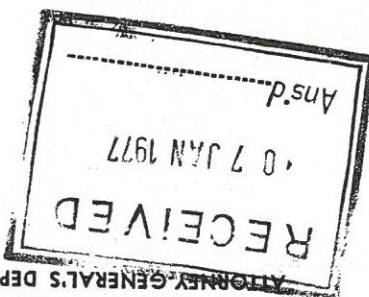


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Re: Kulaluk Land Claim

I have now received a copy of the ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) BILL 1976 (as read for a third time). The Bill is endorsed as follows:-

"This Bill originated in the House of Representatives; and, having this day passed, is now ready for presentation to the Senate for its concurrence.

N.J. Parkes,
Clerk of the House of Representatives,
House of Representatives,
Canberra, 1 December, 1976."

2. The Senate amended the Bill, but not in any significant aspect as far as areas within which Aborigines may make claims for land. The printed Act has not yet come to hand and it will take sometime yet before it is printed I understand.

3. As far as the Kulaluk claim is concerned the relevant section is Clause 50 and that section reads as follows:-

"50. (1) The functions of the Commissioner are -

(a) on an application being made to the Commissioner by or on behalf of Aborigines claiming to have a traditional land claim to an area of land, being unalienated Crown land or alienated Crown land (the underlying is mine) in which all estates and interests not held by the Crown are held by, or on behalf of, Aborigines -

(i) to ascertain whether those Aborigines or any other Aborigines are the traditional Aboriginal owners of the land; and

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- (ii) to report his findings to the Minister and to the Minister for the Northern Territory, and, where he finds that there are Aborigines who are the traditional owners of the land, to make recommendations to the Minister for the granting of the land or any part of the land in accordance with sections 11 and 12;
- (b) to inquire into the likely extent of traditional land claims by Aborigines to alienated Crown Land and to report to the Minister and to the Minister for the Northern Territory, from time to time, the results of his inquiries;
- (c) to establish and maintain a register of the traditional land claims referred to in paragraph (b);
- (d) to advise the Minister in connexion with any other matter relevant to the operation of this Act that is referred to the Commissioner by the Minister; and
- (e) to advise the Minister and the Minister for the Northern Territory in connexion with any other matter relating to Land in the Northern Territory that is referred to the Commissioner by the Minister with the concurrence of the Minister for the Northern Territory.
- (2) The Commissioner may, with the approval of the Minister, perform any function that may be conferred on him by a law of the Northern Territory.
- (3) In making a report in connexion with a traditional land claim the Commissioner shall have regard to the strength or otherwise of the traditional attachment by the claimants to the land claimed, and shall comment on each of the following matters:-
- (a) the number of Aborigines with traditional attachments to the land claimed who would be advantaged, and the nature and extent of the advantage that would accrue to those Aborigines, if the claim were acceded to either in whole or in part;
- (b) the detriment to persons or communities including other Aboriginal groups that might result if the claim were acceded to either in whole or in part;
- (c) the effect which acceding to the claim either in whole or in part would have on the existing or proposed patterns of land usage in the region; and
- (d) where the claim relates to alienated Crown Land - the cost of acquiring the interests of persons (other than the Crown) in the land concerned.
- (4) In carrying out his functions the Commissioner shall have regard to the following principles:-
- (a) Aborigines who by choice are living at a place on the traditional country of the tribe or linguistic group to which they belong but do not have a right or entitlement to live at that place ought, where practicable, to be able to acquire secure occupancy

of that place;

(b) Aborigines who are not living at a place on the traditional country of the tribe or linguistic group to which they belong but desire to live at such a place ought, where practicable, to be able to acquire secure occupancy of such a place."

4. "Alienated Crown land" is defined in Clause 3 as follows "means Crown land in which a person (other than the Crown) has an estate or interest, but does not include land in a town;"
- "Unalienated Crown land" means Crown land in which no person (other than the Crown) has an estate or an interest, but does not include land in a town;"
5. The effect of these provisions is that the interim decision by the Interim Land Commissioner under the provisions of the 1975 Bill has no basis in law. Aborigines will not be able to make claims in town areas.

f.v. Reitano
(F.V. REITANO)
for CROWN LAW OFFICER.

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