

Islands in the Sun: the Court Libraries of Christmas and Cocos (Keeling) Islands

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INTRODUCTION

Following the publication in March 1991 of a report by the House of Representatives Standing Committee on Legal and Constitutional Affairs¹ and the subsequent enactment of the 1992 *Territories Law Reform Act*,² a Service Delivery Agreement (SDA) was ratified between the Commonwealth and the State of Western Australia in June 1993 for the provision of justice related services to Christmas and Cocos (Keeling) Islands. This SDA, and others that followed, provide the administrative arrangements necessary to support the extension of the applicable law of Western Australia to Christmas and Cocos (Keeling) Islands.

The law of Christmas Island has a distinctive hierarchy.³ It is aptly summarised by Mr Justice Young in the following terms:

Up until 1957, Christmas Island was part of the Colony of Singapore. However, by Order in Council of that year it was excised from Singapore and made a separate colony. In 1958, it was ceded to Australia and accepted as a Territory. In 1992, s 8(a) was inserted into the Christmas Island Act so that the law of Western Australia applied on Christmas Island.⁴

¹ Australia Parliament House of Representatives. Standing committee on Legal and Constitutional Affairs, 1991, *Islands in the Sun: the Legal Regimes of Australia's External Territories and the Jervis Bay Territory*, AGPS, Canberra

² *Territories Law Reform Act*, no. 104 of 1992 (Cth); 'Territory' 1992, *Australian Yearbook of International Law*, vol. 14, pp. 434-436

³ *Islands in the Sun*, pp. 34-36.

⁴ Young, P. W. 1999, 'Christmas Island may sometimes be in Western Australia,' *Australian Law Journal*, vol. 73, no. 2, p. 110

Similarly, in 1955 the Cocos (Keeling) Islands had ceased to be part of the Colony of Singapore and were placed under the authority of the Commonwealth.⁵ In 1992, s 8(a) was also inserted into the *Cocos (Keeling) Islands Act* by the *Territories Law Reform Act* with the same effect, that is, the law of Western Australia was applied to the Cocos (Keeling) Islands.

In October 1993, following consultation with the Chief Magistrate, the Ministry of Justice staff purchased a basic collection of legal texts and reports. These were processed, packaged and sent off to each of the Islands.

This article briefly describes the library work undertaken on three visits to Christmas Island between December 1995 and September this year, and two visits to the Cocos (Keeling) Islands in May 1997 and September this year.

CHRISTMAS ISLAND

Christmas Island is situated in the Indian Ocean 360 kilometres south of Jakarta and 2600 kilometres northwest of Perth. It has an area of 135 square kilometres and rises sharply out of the sea to a height of 360 metres. It is a tropical island and boasts some unique flora and fauna – 60% of the island is National Park. The population of 2500 is comprised of Chinese, Malays and Australians.

My first visit took place in December 1995 and the famous red crabs could be seen everywhere. The Library had been moved from the Shire Offices across the road into the Central Administration building which provided improved accommodation for the small but growing legal collection. Help was needed to get the material into a useful arrangement for the visiting Magistrate and for Court staff.

This was an “unofficial” visit since no provision had been made in the first SDA for a Librarian to travel to either of the Islands. It was initiated by the Managing Registrar (Clerk of Courts) and strongly supported by the visiting Magistrate. I stayed in the public housing area known as the ‘kampong’ and bought supplies,

⁵ *Islands in the Sun*, p 71

that is food, from the Christmas Island supermarket. The journey to work took less than two minutes in a car.

I had three days to work a miracle.

The books that we had sent two years earlier were dusty and dirty but otherwise in good condition. Law reports and legislation all needed to be re-shelved after superseded material was removed. Not much had been discarded because at that time no one could be certain that it should be. There was also a legacy of old books and papers to be excised from the current material. Quite where all this had come from I really could not tell.

Gradually, a working law library emerged from the collection of 'dusty old books'. At the same time some training was provided to those who would be responsible for maintaining the collection after I left.

Subsequent SDAs have provided for a Librarian to visit each Island once every three years and I have just returned from my third visit to Christmas Island. There have been some changes since my last visit. Most notably (from a Librarian's point of view, at least) court staff now have access to the Internet. As well as heaving dusty tomes about the place, this time I was also able to provide useful Internet addresses. There is now a good working relationship with court staff who are appreciative of the advice and assistance they receive not only during the visits but also when they phone or email the Library.

COCOS (KEELING) ISLANDS

The Cocos (Keeling) Islands are a group of 27 small coral islands with a total land area of only 14 square kilometres. They are located in the Indian Ocean some 2700 kilometres northwest of Perth and 3700 kilometres west of Darwin.⁶ There are five major islands in the atoll but only two are inhabited: West Island and Home Island. West Island houses the Territory's administration and airport as well as a population of approximately 200 Commonwealth public servants. Home

⁶ *Islands in the sun*, p. 69

Island is the traditional home of approximately 400 Cocos-Malay people. In 1992 the total population count for the Cocos (Keeling) Islands was 586.⁷ The climate is tropical, the scenery idyllic and the diving is said to be world-class. The water is warm and abundant in marine life. An account of the colourful and fascinating history of the Cocos (Keeling) Islands has been recorded by Pauline Bunce.⁸

As for Christmas Island, a basic collection of legal texts and reports was purchased, processed and despatched to West Island late in 1993. The first request for assistance came towards the end of 1996 following a report by the visiting Magistrate.

The books that we had supplied were housed in the Chambers of the visiting magistrate. These Chambers are located in the police station, which in 1997 was the newest building on West Island. A large collection of WA and Commonwealth statutes, on the other hand, were located in the office of the Shire Clerk in the main administration building a short walk away.

It was sensible that the two collections of legal material be amalgamated at one location – the police station, which also serves as the courthouse. I knew that it would be difficult to complete this physically demanding task alone so I recommended that two Librarians be allowed to make this initial visit. Fortunately, the necessary approvals were given and in May 1997 two of us were on our way to the Ministry's most remote location.

Sorting, packing and moving the legislation was the largest single task and took the best part of two days. Making sufficient room for all the material in the Magistrates Chambers was another challenge.

Of course all this hard work had its compensations. We were asked to provide advice in relation to the books that had been removed from Oceania House – the

⁷ *Yearbook Australia* 1994, p 75.

⁸ Bunce, Pauline 1988, *The Cocos (Keeling) Islands Australian atolls in the Indian Ocean*, Jacaranda Press, Milton, Queensland.

Clunies-Ross residence.⁹ These had been affected by humidity and at some stage infested by borers and other assorted insects. They had been packed in boxes and left sitting forlornly in an unused room at the small museum on Home Island. This request for advice meant that we had a reason for an 'official' visit to Home Island. I can report that catching the ferry and crossing the azure water between West and Home Islands is an experience worth having at least once in your lifetime.

I have just returned from my second visit to Cocos (Keeling) Islands. There have been some changes in the last three years: a small number of private residences are under construction on West Island; there is more than one place to stay; you can hire a car (rent-a-wreck) or a scooter; and there is an Internet café (small grey shed) on Home Island.

I hope there are not too many more changes

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⁹ The Clunies-Ross family were the first Europeans to settle on these islands, in 1827. Their control of the Island was recognised by a royal grant in 1886. Great Britain transferred the Islands to Australia in 1955 and in 1972 John Clunies-Ross relinquished his authority to the Australian government.