

LQ
K1
A26.1

ABORIGINAL LAW NOTES

No. 82/2

Being notes on matters of current interest concerning
Aboriginals and the Australian legal system, as
reported to, or discussed at meetings of the Aboriginal
Law Research Unit.

MEETING 5/82

SYDNEY

17 AUGUST 1982

Present: Garth Nettheim (Chair), Richard Bell, Paul Coe,
Bill Craigie, Chris Kirkbright, Chris Lawrence, John
McCorquodale, Lyall Munro Jr., Neil Rees, Tony Simpson,
John Terry, Robert Tickner, Meredith Wilkie.

Apologies: James Crawford, Colin Tatz.

Next meeting: 5.30 - 7.00 p.m., Tuesday, 28 September 1982,
Aboriginal Legal Service Ltd.,; Cnr. Cleveland and
Abercrombie Streets, Chippendale.
(All Advisory Council members are welcome to attend. To
check for any late change in arrangements, phone the
telephone number below).

MELBOURNE

MEETING 1/82
2/82

15 JULY 1982
19 AUGUST 1982

Next meeting: 5.30 p.m., Thursday, 16 September 1982,
Victorian Aboriginal Legal Service, 11 Brunswick Street,
Fitzroy.

(Telephone contacts: Bryan Keon-Cohen 60-1876;
Greg Lyons 347-1680
Ian Grey 419-3888

The Aboriginal Law Research Unit is located in the Faculty
of Law, University of New South Wales, P.O. Box 1,
Kensington, N.S.W., 2033, Australia. Telephone (02) 663-0351
Extension 3266.

The Unit also publishes the Aboriginal Law Bulletin 4 times a
year.

Aboriginal Law Notes is distributed to members of the Unit's
Advisory Council for \$5 p.a.

CHAIRMAN'S REPORT

Operating Funds

The balance at the 7 July meeting was \$253.50. Income since then is \$250. Expenditure is \$30.50.

The current balance is \$473.00.

Project Funds

Neil Rees and Garth Nettheim, on 21 July met the Australian Research Grants Committee to discuss the application for funding for the "Land Rights, General" project.

The Law Foundation of New South Wales had offered \$3,000 towards travel and accommodation costs of the Conference "Human Rights for Aboriginal People in the 1980s". Only \$1500 was needed for the purpose. The Law Foundation has now agreed that the remaining \$1500 may be used to assist publication of the proceedings.

The Chairman wrote to George Brownbill on 16 July to ask whether DAA would be interested to fund a national conference of Aboriginal Legal Services. He replied on 30 July that DAA funds would not be available.

On 23 July the Chairman wrote to the senior lawyers of the Northern Land Council and the Central Land Council to check out the possibility of the Councils' funding the Resources Development Negotiation Project. No replies have yet been received.

Requests for Advice

A further request for professional legal advice has been received and handled.

Meredith Wilkie is providing advice and assistance to a number of communities and organizations - see the N.S.W. Land Rights Project report.

Dr. John Hookey of the Human Rights Commission telephoned on 12 August for information about by-laws for Aboriginal communities, and may consult the Unit further.

Publications

Frank Brennan had contacted University of Queensland Press, and the Press wrote to the Chairman for further details of the Alwyn Peter case proposal. However the Unit has now seen proofs of a book by Paul Wilson on the subject, so that there seems to be no

point in proceeding with the original proposal. Wilson's book, Black Death. White Hands, is to be published soon by George Allen & Unwin.

Initial approaches are being made to publishers for publication of an "Aborigines and the Law" casebook for use in teaching, in ALS offices, etc.

Initial approaches are also being made to publishers to publish proceedings of the Conference "Human Rights for Aboriginal People in the 1980s".

Curriculum Project

Teaching of the subject "Aborigines and the Law" at the University of New South Wales had been completed in June. Student evaluations of the subject were generally enthusiastic.

Several students plan continuing involvement in Aboriginal law issues. One is commencing a research thesis on hunting and fishing rights.

Copies of the materials have been sent to several law schools, and to Greg Lyons in Melbourne, Doug Sanders in Vancouver.

Research

Christine McIlvanie had visited Sydney (and other centres) in July to discuss her Wee Waa research with Colin Tatz, John McCorquodale, John Terry, Garth Nettheim and others.

Conferences

Harold Finkler has sent information concerning Symposia on Folk Law and Legal Pluralism at the XIth International Congress of Anthropological and Ethnological Sciences in Canada in August 1983.

Discussions have resumed with the Ministry concerning a possible seminar on mining and NSW land rights legislation.

An informal Sunday meeting on Makarrata issues is proposed at the University of New South Wales Law School on 22 August 1982, to be attended by available ALRU members, NAC Executive members and others.

There have been some expressions of interest in the proposed national conference in November.

In Melbourne, Greg Lyons, Bryan Keon-Cohen and Garth Nettheim listed a number of topics that might be incorporated in the program:

- Interrogation of Aborigines
- Proposal for a National Association of ALS lawyers
- Native law centres in North America

Burnout and turnover
Management - professional relationships
Legal Service staff training
Records and statistics
Mineral resource negotiations
In-service seminars for lawyers

It is proposed that each ALS organization should be asked to send a minimum of one Director and one lawyer; similarly representatives should be invited from principal Land Councils.

It was also suggested that it would be useful to circulate a document setting out a brief history of such national meetings of ALS organizations as have been held, together with relevant extracts from the Ruddock Report. Daryl Gunter has agreed to help prepare such a document.

Queensland Pamphlet Project

Chairman had written to the Black Protest Committee and the National Campaign for Land Rights and Self-Management in Queensland. Black Protest Committee replied on 23 July welcoming Gary Hiskey's proposal for an ALS pamphlet. A draft has been sent from ALRM to the Unit for comment.

George Allen & Unwin are willing to contribute to cost of the pamphlet by placing a notice for Victims of the Law. Black Queenslanders Today and Black Death. White Hands.

Miscellaneous Correspondence

from NAC Secretariat (5 August 1982) seeking written material etc. on Aboriginal issues

from Blackbooks, a new bookshop service established by Co-operative for Aborigines

from Robert M. Goldberg, Attorney in Anchorage, Alaska, seeking a copy of Victims of the Law. Black Queenslanders Today - answered 5 August 1982

from and to Greg Lyons and Bryan Keon-Cohen in Melbourne about Aboriginal Law Bulletin, Melbourne meeting, etc.

to Richard Bartlett (of Saskatoon) in Perth, enclosing statement of claim in Mabo v Queensland.

Publicity

Uniken (University of New South Wales) on 30 July featured a story on the NSW Land Rights Project. This has led to Meredith Wilkie being interviewed on ABC radio and 2EA, and to a story

the North Shore Times. Copies of the story have been sent by Meredith Wilkie to Aboriginal communities and organizations and others.

A brief article about the Unit has been sent to the editor of the Australian Law Journal.

International Contacts

Letter from Harold Finkler in Canada - referred to under Conferences.

General letter from Douglas Sanders in Vancouver (3 July 1982) and reply (20 July 1982).

Correspondence with Pam Ditton in North America who attended the Conference of First World Nations in Regina, Canada - material about ALRU was sent to her for distribution.

Resources

Senate Standing Committee on Constitutional and Legal Affairs have provided copies of principal submissions and transcript of hearings on the Makarrata reference.

Mr. John Quinn of the UN Political Section, Foreign Affairs Department, has provided copies of Australia's initial report to the Human Rights Committee, and the 3rd report to the Committee on the Elimination of Racial Discrimination.

Melbourne Visit

On 15 July the Chairman visited Melbourne at the invitation of the Aboriginal Research Centre at Monash University to give a lecture on "Aborigines and the Law" in the Aboriginal Studies course. He had discussions with Eve Fesl about the work of ALRU and of the ARC. The ARC is not directly involved in legal issues. In principle the ARC would be happy to provide an institutional link for ALRU (Vic.) if needed.

The Chairman stayed overnight in Melbourne to attend a meeting at the Victorian Aboriginal Legal Service. It was attended by about 20 people including all current, and some former, VALS lawyers. There was discussion of the work of ALRU and the possibility of forming a Melbourne group. The consensus that appeared to emerge was that an ALRU (Vic.) would be valuable, and a 4-person committee was appointed to arrange a further meeting on Thursday, 19 August.

The meeting wished to work with ALRU rather than becoming a totally separate entity. There was considerable interest in ALRU current projects for field officer training and State-level land rights. There was also interest in the plan for a national ALS conference in November.

Bryan Keon-Cohen has supplied minutes of the meeting. Notes on the meeting and of the 19 August meeting will appear in Aboriginal Law Notes.

Discussion

Robert Tickner asked for copies of the Australian Government's reports to international human rights agencies.

ABORIGINAL LAW BULLETIN REPORT

Neil Rees, editor, tabled copies of Issue No. 5 which had just arrived from the printer, together with insert copies of Australian Law Reform Commission Discussion Paper No. 18.

He reported that the next issue would appear with the December Legal Service Bulletin. Deadline for copy is 15 November. He particularly invited contributions, and comments, from Aboriginal Legal Service workers.

LEGAL SERVICE TRAINING COURSE REPORT

John Terry, Director, reported that the course had completed its fourth month. The last period had been partly spent in consolidating knowledge and skills developed early in the course with the aid of Law School criminal law problems. He was in the process of preparing a mid-course report, and evaluation processes were under way.

DAA support for the course in 1983 will, apparently, depend on potential enrolments. Paul Coe reported that there are 25 people wishing to enrol in 1983, including field officers from Victoria and Queensland. Decisions on support for the course in 1983 will presumably be made at ministerial level. At present the prospect is positive.

Daryl Gunter suggested that if DAA declined to fund the course, the Aboriginal Development Commission might be willing to do so.

NSW LAND RIGHTS PROJECT REPORT

Meredith Wilkie tabled the following report:

In my first six weeks in this position, I have been concerned first to advise the Aboriginal community of my availability to do research on land rights and, secondly, to stimulate discussions leading to submissions and/or delegations to the Minister and his Ministry as a matter of some urgency.

PUBLICITY: (a) I was interviewed by the Publicity Unit of UNSW and an article appeared in Uniken dated 30th July.

(b) On 2 August I was interviewed on ABC radio news.

(c) Press Releases were posted to all Aboriginal communities and organisations on a list given to me by D.A.A. Quarterly Editor.

(d) I have had conversations with some members of the N.A.C., the Aboriginal Lands Trust, the Ministry of Aboriginal Affairs, the Aboriginal Legal Service, Redfern, the NSW Aboriginal Land Council, the Western Land Council, the South Coast Land Council, as well as with representatives of a number of communities, about my position and role.

DISCUSSION: On the subject of the present state of land rights activity: (a) I attended a meeting held at Nambucca Heads on Friday, 30 July, attended by representatives from Burnt Bridge, Purfleet, Bellwood and Macksville. This meeting resulted in a submission in the form of a report of the meeting, which I prepared and delivered to Pat O'Shane, Secretary, Ministry of Aboriginal Affairs.

(b) I prepared a document entitled Land Rights Issues which has been posted to Aboriginal communities and organisations.

(c) I sent simultaneously a notice informing communities of the thesis to be undertaken by Michael Hogan,

law student, UNSW on hunting, fishing and related rights.

(d) I attended a meeting of far north coast communities at Tabulam on Thursday, 12 August and a meeting at Tweed Heads on Friday, 13 August.

OTHER RESEARCH: (a) On Thursday, 15 July, I was asked by Pat O'Shane to prepare an advice on a number of defined issues arising from the Draft Cabinet Minute of that date. This advice was completed on Thursday, 22 July.

(b) I attended a meeting on a property near Johns River north of Taree at the invitation of the Purfleet community. I arranged also for Mr. Les Ridgeway, Aboriginal Development Commission and Ms Anne Wheldon, Ministry, to be there with a view to their making submissions for the purchase of the property. Also present was Mr. Ian Cranwell, a National Parks and Wildlife Service Ranger. I prepared a submission also which accompanied that of Les Ridgeway's to the Aboriginal Development Commission, and copies of which have been posted to relevant persons and bodies.

(c) A number of other subjects have been suggested for investigation. Some of these are suitable for student research exercises and I am sounding out a number of students and lecturers.

PLANS: Trips to the South-West and the South Coast in the near future are likely.

It has been suggested that I prepare a general paper on land rights in NSW. Another suggestion is that I prepare a paper to be used to educate and inform those who will be involved in land rights administration in the future.

* * * * *

In discussion of the report, Meredith Wilkie said that it would be desirable to monitor material in New South Wales country newspapers on land rights issues. She had had one quote a clipping service of \$35 a month, but there would be several week delay in delivery.

John McCorquodale said that AIAS in Canberra collects newspaper clippings, and he suggested contacting Jill Mendhan at the Institute.

Robert Tickner asked about the timing of the Cabinet minute. Meredith Wilkie understood that it would be considered by Cabinet within days.

BIBLIOGRAPHY

John McCorquodale reported that AIAS and George Allen & Unwin are moving ahead to publish his bibliography, possibly by March.

ALRU BROCHURE

Garth Nettheim tabled draft text for a brochure and invited comment.

MAKARRATA MEETING

There was brief discussion of arrangements for a meeting in Sydney on Sunday, 22 August, to discuss Makarrata issues. Members of the NAC Executive are expected to attend together with ALRU people and others with an interest in the area: expected attendance is 20-30. ALRU will provide a light lunch.

NATIONAL ALS CONFERENCE PROPOSAL

The proposals, referred to in the Chairman's report, and in ALB No. 5, was discussed.

There seemed to be agreement that such a conference would be valuable. Additional topics for discussion suggested were:

- A national ALS organization
- Staff exchanges
- Salary scales
- ALRC work on customary law
- Aboriginal children
- Makarrata

Paul Coe said that a meeting of national ALS organizations might take place in Brisbane in September, at the time of the Commonwealth Games. Garth Nettheim is to check on this.

There was some feeling expressed that a 2-day conference would be inadequate, and that a longer period might be needed.

Paul Coe suggested that late January-February might be a better time from the point of view of ALS organizations.

DAA has advised that it would not be able to fund such a conference. The 1975 Conference cost \$15,000. It was suggested that travel costs might average \$300 per delegate. Possible funding sources suggested: Australian Council of Churches, Institute of Criminology. Otherwise the Conference would need to be self-supporting. Travel would be the major expense - each organization might be asked to finance its own delegates. Accommodation and meals might be provided through Aboriginal Hostels or University colleges.

ALS (Redfern) would be happy to provide a venue for meetings but would probably not be able to accommodate more than 30. About 40 people attended the 1978 Conference, and it was thought that the numbers now might reach 50-60. Alternatively the conference might be held at the University of NSW.

There was some discussion whether every separate organization would want to be represented or whether, say, in Queensland, the organizations might, through a State meeting, select delegates to represent all, and to report back to all.

Neil Rees said that he proposes to include a letter, with ALB mailings to legal services, inviting their responses on a variety of questions about the Conference proposal.

[P.S. It was subsequently confirmed that Brisbane ALS is planning a national meeting on October 1-3. Accordingly the ALRU proposal is set aside for the time being].

ALS DIRECTORY

Neil Rees also plans to include a brief form in the ALB mailings, for return to him to provide current information about ALS organizations, addresses and personnel. This information will then be distributed to all ALS as an up-to-date Directory.

* * * * *

ALRU (VIC)

Bryan Keon-Cohen has supplied the following report:

On 15 July 1982 at the Victorian Aboriginal Legal Service the initial meeting of ALRU (Vic) occurred. Approximately 20 people attended including several solicitors from VALS and other firms, Melbourne barristers, Eve Fesl of the Aboriginal Research Centre, Monash, field officers and others. An interim committee was formed comprising Greg Lyons, Ian Grey, Richard Brear and Bryan Keon-Cohen.

Garth Nettheim spoke of ALRU (NSW) objectives and activities, and future plans. The general development of ALRU (Vic) organizational activities, funding and immediate priorities were discussed. This was a well attended meeting and an encouraging start.

At ALRU (Vic)'s second meeting on 19 August the Interim Committee was confirmed; action-priorities were established; as was a sub-committee concerned with Aboriginal-police relations in Victoria - seen as the most pressing problem for the Centre.

The second priority - land rights legislation in Victoria - also received considerable discussion. This centred on the government's recently released Discussion Paper outlining legislative principles; the need to facilitate consultation and comment throughout Victoria; and prospects of obtaining funds to employ a researcher for this purpose. ALRU (Vic) is still in its infancy but is already engaged in substantial projects, along similar lines to the parent NSW body