

The result is diversified coal owners in categories 1, 2 and 3 above receive less compensation than category 4 owners.

Incidentally, there was a referendum proposal in 1988 put to the Australian voters that there be added to the federal Constitution a provision to the effect that a law of a State must provide for just terms compensation for any acquisition of property. However, it was part of a number of proposals (some contentious) put as one resolution. The resolution was rejected by the voters. The nation's vote in favour of the resolution was a mere 30%. The Court of Appeal and Kirby J took comfort in their position having regard to the result of that referendum resolution.

Conclusion

The fact that divested coal owners can be treated in this way is quite extraordinary but it is within the power of a state government to do so and the Courts have declined to limit that power.

Ultimately as stated by Kirby J under the Australian constitutional legal framework the complaints of discrimination and injustice in this instance are complaints of a political and not of a legal character.

NORTHERN TERRITORY

MINING MANAGEMENT BILL 2001*

Introduced in the February/March sittings of the Legislative Assembly was the *Mining Management Bill 2001* dealing with safety, health and environmental requirements of mining activity in the Northern Territory – from exploration through to rehabilitation.

The legislation is described as being drafted on the basis of providing principles and objectives for miners to meet, rather than being prescription based, in contrast to the current *Mine Management Act* (to be repealed).

One significant change to the current mining regime is the introduction of the requirement to obtain an Authorisation from the Minister prior to undertaking mining activities (including exploration where substantial disturbance to the land surface is to occur). An Authorisation specifies the mining activities that may be carried out, the conditions to which the mining activities are subject, and the obligations of the miner. The expressed purpose of such conditions is the protection of the safety and health of persons and of the environment and to ensure good mining practice. The Authorisation is able to be varied by the Minister from time to time, thus introducing greater flexibility than currently exists with the use of conditions in the lease itself.

Also tabled was the *Mining Amendment Bill 2001* which makes consequential amendments to the Mining Act, principally to reflect the use of Authorisations for new tenements and licences.

* Christopher Knott, Cridlands.