: A Comparative Analysis by Antony Green	1994/2
Breast Cancer by Rebekah Jenkin	1994/3
Women's Health Policy in Australia by Sharon Rose	1994/4
The Rural Sector: A Changing Economy by John Wilkinson	1994/5

(B) BILLS DIGEST

TITLE	NUMBER
Legal Aid Commission (Amendment) Bill 1994 by Gareth Griffith	001/94
Maritime Services (Offshore Boating) Amendment Bill 1994 by Sharon Rose	002/94
Gaming and Betting (Race Meetings) Amendment Bill 1994 by Sharon Rose	003/94
Lotteries and Art Unions (Amendment) Bill 1994 by Gareth Griffith	004/94
Occupational Health and Safety Legislation (Amendment) Bill 1993 by Jan Newby	005/94
Workers Compensation Legislation (Miscellaneous Amendments) Bill 1993 by Jan Newby	006/94
Property, Stock and Business Agents (Amendment) Bill 1994 by John Wilkinson	007/94
Crimes Legislation (Unsworn Evidence) Amendment Bill 1994 by Gareth Griffith	008/94
Bush Fires (Amendment) Bill 1994 by Rebekah Jenkin	009/94
State Emergency and Rescue Management (Amendment) Bill 1994 by Rebekah Jenkin	010/94
Police Service (Complaints) Amendment Bill 1994 by Sharon Rose	011/94
Timber Industry (Interim Protection) Amendment Bill by Rebekah Jenkin	012/94
Privacy and Data Protection Bill 1994 by Gareth Griffith	013/94
Health Legislation (Miscellaneous Amendments) Bill 1994 by Jan Newby	014/94
Retail Leases Bill 1994 by Gareth Griffith	015/94

(C) BRIEFING NOTE

TITLE **NUMBER**

The Regulation of Agricultural and Veterinary Chemicals: The Agricultural and Veterinary Chemicals (New South Wales) Bill 1994 by John Wilkinson	012/94
The Proposed Privatisation of the State Bank of NSW: Background Issues by Jan Newby	013/94
Corporatisation of the Water Board by Sharon Rose	014/94
Sentencing Guidelines and Judicial Discretion by Gareth Griffith	015/94
Rural Assistance Schemes and Programs by John Wilkinson	016/94
Resource Security by Rebekah Jenkin	017/94
The Independent Commission Against Corruption: An Overview by Marie Swain	018/94

(D) STATISTICS

TITLE	NUMBER
Quarterly Statistical Bulletin by Jan Newby	Vol 1 No 1 October 1993 Vol 1 No 2 March 1994 Vol 1 No 3 May 1994 Vol 1 No 4 August 1994
Electorate Profile by Jan Newby	No 001/94: *Parramatta*
Electorate Profile by Jan Newby	No 002/94: *Maitland*