

ALSWA

Published by the Aboriginal Legal Service of Western Australia (Inc)



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HIGH INTEREST IN ALSWA EXECUTIVE ELECTION '98

Election of members to the Executive Committee of the Aboriginal Legal Service of Western Australia Incorporated (ALSWA) will be held in four of seven regions across the State from October 7 to October 21.

Election of two members for each of the Perth Central, Southern, Goldfields and East Kimberley regions will be held in that period, with elections for the Pilbara and West Kimberley regions scheduled for a later date. No election is

necessary for the Gascoyne-Murchison region because just two nominations were received, with those people being declared elected.

The Executive Committee is the governing body of ALSWA. It meets four times each year to make decisions influencing operational procedures, organisational functions and policy directions of the service. The Executive Committee can form sub-committees on specific issues as it sees the need.

ATSIC Chairpersons from each ATSIC Regional Council in the State are also members of the ALSWA Executive Committee. Interest in this year's election has been high, with ten nominations for the Perth Central region, eight for the Southern region, and three each for the Goldfields and East Kimberley. The nominees in order of appearance on the ballot papers are:

Central: Lorraine Whitby, Cedric Jacobs, Michael Blurton, Robin Yarran, Clem Riley, Shane Abdullah, Ken Colbung, Robert Isaacs, Jillian Nelson, Ted Wilkes.

Southern: Harry Coyne, Trevor Penny, Eric Hayward, Mark Ugle, Kerry Mead, Kenneth Dean, Olivia Roberts, Glen Colbung.

Goldfields: Ron (Doc) Reynolds, Bruce Smith, Ron Harrington Smith.

East Kimberley: Trevor Bedford, Kenny Green, Judy Butters.

ALSWA ELECTION

FOR THE CENTRAL, SOUTHERN, GOLDFIELDS
AND EAST KIMBERLEY REGIONS

7-21 OCTOBER 1998

YOU MUST BE A MEMBER OF
ALSWA TO VOTE.

You can become a member at any ALSWA
polling place during the election period.

For information call
(08) 9265 6666

1800 019 900 (toll free)

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Miriuwung Gajerrong mining negotiations proceed effectively

ALSWA Land and Heritage Solicitor Mark Gregory has participated in completion of mining negotiation agreements between the Miriuwung and Gajerrong traditional owners and JSW Holdings P/L and Martinjinni P/L mining companies.

Mr Gregory said from Kununurra that the Miriuwung and Gajerrong people were negotiating mining agreements at a faster pace than the State Government's own procedures.

Mining tenements in Western Australia went through two main processes. Firstly, they were assessed by the Mining Warden, in the Mining Warden's Court, set up under the Mining Act, to look for technical reasons as to why the tenement should not be granted.

Once past that stage, the Native Title process began. This involved a 'section 29' notice under the Native Title Act, which would be slightly modified under the new Act. The 'section 29' notice would stand for two months to give Native Title parties time to object.

If Native Title claims were lodged or become lodged during that two month period, a six month period of negotiations began. The six month period was referred to as the 'right to negotiate', which would be changed under the Native Title Amendment Act.

The Miriuwung and Gajerrong people had been talking with JSW Holdings P/L about two mining tenements for two years. The mining company approached ALSWA about a third mining tenement in late 1997.

The third mining tenement was added to the other two tenement negotiations and was completed in August 1998. The State Government had not yet put out a 'section 29' notice for the third tenement, which meant that negotiations had been concluded before the 'right to negotiate' had started.

Matinjinni P/L informed ALSWA in December 1997 of their application for a mining lease. Negotiations began immediately and concluded last month. The State Government had not yet issued the 'section 29' notice.

Mr Gregory said that as Aboriginal people and mining companies gained experience in negotiations, and began to set standards, negotiations started to flow more quickly and smoothly, which achieved mutual benefits.

He said that when the mining company approached the traditional owners at the outset and said 'let's talk' and acted in a fair-minded manner, negotiations were fairly

STAFF PROFILE



ALSWA recently employed David MacLean as Manager for the Civil Unit. David studied Law at UWA, after completing his studies in 1990 he worked at Kott Gunning (with Toni Cuss and Anne DeSouza) and at Quigley and Co, before practicing on his own account. After three years as a sole practitioner David was delighted to join ALSWA as it gave him the opportunity to work on some of the most interesting litigation, such as the Stolen Generation files. David said it was good to work within the Aboriginal community after being in the isolation of private practice.

quick and often beat the State system.

"Both of these points give the lie to the Premier's continual assertion that Aboriginal claims to Native Title are stifling progress. In these cases, the State's own bureaucratic processes had not even begun to run on the mining leases by the time the traditional owners and the mining companies reached an agreement.

"The mining companies are left stranded. The deals with traditional owners are done and the Aboriginal heritage clearance of the proposed tenements has been conducted and reports have been given to the mining companies, but they cannot start development as their tenements are yet to be issued.

"These two agreements show the frustration of the mining companies, because now the Native Title Act is being amended, the State cannot efficiently set the 'section 29' notice in progress quickly. Mining companies may have to wait until the State implements its own legislation for their tenements to be granted.

"The 'right to negotiate' process is starting to show progress in the way it flows with benefits for both parties, but the new system will frustrate the gains being made".

POLICE OFFICER ASKED TO REFRAIN FROM 'NON-RACIST' REMARKS...

ALSWA has received a number of angry calls from Aboriginal and non-Aboriginal people complaining about comments purportedly made in a suburban newspaper by Acting Senior Sergeant Allen Thompson of the Leederville Police Station.

Snr Sgt Thompson is reported in the *Voice News* of August 14, 1998 as claiming that the "typical profile of a car thief is male, 15-16 years, from the lower end of the socio-economic scale, and, without being racist, Aboriginal".

ALSWA CEO Dennis Eggington said in a letter to Snr Sgt Thompson "Comments of this nature are racist by virtue of the fact that they identify a

group of offenders by race, and, in this particular instance, serve to confirm within the public mind a perception that car-theft is solely an 'Aboriginal offence'.

"To identify 'typical' offenders by race, in whatever criminal activity, is inappropriate and in contravention of all of the principles of human rights, social justice, racial discrimination and racial vilification legislation.

"The fragile relationship between the Aboriginal and non-Aboriginal communities can only be further damaged by the type of careless and inconsiderate remarks that have been attributed to you on this occasion".

...AND CORRESPONDENT TOLD TO THINK AGAIN ON YOUNG OFFENDERS

A correspondent to *The West Australian* (14/9) has been castigated by ALSWA CEO Dennis Eggington for implying that Aboriginal juveniles are the primary, if not the only, offenders in terms of car stealing. This association, he said, was based on prejudice, and not fact.

"The assumption that it is an 'Aboriginal' problem is as wrong as assuming, as many do, that Aboriginal people have the monopoly on home invasions, where the opposite is true".

"People like C Streeter, through their ignorance, perpetuate the myth that crime is synonymous with Aboriginality. Crime is a whole-of-community problem.

The 'long-suffering public' that C Streeter seeks to protect, includes, whether he/she recognises it or not, the Aboriginal people.

"For too long we have been scapegoats for a society out of control and looking for someone to blame. If the Aboriginal offenders that C Streeter complained about had been welcomed by and made to feel valued members of this society, the situation would be different.

"You cannot continually marginalise and oppress one section of the community and expect it meekly to fall into line with mainstream expectations. Aboriginal crime is a response, largely, to societal antagonism and indifference".

STATE GOVERNMENT FAILS TO NEGOTIATE NT CLAIMS

The WA Government has admitted to the National Native Title Tribunal (NNTT) that it failed to negotiate with Native Title claimant groups in relation to ten applications involving mining and exploration leases, even though in some instances, the Native Title process had started three years ago. In doing so it has virtually admitted breaking the Law.

Judge Sumner of the NNTT has adjourned hearing a State Government's submission, for the applications to be struck out, until after September 30, 1998 - the date that the Federal Government's amended Native Title legislation comes into effect. The decision could affect the outcome of an additional 1700 applications, most involving mining.

ALS Chief Executive Dennis Eggington said that the Prime Minister had assured Australia that the amended Native Title Act would 'fix the Native Title problem'. The truth was that the problem had been created by the State Govern-

ment, in its failure to negotiate with Native Title claimants.

Mr Eggington said the Premier, Richard Court, had demonstrated utter disregard of the law and disrespect for the people of Western Australia, especially Aboriginal people, by claiming that Native Title delays were the fault of Aboriginal claimants. Unlike the Government, which had broken the law and caused the delay, Aboriginal Native Title claimants wanted to get on with negotiations.

PUBLICATION DETAILS

ALSWA is published by the Aboriginal Legal Service of Western Australia (Inc), PO Box 8194, Stirling Street, East Perth 6849 [Tel (08) 9265 6666 toll free 1800 019 900 Fax (08) 9221 1767]. The material contained in ALSWA is from a wide variety of sources and does not necessarily represent the views of the organisation. For enquiries, contributions, letters etc, please write to the Editor care of the above address. Permissions must be obtained for reproduction by any means and in any form of part or all of the contents of this publication.

Buying a car? It's Buyer Beware!

ALSWA Civil Unit Solicitor Tom Cannon has warned Aboriginal people from country towns to always have a vehicle independently inspected before buying it.

Mr Cannon said that prior to signing contracts, potential buyers should ensure that the RAC carried out a vehicle inspection because once the finance contract was signed, it was difficult to get out of them.

"If there is a misunderstanding about the contract, ask to have the details explained so you know exactly what conditions you are agreeing to" he said.

He also suggested that it was a good idea for people to be realistic about their weekly repayments.

They should not exceed what the buyer could comfortably afford. This would save the buyer from falling into debt.

On a related matter, Mr Cannon said people had only six years from the date of an accident to lodge a claim for personal injury with Public Liability in Western Australia.

"If you have been injured as a result of an accident, it is important to notify your doctor and get treatment straight away.

"You should also speak to a Civil Solicitor before speaking to an insurance investigator; and notify authorities of any change of address" he said.

SOFTBALL: ALSWA V's PAMS



ALSWA and PAMS recently faced off in a softball match at Wellington Square to celebrate the opening of the Medical Service's new facilities in Wittenoom Street, East Perth. ALSWA's women's team lost to PAMS team, 11-9, but the ALSWA men's team prevailed, winning 14-8. Pictured from left to right are ALSWA's Leona Zaro, Jenny Bedford, Lana Thompson, sitting are Damien Yarran, Janine Hunter and Kenny Griggs. Cherylee Eades, Vaughan Wiley, Dennis Eggington (sitting), Silvana Campbell (background) and Cory McGrath give lots of advice from the outfield.

COMMISSION WILL BE JUST ANOTHER BUREAUCRACY

(from page 11)

"An example is where, if a pastoral lease is upgraded to a perpetual pastoral lease and Native Title is extinguished over the entire area, the State would at least have to pay the equivalent to the land value, but would only be recovering those costs at the rate of approximately one cent per hectare per year. How long will the taxpayer of the State have to bear those costs before it gets to a break even situation?

"The other extreme is that compensation on mining ventures would be calculated at ten per cent of the gross profit from the mining venture. The compensation could run into many millions, which the State can only recover through its royalty payment from that particular mining venture. This may mean that the taxpayers will have to foot the compensation bill for that particular venture, when the mine may not come on stream for many years. This means that the taxpayer will be bearing the cost of Government actions. Essentially, the State will be writing cheques, which everyone will have to cash.

"There is an ever increasing argument being put forward by the Aboriginal community that we legally test the argument as to our sovereign rights over this country. If States continue to take positions like the State Government has done in this case, this argument will come to the forefront very quickly. We need to ask ourselves, is the simple-minded attitude of this Government in the best interests of the State as a whole, or merely in the best interests of the Government? I do not think this is a difficult question to answer".

Labor Senator Margaret Reynolds continues her fight for justice

Queensland Senator Margaret Reynolds has told ALSWA that she shares Aboriginal concerns with regard to Aboriginal and Torres Strait Islander peoples and the major social indicators such as health, housing, education and employment.

In a concise response to ALSWA's survey of politicians pending a 1998 Federal Election, Senator Reynolds said she had been actively involved in the campaign for Aboriginal justice since 1967 and understood Aboriginal frustration and the community's fears of a race election.

Senator Reynolds also provided ALSWA with copies of her first speech to the Senate, in 1983, and a more recent speech on Howard's ten-point plan.

Her response to the survey was as follows:

1. What was your intended action in relation to the current Government's amendments to the Native Title Act 1993?

Round table negotiation until a compromise was reached, consistent with the Racial Discrimination Act.

2. Do you agree that Indigenous people, unable to make claim to traditional country, should be financially compensated, and to what extent?

Yes. Funding was initiated by the Keating Government and should be further extended to community organisations.

3. Do you support provision of financial compensation to indigenous persons affected by past Government policies that resulted in removal of children from their families?

Yes. I do support provision of financial compensation to persons affected by removal policies.

4. Would you support an official Federal Government apology to those above, as has recently been provided by the Canadian Government to their Indigenous peoples?

Yes. I think the Federal Government should say sorry.

5. What is your attitude to Indigenous self-determination. If supportive, how would you ensure that the concept is actively reflected in Government policy?

A form of internal sovereignty which recognises Aboriginal culture and history and enables genuine self-government.

6. Do you support increased funding of and autonomy for Indigenous service providers such as Aboriginal legal and medical services, or do you favour the concept of "mainstreaming"?

Yes. Independent services are the only guarantee.

7. In Government, what do you intend to do about ameliorating the social and economic disadvantages suffered by Australia's Indigenous peoples?

Priority to key initiatives in real partnership with ATSIC and other Indigenous organisations.

8. What is your response in relation to One Nation Party's racist political agenda?

Shameful and divisive.

9. In a rewritten constitution, as would be required if Australia was to become a republic, would you support a Bill of Rights with recognition of the special rights of Indigenous Australians?

Yes.

10. What solutions would you seek to reduce the over-representation of Australia's Indigenous peoples in the criminal justice system?

- Decriminalisation of alcohol related "offences";
- Repeal of inappropriate juvenile justice legislation particularly in Queensland and Western Australia;
- Better use of community service orders.

"(I support) a form of internal sovereignty which recognises Aboriginal culture and history and enables genuine self-government"



NEWSWATCH

ATSIC warns government against changes during election.....

ATSIC Chairman Gatjil Djerrkura said in a recent media statement that he would be gravely concerned if the Government announced its proposed changes to ATSIC during the current Federal election campaign.

He said he did not intend to respond to newspaper speculation on what was or was not contained in the policy documents of the major parties during the 98 election.

"It would become difficult for Aboriginal and Torres Strait Islander people to distinguish between Howard, Hanson and Herron" he said.

"I have written to the Minister for Aboriginal and Torres Strait Islander Affairs asking when he will be in a position to release his policy document so that we can comment on the facts rather than the speculation".

Mr Djerrkura said he will issue an informed and well considered response to the policy positions issued by all major parties in the campaign.

On a separate matter Mr Djerrkura launched an attack on the One Nation party. He said "The Hanson-Oldfield Indigenous affairs policy is meaningless and should go the same way as their equally useless tax plan. I hope we are witnessing the final chapter in one of the sorriest episodes of Australian politics. Australians should now look for leadership from the major parties to move the nation on from the Hanson nonsense".

BOY IN CUSTODY AFTER CHARGES DISMISSED

A 15 year old boy, who was charged with aggravated burglary and threatening behaviour, spent two days in a police lockup in Laverton despite the fact that charges against him were dismissed.

Sgt Pollard of the Laverton Police said an order was given to keep the boy in custody as there were no facilities where the boy could stay, and no responsible adult was willing to take responsibility for him. The boy, who speaks very little English, is from the Kiwirrkurra community, 1500km north-east of Laverton.

ALSWA CEO Dennis Eggington said it was shameful that the only alternative for the youth was police custody, which was not appropriate.

WAYNE DALEY WILL BE SADLY MISSED

Wayne Daley was recently appointed Chairperson of ATSIC Perth Regional Council and, by virtue of that position, had become a member of the Executive Committee of ALSWA.

Mr Daley's death came as a shock to all at ALSWA, especially as he had met for the first time with the ALSWA Executive Committee, at its meeting in Karratha, in the week before his passing.

ALSWA is aware that many share its sense of loss. Executive Members, Management and Staff send a very heartfelt message of sympathy to his family, friends and colleagues.

..... and claims GST will impact on remote communities

A report recently released by ATSIC has shown that remote and rural Indigenous communities will be worst affected by the GST.

Professor Owen Stanley of James Cook University in Townsville has found that, because incomes are so low among the Indigenous population, they tend to spend a larger proportion of money on food, clothing and other essential items. Remote communities face higher transport costs and instances of monopoly supply that create higher prices.

Some of Professor Stanley's findings are that goods and services purchased in remote communities are always more expensive than those purchased in large regional centres or cities. Therefore, remote communities will pay more in terms of the dollar amount of the GST and proportion of income. As remote communities do not normally pay for health, education, child care and local government services, exemption from the GST confers no advantage. Therefore, for Indigenous people, a GST is a tax without exceptions imposed on all existing expenditure.

Mr Stanley's research indicated that Indigenous people in remote communities have limited incomes and increases in the pension rebate, the pension income test, the tax-free threshold and the remote area allowance will have little benefit to them. His research has also shown that the proposal to pay GST revenue to the States and Territories raises concern because of their historical reluctance to fully provide essential services in remote and rural communities. This shift of resources could limit the Commonwealth's ability to take the lead role in these matters.



ALSWA Legal Education Series

WHAT YOU NEED TO KNOW ABOUT DISCRIMINATION

Discrimination is when a person is treated unfairly because of race, age, gender, appearance, or other differences.

Discrimination can occur in seeking accommodation; employment; education; membership of clubs; sport; superannuation and insurance; advertising; provisions of goods, services and/or facilities; access to places and vehicles; and in many other instances.

Racial discrimination/harassment - is when you are treated unfairly because of your race, ethnic background, nationality, or colour of skin.

Sex discrimination - is when a person of is treated less favourably or differently than a person of the other sex, in the same or similar situations, or because of sexual preference.

Sexual harassment - is when sexual advances, such as requests for sexual favours and/or other types of sexual suggestions or comments are made and are unwelcome.

Impaired discrimination - is when a person with a physical or intellectual disability, or who is assumed to have a disability, is treated differently and/or unfairly.

Age discrimination - occurs when a person, because of age, is treated less differently or less favourably than others in the same or similar situation.

Pregnancy discrimination - is when a pregnant woman is treated differently or less favourably than a woman who is not pregnant (or vice versa), in the same or similar situation.

Marital Status discrimination - occurs when, in the same or similar situations, a person is treated differently and/or less favourably because they are either single, married, separated, de facto, divorced or widowed.

Family responsibility/ status discrimination - is when a person with family responsibilities is treated less favourably than another person, in the same or similar situation.

Equal Opportunity Commission

The Equal Opportunity Commission (EOC) provides a variety of services that seek to inform and promote the principles of equal opportunity to members of the general public, employers, employees, equal opportunity co-ordinators, representatives of public and private sector agencies, and to members of community and voluntary groups.

The Equal Opportunity Act came into effect in Western Australia in 1984. It says that everyone should be given a "fair go". It made any kind of discrimination unlawful and gave people the opportunity to seek help through the EOC. The Act certifies that it is unlawful to discriminate in public areas of employment, education and accommodation. The Federal Equal Opportunity Act covers all forms of discrimination and harassment.

Direct Discrimination

Direct Discrimination is when a person receives less favourable treatment than another person in the same or similar situation.

Indirect Discrimination

Indirect Discrimination is when rules, policies or practices do not allow people of particular groups to participate in activities. For example, a job advertisement that requires that applicants have five years experience. This indirectly discriminates because many younger people will not be able to comply with the five years experience requirement.

To make a complaint

If you feel you have been discriminated

against and want to do something about it, you should complain to the Commissioner of Equal Opportunity, in writing.

It is important that your complaint includes as much information as possible, such as names of those involved, dates of events, witness statements, letters of dismissal or medical certificates.

The Commissioner for Equal Opportunity assesses the complaint to determine if it has merit. If it does, a Commissioner and a Conciliation Officer will make an inquiry into the complaint and attempt to resolve it.

A letter will be written to the offending person/organization to inform them of the complaint and to invite them to respond.

In most cases, complaints are resolved at this stage. However, the Commissioner may decide that the case was not valid and dismiss it. If this happens, the person who lodged the complaint (the complainant) may decide to take the matter to the Equal Opportunity Tribunal for a further inquiry.

All complaints must be made within twelve month of the last incident of discrimination or harassment. In certain circumstances, if a complaint is lodged outside the twelve month period, the Commissioner may decide to extend time if the complainant can show good cause for the delay.

It is illegal under the Equal Opportunity Act 1984 for anyone to threaten, harass or cause harm to any person lodging a complaint or giving evidence regarding a complaint.

Commissioner for
Equal Opportunity
Westralia Square
2nd Floor
141 St George's Terrace
PERTH WA 6000
Tel (08) 9264 1930
Toll free: 1800 198 149

Family Law cases show value of video link-up facilities

ALSWA Family Law Unit has demonstrated that in some circumstances it is possible to have Family Law matters heard in separate venues and still have an effective trial.

Solicitor Paul Anthony said it was possible for parties and witnesses to give evidence either by way of telephone or video link up. It was important to have those facilities available because people living in country areas did not have the financial resources to travel and transport witnesses to the hearing.

The Family Law Unit was involved in a case where a father lived in Darwin and was able to give evidence at a place convenient to him, while the mother from Perth, gave evidence by video link-up to the trial in Darwin.

ALSWA represented the mother who was caring for the eight year-old child in Perth. The father from Darwin, made an application for access to the child. An application was made and granted on behalf of the mother to give evidence by video link from Perth to Darwin.

The matter was eventually resolved by agreement with the father having access on terms satisfactory to both parties. The mother was saved the expense and inconvenience of having to travel to Darwin.

The Family Law Unit urges people who did not know about the facilities and now would like to utilise them, to contact ALSWA for assistance.

SPLIT TRIAL

The Family Law Unit was also involved in a case partly heard in Geraldton and finished in Karratha. A paternal grandmother, applied to have sole guardianship and custody of her two grandchildren aged seven and eight years.

The grandmother lived in Ger-

aldton and initiated proceedings in July 1997, after one of the children went to live with her in March of that year.

The children had had significant contact with the grandmother up until she began caring for the youngest child. The other child stayed to live with the natural mother, who had moved to Wickham in April of 1996. The children both lived with their mother and father until their father was killed in an accident shortly after the youngest child's birth.

If the trial proceeded to be heard only in Geraldton, then the mother would have been at a disadvantage because she was not able to provide financial assistance to transport her witnesses to Geraldton. The witnesses themselves were unlikely to be willing to travel to Geraldton.

The mother applied to have a split hearing which meant the grandmother's case would be heard in Geraldton and the mother's in Karratha, which was the Court closest to Wickham.

One of the mother's witnesses had chicken pox and was in hospital at the time of the hearing. An application was

made for the witness to give evidence by way of telephone linkup from the hospital to the Court in Karratha.

The hearing concluded in late August and the Judge has reserved a decision for a later date.

'people living in remote areas do not have the money to transport witnesses to hearings'

EXECUTIVE MEETS IN KARRATHA



The current ALSWA Executive Committee met recently in Karratha for the final time. The ALSWA election for new members to the Committee takes place from October 7 to 21 this year. The new Committee will meet for the first time in Perth on November 2-5. Pictures here, Land and Heritage Manager Glenn Shaw addresses members (from his right, clockwise) Doc Reynolds, Bruce Smith, Kevin George, Mervyn Councillor, ALSWA Deputy CEO Colleen Hayward, President Ted Wilkes and Vice-President Glen Colbung. Photograph by Jenny Bedford.

Celebrating the 50th Anniversary of the United Nations Draft Declaration on the Rights of Indigenous Peoples

This year is the 50th Anniversary of the United Nations Draft Declaration on the Rights of Indigenous Peoples. Here is a summary of the Declaration on the Rights of Indigenous Peoples, as compiled by the United Nations.

- ◇ Affirming that Indigenous peoples are equal in dignity and rights to all other peoples, while recognising the right of all peoples to be different, to consider themselves different, and to be respected as such.
- ◇ Affirming also that all peoples contribute to the diversity and richness of civilisations and cultures, which constitute the common heritage of humankind.
- ◇ Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin, racial, religious, ethnic, or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust.
- ◇ Reaffirming also that Indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind.
- ◇ Concerned that Indigenous peoples have been deprived of their human rights and fundamental freedoms, resulting, *inter alia*, in their colonisation and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests.
- ◇ Recognising the urgent need to respect and promote the inherent rights and characteristics of Indigenous peoples, especially their rights to their lands, territories and resources, which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies.
- ◇ Welcoming the fact that Indigenous peoples are organising themselves for political, economic, social and cultural enhancement and in order to bring an end to all forms of discrimination and oppression wherever they occur.
- ◇ Convinced that control by Indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with

“...to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms...”

their aspirations and needs.

- ◇ Recognising also that respect for Indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment.
- ◇ Emphasising the need for demilitarisation of the lands and territories of Indigenous peoples, which will contribute to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world.
- ◇ Recognising in particular the right of Indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children.
- ◇ Recognising also that Indigenous peoples have the right

freely to determine their relationship with states in a spirit of coexistence, mutual benefit and full respect.

◇ Considering that treaties, agreements and other arrangements between States and Indigenous peoples are properly matters of international concern and responsibility.

◇ Acknowledging that the charter of the United Nations, the International Covenant on Economics, Social and Cultural Rights and the International Covenant on Civil and Political Rights affirm the fundamental

importance of the right of self determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development.

- ◇ Bearing in mind that nothing this Declaration may be used to deny any peoples their right of self determination.
- ◇ Encouraging States to comply with and effectively implement all international instruments, in particular those related to human rights, as they apply to Indigenous peoples, in consultation and cooperation with the peoples concerned.
- ◇ Emphasising that the United Nations has an important and continuing role to play in promoting and protecting the rights of Indigenous peoples.
- ◇ Believing that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of Indigenous peoples and in the development of relevant activities of the United Nations system in this field.

CEO: BUSH CAMP IDEA A BAND-AID APPROACH

In response to a proposal presented to the Cabinet Standing Committee on Law and Order by the Metropolitan Circle of Nyoongar elders, to place young Aboriginal offenders in bush camps instead of detention centres, ALSWA CEO Dennis Eggington said he was concerned that such a measure would be a band-aid approach which would attempt to fix problems after they had started.

Mr Eggington said that it would be culturally unacceptable to take children out of their own communities and traditional areas. The Aboriginal community should be cautious of any such attempts. He said ALSWA favoured an approach of preventative measures that helped dysfunctional families strengthen their family units.

Spokesperson for the Metropolitan Nyoongar Circle of Elders, Peter David had told the State Government that young Aboriginal offenders should be sent to desert camps - providing army style training - instead of detention centres. The proposal was presented by Nyoongar elders Saul Yarran, Patrick Hume and Andy Nebro to the Cabinet Standing

Committee on Law and Order, which includes Premier Richard Court. The camps would take convicted offenders under 18 years and would be operated by Aboriginal people.

Part of the proposal was to remove children from the detention centre environment because it was agreed by the elders that this equipped them with more criminal skills and a disrespect for society. The bush camp boarding school would discipline the young offenders by teaching them trades and agriculture as well as traditional cultural education.

Mr Court said the Cabinet committee would consider the proposal. He said "I commend them for the constructive approach they have taken and their willingness to work with Government in an effort to divert young people from re-offending".

Mr Eggington suggested that an Aboriginal Court be implemented to administer traditional punishment upon offenders, instead of sending them to institutions.

"In Aboriginal Customary Law, it was the elders of the community that would sentence the offenders. Aboriginal Customary Law was an equitable justice system, because it maintained a society for more than 50,000 years. The integration of Western and Customary Law may stop our young people from re-offending".

OFFICIAL OPENING of PAMS BUILDING

Charlie Perkins and Puggy Hunter meet with ALSWA's Jenny Bedford and Colleen Hayward during celebrations to mark the official opening of the Perth AMS' new building in East Perth. The event attracted a huge crowd. The area upon which the PAMS building has been erected is a site of significance to Aboriginal people.

(Photograph by Peter O'Brien)



STATE NATIVE TITLE COMMISSION WILL BE ANOTHER BUREAUCRACY

Address by ALSWA Land & Heritage Executive Office Glenn Shaw on the State's Native Title Legislation

ALSWA Land and Heritage Executive Officer Glenn Shaw said in a recent address to an Edith Cowan University Native Title conference that many Aboriginal people are of the view that there should never have been a Native Title Act put through the Federal Parliament in 1993, and the Aboriginal people should have never consented to the implementation of that legislation.

Mr Shaw said he was also of that view. Aboriginal people had locked themselves into a process where they no longer controlled the agenda, but were now trying to minimise the damage that Government would inflict upon them.

He said "We are now at the point where the Western Australian Government is in the process of introducing legislation which will extinguish Native Title over vast tracts of the State.

"The Premier Richard Court said they were merely introducing legislation that was reflective of the amended Federal Native Title Act, following the deal between Brian Harradine and the Prime Minister earlier this year. In essence this is true, but it is the nature and vindictiveness of the legislation that is in question.

"The State can develop and introduce its own legislation, which I do not have any objection to, but I am concerned with the process (or lack of it) that is being undertaken. This process has been a farcical one as the State Government has only allowed three weeks for consultation.

"There have been views put forward that because of the level of discussion about Native Title at the Federal level, there may not need to be consultation at the State level.

"This is a view that clearly lacks understanding as to what actually happened in the process of consultation, discussion and negotiation at the Federal level. The formal discussions between Aboriginal people and the Government was as short as 5-10 minutes over the several months required to pass the legislation through the Federal Parliament.

"To put the whole debate into context, I need only refer to a statement made by Deputy Prime Minister Tim Fischer in October 1997 when he said 'this will deliver us bucket loads of extinguishment'.

"The Federal Government established a process where extinguishment would be implemented in the State and Territory legislation and not as a direct result of the Federal

amendments, but they allowed for the principles of extinguishment to be established in the Amended Federal Act.

"I have many concerns about this legislation which are:

- the inadequate time frame allowed for the consultation;
- the extreme level of extinguishment of Native Title across the State;
- the unclear alternative procedures proposed by the State;
- the proposal by Government to establish another bureaucracy in the form of a State Native Title Commission, which I see as unnecessary because we have a fully functioning National Native Title Tribunal which can continue to operate at no expense to the Western Australian taxpayer;

- an ever increasing sense that the mining and development industries, as well as Aboriginal people, have reservations about the legislation as to what it can deliver.

"These are only a few concerns that need to be addressed but this cannot be done during the inadequate time frame allowed.

"The establishment of the State Native Title Commission will mean the establishment of yet another bureaucracy at the taxpayer's expense. The National Na-

tive Title Tribunal is also paid for by the taxpayer, but the cost is shared throughout the whole country and is not the responsibility of a particular State or Territory. We would have to foot the entire bill ourselves under the proposed legislation.

"When looking at the State's proposed legislation, we must also consider the issue of compensation. How is the State supposed to pay 'just-terms compensation' when it could potentially come to billions of dollars?

"Within Australia, compensation would more likely relate to the dollar value of the land. In countries such as Canada and the United States, compensation in relation to mining, means a percentage of the overall profit of that particular venture has to be paid.

"The issue of extinguishment must be addressed logically and adequately because once Native Title is extinguished, the traditional owners can and may lodge a claim for compensation, which will need to be dealt with justly.

(continued on page 4)

**'The National
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continue to
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Western Australian
taxpayer'**

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