

procedure where they do not have to negotiate with native title claimants (WA, 19 November, p10).

Australian National University law lecturer Jennifer Clarke said that the WA Government is taking on legal challenges regardless of their merit and likelihood of succeeding, and that it could not claim that the Act was unworkable when it was not trying to follow procedures. Premier Court has refused to reveal the cost of his Government's native title challenges (WA, 20 November, p10).

Premier Court told a mining industry lunch that a failure by the Senate to pass the whole package of amendments to the native title legislation would lead Western Australia to demand legislation to extinguish native title on pastoral leases (Aus, 21 November, p4).

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NT

Northern Territory Railway

The South Australia and NT Governments have formed a statutory body, the AustralAsia Railway Corporation, to make make the running on proposals to finance and build the \$1 billion Alice Springs to Darwin rail line. The NT Government is negotiating with Aboriginal groups for 20% of the proposed line and expects to own 80% of the land required by Christmas (*Fin R*, 14 November, p15).

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RECENT PUBLICATIONS

Due to the volume of material on native title over October - November and staff shortages in the Native Title Research Unit, this month's segment is again small.

Horstman, Mark. "Black Shadows, White Shadows, Grey Shadows: Does the Cape York Regional Agreement provide a model for the Reconciliation Process?" *Arena Magazine*, Vol 22, 1996: 26-31. Horstman, who was centrally involved in the Agreement, traces the process of brokering the CYRA, from its beginnings in August 1994 when 80 people met in Coen in response to the Wik people's launching of native title claims over 28,000 sq kms of land along the Gulf of Carpentaria encompassing 10 pastoral leases - to its conclusion on 5 February 1996 when the Agreement was signed. Local people were tired of confrontation and ready to pursue practical solutions. As a result, the Cape York Land Council appeals to consider the possibility of co-existence of native title with pastoral leases, and to resolve issues through mediation and negotiation were productive. The resolution agreed at that meeting:

'.. that pastoral lease holders are entitled to enjoy their rights, industry and lifestyle; that Aboriginal people are entitled to enjoy their rights, industry and culture; that all pastoral leases should be secure against native title claim, provided: - that

traditional Aboriginal people be entitled to access to their traditional lands for traditional purposes, and that these rights extend to pastoral leases where the access does not diminish the rights of pastoral leaseholders; - that government is obliged to preserve and protect these rights through legislation; - that wherever possible, pastoral leaseholders and Aboriginal people with traditional interests resolve issues and conflict through direct negotiation in good faith'

has formed the basis of the Heads of Agreement of the CYRA.

A copy of the Heads of Agreement can be obtained by sending a request and a stamped self-addressed envelope to Colleen Burfitt, Cape York Land Council, POBox 2496, Cairns, QLD 4870. You can access the World Wide Web site about Cape York Peninsula via <http://www.peg.apc.org/~twscairns/capeyork>

Joint Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund - "The Native Title Amendment Bill 1996 and the Racial Discrimination Act", Seventh Report, December 1996. The report focusses on the following questions: in what ways does the RDA protect native title; what rights under the NTA are modified or extinguished by the amendment proposals; of those rights, which are native title in character and which are not; is the RDA inconsistent with the modification of either kind of right. The minority report, lodged by Senator Kernot and Opposition spokesman on Aboriginal Affairs, Daryl Melham, concluded that the proposed amendments to the NTA as they stand are not consistent with the RDA and with the international Convention on the Elimination of all Forms of Racial Discrimination (CERD), and need to be altered to guarantee the primacy of the RDA and CERD.

Reynolds, Henry. "Pastoral Leases in their Historical Context" Aboriginal law Bulletin, Vol 3, No 81, 1996: 9-11. In this paper Reynolds argues that pastoral leases must be viewed in law in the historical context of their granting. The British Colonial Office established a policy in the 1830s and 1840s of providing continued Aboriginal access to land by inserting reservations in pastoral leases. The Imperial Government felt that as far as possible Aborigines should be withdrawn from colonial legislative systems, and after the granting of responsible government to the colonies, extended the policy of providing Aboriginal access to land through the continuation of the *Imperial Land Waste Act 1855*.

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Significant people in the development of Native Title legislation