

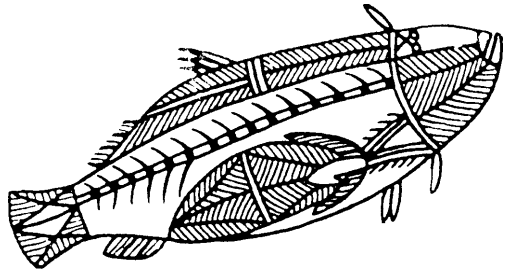
ABORIGINAL LAW NOTES

88/5
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THE ABORIGINAL LAW CENTRE

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Kensington, NSW, Australia, 2033. Telephone: 697 2256 or 697
2252.

Chair and Acting Director: Garth Nettheim

Editors: Aileen Kennedy and Terry Libesman

The 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

**SUBSCRIPTIONS FOR THE ABORIGINAL LAW NOTES ARE
NOW DUE**

RENEWAL FORM WITHIN

PUBLICATIONS RECEIVED

BOOKS

Indigenous Law and the State, edited by Bradford W Morse and Gordon R Woodman, 1988, Foris Publications USA , PO Box 5904, Providence RI 02903 USA.

472 pages. Price; US\$34.90.

The twenty essays included in the book explore the ways in which the distinctive social practices and values of indigenous peoples are liable to be affected by the relationship between their customary or folk laws and the laws and practice of the modern state. They examine a variety of situations of indigenous peoples around the world. Most consider the Indians or Inuit of North America or the Aborigines of Australia.

Some of the Australian writers included in the anthology are James Crawford, Peter Hennessy, Mary Fisher, Rob Riley, Diana Bell, Richard Chisolm, Basil Sansom, Patricia Baines and Robert Tonkinson.

(detach here)

Aboriginal Law Centre
Faculty of Law
University of New South Wales
PO Box 1
Kensington NSW 2033
AUSTRALIA

I wish to remain on the ALC mailing list and to receive Aboriginal Law Notes. I enclose my \$5.00 subscription for the year 1989. (\$10.00 for overseas if air mail required).

NAME: _____

ORGANISATION: _____

ADDRESS: _____

PHONE: _____ CHEQUE DETAILS _____

DISCUSSION PAPERS

NSW Government Discussion Paper: **New Directions in Aboriginal Affairs** September 1988
prepared by Paul Zammit, Parliamentary Secretary assisting the Premier on Aboriginal Affairs. The government has invited submissions from 'all interested persons'. These are to be sent by 11 November 1988 to:

Paul Zammit,
c/- NSW Office of Aboriginal Affairs,
14th Floor, 47-53 Macquaries St.
Sydney NSW 2000

Dr Roberta B Sykes, **Issues Affecting Older Aboriginal People**, Commonwealth Office for the Aged Discussion Paper, June 1988,

JOURNAL ARTICLES

Ken Maddock, "**God, Caesar and Mammon at Coronation Hill**", *Oceania*, No 58 1988. An outline of the Coronation Hill dispute at South Alligator River near Kakadu.

REPORTS

East Kimberley Impact Assessment Project

Paper No 24: Pre-settlement Intrusion into the East Kimberley by Cathie Clement.

Paper No 25: Aborigines and Local Government in the East Kimberley by Hillary and Dennis Rumley.

Preliminary report on **Hydro-electrics of the Xingu and indigenous people** published by the pro-Indian Commission of Sao Paulo. The full report will be published in English at the end of this year. Available from:

R Ministro Godoy
1484 Sao Paulo
SP 15015
Brasil
Telex: 011-82153

The Aboriginal Way Forward: Reverse Discrimination or Self-Determination by Pamela Mary Ditton. sub-thesis submitted to the Australian National University January 1988.

COMING EVENTS

THEATRE

The Death of Phillip Robertson by the New Theatre is a true story told via transcripts of the Robertson Coronial Inquest. It is set in 1979 in the Security ward of Darwin Hospital. The New Theatre is donating \$1 for each ticket sold to the Aboriginal National Theatre Trust. The production runs until 10 December, performances Friday and Saturday nights at 8.15 pm, Sunday 5.30 pm. Tickets: Adults \$12, Concession (student, pensioner, unemployed) \$8, Group Bookings of 10 or more \$8. Book at:

New Theatre
542 King Street, Newtown,
Phone 519-3403

CONFERENCES

Proposed International Law Association/ALC Seminar on Aboriginal Peoples and Treaties.

Suggested date: Saturday 3 December 1988

Suggested venue: University of New South Wales

Topic 1: Revision of ILO Convention No 107

Topic 2: UN Working Group on Indigenous Populations

Topic 3: The Australian Treaty Proposal. It is suggested that the session ought not to go into the possible content of a Treaty, but should focus on a number of key issues, many of which need to be clarified prior to negotiation of content including: process for negotiation; third party monitoring of the process; resources; legal status of a Treaty; applicable law; enforceability; and renegotiation. For Information contact the Aboriginal Law Centre; (02) 697 2256

Australian Legal Culture: A Critical Appraisal

6th Australian Law and Society Conference

2, 3, 4 December 1988

La Trobe University

Themes: social theory, race, gender, the construction of legality

Topics include: Aborigines and legality, reproductive technology, work, the legal academy.

Presentations by (among others): Greta Bird, Kit Carson, Micheal Mansell, Henry Reynolds.

Registration forms and information available from:

Ian Duncanson, Judith Grbich, Convenors

La Trobe University

Bundoora Victoria

Telephone: (03) 479 2284

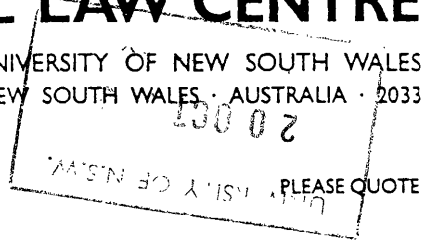


ABORIGINAL LAW CENTRE

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ANNUAL REPORT, 1987-1988

INTRODUCTION

The Aboriginal Law Centre superseded (from February 1986) the Aboriginal Law Research Unit which was established in the Faculty of Law in April 1981. No annual reports were presented in the early years of the Unit, but an overall report covering activities to 30 June 1985 was published under the title "The First Four Years: 1981-1985". Annual reports have since been published covering the periods 1 July 1985 - 30 June 1986, 1 July 1986 - 30 June 1987.

This report covers the period 1 July 1987 to 30 June 1988. It follows a format similar to that in the two earlier reports.

OBJECTIVES

The objectives of the Centre are specified in its Charter as being "to develop and co-ordinate research, teaching and dissemination of information in the multi-disciplinary area of the relationship between Aboriginal peoples and the law". These general objectives are made more specific in the following formulation:

Special Objectives

The objectives of the Centre shall be:

(a) Research:

to provide a focus for, and to foster research concerning Aboriginal peoples and the law;

to co-operate with research workers in this field elsewhere in Australia and abroad;

to provide opportunities for postgraduate and undergraduate scholarly work in the field.

(b) Resources:

to develop and maintain a specialised collection of materials relating to Aboriginal peoples and the law;

to co-operate with other appropriate bodies with holdings of such resource materials;

to provide access to the collection to lawyers and others working in the field.

(c) to achieve publication of the results of research undertaken by individuals working with the Centre or independently of the Centre;

to disseminate information concerning Aboriginal peoples and the law to interested individuals, communities and bodies throughout Australia and abroad;

(d) Conferences and Seminars:

to organize and participate in conferences and seminars from time to time.

(e) Teaching:

to encourage the development of curricula and teaching materials in the field of Aboriginal peoples and the law for use in the University of New South Wales and elsewhere.

Progress during the year in question towards achievement of these objectives is summarised in the next section.

MAIN ACTIVITIES

1. The Advisory (Management) Committee

The Centre's "charter" speaks of an advisory committee which is, in essence, a management committee as distinct from the much broader Advisory Council referred to below.

The Committee meets from time to time, usually at intervals of 6-8 weeks, to discuss the work of the Centre and current issues of law and policy affecting Aboriginal people.

Garth Nettheim continues as Chairperson. In the absence of resources to employ a full-time Director, he also functions as Acting Director.

The other members of the Committee are the Dean or Dean's nominee. Over the report period Garth Nettheim was also serving as Dean.

Other members of the Committee have been:

Associate Professor Richard Chisholm, School of Law

Associate Professor David Weisbrot, School of Law

Dr. John von Sturmer, School of Sociology

Professor James Crawford, Sydney University Law School

Mr. Paul Coe, Aboriginal Legal Services (NSW) Ltd. and National Aboriginal and Islander Legal Services Secretariat or his nominee

Mr. Tiga Bayles, Chairman, NSW Aboriginal Land Council or his nominee

Mr. Kevin Cook, Director, Tranby Aboriginal College or his nominee.

There are unfilled positions for a representative of the Aboriginal Children's Service and a representative of Aboriginal law students at UNSW.

2. The Advisory Council "network"

This comprises some 150 corresponding organisations and individuals, in Australia and overseas, who receive the newsletter Aboriginal Law Notes (ALN). ALN is particularly directed to people working in Aboriginal Legal Service organisations and Aboriginal Land Councils.

The function of ALN remained, as before, to give information about the Centre's activities, to report correspondence, to notify publications and papers received, to

announce forthcoming conferences, to publicise requests for submissions to Inquiries, to include short news items, and to mention research projects. Occasionally a "briefing paper" is attached as a supplement.

Details of the Aboriginal Law Notes for the year are as follows:

<u>Year & No.</u>	<u>Date</u>	<u>Briefing Paper supplement</u>
87/5	August 1987	Chapter 6 of the Report of the Advisory Committee on Distribution of Powers, Australian Constitutional Commission
87/6	September 1987	
87/7	November 1987	
87/8	December 1987	
88/1	February 1988	Aboriginal Law Centre, Annual Report, 1986-87
88/2	May 1988	
88/3	June 1988	

Information provided in ALN continues to attract requests for copies of publications, further information, etc.

3. Aboriginal Law Bulletin

The Centre's journal, the Aboriginal Law Bulletin (ALB) continued publication throughout the period.

There were changes in the editorship. Alastair Walton resigned early in the year and was succeeded by Lyn Dennerstein (Lyn herself resigned just after the end of the Report period).

There was a breakthrough in funding support for the financial year. The Department of Aboriginal Affairs (DAA) increased support for production costs to allow 6 issues @ 12 pages. Previous support had been held at 4 issues per year. (DAA also funds the editor's salary).

Details of ALB publication are as follows:

<u>Vol. No.</u>	<u>Date</u>	<u>Pages</u>	<u>Editor</u>
Vol. 1 No. 27	August 1987	12	Alastair Walton
28	October 1987	12	Lyn Dennerstein
29	December 1987	16	"
30	February 1988	16	"
Vol. 2 No. 31	April 1988	16	"
32	June 1988	16	"

The Law Foundation of NSW generously provided a grant of \$2000 to allow preparation and publication of a consolidated Index and Tables for Volume 1 of the ALB (Issues 1-30). At the year's end, preparation of the Index was near completion and publication was imminent.

4. Conferences and Seminars

The Centre arranged a two-day seminar on 15-16 August 1987 under the title "Recognizing Aboriginal Rights: Yesterday, Today and Tomorrow". The theme of the first day concerned the historical record on governmental recognition of Aboriginal rights and the current legal significance of that record. Keynote speaker was Professor Henry Reynolds, author of *The Other Side of the Frontier*, *Frontier*, and *The Law of the Land*. An edited version of his address was published in Vol. 1, No. 29 ALB page 7 (December 1987).

The theme of the second day concerned the "constitutionalization" of Aboriginal rights. Keynote speaker was Professor Brad Morse of the University of Ottawa who spoke particularly of recent Canadian experience. Members of two key advisory committees to Australia's Constitutional Commission also participated.

In September 1987, Garth Nettheim, Paul Coe and Tony Simpson took part in a panel session at the National Human Rights Congress organized in Sydney by the Human Rights and Equal Opportunity Commission.

On 12-13 December 1987, the Centre provided facilities for a Conference on the theme "Negotiating Settlement", convened by NAILSS, Tranby and TUCAR on behalf of the National Coalition of Aboriginal Organizations.

5. Teaching

The subject "Aborigines and the Law" is taught at several Law Schools (eg. UNSW, La Trobe, Adelaide). To develop the teaching of the subject at other Law Schools, and in other courses, a Case Book is being prepared by Heather McRae, Laura Beacroft and Garth Nettheim. The Law Foundation of NSW made a substantial grant in 1986-87 to support the research. During 1987-88 the Law Foundation provided an additional \$500 for the purpose.

The Centre also prepared a batch of teaching materials entitled "The Legal Consequences of 1788" for use in the UNSW 1st year subject "Legal System - Torts".

6. Legal Advice and Assistance, Submissions, Papers etc.

Members of the Centre have advised on several matters, appeared on the media, presented papers and published articles on Aboriginal law issues, overseas and in Australia. Overseas interest in Australia's Bicentenary led to increased requests for information, etc.

7. Research and Publication

Publication of Graeme Neate, *Aboriginal Land Rights Law in the Northern Territory (Vol. 1)* is still delayed but it is expected to appear before the end of the calendar year.

Work on *Aboriginal Land Rights Law in South Australia* ground to a virtual halt pending the availability of further funds.

The Law Foundation of NSW released \$10,000 to support the research and writing by Allan Tegg of Negotiating with Miners and National Parks Authorities: A Handbook for Aboriginal Organizations and Communities. Work commenced in February 1988 and completion of manuscript is expected by October.

8. Library and Information Resources

The collection continued to grow. It also attracted increasing use by people from Aboriginal organizations, students (Australian and overseas) and others. Work proceeded on cataloguing and arranging the material under a previous Law Foundation grant.

Experience over the year is that there is increasing need for a person to be available to help researchers and to answer telephone and other inquiries. The ALB editors have frequently had to try to attend to these needs. By year's end it was becoming increasingly apparent that the Centre needs a full-time Research and Information Officer to perform these functions and also to develop a database for the collection and to conduct research in support of the Centre's activities generally. Funding will be sought in the 1988-89 period.

FUNDING

The sum total of grants received in previous reporting periods has been shown as \$291,145.

Grants received in 1987-88 were as follows:

Aboriginal Law Bulletin

Department of Aboriginal Affairs 35,395

Aboriginal Law Bulletin - Index to Volume 1

Law Foundation of NSW 2,000

Casebook: Aborigines and the Law (additional grant)

Law Foundation of NSW 500

Handbook on Resources Negotiation

Law Foundation of NSW 10,000

Aboriginal Treaty account

ANU, Judith Wright and others 2,566.49

50,461.49 50,461

The total of specific grants to the Centre since 1981 thus stands at \$341,606

PROSPECT

The Centre's plans for 1988-89 include the completion of current projects, the continued publication of the Aboriginal Law Bulletin, and the search for funding to develop the Centre's "library" through the position of Research and Information Officer.

The demands on the Centre will not diminish. Developments such as the Government's proposal for a Treaty with Aboriginal people, the Royal Commission into Aboriginal Deaths in Custody, issues revolving around land rights in various jurisdictions, and highly significant international developments, will continue to place demands on the Centre and on the Aboriginal organizations whose work the Centre tries to assist. In

and highly significant international developments, will continue to place demands on the Centre and on the Aboriginal organizations whose work the Centre tries to assist. In addition, as the Centre itself become better known to researchers and others, here and abroad, demands on its resources will continue to increase.

As noted in previous reports, the Centre needs core funding. The Department of Aboriginal Affairs provides for an editor for the ALB. The next priority is for a Research and Information Officer. But other staff needs remain if the Centre is to begin to fulfil its important potential - a full-time Director, a secretarial/administrative person and an editor for a new project, The Aboriginal Law Reporter. The search for such core funding must be a major priority for the coming year.

Garth Nettheim
Chair and Acting Director
September 1988