

FOREIGN AND DOMESTIC OWNERSHIP AND CONTROL OF AUSTRALIAN COAL DEPOSITS

by

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Introduction

As legal practitioners we consider it a privilege to have been selected to address a scientific forum. Being conscious of the frustration frequently faced by people in the Coal Industry (as in other industries, no doubt) when seeking to navigate the frequently complex legislative and regulatory hurdles inherent in commencing exploration for or production of coal, we have chosen to direct much of this paper towards an outline of the legislative framework within which the Coal Industry operates in the major coal-producing states of Australia, including a review of what restrictions exist in relation to foreign investment. This task is potentially complicated by recent attitudes in some States which tend to regard the word "foreign" as having wider connotations than one would normally expect. We have chosen to ignore these complications.

We have endeavoured in this paper to present more than a dry legal and statistical review of the Coal Industry in Australia; we are conscious that we are addressing a non-legal audience and that statistical information is widely available in a number of publications. Nevertheless, some legal references and statistical tables are included which will, we hope, be of some use in that they bring under one cover information normally found only in a variety of sources. Those sources are all specifically acknowledged later.

The reason why the issue of foreign ownership of Australian coal is an extremely important question lies in the fact that Australia is the world's ninth largest black coal producer (Australian Department of Trade and Resources – *Australia's Mineral Resources: Steaming Coal*) and by 1979 had become the world's third largest coal exporter. (Australian Department of Trade and Resources – *Australia's Mineral Resources: Development and Policies*) The increasing importance of coal as an energy resource requires, even in a society which pays at least lip service to free enterprise, that those Governments which have substantial coal deposits within their jurisdiction must ensure the regular, progressive and efficient exploitation of that resource. Related to the

question of regular development is that of foreign ownership. It is not our aim to participate in the often emotional debate surrounding the question of foreign ownership. Rather we consider that it will be of interest to examine and outline the attitudes of the Australian Federal and State Governments towards foreign participation in the coal extraction industry.

Legislative and Other Restrictions on Foreign Investment

Commonwealth

The principal restriction on Foreign Investment in Australia arises under the Foreign Takeovers Act 1975 – 1976. The Act is entitled "An Act relating to the foreign control of certain business enterprises and of certain rights relating to minerals". The Treasurer, being the minister responsible for the administration of the Foreign Takeovers Act, is given certain powers under that Act. The exercise of those powers is, in general terms, contingent upon the Treasurer being satisfied that the acquisition of an Australian asset or shares in an Australian corporation will result in that business or corporation being controlled by foreign persons AND that the "... result would be contrary to the national interest".

Whilst the Act lays down comprehensive definitions of what constitutes control, the discretion of the Minister is such that the question of what is in the "national interest" is the question of greatest importance in discussing the controls and/or restrictions on Foreign Investment in Australia generally, and in the Coal Industry in particular. What constitutes the national interest will naturally vary with the policy for the time being of the Government. The present policy, first announced in April 1976 and reaffirmed in June 1978 is "... to encourage Foreign Investment in Australia on a basis that recognises the needs and aspirations of Australians" (*Your Investment in Australia, A Guide For Investors, 1981*. Australian Government Publishing Service, Canberra 1981).

The Government's Foreign Investment policy is administered by the Foreign Investment Review Board

("FIRB"). Unlike many bureaucratic bodies FIRB is, in our experience, a commercially minded organisation conscious of the need to deal with submissions on a proper basis of urgency. This view is borne out by the fact that of 4224 proposals requiring approval under the Act presented to the FIRB during its first fifty one months of its operation 66.4% were approved without conditions, 32.6% were approved subject to certain conditions being met, whilst only 1.0% of proposals were rejected. Further, for the year 1979-80 the average time taken to process proposals was only 21 days. (*Your Investment in Australia*, op. cit.)

Any proposal for Foreign Investment in the Coal Industry in Australia which falls within the scope of the Foreign Takeovers Act or within the published Government policy should be submitted for examination by FIRB.

Proposals which fall within the scope of the Act include:

- (i) any acquisition or issue of shares which would result in or increase a substantial interest in an Australian Company. (A substantial interest means in effect, a holding of 15% or more of the issued shares or voting power of a company held by a single or associated Foreign interest, or a holding of 40% or more in aggregate by two or more Foreign interests.)
- (ii) any acquisition of an Australian business by the purchase of assets.
- (iii) any agreement that would give a substantial Foreign shareholder in an Australian Business, rights to representation on the Board of that business; and
- (iv) any arrangement relating either to the leasing or the granting of other rights to use assets of an Australian business or to participation in the management or profits of an Australian business.

As a general rule it is the stated practice of the Government that it will not intervene, except in special circumstances, in proposals falling within the above categories where the total assets of the target company or business do not exceed \$2,000,000. Few, if any coal mining operations would escape on this ground.

Other investment proposals not expressly within the scope of the Foreign Takeovers Act but which fall within the following categories are required as a matter of policy to be notified:

- (i) all proposals to establish a new business or project, irrespective of size, in industries subject to special restrictions (including uranium, finance, media, civil aviation);
- (ii) direct investments by Foreign Governments or their agencies;

- (iii) other proposals to establish new businesses where the total amount of the investment is \$5,000,000 or more – including diversification into activities not previously undertaken directly in Australia and new projects in *mining or other natural resource industries*;
- (iv) proposals to acquire real estate valued at \$250,000 or more;

The policies of the Federal Government relating to mining differ from those relating to exploration. We deal with each in turn;

Mining

A proposal for a new mining project involving a total investment of \$5,000,000 or more will, as a general rule, only be allowed to proceed if it has a minimum 50% Australian equity together with at least 50% of the voting strength on the Board or controlling body held by Australian interests. This general restriction is always open to negotiation if, in the view of the Government, the proposal is not contrary to the national interest and in the opinion of the Government the project would not proceed by reason of the unavailability of sufficient Australian equity capital. However the Government would expect that Australian ownership would increase to at least 50% within an agreed period.

Exploration

The attitude of the Commonwealth Government towards exploration is at the present time fairly relaxed; it is not mandatory for Foreign interests to seek Australian participation in exploration activities but the Government does expect Foreign interests to seek Australian participation in those projects that can reasonably be expected to proceed to the development stage. The Government likes also to be informed annually in advance of exploration programmes proposed by Foreign interests. Recognising that the Mineral Industry in general, and the Coal Industry in particular, is Foreign dominated the Government has introduced the concept of "naturalisation" of Foreign Companies. This policy, in our view, is one directed towards ensuring that development will not be impeded or delayed by the non-availability in Australia of capital and/or technical skills. A company may be granted naturalised status if:

- (a) it is at least 51% Australian owned;
- (b) its Articles of Association provide that a majority of members of its board are Australian Citizens; and
- (c) general understandings have been reached between the company, major shareholder interests and the Government in relation to the exercise of voting powers in respect of the company's business in Australia.

The Government expects that the naturalisation proposals will be achieved primarily by way of new share issues to Australians.

A company which is either naturalised, or has committed to become naturalised, is entitled to undertake new projects in the Coal Industry either on its own, or in partnership with Australian Companies, or naturalised or naturalising companies, or jointly with Foreign companies, providing that the total Australian content of the project meets the 50% guideline. For the purposes of meeting that guideline a company which is in the process of becoming naturalised is given credit for 51% Australian ownership and a company which is already naturalised is given credit for its actual percentage of Australian ownership.

From the foregoing it is evident that at the Federal level there is a well established legislative and policy framework for controlling Foreign Investment in the Australian Coal Industry. Moreover, the Commonwealth, to the extent that it has constitutional power to legislate in relation to overseas trade and commerce and banking, is able indirectly through the exercise of export controls and exchange control regulations effectively to determine levels of Foreign Investment in the Coal Industry to a degree not contemplated by the Foreign Takeovers Act. The ability to control exports constitutes a powerful weapon to oversee an industry which is so strongly export oriented. The catch, of course, is that exploration titles for coal and coal mining leases are not granted by the Commonwealth Government, but by the Governments of the individual States. Some States have published policies in relation to Foreign Investment; most do not.

We propose to deal only with those States having a developed coal mining industry paying particular attention to the two most important Coal producing States, namely Queensland and New South Wales.

New South Wales

The policy of the New South Wales Government in relation to Foreign Investment in the Mining Industry of this State and in relation to coal mining in particular has been published in a series of undated "Information Sheets". We refer you in particular to those entitled

- (i) Investment Guidelines for the Mineral Industry in New South Wales.
- (ii) Coal Resources and Planning in New South Wales.
- (iii) The Government's role in Coal Resources.
- (iv) Coal export duty.

The simple thrust of that policy is that development of the State's Coal resources will not be permitted unless the development project has at least a 51% Australian

ownership component. The policy has no legislative support but as a practical matter its enforcement is relatively simple. In the case of existing leases it arises:

- (i) by reason of the standard condition of a Coal Mining lease in New South Wales which requires the consent of the Minister before the lease can be dealt with in any way;
- (ii) the legislative force of section 104 of the Coal Mining Act whose effect is that any instrument whereby any right in a Coal Mining Lease is created is of no force unless approved by the Minister.

In the case of leases under application (as to which, see below) the control lies in the discretion of the Minister to grant the same.

Neither the terms of a coal lease nor the Coal Mining Act, however will save an existing Australian Company operating in New South Wales from becoming Foreign controlled if that control is achieved by share purchases. Any such case is subject only to intervention by the Commonwealth Government according to its powers and policies discussed above.

Queensland

The Queensland Government has no published guidelines in relation to the Coal Mining Industry in that State. Control of the Industry as a whole is achieved through the Queensland Coal Board which is a body constituted under the Coal Industry (Control) Act for the Administration of which the Minister for Mines is responsible. The powers and functions of the Board are diverse and include:

- (a) ensuring that coal is produced in the State in such quantities and with such regularity as will meet requirements throughout Queensland and in trade with other States and Territories and other Countries;
- (b) to ensure that the coal resources of the State are conserved, developed, worked and used for the best advantage in the public interest;
- (c) to ensure that coal produced in the State is distributed and used in such manner, quantities and classes and at such prices as are calculated best to serve the public interest and secure the economical use of Coal and the maintenance of essential services and industrial activities;
- (d) to promote the welfare of workers engaged in the Coal Industry in the State.

Because the Queensland Government has no published policy in relation to the degree of Foreign ownership of Coal Resources in that State investors must have regard to Commonwealth Legislation and guidelines. As a general rule it appears however as if the Queensland Government desires to seek compliance with those

guidelines. In so doing the principal criterion applied is that of reasonableness, i.e. whether a proposed project would "benefit" Queensland. It appears to us that although Australian participation is considered desirable it is not essential in Queensland. This is highlighted by the fact that the level of foreign participation in Queensland was almost double that of other States for the period 1976-1977. (84% on a value added basis.) Australian Bureau of Statistics "*Foreign Control in the Australian Mining Industry for 1976-77*". Nevertheless, and admitting that we are dealing with statistics for different years, it is interesting to note that for the year 1979/80 exports of black coal from New South Wales were slightly in excess of these from Queensland.

Victoria

No published guidelines exist in the State of Victoria, but it is the practice of the Department of Mines in that State to follow Commonwealth policy.

As a practical matter, an exploration or mining title cannot be granted in Victoria to a company which is not incorporated in that State although the mere fact of incorporation in a State has no bearing on ownership of a company.

Although the Mines Act of Victoria regulates coal exploration and mining, there is (as you will be aware) very little mining of coal in that State by private enterprise, the major mines being operated by the State Electricity Commission which derives its authority under the State Electricity Commission Act. In fact only two privately owned coal mines exist in the State of Victoria. No black coal has been mined in the State for at least 5 years.

Whilst one can still apply for an exploration licence or mining lease, virtually all land in Victoria having significant brown coal reserves is owned by the State Electricity Commission, although more than 42 exploration licences have been applied for in the Murray Basin. The State Electricity Commission Act provides that all land acquired, resumed or reserved by the Commission for the establishing or operating a State coal mine vests in the Commission. Further, the granting of mining titles is complicated by the fact that land grants prior to 1880 included title to *all* minerals whilst after that date minerals were reserved to the Crown.

South Australia

The South Australian Government has published investment guidelines for the mineral industry in that State. The basic objective is stated to be to promote the growth of the mineral industry in that State consistent with the interests of its population concerning the ownership of their natural resources. However, the South Australian

Government retains in its policy a flexible view of its published guidelines.

Broadly speaking, that policy is to ensure a minimum Australian equity participation of 51% in respect of mining leases for new production and to promote as high a level of Australian participation as practicable. The requirement for majority Australian participation does not exist at the exploration stage provided it is met in any subsequent mining operations. In cases of exceptional value to the State, or where requirements exist for special technology which is not obtainable with immediate majority Australian participation, consideration will be given to minority Australian ownership provided that gradual majority Australian participation is achieved over a specified period.

The South Australian Government is cognizant that changes in company shareholdings are frequently beyond the control of the companies concerned and for that purpose, not having any special legislative framework within which to control portfolio holdings, its policy is to consult with Commonwealth authorities as to the application of Commonwealth policy.

It seems to us that the foregoing is largely academic as there is at present only one operating colliery in South Australia, namely the open cut at Leigh Creek owned by the Electricity Trust of South Australia.

Western Australia

The Coal Mining Industry in Western Australia is limited to two operations only, both of which are wholly Australian owned. Both mines have been established pursuant to agreements ratified by Acts of the Western Australian Parliament by which the State Electricity Commission is entitled to one half of the Coal produced. The Western Australian Government has no published or stated policy in relation to foreign ownership of that State's coal resources. However, the terms of the agreements with the Government under which the mines were established are suggested of a policy of promoting Australian and if possible, Western Australian participation at all levels.

The Legislative and Political Framework in the State

General

The Coal Industry in various States is subject to a wide variety of legislation, both Commonwealth and State. The Commonwealth legislation, as we have outlined above, is in the area of Foreign Takeovers, overseas trade and commerce, export controls and exchange controls.

At the State level, in addition to the laws relating directly to the granting of exploration and production titles, there are a number of other areas of legislation with which the Coal Industry is concerned but which are beyond the scope of this paper, such as Aboriginal Land Rights, the environment, the regulation of mines and welfare of mine workers.

The granting of exploration and/or mining rights to coal by the State Governments which, as previously noted, have virtually exclusive rights in that regard, is carefully regulated. New South Wales is the only State with a special Act relating to Coal Mining tenures, namely the Coal Mining Act. In some other States, mining, exploration or prospecting for coal involves the grant of a mining title applicable not only to coal but also to a variety of other minerals.

We propose now to deal with some of the restrictions which exist in the principal coal producing States in relation to the grant of exploration and/or production titles for coal.

New South Wales

In dealing with the regulation of the Coal Mining Industry in New South Wales it is always necessary to remember the reciprocal Commonwealth/State Legislation whereby there is established the Joint Coal Board. This Legislation is unique among the States to New South Wales and is found in the Coal Industry Act, 1946 of the Commonwealth and the Coal Industry Act, 1946 of New South Wales, which are for all practical purposes identical. The broad purpose of these Acts is to regulate, assist and rehabilitate the Coal Industry within the framework of private ownership, with a proviso that where necessary the Joint Coal Board has the power to step in and to control and operate Coal Mines and related enterprises. The result is that no mine may be opened or reopened in New South Wales, nor any operating mine closed, without the approval of the Joint Coal Board. The Board, however, has no power in relation to the grant of exploration or production titles, power in that regard being derived purely under the Coal Mining Act.

That Act provides for two basic forms of exploration title, respectively known as "authorisations" and "exploration permits". The only form of mining title is the coal lease. Dealing with each in turn:

1. Authorisations

Authorisations fall into two categories, depending on whether or not the title to the coal is part of the freehold of the land on which that coal is situated. Whether or not coal is privately owned depends on when the original Crown Grant of the land in question was made. The Coal

Mining Act gives the Minister for Mineral Resources power to deal with privately owned coal in virtually the same manner as if it were owned by the Crown. For practical purposes there is therefore little difference between privately owned coal and coal reserved to the Crown. Generally, only 3 categories of persons may apply for an authorisation to explore, namely:

- (a) the Under Secretary for Mineral Resources, acting on behalf of the Department;
- (b) a person nominated (for that purpose) by the Minister in writing;
- (c) a corporation established by an Act and designated by the minister by order published in the Government Gazette (for example see the State Electricity Commission).

In respect of privately owned coal, the owner of that coal or any person with the consent of that owner may apply for the grant of an authorisation. Such authorisation may, unlike in the case of an authorisation relating to coal owned by the Crown, include the right to mine as well as the right to explore but it must be noted that the Minister has an absolute discretion to refuse any application in this category.

It follows that for any person to obtain an authorisation he must on the one hand be either a person within the 3 categories listed above in respect of Crown-owned coal, or, in the case of private coal, have the consent of the owner thereof and thereafter make an application which is approved by the minister. When deciding whether to nominate a person under category (b) above, or to grant an authorisation to a person having the consent of the owner of private coal, the Government will have regard to its present policy which, in general terms, we believe to be the following:

- (a) to ensure that each company operating a coal mine in New South Wales is granted areas to replace those worked out. This policy is inherent in the Act itself which, as it will be noted below, provides for the Minister to invite applications for the grant of coal leases.
- (b) to limit in number those persons whom the Minister will nominate as a person who may apply for an authorisation and to limit the grant of authorisation to persons having the consent of the owner of private coal. Generally speaking, when an authorisation is sought the person seeking the same must be in a position to demonstrate to the Government that he can offer to the community at large some special skill, expertise or other benefit which will be of value to the state as a whole.

- (c) to promote orderly development of the State's coal reserves by inviting tenders for exploration permits (as to which see below).

The Coal Mining Act also permits the Governor to set aside lands containing coal which he considers should be retained for the future needs of the domestic steel industry, for power generation or for other special purposes.

There is a third category of authorisation which may be granted under the Coal Mining Act. These are generally for limited purposes, namely the drilling of an exploratory hole or the performance of investigative work of a prescribed kind and are available to only a limited category of persons namely:

- (a) an applicant or a tenderer for the grant of a coal lease;
- (b) the registered holder of a coal lease; or
- (c) the owner of a mine.

2. Exploration Permits

The second category of exploration title available under the New South Wales Coal Mining Act is the exploration permit. These are granted only following invitation by the Minister for tenders. Tenders are called from time to time consistent with the Government's policy of ensuring orderly development of the State's coal deposits.

3. Coal Leases

The form of production title under the Coal Mining Act is a "coal lease" which may be granted only in the following circumstances:

- (a) Upon the application by the registered holder of an exploration permit;
- (b) Where the Minister exercises his power under the Act and invites tenders for the grant of a coal lease in respect of land previously subject to an exploration permit (and that land is not the subject of a pending application for a coal lease) or if he is of the opinion that it is necessary by reason of previous exploration to first grant an exploration permit in respect of certain land.
- (c) Where the Minister is satisfied that it is necessary or desirable in the public interest to do so, either for additions to existing colliery holdings or for the purpose of opening new mines, he may invite any person to apply for the grant of a coal lease in respect of land specified by him.

Queensland

The granting of rights for the exploration or development of Coal Reserves in Queensland is now governed by the Mining Act, 1968-80. The Coal Mining Act, 1925 is still in force but deals only with mine regulation and safety.

Exploration

A person wishing to prospect for coal on either Crown Land or private land may apply to the Mining Warden of the district for an Authority to Prospect. An application for an Authority to Prospect on private land must be preceded by an application to enter the land in question and agreement with the owner of the land on the question of compensation for any damage done to the property. There are, except in the prescribed "Central Queensland Area" (as to which see below), no restrictions on making application for an Authority to Prospect for coal, save that an applicant company must be incorporated in or registered to do business in Queensland.

The Central Queensland area, covering a large part of the Bowen Basin, is not available for Authority to Prospect Applications since in the opinion of the Government the reserves of coal in that area have been sufficiently delineated. As a result, the Queensland Government from time to time calls tenders for the development of specified areas e.g. the recent case of Winchester South awarded to a consortium of BP Australia Limited, Westfield Holdings Limited and Drayton Mining Development Pty. Limited. We have been informed however that notwithstanding the tender system, specific proposals for development of particular areas will be entertained on their merits.

The requirements to be satisfied before an Authority to Prospect will be granted are:-

- (a) the provisions of a proposed programme of exploration for the area covered by the application.
- (b) the provision of an outline of the proposed expenditure on exploration.
- (c) that the applicant shows that it has the required equipment and technical expertise to carry out its proposals; and
- (d) the payment of a \$2,000.00 deposit.

If an Authority to Prospect is granted it will be for a term of not more than five years and subject, inter alia, to the following conditions:

- (i) that a specified amount of exploration expenditure be spent on the area during the period of the Authority;
- (ii) that regular reports on the results of exploration activities be submitted to the Minister;

- (iii) that a guarantee be lodged to ensure compliance with the prospector's obligations under the Authority; and
- (iv) that a bond be lodged to ensure compliance with the rehabilitation of the land.

Mining and Development

Once exploration is completed the holder of an Authority to Prospect can apply for a Mining Lease over the whole or part of the area of the Authority. A Mining Lease is issued on the recommendation of the Minister by the Governor.

Although the holder of an Authority to Prospect has the prior right to apply for a mining lease within the area of that Authority there is no security of tenure i.e. no guarantee that a mining lease will be granted even though all conditions of the Authority have been fulfilled. We refer you to the celebrated case of *Cudgen Rutile (No. 2) Pty. Limited v Chalk* (1975) A.C., 520.

The terms upon which coal mining leases are issued include the following:-

- (i) that an annual rental fee of \$10 per hectare be paid;
- (ii) that one man is employed for each 40 hectares for the first two years of operations and subsequently one man for each 20 hectares. The Minister may waive these labour conditions if the expenditure on the operation exceeds \$2,000 for every 40 hectares or 20 hectares respectively;

Conditions also exist as to the ability to mine in proclaimed environmental reserves or aboriginal reserves.

Many coal projects in Queensland have been developed pursuant to detailed "franchise agreements" between the developer and the Government. These agreements, which are ratified by Acts of Parliament, contain provisions for the grant of mining leases, mine development, infrastructure, employment and otherwise.

Western Australia

In Western Australia major exploration programmes, whether for coal or for other minerals, are usually conducted under an administrative process allowed by S276 Mining Act, 1904-1978. Any person or company proposing to explore for coal or other minerals on a large scale (which we believe includes all coal exploration) may make application to the Under Secretary for Mines to have an area declared as a "temporary reserve" which in the case of coal may extend over an area of up to 200 square kilometres.

The Minister naturally will consider possible effects on the environment as well as a variety of other factors before granting any temporary reserve, such reserves

being for a term of 12 months. The reserves are renewable, although at the expiration of three years a 50% reduction of the area of the right to occupancy is required, with a further reduction of 50% of the existing area at the end of four years with the right of occupancy ceasing completely on the expiration of the fifth year. Regular reporting to the Government relating to the activities carried out is required.

Once mining is to be undertaken two alternative methods of obtaining the right to mine an area can be taken, those being:-

1. Application for a Mining Lease.
2. By negotiating a franchise agreement with the Government.

1. Mining Lease

The holder of a Miner's right may apply to the Governor for a lease of any Crown Land for the purpose of mining for any mineral (including coal) other than gold. A mining lease gives a right of exclusive occupancy of the land the subject of the lease and may be for a maximum term of 21 years. The area of a coal mining lease will normally be 320 acres provided that where payable coal is discovered and the lease is not within 15 miles from any previously discoverable payable coal then the maximum area of the lease may be 640 acres. Leases held by the same leaseholder may be amalgamated provided the aggregate area does not exceed 2560 acres.

2. Franchise Agreements

From the foregoing it will be clear that whereas the control of small scale mining and prospecting operations is governed by legislation similar to that of the other States major mining (including coal) projects in Western Australia are likely to be governed by special agreements, ratified by Acts of Parliament and entered into between the Western Australian Government and the mining company. The only two coal mining operations in Western Australia are both governed by so-called "franchise agreements" of this type, namely the Collie Coal (Griffin) Agreement Act, 1979 and the Collie Coal (Western Collieries) Agreement Act, 1979. Both of these agreements contain similar provisions, the most significant being:-

- (i) The recital of the State's desire "to ensure that the coal resource of Collie is developed in the most economic and practicable way and that the coal requirements of the State Energy Commission and industry in Western Australia are adequately safeguarded . . ."
- (ii) The agreement between the parties that fifty percent of the extractable coal reserves in the relevant coal mining leases be reserved to satisfy the needs of the State Energy Commission.

- (iii) The obligation upon the Company that the coal resource is mined in the most economic and practicable way which evidences itself in the requirement for long term overall exploration and development programmes and the obligation progressively to rehabilitate the areas, and the provisions that, prior to the commencement of year 1, the company must submit "to the fullest extent reasonably practicable its proposals . . . for the exploration and development of the Company's coal resource" for the first fifteen years of operations.
- (iv) The requirement that the Company carry on research "to ascertain the effectiveness of the measures it is taking . . . for rehabilitation and the protection and management of the environment".
- (v) The requirement that as far as it is reasonable and economically practicable – the Company shall use

the services of residents of Western Australia and employ labour available within the State.

It seems clear that by the use of franchise agreements of this type the State is more readily able both to encourage and yet directly control major mining activities. The use of such a system clearly means that greater attention can be given to any special features of the particular project under consideration.

Readers who are interested in obtaining a statistical review containing details of:

- (i) developed mines, developing mines and potential coalfields in Queensland;
- (ii) ownership of principal coal mines in New South Wales;

may write direct to the authors.

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