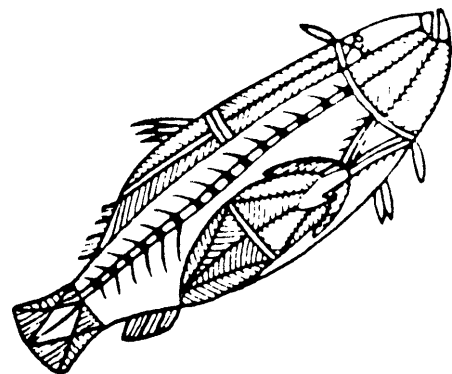
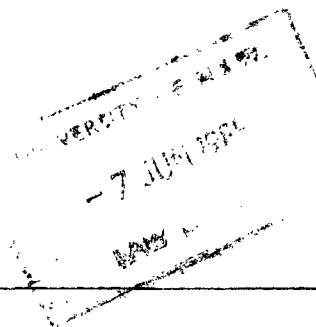


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ABORIGINAL LAW NOTES

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QUEENSLAND LEGISLATES TO BLOCK MABO CASE

The action Mabo v. Queensland and the Commonwealth, which commenced in May, 1982, in the High Court of Australia, is an attempt to establish that the land rights of Torres Strait Islanders survived the acquisition of sovereignty by the British Crown, that they still survive, and that they cannot be extinguished by Queensland, at least without compensation.

In early April, the Queensland Parliament enacted the Queensland Coastal Islands Declaratory Act to declare, retroactively, that upon the islands becoming vested in the Crown in right of Queensland in 1879 they were "freed from all other rights, interests and claims of any kind" and that no compensation "was or is payable".

The effect of the Act on the Mabo litigation remains to be determined.

THE ABORIGINAL LAW RESEARCH UNIT

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Aboriginal Law Notes are distributed to members of the Unit's Advisory Council. Subscriptions \$5.00 per annum.

The Unit also publishes the Aboriginal Law Bulletin. Number 13, APRIL, 1985, now available.

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COX RIVER LAND CLAIM

In early February, Clyde Holding, granted a claim covering some 4,418 km² in the north-east of the Northern Territory, north of the Carpentaria Highway and south of the Roper River.

The Aboriginal Land Commissioner, Mr. Justice Kearney, commented that at least 640 Aboriginals stood to benefit from the grant of land.

WARLMANPA & KAYTEJ LAND CLAIMS

Mr. Clyde Holding announced during mid-March that he had decided to grant title to the Aborigines in the Warlmanpa and Kaytej claim areas, except the land in both claims that falls within the boundaries of the Tennant Creek Water Control District.

The land claim areas are adjoining and comprise an area of approximately 61,700km² of largely desert country west of Tennant Creek.

The claimants are still negotiating in regards to the Tennant Creek Water Control District which, apart from the town of Tennant Creek, also affects the Warrego Mine operated by Peko Wallsend Ltd.

RESOURCES DEVELOPMENT AGREEMENT

The Law Foundation of N.S.W. has agreed to provide funds to the Aboriginal Law Research Unit for a project designed to assist Aboriginal communities and their advisers to negotiate resources development agreements (mining, tourism, etc.). The project will be conducted by Stuart McGill after he returns from New York later in the year.

WESTERN AUSTRALIA

On 17 April, 1985, the Upper House of the West Australian Parliament rejected the Labor Government's land rights bill. The Premier, Mr. Burke, said "These undemocratically elected conservatives have rejected Western Australia in favour of Canberra. In doing so, they have cast aside months of work by dozens of Western Australians representing all those directly affected Aborigines, the mining industry, pastoralists and local government". (The Australian, 1 April, 1985, p.3)

The Upper House is controlled by the Liberal Party, which has continually expressed opposition to land rights in the state. Over the Sunday of 14 April, 1985, they inserted a four-page pamphlet in the largest-selling Perth Sunday newspaper explaining why the Liberal Party believed land rights should be rejected.

The pamphlet's main theme was that there was 'no evidence' that the granting of land to Aborigines would help them in any practical way. The Sydney Morning Herald (16.4.85, p.4) quoted from the pamphlet, "As most people consider land rights unfair, it will mean increased resentment of Aborigines and increased racial tension".

But the racial tension has been increased by the Liberal Party if anyone. During the debate in the W.A. Lower House, the Legislative Assembly, former Liberal Education Minister, Jim Clarke, attempted to conjure up images of millionaire Aborigines with greater rights than 'poor white people'. Mr. Clarke then went on to bizarre lengths:

"There is the case of Labor's Employment and Training Minister, Mr. Dowding. He has two white children from his first marriage, and two black children from his second. This bill gives the Minister's children different rights."

The newspaper pamphlet is yet another example of the huge conservative propaganda effort being made in Western Australia. This follows the half-million dollar advertising campaign launched by the mining lobby last year. The Aboriginal movement is unable to match the resources and the Federal Department of Aboriginal Affairs seems to be holding back.

The Liberal rejection of the Western Australian bill has presented a problem to Mr. Clyde Holding, Federal Aboriginal Affairs Minister and to Mr. Burke. They now have to meet and plan what should happen with the Federal National Land Rights model. The forthcoming Western Australian State election due within 12 months will have an enormous influence on Mr. Burke's and Mr. Holdings' next move. Time is running out for both of them in relation to when they can pass some legislation. The interesting development will be who is able to pass their respective bill first.

ABORIGINAL BOYCOTT AND BLOCKADE

A newly formed group, the Combined Aboriginal Organisation (CAO) is co-ordinating and organising an indefinite blockade against miners. They intend to deny mining companies use of airstrips on Aboriginal reserves. They will also offer no food, water or other forms of assistance to miners not operating under proper agreements with Aboriginal communities according to a report in the newspaper, Tribune.

The first Aboriginal group to proceed with the boycott is the Ngaanyatjarra Council representing the central desert people living near the Western Australian-Northern Territory-South Australian border.

These moves are in protest against the WA government's handling of the land rights issue.

ABORIGINAL UNIONISATION

A new Western Australian body, the Aboriginal Board of Management, chaired by Ken Colbung with Rob Riley, Chair of the National Aboriginal Conference as Vice-Chair, has set out to co-ordinate the unionisation of Western Australian Aborigines.

According to the Tribune newspaper the "W.A. Aborigines want to join forces, to enable workers across the State to become union members, many for the first time, and to seek award wages. About 240 Aboriginal groups are so far involved, and those eligible to join would come from such groups as the Aboriginal Legal Service and the Aboriginal Medical Service".

The chosen union is the Hospital Services and Miscellaneous Workers Union. The Tribune believed "job related issues such as winning award wages and conditions specifically for Aboriginal employee groups topped the list of priorities. A united front also would increase the power to influence politicians to bring reform for the whole Aboriginal community".

The matter has already been before the W.A. Industrial Commission once, and would probably be heard again next month.

ABORIGINES, ETHICS AND RESEARCH

The Australian Institute of Aboriginal Studies has widely circulated the Institute's ethics guidelines for field researchers to receive comments and suggestions for revision. The A.I.A.S. plans to fund a meeting to discuss the topic 'Aborigines, Ethics and Research' and the circulation of the guidelines was intended as a precursor.

FEDERAL LAND RIGHTS REJECTED

Both the N.S.W. Minister for Aboriginal Affairs, Mr. Paciullo, and Secretary to the Ministry, Ms. Pat O'Shane, have rejected the Federal Governments preferred model for Aboriginal land rights as "entirely inappropriate" for N.S.W.

This makes N.S.W. the second Labor State, after Western Australia (for different reasons), to reject the model. Mr. Paciullo is reported to have said, "I don't think the model meets the standard of our legislation in several important respects, including the mineral question and the question of funds being made available to Aborigines to purchase land". (SMH, 30.3.85, p.1)

Pat O'Shane believes Aborigines in N.S.W. will not be able to establish claims under the proposed model for federal land rights legislation because of the emphasis it places on traditional ownership.

"Traditional is a term no longer appropriate for N.S.W. and it would automatically disenfranchise all Aboriginal people in this State", she said. (SMH, 26,4.85, p.11)

Pat O'Shane further criticized the model on its claims procedures, tribunals and their lack of power in regard to claim disputes and lack of provision for compensation.

ABORIGINAL LAND RIGHTS NATIONAL SUPPORT GROUP

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Telephone Contacts: Kevin Keefe 48-6576 or Christine Vincent 47-4822

The National Aboriginal Conference is to meet in Canberra from 8-17 May. During this period a range of events are being planned in support of Aboriginal land rights and on other issues. The tentative program includes the following:

- May 8 Meeting of the National Support Group, Parliament House, 8.30 p.m.
- May 6-10 Meetings of national Aboriginal organizations in Canberra, NAC to convene and co-ordinate.
- May 8-9 Meeting of the full council of the NLC in Darwin.
- May 10 Arrival of the first convoys from the bush
- May 11 Rock for Land Rights, ANU union. Possibly co-inciding with art displays, Melville Hall.
- May 12 Combined church service.
- May 13 Rally at Regatta Point, march on Parliament House, 10.30 a.m.
Meeting of the support group, ANU Boardroom, 7.30 p.m.
- May 14 Pat Dodson, address to National Press Club, 12.30 p.m.
Launch of the video from the Land Councils, University House, 6.30 - 8.30 p.m.
- May 15 Media launch of the National Support Groups in response to Aboriginal opinion. National press Club, 3.00 p.m.
- May 16 Public meeting, seminar, National Organizations discuss the future of Land Rights. Venue to be announced. Bush convoy returns home.

REPORTS, PUBLICATIONS, ETC. RECEIVED

- Australian Institute of Aboriginal Studies - Aborigines, Ethics and Research.
- Koorier, March, 1985, (Newsletter of the N.S.W. Ministry of Aboriginal Affairs).
- Frank Brennan, S.J., "The Aborigines and Torres Strait Islanders (Land Holding) Act, 1985", Consultation Document, No. 10.
- Frank Brennan, S.J., John Egan S.J. and John Honner S.J., Finding Common Ground (Dove Communications, 1985) - also Clyde Holding's address at the launching and Frank Brennan's response to Neville Bonner.
- North American Work Group Newsletter, No. 3, (March, 1985).
- Queensland Coast Islands Declaratory Bill, 1985 (Qld.) and the Second Reading Speech.
- Aboriginal Newsletter, No. 142, March, 1985, Commonwealth Department of Aboriginal Affairs.
- CARE Newsletter, No. 67, April 1985. Campaign Against Racial Exploitation.
- The Northern Territory Budget, 1984/85, Programmes and Services for Aborigines. Northern Territory Government Budget Series.

CORRESPONDENCE

- With John Terry, N.S.W. Aboriginal Land Council about the Winbar judgment.
- With Law Foundation of N.S.W. and Stuart McGill about project on negotiating resources development agreements.
- With Brad Morse, University of Ottawa, on proposed amendments to Canada's Indian Act and other matters.
- With Frank Brennan S.J., Melbourne, about Finding Common Ground and other matters.
- With Peter Thomson, Darwin.
- With Law Foundation of N.S.W., University of N.S.W. and Alternative Publishing Cooperative Limited about funding support for Meredith Wilkie's book Aboriginal Land Rights in N.S.W.