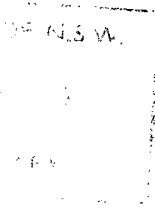


LQ/KI/A26/ 27

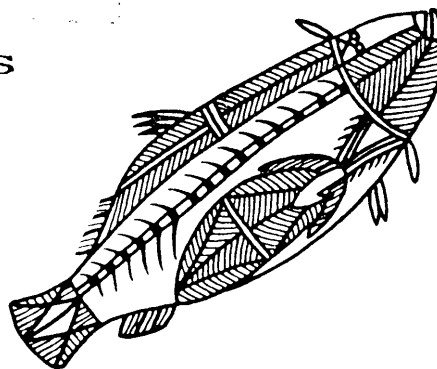


ABORIGINAL LAW NOTES

87/2

MARCH — APRIL, 1987

ISSN 0811 — 9597



~~~~~  
AIC Casebook Project

The Law Foundation of New South Wales has granted \$11,432 so that the Aboriginal Law Centre may employ Laura Beacroft to assist in the preparation of a casebook on Aborigines and the Law for use in Law Schools and elsewhere. The other principal author of the book will be Dr Heather McRae of the University of Adelaide.

Laura Beacroft was employed (again, with Law Foundation support) until 23 March as Director of the Centre. The Centre is currently without a Director as such, and seeks a benefactor to fund such a position.

~~~~~  
THE ABORIGINAL LAW CENTRE

Faculty of Law, University of New South Wales, P.O. Box 1, Kensington, N.S.W., Australia, 2033. Telephone: 697-2256 or 697-2252.

Chair and Acting Director:	Garth Nettheim
Research Director :	Laura Beacroft
Editor:	Alastair Walton
Typing:	Bernadette Dattatreyan

Aboriginal Law Notes are distributed to members of the Centre's Network. Subscriptions \$5.00 per annum.

The Centre also publishes the Aboriginal Law Bulletin.

Registered by Australia Post - Publication No. NBP 5530.

Visitors

Profesor Brad Morse of the Faculty of Law, University of Ottawa, Canada, arrives in April for a visit which will extend until August. He will be Canadian Scholar in residence at Macquarie University. It is expected that he will be visiting other centres and that he will also spend some time with the Aboriginal Law Centre.

Dr Julian Burger of the Anti-Slavery Society arrived at Easter for a 6-week visit. (See 87/1 ALN, (Feb 1987) p.2)

The Hon Thomas Berger (87/1 ALN, (Feb 1987), p.2) also arrives in May for some weeks.

Conferences

- * 5th General Assembly of the World Council of Indigenous Peoples (WCIP), 14-20 July, 1987 (postponed from 24-30 May), Ecuador.
- * WCIP Pacific Indigenous Empowerment Conference, 25-29 May, Waianae, Hawaii.
- * "Aborigines and Development in the East Kimberley", 11-13 May, Kununurra, W.A.
- * "Land Rights and Environmental Protection", 10am - 1pm, Friday 29 May, Redfern Town Hall, Sydney.

News Briefs

Legislation

On 26 March 1987 the Hon Clyde Holding, Minister for Aboriginal Affairs, introduced in the House of Representatives two Commonwealth Bills on Aboriginal issues in Victoria, at the request of the Victorian government. The bills are based on bills which the Victorian government was unable to have passed by the State upper house. One, the Aboriginal Land (Framlingham Forest and Lake Condah) Bill is to vest inalienable freehold title in 11 sq. km and 1/2 sq. km (respectively) of land in the Aboriginal communities. The other bill, the Aboriginal and Torres Strait Islander Heritage Protection Amendment Bill, amends the Commonwealth's 1984 Act by adding a new part dealing specifically with protection of the Aboriginal cultural heritage in Victoria. (Further detail in the Aboriginal Law Bulletin)

Mobilization

The Committee to Defend Black Rights was convenor of a very well attended public meeting in Sydney Town Hall on 14 April to set up an "Aboriginal Deaths in Custody Watch Committee" (see 23 ALB 3). A series of recent deaths of Aboriginals in Queensland cells has given added impetus to the movement. The Minister for Aboriginal Affairs, Clyde Holding, has referred the issue to the House of Representatives Standing Committee on Aboriginal Affairs. The Queensland Minister, Bob Katter, Jr., has set up a committee of his own and has said that he would not co-operate with the House of Representatives inquiry. The Committee to Defend Black Rights seeks the establishment of a Federal Royal Commission.

Litigation

Koowarta v Bjelke-Petersen is expected to come before the Queensland Supreme Court in Brisbane early in May for a 1-day chamber application in relation to the defendants' claim of "crown privilege". The plaintiff alleges breach of the Racial Discrimination Act, 1975 (Cth) in the defendants' refusal to approve transfer of leasehold properties to Aborigines.

Mabo v Queensland has been before the Supreme Court of Queensland for trial of facts but the High Court has now agreed to a hearing before the Full Bench of demurrer proceedings relating primarily to the effect of the Queensland Coastal Islands Declaratory Act, 1985 on the litigation (see 85/2 ALN, March 1985, p.1).

A-G (NT) v Maurice: the Full Court of the Federal Court of Australia heard argument that the Aboriginal Land Commissioner in the Northern Territory, Justice Maurice, had, by certain statements critical of the NT government, disqualified himself from continuing to hear the long-drawn-out Warramungu land claim.

The court held in April, that he was not disqualified from continuing to hear the Warramungu claim, but that he was disqualified in regard to the similarly long-drawn-out Kenbi land claim in which the good faith of the NT government has become a critical issue.

Negotiations

In Canada, the First Ministers' Conference in April failed to reach agreement on the terms of a provision on Aboriginal self-government to be incorporated in the Canadian Constitution.

Communications

- with David O'Reilly, The Bulletin, on the significance of Henry Reynolds' new books;
- with Paul Mamlott on the current state of the Treaty or Makarrata campaign;
- with Brad Morse, Canada, about his visit and about constitutional developments;
- with Nick Vadasz, Adelaide, about field officer training;
- with Dr H C Coombs about East Kimberley Project;
- from Walter & Eliza Hall Trust, that they are unable to provide a grant to the Aboriginal Law Centre;
- from Greg McIntyre, Cairns, with information about developments in Queensland community areas, and about progress of Mabo litigation.

Publications, etc Received

CANADA

Assembly of First Nations, Bulletin, Vol 3 Nos 1 - 12, Vol 4, Nos 1-4.

Native Council of Canada, "Bill C-31 and the New Indian Act", Guidebook No 2, Protecting Your Rights (Nov, 1986).

INTERNATIONAL

Survival International, News, No 14, 1986.

Survival International, News, No 15, 1987, includes a story on SI support for the Western Desert Land Council; also a major segment on "The World Bank and Tribal Peoples".

Survival International, Urgent Action Bulletin, PGY/1/Feb/1987 "Paraguay. Indians Killed in Mission Manhunt".

World Council of Indigenous Peoples, Report by Clem Chartier on "Journal of Trip to the Indian Villages of the Atlantic Coast of Nicaragua" and "Interview with Brooklyn Rivera, General Co-ordinator of Misurasata", February, 1987.

AUSTRALIA

Liberal and National Party coalition, "Policy Statement on Aboriginal Affairs" (see press statement in Briefing Paper).

Commonwealth Government, "Achievements in Aboriginal Affairs, 1983-1987".

Aboriginal Development Commission, Annual Report, 1985-86.

VISIT OF DR JULIAN BURGER

At the invitation of NAILSS, Dr Julian Burger will be visiting Australia. Dr. Burger is projects officer of the Anti-Slavery Society for the Protection of Human Rights, an international non-governmental organization that has in the past played an important role in the protection of indigenous peoples' rights.

The Anti-Slavery Society for the Protection of Human Rights is based in Brixton, London. It was founded in 1839 and is the world's oldest human rights organization. Two years earlier, in 1837, the Aborigines Protection Society was established. In 1909, it merged with the Anti-Slavery Society, and the Society still has a continuing function in regard to indigenous peoples issues.

1987 is the 150th anniversary of the establishment of the Aborigines Protection Society, and the 200th anniversary of the departure of the First Fleet from Britain. Dr Julian Burger of the Society will visit Australia for six weeks between April - May to visit Aboriginal communities and others and to report on the current position of Aboriginal people in Australia. Dr Burger will be attending the Aborigines and Development Conference in the East Kimberley, Kununurra from 11-13th May.

Dr Burger will be visiting all states to assess the treatment of Australian indigenous people. His itinerary is below. Communities, organization or individuals interested in speaking to him can contact Margaret Herps, (02) 699-9277.

Sydney	16-26 April
Brisbane	27 April
Cairns	30 April - 4 May
Alice Springs	5 May
Darwin	7 May
Kununurra	12 May
Pt Hedland	16 May
Perth	20 May
Adelaide	23 May
Melbourne	26 May
Hobart	28 May
Canberra	early June

HERITAGE COMMISSION THE AUSTRALIAN HERITAGE

Commission has recently adopted a program to stimulate strong Aboriginal input in regards to sites that should be listed in the Register of the National Estate

Since February 1987, the Commission has had an Aboriginal co-opted Commissioner, Dr Bill Jonas. He is particularly interested to hear from Aboriginal people and organisations about their views on the protection of the Aboriginal National Estate. A list below for all states and territories allows for contact with the Commission.

The Australian Heritage Commission was set up in 1975 by the Commonwealth Government as the result of growing concern among the Australian people about damage to the environment.

Its major job is to prepare a list called the Register of the National Estate, of all the important heritage places in Australia, and to advise the Government on how these places should be cared for

The register of the National Estate now contains more than 8000 places. These include national parks and nature reserves, caves and other geological features, shipwrecks, historic towns, significant buildings, engineering works and Aboriginal sites.

Once listed in the Register, a place receives legal protection under the Australian Heritage Commission Act from damage or destruction through actions of the Commonwealth Government, but protection from the actions of State or local governments or private people is the responsibility of the State and Territory governments. However, listing a place in the Register of the National Estate gives it more status and increases its chance of survival. Many property developers and mining companies have already recognised the importance of sites either in, or proposed for entry in the Register and have avoided proposing developments in those areas.

Today there are about 4700 Aboriginal sites in the Register, listed in about 500 large areas.

If you want to know more please contact

The Australian Heritage Commission
GPO Box 1567
Canberra ACT 2601
Telephone (062) 72 3966

or contact the Aboriginal Heritage Authority in your State

Northern Territory
The Director
Aboriginal Sacred Sites
Authority
PO Box 1890
Darwin NT 5794
Telephone (089) 81 5504
The Director
Museums and Art Galleries
of the NT
PO Box 4646
Darwin NT 5794
Telephone (089) 82 4211

Western Australia
Aboriginal Sites Department
WA Museum
Francis Street
Perth WA 6000
Telephone (09)322 7144

South Australia
Aboriginal Heritage
Conservation Branch -
SA Department for the Environment
GPO Box 667
Adelaide SA 5001
Telephone (08) 216 7777

Victoria
Victoria Archaeological
Survey
29-31 Victoria Avenue
Albert Park
Melbourne Vic 3206
Telephone (03) 690 5322

Tasmania
Aboriginal Relics Advisory
Council
National Parks and Wildlife
Service
17 Magnet Court
Sandy Bay Tas 7005
Telephone (002) 34 6288

New South Wales
Cultural Resources Section
National Parks and Wildlife
Service
PO Box N189
Grosvenor Street Post Office
Sydney NSW 2000
Telephone (02) 237 6736

Queensland
Archaeology Branch
Department of Community
Services
PO Box 135
North Quay Qld 4000
Telephone (07) 224 2571

Australian Capital Territory
Heritage Branch
Department of Territories
GPO Box 158
Canberra ACT 2601
Telephone (062) 46 2211

Liberal Party of Australia and National Party of Australia
Policy Statement Aboriginal Affairs

SUMMARY

The Liberal and National Parties' Aboriginal Affairs Policy is based on a number of fundamental principles, including:

- . that Aboriginals must have equality of opportunity and should be assisted and encouraged, not only to enjoy the many benefits, but also to accept the social and economic responsibilities of being full and equal members of the Australian community.
- . that, while Aboriginals, in recognition of their special affinity with the land, must remain free to choose traditional or other lifestyles, separate development within Australian society should not be encouraged,
- . that, in pursuing these objectives, assistance shall be provided on the basis of need, not race,
- . that those aspects of Aboriginal culture which contribute to the richness of the Australian heritage, should be protected and maintained,
- . that programme duplication between the Commonwealth and the States should be eliminated and that public expenditure must be cost effective and subject to normal accountability criteria.

Consistent with these principles, the next Liberal/National Party Government will:

- . repeal the Aboriginal and Torres Strait Islander Heritage Act to remove Commonwealth duplication with the States,
- . encourage Aboriginal children to complete secondary schooling and provide assistance, where appropriate, to undertake tertiary education and training activities.
- . co-ordinate and assist the States and the Northern Territory in the provision of programmes to enable Aboriginals to improve their health, and

living and social conditions. encouraging the direct involvement of
Aboriginals in the delivery of services.

- . concentrate support on programmes designed to improve employment prospects
so as to reduce the dependence of Aboriginals on social welfare and enhance
their own self-respect and standing in the community,
- . co-operate with the States in the provision of Aboriginal housing. and
rationalise the involvement of Commonwealth instrumentalities in housing
assistance.
- . devolve the provision of Aboriginal legal aid to the States. where they are
able to provide adequate legal representation to cater for the particular
needs of Aboriginal people.
- . oppose national land rights legislation and. if enacted. repeal it;
repatriate the Aboriginal Land Rights (Northern Territory) legislation to
the Northern Territory Government in the context of discussions on
Territory Statehood; prior to the transfer, amend the Act to prevent any
further land claims being lodged.
- . support devolution of management responsibilities to local community
councils to encourage greater Aboriginal self-reliance and
self-determination.
- . ensure that remote Aboriginal communities have appropriate access to
communication services.
- . encourage the Aboriginal Development Commission to support commercial
Aboriginal initiatives which will generate income, training and job
opportunities.
- . encourage effective consultative mechanisms so that Aboriginals are drawn
into the broader community. rather than segregated into a racial lobby
group.