

ALSWA

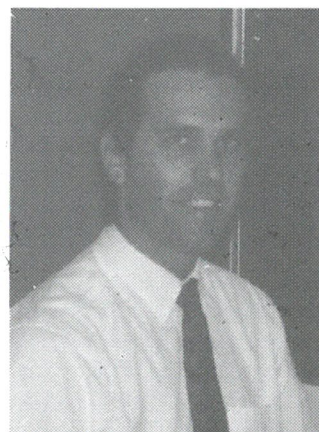


June 1998 No. 10

ALSWA HELPS TRADITIONAL OWNERS SEAL AGREEMENT

ALSWA Land and Heritage Solicitor Mark Gregory has assisted in negotiating an historic agreement between Miriuwong-Gajerrong Traditional Owners and AuDAX Resources NL which allows the company to develop an alluvial diamond project at Ivanhoe, 10km north of Kununurra in the East Kimberley.

Mark took instructions from the Miriuwong-Gajerrong people and helped draft the agreement. He said from Kununurra this week: "This is the first major mining agreement the Miriuwong-Gajerrong people have signed under the Native Title Act. The process provides a blueprint for other mining agreements in the East Kimberley area". The agreement will protect Aboriginal heritage such as sacred sites. It will provide Miriuwong-Gajerrong people with employment, scholarships, financial



ALSWA Solicitor Mark Gregory

compensation for use of traditional country, and rehabilitation of the land.

Under the agreement, Miriuwong-Gajerrong Traditional Owners will be able to participate in traditional activities on their country such as fishing and hunting, while AuDAX will engage in further exploration.

Negotiations were in progress for two and half years and provided a learning experience for the Traditional Owners.

The process shows that negotiation out of the Courts is a way forward for development on traditional country.

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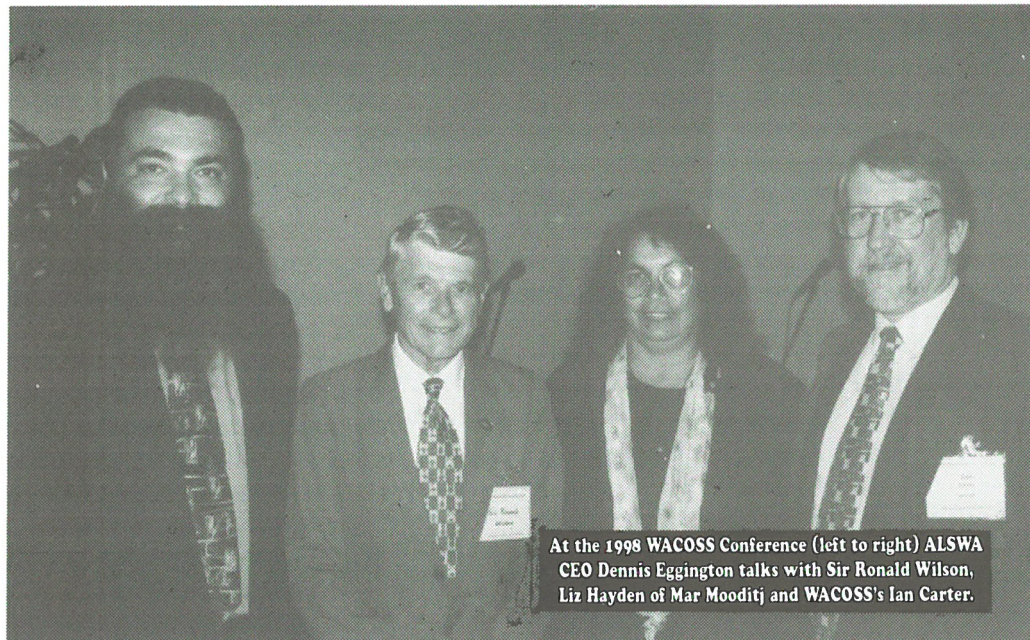


Miriuwong Gajerrong elders after signing the Ivanhoe agreement. From left are Toby Banmar, Jeff Janama, Freda and Annie Wilson, and Pamella, Paulina, Jebabi and Murphy Simon.

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WELFARE GROUPS URGED TO FOLLOW ABORIGINAL EXAMPLE



The 200 year experience of Aboriginal people in fighting injustice has provided them with a wealth of knowledge from which others can learn, ALSWA CEO Dennis Eggington told delegates at the 1998 WACOSS conference recently.

Mr Eggington said the mainstream 'welfare' community should follow the tenacious example set by Aboriginal people. They should not give up (cont page four)

ALSWA rejects mainstreaming

In a campaign to determine how politicians will address Aboriginal issues after a possible 1998 election, ALSWA recently sent a questionnaire to all politicians.

In one response to the questionnaire, WA Labor Senator Jim McKiernan turned the tables on ALSWA by asking for its views on mainstreaming of Aboriginal Legal Services. The Senator heads the Parliamentary Committee enquiring into Legal Aid and Access to Litigation.

Mr Eggington, in a response to the Senator said ALSWA was opposed to any such move, for a number of reasons. Mainstreaming Aboriginal Legal Services would serve to consign Aboriginal legal needs to the environment that prompted the formation of specialised Aboriginal Legal Services in the first place.

In his response, Mr Eggington said "It was the inability

and unwillingness of the mainstream legal system to deal with the unique legal needs and situations of Aboriginal people that created a necessity for Aboriginal Legal Services, as long ago in this State as 1973.

"Since that time we have seen, through government ineptitude and lack of commitment, the social and economic status of Aboriginal people decline in tandem with increased antagonism from other elements of the population.

"The dissonance this creates within Aboriginal Communities and individuals has impacted on all sectors of our community, but particularly on our young people, and the result of this community distress is evidenced in increasing numbers of arrests and incarcerations, accompanied by deteriorating social behaviour".

Mr Eggington said mainstreaming of Aboriginal Legal Services would withdraw from Indigenous people the opportunity to access culturally-appropriate services that were specifically dedicated to Aboriginal empowerment and emancipation. ALSWA would anticipate that the Australian Labor Party would understand and support the Aboriginal people in their determination to provide opportunities for Aboriginal people.

Mayor prospers on Aboriginal land but wont say sorry...

ALSWA CEO Dennis Eggington has criticised Stirling Mayor, Cr Tony Vellalonga, for refusing to sign a 'sorry book' or acknowledge 'National Sorry Day'. Cr Vellalonga was reported in the *Stirling Times* (April 28) as saying he would not sign his name in a 'sorry book', justifying his stance by claiming that the Jewish, Italian and English communities had experienced disasters yet did not have 'sorry days'.

Mr Eggington said he could not believe the Mayor was unaware that Israel observed Yom-Zikoran on April 30 (or the date of the nearest full moon) each year. In Italy, the people observed November 4 (victory day) and April 25 (Liberation Day), and the United Kingdom observed Remembrance Day on November 11 each year.

All of these days, as well as ANZAC day in Australia, were observed by people, not to say 'we are sorry for what we did to you', but 'we are sorry for what happened to you'. Mr Eggington, in a letter to Cr Vellalonga, said it was in fact far more relevant for Australia to observe a day that said to Aboriginal people 'we are sorry about what happened to you'.

In his letter, Mr Eggington said "Aboriginal people did not invite non-Aboriginal people here. They did what Australians are honoured for doing in the second world war - they defended their homeland. And in defending their homeland they died in tens of thousands.

"On ANZAC day we remember Australian warriors, of many wars. Should there not be a day when we remember those Aboriginal people who, without benefit of superior numbers or technology, also fought and died in the only war ever fought on Australian soil - their soil? A National Sorry Day gives all Australians a chance to say to Aboriginal people 'we are sorry this happened to you'.

...major churches cautious in answer to challenge...

Churches in WA have given varied but cautious responses to a request by the Stolen Generation Action Group for funding assistance to support the taking of Stolen Children test cases to the High Court. ALSWA Solicitors Emma Montgomery and Tony Buti recently met with the Roman Catholic, Anglican, and Uniting Churches and have provided a report to Group members.

In the report Ms Montgomery said discussions with the Clergy and Aboriginal members of the Roman Catholic Church had pitted Aboriginal against Aboriginal and rendered the meeting unproductive. In response to the Group's approach the Church said it committed itself to

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ATTITUDES DIFFER IN SORRY DAY RESPONSE

...but Baptists apologise

The Baptist Union of Western Australia has apologised to the Stolen Generations through its Church newsletter 'Contact'. The Church

held a service at the Mount Zion Aboriginal and Islander Baptist Church of Belmont on Sunday May 17 to officially say sorry to the Stolen Generations and to apologise for past wrongs to Indigenous people of Australia.

The apology said in part: "The Baptists of Western Australia are deeply sorry for the pain and suffering of Aboriginal peoples caused by the occupation of Western Australia by Europeans over the past two centuries, and the consequent deprivation of Indigenous peoples' land".

The Catholic, Anglican and Uniting churches have each issued their own versions of apologies, but have been less than forthcoming in responding to ALSWA's suggestion that they 'put their money where their mouth is' and talk compensation for those affected by removal. (more stories page five)

ALSWA REJECTS BIOLOGICAL ARGUMENT IN ASSESSING 'DEGREE' OF ABORIGINALITY

ALSWA has taken offence to an article by Peter Walsh in *The Australian Financial Review* (May 5) titled, 'Whiter the skin, blacker the industry'. Mr Walsh offended Aboriginal organisations across the country by suggesting that 'the less the degree of Aboriginality it seems the greater the number of Aboriginal organisations'.

...the less the degree of Aboriginality, it seems, the greater the number of Aboriginal organisations...

ALSWA CEO Dennis Eggington, in a response to the article, said it suggested inexcusable racist attitudes in a supposedly-objective columnist and created deliberately misleading misrepresentations about Aboriginality, Aboriginal culture, and Aboriginal organisations per se.

Mr Eggington said the most offensive aspect was Mr Walsh's arbitrary pronouncement that the 'self defined' Aboriginal population of New South Wales was 'culturally and biologically much less Aboriginal than populations in Queensland, WA, SA and the Northern Territory'.

This led to the bewildering conclusion that 'the less the degree of Aboriginality, it seems, the greater the number of Aboriginal organisations'.

He said "By what means does Mr Walsh decide cultural and biological Aboriginality other than geographical? Is it the colour of the skin that makes the difference, or the amount of blood in a person's veins - the extent to which Aboriginal people reflect the romanticised

image of the 'noble savage'? In making this extraordinary distinction, Mr Walsh shamelessly exhibits his own ignorance and runs close to breaching Australia's equal opportunity, anti-discrimination and racial vilification legislations. Such offensive racial and cultural distinctions, fundamental to the genocidal activities of our white Australian forebears, have thankfully had no place in the scientific discourse of this country for generations.

"Aboriginality is not a matter of degree - it is matter of identification. Aboriginal culture, too, is diverse, dynamic and intrinsic. There is no degree of culture - there is simply diversity of culture.

"As for Mr Walsh's insinuations that an 'Aboriginal industry' exists - with its alleged stock piles of 4-wheel drives, offices, telephones, fax machines, mobiles and (god forbid!) paid employees

...such offensive racial distinctions have thankfully had no place in the scientific discourse of this country for generations...

- a detailed response would simply dignify what can be dismissed as a diatribe of contempt".

Mr Eggington said Aboriginal organisations,

such as Aboriginal Legal Services, Medical Services, Land Councils, and ATSIC itself, existed to service the proven needs of Australia's Indigenous peoples - needs that the mainstream system, having perpetrated the damage and perpetuated the neglect, had failed to meet and now accepted that it could not meet, without Aboriginal goodwill, tolerance and assistance.

WACOSS CONFERENCE (from page two)

until they had achieved the required social change. He said although Indigenous people made up 2% of the Australian population, they were high in the consciousness of the Australian community.

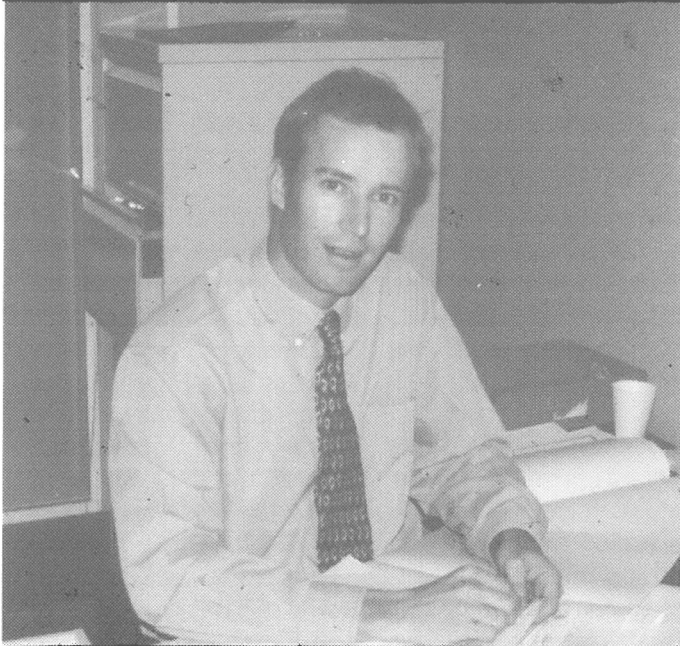
Mr Eggington was joined on the panel by Paul Murray (Editor of *The West Australian*) and Moira Raynor who also delivered the keynote address.

Sir Ronald Wilson, who headed the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children addressed WACOSS on the recommendations in the report Bringing them Home.

Liz Hayden, Director of Mar Mooditj, praised Sir Ronald for his life's work before he delivered a heartfelt speech on the Stolen Generations. WACOSS Director Ian Carter then presented a certificate of apology to all those affected by the Removal policies.

Mr Eggington thanked WACOSS for the gesture. The apology will be kept in the WACOSS offices in Perth. Member organisations will be invited to add their names to the document.

STAFF PROFILE



ALSWA Solicitor Tom Hall has recently joined the Criminal Unit and will be working in the Children's Court. Tom has worked in private law firms *Altorfer Stow* in Geraldton and *Butlers* in Perth, where he undertook Family Law work. He expects Criminal Law to present an interesting challenge.

Lack of funding delays action on 'Stolen' test cases

ALSWA is currently unable to continue with a number of planned Stolen Generation 'test cases' in the High Court because of a lack of funds. Submissions to ATSIC and the Churches have so far been unsuccessful. Discussion with other legal agencies in terms of obtaining pro-bono work on the test cases is continuing. ALSWA has a number of test cases 'ready to go' as soon as funding becomes available. The test cases involve persons whose stories come from the bank of stories provided to ALSWA in 1995 for publication in the report *Telling Our Story*.

Currently ALSWA is receiving a large number of calls from people who have given their stories and want progress reports, and from others who want to tell their stories. The general concern has been whether or not governments will be prepared to pay compensation for the traumas suffered in the process of removal of children from families and communities. ALSWA is attempting to keep people informed, but is hampered by many changing their addresses and not advising ALSWA of the change.

CHURCHES CAUTIOUS

(from page three)

compulsory Aboriginal Studies in Catholic schools dealing with the Stolen Generations issue. The Church also said it would consider a formal apology on 'Sorry Day', but felt the State Government owed it an apology for putting it in the position of having to take responsibility for the Stolen Children. The Church said the Action Group had failed to recognise the positive contributions made by it in terms of caring for children removed under past State Government policies.

Ms Montgomery said the Uniting Church was considering making Aboriginal Studies compulsory, and also said it was going to investigate the management of archival records on Stolen Generations, held at the Battye Library. The Church said it was looking into the possibility of establishing a specific Trust Fund that would assist Stolen Children in accessing counselling, assist in re-uniting families and possibly provide accommodation.

She said the Anglican Church was confident that its response met most of the recommendations of the Group. The Church had established a trust fund for the Stolen Generations that would be distributed. The Church said surplus funds would be allocated for counselling, air fares, accommodation and any initiatives that were useful for Stolen Generations. Aboriginal Studies, including Stolen Generations, would be included in the Church's educational plan.

The Anglican Church has urged Stolen Children to contact their local Anglican parish for assistance.

Tuckey shows contempt for National Sorry Day

WA Liberal MHR Wilson Tuckey has once again displayed his extraordinary ignorance by claiming, in *The West Australian*, that 'there might as well be a special day for the parents of all Australians whose children were sent away to war'. He was criticising the recent National Sorry Day for those affected by removal policies. ALSWA CEO Dennis Eggington said the logic and relevance of Mr Tuckey's analogy escaped him. In a letter to *The West*, Mr Eggington felt obliged to remind Mr Tuckey that such a day already existed - ANZAC Day. (continued page seven)

NEWSWATCH

A LEGACY OF CARING

Shirley Smith, better known as Mum Shirl, passed away in Sydney on April 28, aged 76. Mum Shirl dedicated her life to helping the disadvantaged and looking after homeless kids. She played a vital role in establishing Aboriginal medical and legal services in Redfern.

Her life work has been praised by ATSIC Chairman Gatjil Djerrkura. "Mum Shirl represented the essence of the value that Indigenous people place upon community and family. Her role in setting up community services in Redfern was pioneering, but the importance of dedicated services has been recognised by Indigenous communities and mainstream agencies all over the country", he said.

Mum Shirl was known internationally due to her work community to offer a better life. She met people like Mother Theresa, Thomas Mboya (former justice minister for Kenya), and the Queen. Mum Shirl helped everyone in need, black or white, Protestant or Catholic, straight or gay. She will be long remembered.

SURVEY IS RACIST

The Federal Government has spent \$50,000 on a survey of community attitudes to immigration. The survey asks questions such as 'Aborigines are dirty and lazy. Do you agree or disagree?' and 'Muslims have strange ways and will never be part of Australian society. Do you agree or disagree?'

The Government admits some questions are 'racially sensitive' but claims the survey is essential to its \$5 million anti-racism campaign.

TRADITIONS MAINTAINED

Cliff Humphries, Noon-gar elder and cultural custodian who was born in Beverly on October 4, 1910, passed away on April 27 in Perth, aged 87.

Cliff was fortunate not to be one of the stolen children. He traversed his country from Kellerberrin to Narrogin enabling him to establish an unbroken link to his land, people and traditional culture.

He will be sadly missed by family and friends.

JAIL FOR STOLEN BEER

ALSNT has taken the case of a Northern Territory woman, who last year was jailed under the Territory's mandatory sentencing laws, on her first offence of stealing a can of beer, to the High Court.

ALSNT was seeking leave to appeal the decision, on the grounds that the laws were unconstitutional and interfered with judicial discretion.

The plea was rejected but ALSNT intends to appeal the decision.



Court Officer Glynis Ozies and husband David. In a recent edition we accidentally married Glynis off to someone else! But we're relieved to report Glynis and David have forgiven us. In this picture they're celebrating at an ALSWA staff function.

FUNDS SOUGHT FOR ALSWA CUSTOMARY LAW PROJECT

ALSWA has asked the State Aboriginal Justice Council to fund a project that will enable it to prepare a comprehensive report on incorporation of customary law into the mainstream legal system. It is expected that the State Aboriginal Justice Council will discuss ALSWA's submission at its next meeting.

In its submission, ALSWA defines customary law as a body of rules, values and traditions which are accepted as establishing standards of procedures to be followed and upheld within the Aboriginal community. Although numerous changes have occurred, these rules and values continue to exist and can be described as Aboriginal customary law.

ALSWA sees a great need for recognition of Aboriginal customary law in the mainstream legal system because customary law influences and shapes the lives of many Aboriginal people. The law maintains order and unity within the Aboriginal community and contributes to Aboriginal self-determination.

The submission identifies the Criminal Justice System as an area where customary law can have an impact because it is the main area of law that Aboriginal people come into contact with. It is a prime example of how Aboriginal people largely relate to colonial rule.

Since European settlement, Aboriginal people have been subject to imposed British law which is different in form and substance to Aboriginal Customary law. Historian C.D. Rowley describes the change for Aboriginal people as 'the progress of Aboriginal from tribesman to inmate'.

Aboriginal people have had difficulty comprehending the imposed laws and consequently have been largely left out of the new social order. ALSWA is dedicated to the recognition of Aboriginal customary law as it will not only benefit Aboriginal people but also the wider community.

The recognition of the punishment system of customary law could develop a sophisticated and enlightened process of sentencing Aboriginal people which would ensure them justice.



ALSWA CEO Dennis Eggington meets with Glynis Sibosado (left) and Jenny Watt of the State Aboriginal Justice Council to discuss funding of the Aboriginal Customary Law project.

MIRIUWONG AGREEMENT

(from page one)

Traditional owner Carol Hapke said she was happy with the agreement and the process of negotiation which took place, because the mining company had talked with them at every stage of those negotiations. Miriuwong-Gajerrong Traditional Owners have encouraged Government and mining companies to follow AuDAX's example by engaging in proper negotiations with Aboriginal people before planning exploration or development.

The Ivanhoe project, involving AuDAX and its partners Carnegie Minerals NL and Quicksilver Holdings, begins with a drilling program in June.

TUCKEY'S CONTEMPT

from page five

"Personally, I can forgive his ignorance on that score, but I cannot forgive his openly-expressed contempt for the feelings of my people or of the million or so Australians that have graciously expressed their sorrow for what happened to the Stolen Generations", he said.

In the letter Mr Eggington said it was commonly believed that a country got the kind of politicians it deserved. "If Wilson Tuckey is the example, then Australia must indeed have a lot to answer for - and that's the message that Aboriginal people have been trying to get across". Mr Eggington said ALSWA would write to Mr Tuckey expressing disgust at his comments.

Aboriginal people not 'part' of a multicultural society

Aboriginal people have a special place in Australia and are not simply part of the country's multicultural society. To regard them otherwise would be to further jeopardize Aboriginal culture.

ALSWA CEO Dennis Eggington told students at Curtin University that multiculturalism was nothing new for Aboriginal people as there were over 200 different cultural groups in the country before colonisation.

"Although there are many cultures in Australia today, Aboriginal culture is too often forgotten while those of other groups are celebrated. Aboriginal people need to be recognised first because of their rightful place as the original inhabitants and owners of the land," he said.

"Education on Aboriginal culture for migrants is poor and needs to be improved for them to have some appreciation and understanding of its uniqueness and vibrancy".

Mr Eggington said the 'Hanson factor' had caused Aboriginal people to join forces with other groups in society to fight for respect for all minorities.

"The Maori of New Zealand have fought for land just as Aboriginal people fight for land here in Australia. This is just one example of how minority groups can identify with each other as often having been in the same boat".

He said "There needs to be compulsory studies on Aboriginal culture throughout Western Australia because the State is lagging behind others in teaching Indigenous culture.

"Society needs to be taught that the romantic version of settlement in Australia is a misrepresentation of the facts.

"Multiculturalism has both helped and hindered the Aboriginal cause. It has helped Australia recognise that those who are different in cultural ways are still an essential part of the community. It has hindered by making Aboriginal people compete with multicultural groups for scarce funding for cultural purposes".

STAFF PROFILE



Land and Heritage Solicitor Alison Murphy, originally from Perth, studied in New South Wales and worked for the South Coast Legal Service before coming back to Western Australia. Alison was the Associate to Justice Lee throughout 1996 and then worked for Dwyer Durack on the Ngaluma Injibandi claim, before it moved to ALSWA where Alison has retained her involvement. She plans to continue working in the area of Native Title.

ALSWA supports parents in campaign to save school

Save our school! This was the appeal from representatives of the Cannington community and parents of Cannington Senior High School students at a recent meeting at Manguri designed to secure the continuation of educational programs at the school. ALSWA was represented at the meeting by Ashley Truscott and Peter O'Brien.

Parents are concerned that if the school is closed the students will find it difficult to adapt to other schools and will ultimately give up on their education. Students will have to travel further afield by public transport. The high cost of travel will cause severe inconvenience for families.

Cannington Senior High School Aboriginal Education Worker Albert McNamara said about 30 Aboriginal students could be forced to abandon their education, after progressing well at Cannington Senior High. This would frustrate hard won gains in Aboriginal education. He was concerned that, in some instances, community feuds could be re-ignited if students attended schools in other areas.

History of removal repeats itself for Family Law client

ALSWA's Family Law Unit has recently been involved in a case concerning a Stolen Generation's client in which history appears to have repeated itself.

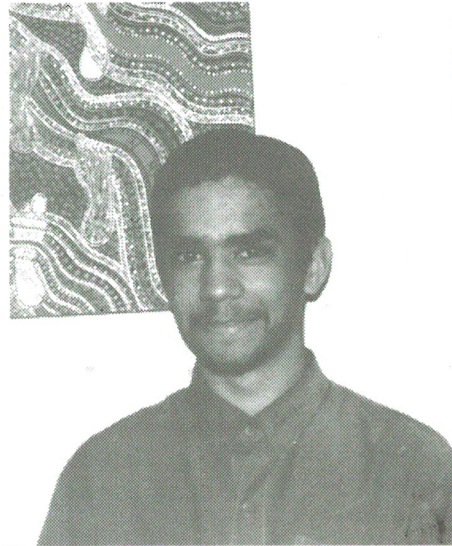
The client was removed from her natural parents at birth under Native Welfare Legislation in Western Australia. The client, and her sister, were sent to Mogumber Mission outside Moora, and she was then fostered out to a family in Busselton at the age of two years. The client's eight brothers and sisters were sent to the Catholic Mission at New Norcia.

As an adult, the client's children were removed from her care and placed in a non-Aboriginal environment (being the paternal grandparents) and made wards of the State for an initial period of two years in 1990. The wardship order was extended for further periods of two years with the children remaining with the paternal grandparents during the whole period of wardship.

The mother recently brought the matter to the attention of ALSWA's Family Law Unit when she discovered the current care-givers intended to return to New South Wales. It was also the strong wish of the mother's four children (aged 10 - 14 years) to relocate to New South Wales.

The Department of Family and Children Services appears to have failed to understand the connection between culture and identity or to make any real attempt to facilitate access, over the years, between mother and children. The mother was limited in exercising access over the years, for different reasons, but the Department has failed in its obligations to actively work with the mother in reunification with her children.

ALSWA Family Law Solicitor Toni Cuss attended a case conference with the mother to look at possible access options in the short and long term. The intention was to gain graduated access to the children from a few hours to, eventually, a day each fortnight. A suitable person would be responsible for providing a report on the progress of the access arrangements. The issue of the children relocating to New South Wales is still to be assessed.



DENNIS Jnr JOINS ALSWA

Latest recruit to ALSWA's traineeship program is Dennis Eggington (Jnr) who has started his training as a clerical officer in the mail room. Dennis will then join the 'round robin' of trainees and gain experience in all areas of the organisation's operations.

Campbell's comments of no consequence to Aboriginal community

ALSWA has told Kalgoorlie MHR Graeme Campbell that his criticisms of the Service are inconsequential and of little concern to the Aboriginal community.

Mr Campbell, in response to an ALSWA questionnaire seeking political views on Aboriginal issues accused ALSWA of abusing power and claimed that the Service did not know or care about the real issues frustrating Aboriginal advancement.

ALSWA CEO Dennis Eggington said Mr Campbell's comments were sadly predictable. In a response to the politician, he said "Your arrogant belief that you alone know what the 'real problems' of Aboriginal people are is well documented. As for your allegations about abuse of power, we accept that you would be the expert in that department as well.

"Your assertion, however, that (ALSWA) does not know or care about the 'real issues frustrating Aboriginal advancement' is wrong. We do know that the arrogant paternalistic attitudes of displaced politicians like yourself are a major factor in frustrating Aboriginal advancement, and we care about that.

"I note with special interest that of all the replies we have had to our questionnaire, yours was the only one that sought to be deliberately offensive. If you were a person of any consequence or credibility whatsoever, we would care about that as well'.

Clients gain information on children's whereabouts through Family Law Act

The Family Law Unit has been able to make good use of relevant provisions in the Family Law Act enabling them to obtain a Location Order or Commonwealth Information Order on behalf of clients. An application can be made to the Family Court on an ex-parte basis (without the other party knowing anything about the application) for such an order if a child's location is unknown.

These are very useful where one party absconds with, or hides, a child, to deprive another party from exercising contact or assuming responsibility for the child's day to day care, welfare or development.

A Location Order is a Court order requiring (a) a person to provide the Registrar of the Family Court with information that the person has, or obtains, about the child's location or (b) the Secretary of a Department, or an appropriate authority of a Commonwealth instrumentality, to provide the Registrar with information about the child's location that is contained in or comes into the records of the Department or instrumentality. 'Information about the child's location' is further defined as information about where the child is or where a person, who the Court has reason or cause to believe has the child, is.

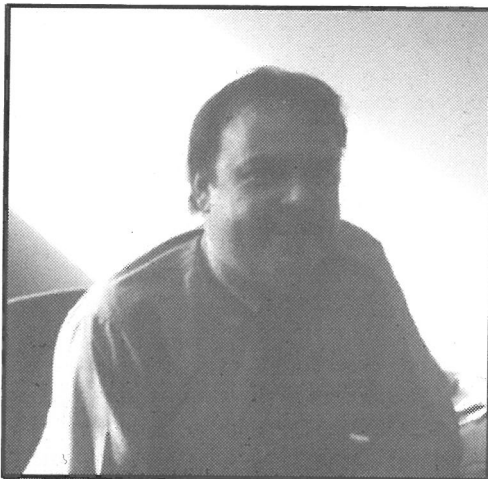
A Commonwealth Information Order is usually directed to such Departments as Centrelink (formerly Department of Social Services) or the Australian Taxation Office or the Department of Family and Children Services. This procedure is most useful when trying to contact the other party so arrangements can be made to serve the party with a client's initiating documentation for contact or residence.

An application for this type of order was made recently by ALSWA Family Law Solicitor Paul Anthony on behalf of a mother, after the father removed a two year-old child from the mother's care and went to the Merredin area in Western Australia. The mother was unaware of the whereabouts of the father but the father got in touch with the Department of Family

and Children's Services after taking the child, and the Department became aware of his address. An application was made for a warrant for the return of the child and also an Information Order. The address was subsequently obtained from the Department and passed on to the police who were then able to locate the child and return her to the mother, pursuant to the Warrant.

A Location Order and Commonwealth Information Order stays in force for a year or longer period as the Court considers appropriate, and while it is in force the person to whom it applies must provide the information sought by it as soon as practicable after he or she obtains

the information, or it comes into the records of the Department or Commonwealth instrumentality concerned.



Family law Solicitor Paul Anthony

ALSWA TRAINEES



Cherylee Eades (left) and Veronica Randall have joined the ALSWA Perth office as trainees. Cherylee currently does secretarial training with the Court Officer section and Veronica is being trained in reception and telephonist work.

In the Land of the Long White Socks! An analysis of Native Title today

By Executive Officer Land and Heritage Glenn Shaw

ALSWA Land and Heritage Executive Officer Glenn Shaw has reminded an ICM Conference that the High Court determined that Native Title existed except where there had been an act to extinguish it, and that 'men in long white socks' had tried to invert those principals. Despite the controversy the Native Title Act 1993 remained in force and, although it had areas of difficulty, Indigenous people had been able to go through the process of establishing rights through Courts and Tribunals.

He said the Native Title Act 1993 enabled Indigenous people to claim a physical and spiritual connection to country but 'convincing the broader community in this country of the principal of spiritual connection has been difficult'. He said under certain circumstances many Indigenous people were not prepared to disclose information due to fear of sites being identified, exploited, desecrated and ultimately destroyed.

"I do not see the men in long white socks' condemning those who had a spiritual connection to such places as the Wailing Wall, Mecca and the Vatican, yet they dismissed Aboriginal spiritual connection to country as being difficult for them to accept", Mr Shaw said.

"The men in the long white socks either misread or completely ignored the decision of the High Court, because they thought that Aboriginal people had a victory. This is a clear misrepresentation

of the facts, because the High Court made it very clear that Native Title rights and the rights of the pastoralists can co-exist, except where there is inconsistency, and in those cases the rights of the pastoralists prevail. Aboriginal people have witnessed the development of the Howard Ten Point Plan, and in contrast to the previous ten point plan bought down from the mountain by Moses, this one clearly did not have a principal of *"thou shalt not steal"*.

"This is because the new plan outlined by Government does nothing short of steal our ability to protect our rights over land, and even removes our ability to legitimately claim the land which is the traditional land of our mothers and fathers and all those who came before. Clearly an attempted act of theft.

"The National Indigenous Working Group on Native Title (NIWG) presented a formal position to Government in April, 1997 titled *"Coexistence Negotiation and Certainty"*. This proposal was dismissed out of hand by the Prime Minister because, and I quote *"it is too far from my position as spelled out in the ten point plan"*

"On the right to negotiate, the NIWG is still of the opinion that the Right to Negotiate must remain in the form as expressed in the Native Title Act, 1993.

"This means that the Right to Negotiate is maintained on mining on pastoral leases, over cities and towns, Crown grants to third parties exploration licenses, mining leases, and inland and offshore waters etc.

"The NIWG is of the view that a Double Dissolution election is not in the best interests of this country. However, we were never going to agree to have our basic rights eradicated to appease Government in an attempt to stop it using Native Title as a trigger. "It is clearly in the best interest of the Australian community as a whole to have this matter resolved through a negotiated process, and not pushed through the Legislative *quick fix* process as was tried by Government.

"We need only look at such countries as Canada, the United States (most recently Hawaii), to understand the complexity of such issues as those of Indigenous Rights, and we are yet to see a Legislative Process which has resolved all the complex and far reaching issues.

"The National Indigenous Working Group on Native Title still has its offer on the table to enter into *good faith* negotiations with the Federal and State Governments with a view to resolving all the issues relating to Native Title.

"The NIWG is committed to stay in the process for as long as it takes. The only 'provisos' that we have are that the negotiations are in *good faith* and that Government at all levels does not go down the path of amending the Native Title Act until we have agreed on the form and content of amendments.

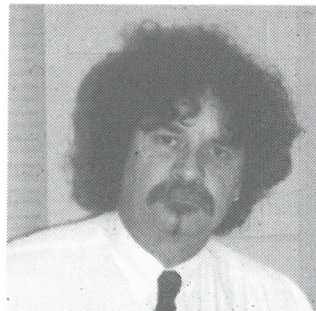
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ALSWA TO PROVIDE FINANCIAL EDUCATION TO COMMUNITY

ALSWA is in the process of setting up a financial education service for the Aboriginal community. The service will be developed and delivered by ALSWA Community Liaison Officer Joslyn Eades, and will attempt to meet the various educational needs of identified sectors of the Aboriginal community, such as young people, married couples, the elderly, those with children, etc. The service is being developed with funds made available to ALSWA by the Ministry for Fair Trading.

The financial education service will make use of internal and external media, production and distribution of printed materials and will organise a series of community workshops, for the purpose of educating the community on all matters financial.

The topics covered will include banking, credit cards, household budgeting, taxation, hire purchase, investments, social security, appeals and small claim courts. The section will also develop a portfolio of information available from other agencies so that it can be centrally accessed at the Perth ALSWA office.



Glenn Shaw
(from page eleven)

"This is a far better option than creating division in this country based on race, and adding fuel to the ever increasing number of 'Hansenites' within the community.

"If the men in long white socks have any form of moral fibre or social conscience then the only option they should be looking at is one of *Co-existence, Negotiation and Certainty*".

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ALSWA VISITS P.A.M's NEW FACILITIES

ALSWA's PLO David Imlah, Deputy CEO Colleen Hayward and CEO Dennis Eggington (right), recently joined Ted Wilkes, Director of the Perth Aboriginal Medical Service, for a guided tour of the Service's new building situated in Wittenoom Street, East Perth. The ALSWA visitors were impressed with the facilities and complimented all concerned with the new development.