The dispossession of the land was also confirmed by a Petition made to the Governor of New South Wales in 1881 by 42 Aborigines who resided on the Murray River at the time. That Petition recited that all land within their tribal boundaries had been taken possession of by the Government and white settlers and requested a grant of land. This Petition was regarded as positive evidence of the dispossession of the land.

4. The current beliefs and practices of the claimant group in respect of protection of sacred sites and proper management of the land or the conservation of food resources or activities or practices were not part of the traditional laws and customs handed down from the original inhabitants.

5. There was overwhelming evidence that Aboriginals and non-Aboriginals alike enter, travel through, live, fish and hunt within the claim area without seeking permission other than as may be required by State or Commonwealth law. The tide of history had undoubtedly washed away any traditional rights that the indigenous people may have previously exercised in relation to controlling access to their land within the claim area.

Appeal

The decision is being appealed to the Full Federal Court. If the appeal is successful then extinguishment issues will need to be considered by Olney J.

6. JURISDICTION OF SUPREME COURT TO DECLARE EXTINGUISHMENT OF NATIVE TITLE: APPLICATION STAYED

Douglas Wilson v Michael Anderson and Others

(NSW Supreme Court, 20 January 1999, Levine J)

In this case Wilson sought a declaration against Anderson that any native title that may have existed over land the subject of Western Lands Lease No. 7951 granted under the *Western Lands Act* 1901 (NSW) was extinguished or in the alternative suspended for the duration of that lease. Anderson was the registered native title claimant on behalf of the Euahlay-i Dixon clan over the area that included the western lands lease area, and as a result there would be Federal Court proceedings to determine the claim in due course. The NSW Aboriginal Lands Council was joined as defendant in the proceedings on a costs neutral basis. The defendants sought an order that the proceedings be stayed or dismissed on the grounds that the Supreme Court does not have jurisdiction in the proceedings or the power to grant the relief sought or, if it does, the relief sought should in its discretion be declined.

The Court concluded that it has the jurisdiction to hear the proceedings and the power to grant the declarations sought but in its discretion stayed the proceedings. The reasons for doing so included that an application for determination of native title had been made under the *Native Title Act* 1993 (Cth) there were proceedings under that Act which would result in the resolution of the rights of all parties and their claims, there was a real question of the utility of the proceedings in the Court, and there was an absence of evidence of prejudice or disadvantage to the plaintiff.

The plaintiff also requested that the proceedings be removed to the Court of Appeal for determination. The *NSW Supreme Court Rules* allow such a removal in special circumstances. That request was refused. The main reasons given for the refusal were the lack of simplicity of the proceedings, particularly in the area of facts and evidence required, and that there was an issue whether the lease in question was typical of all western lands leases.

NORTHERN TERRITORY

NORTHERN TERRITORY LEGISLATIVE DEVELOPMENTS*

The *Land and Mining (Miscellaneous Amendments) Bill* was introduced and passed in the February 1999 sittings of the Legislative Assembly.

The Bill contained amendments to the *Land Acquisition Act*, the *Lands and Mining Tribunal Act*, the *Mining Act* and the *Petroleum Act*.

The Bill is, according to the Attorney-General in his second reading speech, the result of amendments sought by the Commonwealth as part of the determination as to whether the Northern Territory alternative regime established to replace the right to negotiate procedures under the *Native Title Act* 1993 (Cth) complies with the requirements of that Act.

Most of the Bill deals with the procedures to apply for the period between the enactment by the Northern Territory of the alternative regime (1 October 1998) and the making of the Commonwealth determination.

VICTORIA

EXPLORATION LICENCE RENEWAL TERMS**

In late 1998 Minerals and Petroleum Victoria indicated an intention to change exploration licence renewal terms. Under s13(3) of the *Mineral Resources Development Act* 1990, the maximum term for an exploration licence is two years and under s32(2) of the Act a licence may be renewed over a period not exceeding four years. The total term of an exploration licence must not exceed 5 years.

The Department has stated that in order to improve security of tenure for exploration licence holders, longer renewal periods will be granted, that is, for a period up to 4 years unless the licence holder requests a shorter term. This change took effect from 4 January 1999. However it appears no change is to occur in relation to the maximum total period of 5 years for an exploration licence, but the limit can be extended if the Minister decides otherwise in accordance with the wide-ranging provisions of s32(2) of the Act.

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* Christopher Knott, Cridlands, Darwin

** Olivia O'Hagan, Articled Clerk, Dunhill Madden Butler, Melbourne