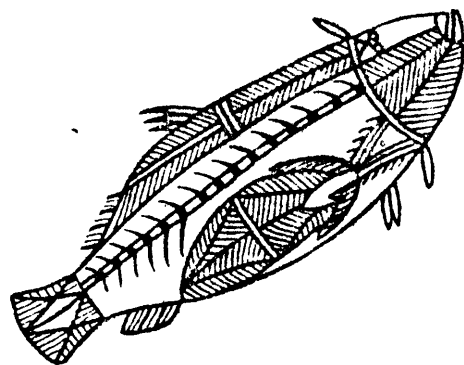


LQ/KI/A261 9

ABORIGINAL LAW NOTES



No. 84/2

MARCH, 1984.

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

SYDNEY

Next meeting
and reception:

5.30 - 7.00 p.m., Thursday, 22 March, 1984,
in Staff Common Room (Room 1121) Level 11,
Law School, Library Tower, University of
New South Wales. (Car entrance - Gate 9,
High Street.)

The meeting will be combined with a reception
for Aboriginal law students.

Topics for Discussion: Appropriate uses for
funds from Aboriginal Treaty Committee.

Is the time ripe for an Aboriginal Lawyers'
Association, or an Aboriginal Legal Workers'
Association (including field officers)? If so,
can ALRU assist?

Any member of the Advisory Council "network" is welcome to attend
meetings.

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. Chairman - Garth Nettheim - 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. Subscription 5.00 p.a.

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LAND RIGHTS DEVELOPMENTS

At the meeting of ALRU on 14 February, 1984, Kevin Cook provided information about the development of local and regional land councils under the N.S.W. legislation. Tony Simpson talked about the work of the lawyers' team preparing Federal legislation, including a draft Aboriginal Heritage Protection Bill.

John von Sturmer reported that he has a complete set of submissions to the Seaman Inquiry on Land Rights in W.A.

It was noted that Mr. Seaman's Discussion Paper had been published; also Justice Toohey's report "Seven Years On" on Northern Territory Land Rights; and a Discussion Paper on National Aboriginal Land Rights Legislation.

ABORIGINAL LAW BULLETIN

Deadline for April issue is mid-March.

ABORIGINAL TREATY COMMITTEE

The ATC proposes to transfer its remaining funds to ALRU - see below, from National Times, 24 February - 1 March, 1984. ALRU seeks advice from members of the Advisory Council as to the most appropriate uses for this money.

(ADVERTISEMENT)

The Aboriginal Treaty Committee has decided to cease its activities. The reasons for this decision were set out in the last issue of Treaty News. As its final act the committee has written to the Prime Minister and The Minister for Aboriginal Affairs urging that the Government support the continuation of the educational work initiated by the committee. The terms of the letter were:

The Aboriginal Treaty Committee has decided to cease its activities. This decision has been made necessary by the increasing age of some of its members and the impossibility of maintaining a sustained educational program by the efforts of a small private group dependent wholly on voluntary donations of concerned individuals and its own personal efforts.

Certain of its recent activities will continue to bear fruit. The recent conference on 'international law and Aboriginal Australians' focused attention on the growing strength of international action through agencies of the United Nations to bring indigenous peoples - the 'colonies within' - into the scope of the U.N. determination to end colonialism. The Australian National University will shortly publish an account of that conference which we commend to your Government. Also Judith Wright is preparing for the committee a book on the treaty campaign which records the work of the committee, reviews the processes by which

progress towards a treaty can in our view best be carried on and comments on issues with which it must deal.

We address this letter to you because we believe strongly that the work which the committee has done to raise the level of awareness among non-Aboriginal Australians of the need for an agreed constitution-style basis for the relationships between Aboriginal and non-Aboriginal Australians must be continued and intensified. Only if that awareness is greatly strengthened can a consensus be developed to provide a basis for a 'compact' between them and so to avoid a polarisation of Australian Society.

We draw your attention to the finding of the Senate Standing Committee on Constitutional and Legal Affairs that

... there will need to be a continuing and extended education program occurring in the non-aboriginal community so that by the time a compact is ready to be concluded, a valuable process of healing and understanding between both communities will have taken place. Perhaps the

fundamental task of this process will be to create an attitudinal change generated by discussion, consultation and negotiation.

As its final act the committee urges that your government, as its most important task of National Reconciliation, establish and support a non-government agency dedicated to the achievement of that attitudinal change.

The accounts of the committee have been examined by Price Waterhouse Chartered Accountants and found to give "a true and fair view of the state of affairs of the committee at 31st December 1983." They disclose members' funds in cash and bank deposits of \$14 457. The committee has decided to give these funds to the Aboriginal Law Research Unit of the University of New South Wales to support research relating to a possible treaty and assistance which the unit provides to Aboriginal organisations.

I have written in these terms to the Minister for Aboriginal Affairs and propose to include the text in an advertisement informing our supporters of these arrangements.

We thank the many supporters of the treaty concept for their work. While the committee no longer exists, its members will continue to be active in their personal capacities, we hope that a growing number of non-Aboriginal Australians will do so also.

H. C. COOMBS,

For the Aboriginal Treaty Committee, sent 22/2/1984

CORRESPONDENCE

- From Russel Barsh, University of Washington, Seattle, enclosing articles, discussing Human Rights Commission meeting, and proposing a further visit to Australia.
- To Alan Tegg, Warmun Community, W.A., about assistance with proposed submission to Seaman Aboriginal Land Inquiry; copy to Stuart McGill, New York.
- To Tony Simpson, ALS, Chippendale, with addresses of European contacts.
- From Graeme McDonald, Perth, information about Alaska Native Review Commission.
- To Hon. Clyde Holding, Canberra, seeking funding support for editorial assistant and for production costs, Aboriginal Law Bulletin.
- With Doug Sanders, Vancouver, Canada, about various matters.
- From Richard Bartlett, Saskatoon, Canada, about his research, and agreeing that copies of draft articles be provided to lawyers preparing national land rights legislation.
- From Max Charlesworth, Deakin University, with land rights book and transcript of interview with Justice Woodward and Nicholas Petersen.
- To Vice-Chancellor, University of New South Wales, about the Aboriginal Law Research Unit.

REPORTS, PUBLICATIONS, ETC. RECEIVED

- Douglas Sanders "Comparative and International Chronology on Indigenous Rights".
- Douglas Sanders, "The Renewal of Indian Special Status".
- Colin Tatz, "Aborigines and the Age of Atonement".
- Aboriginal Land Rights Support Group. Newsletter, Vol. 22 (Dec. 1983)
- Papers on the Symposium on Folk Law and Legal Pluralism, Canada, August, 1983.
- Justice Tooley, Seven Years On. Report to the Minister for Aboriginal Affairs on Aboriginal Land Rights in the Northern Territory. (Dec. 1983)
- Paul Seaman Q.C., The Aboriginal Land Inquiry (WA) Discussion Paper (Jan. 1984)
- National Aboriginal Conference, National Aboriginal Land Rights Legislation Discussion Paper (February, 1984)
- Frank Brennan, Consultation Document No. 6, "A Comparison of Deeds of Grant in Trust (amended) with Aboriginal Land Rights (NT) Act, 1976" (Dec. 1983)
- Max Charlesworth, The Aboriginal Land Rights Movement, Deakin University, 1983.
- Russel Barsh, "Is there any Indian 'law' left? A review of the Supreme Court's 1982 term"
- Russel Barsh, "A Bright Illusion: Lawyers' role in American Indian Life"
- Russel Barsh, "The Ethnocidal Concept of the State"
- J. C. Altman, Aborigines and Mining Royalties in the Northern Territory (AIAS, 1983)

CONFERENCES

- April 1984, World Council for Indigenous Peoples, 4th General Assembly, Oaxaca, Mexico.

ABORIGINES & THE LAW

EDITED BY PETER HANKS & BRYAN KEON-COHEN

This book isolates current critical legal issues facing Aboriginal and White Australia; collects in one place scholarly discussion of these issues; and by so doing, seeks to both contribute to the community's understanding of these problems and to Aboriginal advancement.

ABORIGINES AND THE LAW represents the current debate on significant issues raised by the relationship between Aborigines and the Anglo-Australian legal system. All the issues addressed in this book represent real, unresolved problems for those concerned with the role of justice in Australian society. The essays deal with three broad areas: constitutional issues; civil-law issues; and the recurrent issue of criminal justice.

This book is the first attempt in Australia to draw together such a wide range of issues concerning Aborigines and the Law. Much of the writing has been influenced by, and is largely a response to, Aboriginal statements and ideas, as expressed through, for example, the management of Aboriginal Legal Services, the development of Aboriginal land claims, statements by the National Aboriginal Conference, and the research and consultation processes of law-reform commissions and parliamentary inquiries.

Some of the material presented here demonstrates that the legal condition of Aborigines is not a purely domestic problem: human-rights and land-rights are, increasingly, international questions. This internationalisation will, we predict, accelerate and intensify the pressure on the Australian (Commonwealth) Government to respond to Aboriginal demands.

CONTENTS: Preface; Introduction, 1 Settlement and sovereignty *John Hookey*; 2 Aborigines and government: the developing framework *Peter Hanks*; 3 The relevance of international law *Garth Nettheim*; 4 Indigenous land rights in Australia and Canada *Bryan Keon-Cohen & Bradford Morse*; 5 Aborigines and civil law *Colin Tatz*; 6 Aboriginal legal services *Gregory Lyons*; 7 Aborigines and the police *Matthew Foley*; 8 Aborigines in the criminal courts *Andrew Ligertwood*; 9 Aboriginal customary law *Kenneth Macdonald*; 10 An annotated bibliography 1 Case Law 2 Legislation *John McCorquodale*; 11 Elizabeth Eggleston, Aborigines, and the Law *Louis Waller*; Notes; Index.

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