

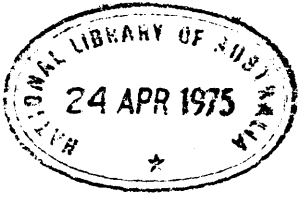
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# Aboriginal land rights commission

First report July 1973

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First report July 1973

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ABORIGINAL LAND RIGHTS COMMISSION  
FIRST REPORT

His Excellency the Right Honourable Sir Paul  
Meernaa Caedwalla Hasluck, P.C., G.C.M.G.,  
G.C.V.O., K.St.J., Governor-General of  
Australia.

Your Excellency,

(i) By Letters Patent dated the Eighth day of February, 1973, you issued to me a Commission requiring and authorising me to inquire into and report upon the following matter, namely:

'The appropriate means to recognise and establish the traditional rights and interests of the Aborigines in and in relation to land, and to satisfy in other ways the reasonable aspirations of the Aborigines to rights in or in relation to land, and, in particular, but without in any way derogating from the generality of the foregoing:

- (a) arrangements for vesting title to land in the Northern Territory of Australia now reserved for the use and benefit of the Aboriginal inhabitants of that Territory, including rights in minerals and timber, in an appropriate body or bodies, and for granting rights in or in relation to that land to the Aboriginal groups or communities concerned with that land;
- (b) the desirability of establishing suitable procedures for the examination of claims to Aboriginal traditional rights and interests in or in relation to land in areas in the Northern Territory of Australia outside Aboriginal reserves or of establishing alternative ways of meeting effectively the needs for land of Aboriginal groups or communities living outside those reserves;
- (c) the effect of already existing commitments, whether in the nature of Crown leases, Government contracts, mining rights or otherwise, on the attainment of the objects of recognising and establishing Aboriginal traditional rights and interests in or in relation to land;
- (d) the changes in legislation required to give effect to the recommendations arising from (a), (b) and (c) above; and
- (e) such other matters relating to rights and interests of the Aborigines in or in relation to land as may be referred to the Aboriginal Land Rights Commission by the Minister for Aboriginal Affairs'.

(ii) On the 18th day of July, 1973 I received a reference from the Honourable the Minister for Aboriginal Affairs, in accordance with subparagraph (e) of my Commission, on the following matter, namely:

‘possible arrangements for vesting title to land in the adjoining Aboriginal reserves in South Australia (North West Reserve), Western Australia (Central Australian, Warburton and Balwina Reserves) and the Northern Territory (Reserve No. R1028, comprising the reserves known as the Petermann, Haasts Bluff and Lake Mackay Reserves) in an appropriate body or bodies and for granting rights in or in relation to that land to the Aboriginal groups or communities concerned with that land, taking into account existing legislation in those two States’.

(iii) I have thought it best to conduct this inquiry with the minimum of formality, particularly because I believed that discussions with the Aboriginal people on their home ground would be more useful and informative than formal public hearings. Accordingly the only appointments which have been made to assist the work of the Commission have been:

Research Officer — Dr N. Peterson Ph.D.  
Secretary — Miss D. D. Goodman LL.B.

(iv) No formal sittings have been held, but a great deal of factual material has been obtained, many written submissions have been received and discussions have been held not only with representatives of many Aboriginal communities but also with a number of other interested persons.

(v) Further submissions have yet to be received and many more discussions held. Indeed a substantial part of the Commission’s work is still to be done. Some formal sittings may prove to be desirable.

(vi) However, for reasons set out in more detail in my report, I have thought it necessary to make this first interim report in order to record some findings of fact, to draw attention to problems already identified, to make some tentative suggestions as to their solution, and to invite greater public participation in their solution, particularly from the Aboriginal people of the Northern Territory.

(vii) I therefore submit the following report to Your Excellency.

Dated this 19th day of July, 1973.

(signed) A. E. Woodward

# Contents

	<i>Paragraphs</i>
INTRODUCTION . . . . .	1-16
THE FACTS	
1. Aborigines and their land . . . . .	17-65
2. Aboriginal reserves and missions . . . . .	66-73
3. Aborigines on cattle stations . . . . .	74-93
4. Aborigines in towns . . . . .	94-98
5. Aboriginal tribes and ethnic blocs . . . . .	99
THE PROBLEMS . . . . .	100
1. Aboriginal reserves . . . . .	101
(a) The vesting of title . . . . .	102-121
(b) Existing rights . . . . .	122-132
2. Other reserves and Crown lands . . . . .	133-140
3. Pastoral leases . . . . .	141-153
4. City and town dwellers . . . . .	154-164
5. Incorporation . . . . .	165-184
6. Funds . . . . .	185-188
7. Land usage . . . . .	
(a) Grazing and agriculture . . . . .	189-198
(b) Forestry . . . . .	199-204
(c) Fisheries . . . . .	205-207
(d) Tourists and visitors . . . . .	208-215
(e) Services — roads, water, schools, hospitals etc. . . . .	216-233
(f) Conservation . . . . .	234-241
8. Mineral rights . . . . .	242-259
RECOMMENDATIONS AND SUGGESTIONS	
1. Regional Councils . . . . .	260-276
2. Aid to smaller groups . . . . .	277-279
3. Incorporation . . . . .	280
4. Vesting of title . . . . .	281-301
5. Further submissions . . . . .	302-305
	<i>Pages</i>
SUMMARY . . . . .	S1-S5
APPENDIXES	
I <i>Aboriginal reserves</i> . . . . .	A1
II <i>Descriptive notes of some Aboriginal communities</i>	
Bathurst and Melville Islands . . . . .	B1-B6
Groote Eylandt . . . . .	B7-B8
Yirrkala . . . . .	B9-B11
Milingimbi . . . . .	B12-B13
Maningrida . . . . .	B14-B15
Hermannsburg . . . . .	B16-B17
Santa Teresa . . . . .	B18-B20
Yuendumu . . . . .	B21-B22

	<i>Pages</i>
Papunya . . . . .	B23–B24
Docker River . . . . .	B25–B26
Willowra . . . . .	B27–B28
<b>III</b> <i>Surveys of Aborigines on cattle stations</i> . . . . .	<b>C1–C5</b>
<b>IV</b> <i>Descriptions of tribes and ethnic blocs</i>	
The Tiwi . . . . .	D1–D2
The Anintilyaugwa and Nunggupuyu . . . . .	D3–D4
The Murngin . . . . .	D5–D7
The Aranda . . . . .	D8–D9
The Kukatja/Luritja . . . . .	D10
The Walpiri . . . . .	D11–D13
The Pintupi . . . . .	D14
The Pitjantjatjara . . . . .	D15–D16



# Introduction

1. The Prime Minister's announcement, last December, of his government's intention to establish a judicial inquiry into Aboriginal land rights, received widespread publicity.
2. Soon after this Commission was set up on the 8th of February, advertisements inviting submissions were inserted and repeated in all major morning newspapers. These set out the Commission's terms of reference, which stressed the subject of Aboriginal land rights in the Northern Territory.
3. In these circumstances it is significant that, among letters and submissions from the Northern Territory, I have received very few from Aborigines, although there have been several from mission societies and others wanting to put a case on behalf of Aborigines. The letters from Aborigines were mainly from secretaries of community councils asking me to visit them for talks. In fairness to the Department of Aboriginal Affairs, I should say that it offered to stimulate an interest among Aborigines in the Commission's work, but I declined this offer because of the risk that the response might not then represent a truly Aboriginal point of view.
4. The general lack of response does not suggest any lack of interest in the subject of land rights. It is merely evidence of a lack of contact and information. This has been partly overcome by my going to Aboriginal communities in the Territory seeking information and opinions. So far I have visited some twenty different centres of Aboriginal population and held discussions with the spokesmen for the majority of Aborigines living on reserves. There are only four major communities on reserves with which I have not yet had some contact. I have also had a number of meetings with Aborigines living in Alice Springs and Darwin, but little contact with the smaller communities living on cattle stations.
5. In the case of each community on a reserve I gave the community council some weeks' notice in writing of the matters I was interested in and made it clear that I wished to hear anything else that the people had to say.
6. Without exception, I have been received with great courtesy and friendliness by all the Aboriginal people I have met. The resulting discussions have been lengthy, detailed and very helpful to me in understanding Aboriginal attitudes to land.

7. In spite of this I have become very much aware of the difficulty of Aborigines in coming to grips with the new situation in which they find themselves. In one sense, discussion of land ownership seems to them unnecessary. They know which Aborigines own which tract of land by Aboriginal law, whether it is now part of an Aboriginal reserve or of a cattle station.

8. In another sense they need to understand their present opportunities to consolidate or re-establish rights in land. I believe that in most cases they still have only an imperfect understanding of the choices which are open to them and to the government. They need independent advice; they need time to think and to confer.

9. I have also felt very strongly the lack of any cohesive organisation linking these various peoples to whom I have spoken. There is no body or council which can speak for the Aborigines of the Territory as a whole. They have, with one exception, had no professional assistance in putting a case to the Commission. They have no means by which they can formulate a generally supported claim or make their voices heard in a way likely to influence ultimate decisions.

10. I am convinced that an imposed solution to the problem of recognising traditional Aboriginal land rights is unlikely to be a good or lasting solution. Although a result reached, so far as possible, by a process of consultation and agreement will undoubtedly take longer to achieve, it is far more likely to be generally acceptable and to have permanent effect.

11. Aborigines have waited many years for some practical recognition of their title to land. In that time much has occurred which makes the present task difficult. I think it should not be a matter for concern if the finding of the best solution takes a year or more to achieve; provided that it is made quite clear that an agreed solution is being actively sought.

12. It is with these thoughts in mind that I have decided to make this first report. In it I set out a number of relevant facts which have to be borne in mind while examining possible steps to be taken. These statements of fact are based upon the material so far available to me. They may require some qualification in the light of later evidence.

13. In this connection I should add that a number of submissions, offered or invited, have not yet been received. In other cases, only preliminary submissions have been made and these will later be expanded either orally or in writing. I am conscious of these facts but even more conscious of the need, as a matter of urgency, to mobilise Aboriginal opinion. Hence the necessity for this report.

14. However, this preliminary report will not in any way reduce the value of those further submissions when they are received. Indeed I believe it will considerably increase their value. All those who have already made substantial submissions will be supplied with a copy of this report and asked to comment further if they wish to do so.

15. This report also records some of the opinions which have been expressed to me and goes on to make some tentative proposals as to the courses of action which appear to be open. I stress that these are put forward not as recommendations, but merely as a basis for discussions. I also make some firm recommendations as to how Aboriginal opinion in the Northern Territory and adjoining state reserves can be formed and given proper expression.

16. It is my hope that, when that opinion can make itself heard effectively, Aborigines will be able to play a full part in arriving at solutions which are acceptable both to them and to the rest of the Australian community.

# The Facts

## 1. Aborigines and their land

17. When the intention to set up this Commission was announced by the Prime Minister, he made it clear that I was not concerned with whether Aborigines should be granted rights in land, since the government had already decided that they should. My task was simply to advise on how such rights should be granted. In these words the Prime Minister stated explicitly what is implicit in the Commission itself.

18. It is therefore unnecessary for me to examine the strength of Aboriginal claims to land in this country. On the other hand, I do need to consider the nature of those claims and, for that purpose, a few basic points need to be made.

19. Some of what follows may be open to dispute among experts and there will necessarily be some oversimplifying of complex situations. I believe it to be a fair summary for present purposes.

20. In the first place, it is accepted that, wherever else man may have evolved, it was not on this continent. The Aborigines came here from the north and came to an uninhabited land.

21. The origins of these people who found their way here are obscure. But they must have come, over a period of time, by way of what are now Indonesia and New Guinea. In doing so, they must have covered at least forty miles of water in what can only have been bark canoes.

22. What is clear is that the Aborigines are genetically a unique people and that they have been here for a very long time. The small parties which landed initially must have taken many hundreds of years to spread, as they did, over the mainland. In spite of some dissimilarities between the Tasmanian Aborigines and those of the mainland, there seems to be no cogent evidence to suggest that the Aborigines of Australia did not have a common origin.

23. As to the length of time over which Aborigines occupied Australia before 1788, it can only be said that recent archaeological work has established a period of upwards of 30,000 years.

24. The Aborigines lived entirely by food gathering and hunting. They tended no herds and planted no crops. In good seasons they lived well; in bad years they suffered.

25. Anthropologists are agreed that different groups of Aborigines claimed identifiable areas of land as their own. There was no part of the continent left unclaimed, although higher mountainous regions may have been seldom visited.

26. It has been estimated that, in 1788, the Aboriginal population of Australia may have been in the order of 300,000. So far as the Northern Territory is concerned, it has been suggested that a typical population density for semi-desert country would have been one person to thirty or forty square miles. In the more productive areas closer to the coast, six or eight square miles per person would have been more likely.

27. This then is the background against which the social organisation of the Aborigines must be considered, and in particular, meaning given to the 'traditional rights and interests of the Aborigines, in and in relation to land'. On enquiry, it soon becomes clear that the social organisation of the Aboriginal people is highly complex. The problem of understanding it is made worse by a number of factors. These include, firstly, the difficulty of expressing many Aboriginal ideas and arrangements in English terms. Even simple words such as 'owner' and 'tribe' can be misleading. Some words used by anthropologists such as 'horde', 'clan', and 'band' have been given more precise meanings in their writings on the subject, but they have not always been used in the same way and so require definition each time they are used.

28. Further, some Aboriginal concepts related to land-owning have no parallel in European law. The most important and widespread of the rights in land that lie outside European arrangements is the managerial interest of a nephew in the country of his maternal uncle. Everywhere the religious rites owned by a clan were the 'title deeds' to the land and could only be celebrated by clan members. Such rites, however, could not be held without the assistance of the managers whose essential task it was to prepare the ritual paraphernalia, decorate the celebrants and conduct the rite. The agreement of managers had to be secured for the exploitation of specialised local resources such as ochre and flint deposits and for visits by the clan owners to their own sacred sites.

29. Yet another difficulty arises from disagreement among anthropologists as to the exact nature of the relationship between Aboriginal organisation for land holding and for land usage. These disagreements may be mainly matters of emphasis, but they are still quite important.

30. It may be that much of this professional disagreement stems from the lack of reliable information as to the situation which existed before white contact. In almost every case, detailed study by trained anthropologists has occurred a number of years after Aboriginal ways of life have been influenced, if not radically changed, by contact with Europeans. Much recorded information comes from older men and women talking of the past, often at some distance from the scene of the events being discussed.

31. A further difficulty arises from the fact that Aboriginal social organisation differs from one area to another. What is true of north-east

Arnhem Land may not even be true of the Daly River area south of Darwin, let alone the Macdonnell Ranges, Western Australia or Queensland.

32. In spite of the difficulties referred to, the following statements can be made with some confidence that they are generally true of the Northern Territory and likely to be true of many other parts of Australia.

33. It is common to speak of Aboriginal 'tribes' and this is a useful description of people such as the Aranda and Pitjantjatjara. The distinguishing marks of such a group are a common language, a commonly used name for that language and thus for the people speaking it, and an identifiable tract of country where those people live or used to live.

34. The term has also been used for a group of related peoples, speaking different languages but living in adjacent areas. However, to avoid confusion, I shall refer to such a grouping as an ethnic bloc.

35. In neither of these cases—the tribe or the ethnic bloc—is there any attempt to achieve political or social unity. The relationship between the different segments of a tribe are often no closer than those between such segments and groups from other tribes. In no sense can the tribe be regarded as the basis of Aboriginal social organisation. Smaller groupings have to be identified for this purpose.

36. The sub-divisions of a tribe can usually be identified by dialectic variations. Although sharing a common language, some words will be different, sentence construction may not be the same and differences in pronunciation will usually be noticeable also.

37. In some cases this dialect group within the tribe does represent the key social unit. In other cases this is to be found one step lower down the scale, at the level of the clan. I use this expression to mean a local descent group: a sub-division of a dialect group larger than a family but based on family links through a common male ancestry, although those links may be back beyond living memory.

38. Since the clan appears to be more commonly the key unit, I now turn to consider it in more detail.

39. Membership of such a clan is determined at birth, since, for land-owning purposes, the child automatically becomes a member of the father's clan. (The word 'father' is used throughout although it would be more correct to speak of the mother's husband. This presented no problems to the Aborigine because conception was believed to be the work of spirits.)

40. Mother and father will come from different clans, for a child cannot marry within the clan, but must marry a member of another clan. The rules or preferences which decide that clan vary from place to place, but can be quite strict. They have had to be relaxed in some areas as clans have dwindled in size or disappeared.

41. The members of a clan retain that membership throughout their lives and, indeed, thereafter. The link between an Aborigine's spirit and his land is regarded as being timeless. The land-owning clan is merely a group of people who share the same links with the same land.

42. Thus these clans have close spiritual associations with particular tracts of land. Their religion or mythology teaches them that particular areas were given to them, or claimed on their behalf, by their spirit ancestors in the Dreamtime. For this reason there are specific stories, songs and ceremonies linking these spirit ancestors with particular places. The more important the place is to the legend, the more sacred it is.

43. These spirit ancestors were in some cases part animal, bird, insect or plant. They could also, for example, be related to rain, wind or stars. But in all cases they had human characteristics, whatever their outward form may have been.

44. Some country, because of these legends or of its natural resources (which are frequently linked together) is more important than other country. But, although boundaries may be blurred, all country is of some importance and is identified with some clan or other grouping.

45. The spiritual connection between a clan and its land involves both rights and duties. The rights are to the unrestricted use of its natural products; the duties are of a ceremonial kind — to tend the land by the performance of ritual dances, songs and ceremonies at the proper times and places.

46. One further point remains to be made. It is apparent that a clan, being of only moderate size, can die out. This must have happened on occasions even in the days before white contact. With the coming of the white man, such instances must have occurred more frequently even in the Northern Territory. Since the produce of all land is important and, in Aboriginal belief, good seasons depend upon ritual observances, it was normal for the sacred objects and ceremonies of that clan to be taken over or cared for by another closely related clan. Since, as I have said, the connection of Aborigines with their land is timeless, commencing before birth and continuing after death, this taking over should be seen as a form of trusteeship rather than a transfer of rights.

47. All that has been said above about the clan is equally true of the dialect group referred to earlier except that, being larger, marriage within the group is likely to be quite common. It will still be governed by strict rules as to kinship which will determine which members are acceptable as spouses.

48. It may help to clarify the complicated position I have been describing if the situation is considered from the point of view of a typical Aborigine of Arnhem Land in the years before white contact.

49. Let us assume the case of a mature man. His immediate family consists of one or more wives and their respective children together, in all probability, with some older people; perhaps one of his or his wife's

parents or an elder brother or brother-in-law. Even when food is scarce, this family unit is likely to be added to by relatives or friends. The father and his children, of course, belong to one clan along with his father, brothers and sisters (who may not be in the group).

50. The wife or wives come from, and still belong to, a different clan. If there are several wives, they may not belong to the one clan, although it is quite likely that they will. The mother, if she is present, will almost certainly belong to a third clan. Because of the intricate kinship systems observed, it is unusual for a man to take a wife from his mother's clan. Friends and other relatives could come from any one of a group of neighbouring clans with which there are friendly relations. In the group the dialect of the central clan will predominate, but other clans will use their own dialects and will be understood.

51. The other members of the central clan in this example will be scattered among a number of similar family groups. They will all be related by patrilineal descent but the exact relationship may have been forgotten with the passage of time. In several other cases, as in this one, the clan will provide the nucleus of the group. In other instances, some other clan will provide the nucleus and members of this clan will be present as wives, relatives or guests. The total membership of the clan — men, women and children — may be about 30 to 50.

52. The family group which has been described may move about by itself, or, particularly when food is relatively plentiful, may join with other groups to constitute quite a large band; perhaps 30 or 40 people. Whether large or small, this band constitutes the hunting and food gathering social unit. It moves over the country in a predictable but not rigid pattern which depends on the availability of food resources at particular places and particular times. It varies in numbers as groups or individuals join and leave. In doing so, it will probably spend a good deal of time on the country which is held by the clan, but the head of the family will certainly expect to be welcome in the country of his mother's clan. He will also visit freely his wife's country or that of any other member of his group. Indeed he may decide to go to any of the neighbouring areas except, perhaps, those where some ill-feeling has arisen or is traditional between his clan and the local landholding group.

53. The trouble he takes to obtain express or tacit permission will depend upon the strength of his claim to hospitality, arising from personal ties of relationship, traditional clan affiliations or totemic relationships (which are explained below).

54. Where the band is a large one, it may be difficult to say that it has any one clan as a nucleus. This is particularly true when large groups gather at a special time and place for major ceremonies of ritual songs and dances. On these occasions several related clans will have special responsibilities to perform or to manage the ceremonies, but many other clans will also be represented.

55. The head of the family will know exactly where his clan's land begins and ends. If circumstances take him away from it for any length of



time, he will make a point of returning for major ceremonies if and when he can and, in particular, for the initiation of his sons.

56. This is his country in the clearest sense of that term. He may however speak of some other place or places as being his country, either because he was born there, or because his mother first became aware of her pregnancy there and so believed that the spirits conceived him there, or because the place is associated in mythology with a totemic or spirit figure which is either his personal totem also or the totem of his clan. The clan, for example, may have the bandicoot as a totemic figure, but the head of this family may have been born at a 'honey-bee Dreaming' place, which is imbued with the spirit essence of a mythical honey-bee man. He will then have a special relationship with other Aborigines sharing the same totemic figures. Each of his relationships with these spirit ancestors will be substantiated by stories and songs which include their doings in the Dreamtime on the clan's land and at the place of his birth.

57. The picture so far painted is, I believe, accurate for North Eastern Arnhem Land. Even here there is some doubt as to just how much time, before white contact, a typical clan member spent on his own land.

58. In other parts of the Northern Territory, some different considerations apply. Thus on Melville and Bathurst Islands the Tiwi people, largely cut off from outside contact, developed some rules of their own. In some parts of the Territory, clan social membership was inherited from the mother, although land-holding seems always to be inherited from the father. In others, where the land-holding clans or dialect groups were larger and their country more extensive, they seem to have lived almost entirely on their own land except in times of severe drought. Even so, their wives had to come from other groups and this led to a good deal of visiting, sometimes for protracted periods.

59. Up to this point I have concentrated on the situation which existed before white contact. In those days of intimate association between men and their land there would, I believe, have been no difficulty experienced in recording the allocation of country between land-holding clans or dialect groups. Today the degree of difficulty will vary from place to place.

60. Because of the spiritual beliefs of the Aborigine about his land, his connection with it is not broken by the fact that he may have lived away from it for many years. Certainly traditional ways of life have, to varying extents in different places, been departed from. Missions and settlements, with their assured food supplies, medical attention and other material advantages, have attracted Aborigines to settle, more or less permanently, in one place. Very often this is miles from their own country and, as older men die, accurate information becomes harder to obtain. Rituals are observed less often and not at the traditional sites.

61. For the present-day enquirer, the problem is made much worse by the fact that Aborigines had no need, in the past, to be specific in their use of names for clans or other groups. Perhaps the most commonly used

description was the name of the language or dialect spoken by a particular people. However, as I have said, it seems clear that the larger language group was never a social or political unit and so never a land-holding group. In some cases the dialect group would constitute the land-holding unit and in other cases land would be held by a sub-division of that dialect group: a clan. In either case its membership was determined by common patrilineal descent.

62. But even if the land-holding group was identical with the dialect group, it was not in its capacity as a dialect group that it held the land. It did so as a descent group and, usually, by another name. This name might well be the same as, or derived from, the particular totem of the group. In fact there could be several different names, some of them sacred and used only in ceremonies, for the same people.

63. Common usage complicated the position further because the people themselves would have little use for a group name, speaking only of 'us'; and neighbouring groups might refer to them by reference to totemic relationships or to the name of a leading figure in the group or to a particular place frequented by the group. Indeed in some cases it is hard to discover whether a sub-group of a particular dialect group hold a piece of country to the exclusion of the other sub-group, or whether they are merely specially associated with that area, which is nevertheless held by the whole group.

64. Aborigines further afield might well group a number of clans together and refer to them as 'the people of the north' or 'the people of the desert'. Such a description could easily be mistaken for a tribal name.

65. I have no doubt that, even today, the necessary information is available to divide much, if not all, of the Northern Territory into dialect group or clan regions. If the right people could be taken out to the right places, to demonstrate the position on the ground, I believe that there would be little disagreement. I have so far come across no case in which ownership of land has been disputed among full-blooded Aborigines. But the task of obtaining the necessary information from different informants, having different degrees of knowledge, and then converting it into clear terms for record purposes, could undoubtedly be a very long and difficult one. Since detailed surveying would be necessary, the job would certainly take a number of years and the expense would be very great.

## 2. Aboriginal reserves and missions

66. It is not necessary for present purposes to survey the history of Aboriginal reserves in the Northern Territory. It is sufficient to say that they were established for the protection of Aborigines. The larger reserves consisted of land which was either unsuitable or not then required for white settlement. The small reserves were established to meet particular needs.

67. In most cases there has been a complicated history of proclamations, revocations, fresh proclamations, resumptions of part for other purposes and so on. In some cases doubts have arisen as to the boundaries or legal status of reserves. However there seems to be no point in exploring these problems. Provided Aborigines are finally given title to land described by geographic boundaries and not by past history, no difficulties should arise.

68. A full list of reserves, showing date of first proclamation of the major part, area and approximate Aboriginal population, is attached as Appendix I. By way of illustration, some communities on reserves are described in more detail in Appendix II.

69. It will be seen from these summaries that reserves vary greatly in size, density of population, potential value for commercial purposes and traditional significance. The communities established on them vary in homogeneity, maintenance of traditions and degree of attachment to surrounding land.

70. So far as the various missions are concerned, some hold leases of substantial areas of land and others hold smaller leases within Aboriginal reserves. Some leases have expired and not been renewed.

71. However the extent and status of such leases is probably not a matter of importance for, so far as I am aware, there is no objection on the part of any mission to handing over to Aborigines title to all areas of land now controlled by it.

72. If there are any exceptions to this position, or if any mission has any reservations about areas now occupied by, for example, churches or houses of mission staff, it is important that such matters be brought to notice.

73. References to certain mission leases and communities will be found in Appendix II.

### 3. Aborigines on cattle stations

74. A comprehensive report on 'the situation of Aborigines on pastoral properties in the Northern Territory' was made in December 1971 by a Committee under the chairmanship of Professor C. A. Gibb. This Committee was made up of men having a wide range of knowledge and experience of their subject and so I do not attempt to traverse the same ground which they covered in establishing the relevant facts. It is sufficient for my purposes to quote several passages from their findings:
75. '. . . even from the most optimistic standpoint the pastoral industry in the Northern Territory can never be regarded as a labour-intensive industry.' (p. 7)
76. 'In parts of Central Australia it seemed clear from information supplied to us that the introduction of Award rates of pay, together with the change in drinking laws (10 December 1964) had a serious effect on the general attitude of pastoralists towards employment of Aborigines. Some had replaced Aborigines with European stockmen and in at least one case the Aboriginal community had been "encouraged" to move off the pastoral property altogether.' (pp. 10 and 11)
77. 'Both in the Centre and in the North Aborigines will need to adapt to changing requirements and add to their skill in horsemanship and stockwork such skills as truck driving, heavy machinery and motor maintenance, yard building and building construction work, fence, bore and windmill maintenance, bookkeeping etc., and also skills in other secondary aspects of the industry such as abattoirs. As has already been explained changes in the industry will take place only slowly and probably at a pace which Aborigines can comfortably accommodate provided appropriate vocational training opportunities are offered early enough to encourage and enable them to acquire the relevant skills.' (p. 12)
78. 'While the labour component may change in kind it is unlikely to increase significantly in size and the prospects for absorbing a growing labour force are negligible.
79. Much property development and improvement has already been initiated in the Northern Territory over the last decade although in the semi-arid areas with annual rainfall average below 25 inches the scope of future beef cattle development is limited by the nature of the native botanical species. With current technology there appear to be no species that can be introduced to improve the quality or quantity of feed. Research and property management in these areas are therefore directed towards giving protection against seasonal hazard and increasing yield per beast area rather than towards supporting additional numbers. Changes of this kind will probably never call for increased labour but will undoubtedly call for a gradual improvement in the levels of knowledge and technical ability of property managers and the labour force alike.
80. In higher rainfall areas changes in management techniques to improve herd numbers and productivity have involved fairly high levels of capital investment to install additional fencing, improved water and handling facilities for cattle together with the introduction of improved breeding, pasture improvement and supplementary feeding. However intensive management techniques can only develop slowly because of the high capital outlay required for pasture improvement and for the importation of the necessary additional breeding stock to build herd numbers. Returns on such high investments are slow and levels of investment must therefore depend on the security of future market prospects. Nevertheless developments in these areas are likely to call increasingly for more highly developed skills within the existing work force together with limited additional numbers of employees to handle a gradually increasing number of cattle.' (p. 8)

81.

<i>Date</i>	<i>Aboriginal population</i>	<i>Aborigines resident on pastoral properties</i>	<i>Aborigines on P.P.s as % of total</i>
31.12.56	17,042	5,393	32
31.12.61	18,677	5,727	31
(Information not available for intervening years)			
31.12.65	19,681	4,676	24
31.12.67	20,549	4,212	21
31.12.69	21,394	4,305	20

82. Though numbers on pastoral properties have dropped over the years both absolutely and as a percentage of the total population of Aborigines in the Northern Territory, they still constitute a sizable and important segment of that population.

*Distribution*

83. The distribution of groups of Aborigines over pastoral properties during 1969-70 was of the following order:

<i>Size of group of resident Aborigines</i>	<i>Number of pastoral properties</i>
Nil	39
1 less than 20	77
20 " " 40	41
40 " " 60	15
60 " " 80	6
80 " " 100	5
100 " " 120	3
120 " " 140	—
140 " " 160	—
160 " " 180	2
180 " " 200	1
Total 189 ' (p. 34)	

'Note: This total of 189 excludes 20 pastoral properties in respect of which reports were not received and includes five outstations of main pastoral properties. The outstations were treated separately in those cases where it is traditional for Aborigines to reside at those locations independently of the pastoral property homestead area.

84. Thus it will be seen that there are six pastoral properties which account for 20% of the total number; 26 further properties which have sizable groups; 74 which have small but important groups; and 44 with merely a handful. Some of the groups comprise Aborigines from one or perhaps two tribal groups only, whilst others comprise members of a number of different tribes.

85. Aborigines reside on pastoral properties throughout the whole of the Territory. The pastoral area with the smallest numbers is in the area to the south and south-west of Alice Springs. The largest concentrations are in the Victoria River and the Sandover River areas.

*Composition*

86. At 31.12.69, 37% of the Aborigines on pastoral properties were under sixteen years of age. This is an indication of a relatively young and an expanding population. However, it is significantly different from the population on Mission and Government settlements where 49% is under sixteen years of age.

87. In 1956 it is likely that the Aboriginal population on pastoral properties was growing by natural increase only very slowly, if at all. This appears to have changed over the past fourteen years and the present population appears to possess the potential for substantial if not rapid growth.' (p. 35)

88. 'The Committee was interested to find during visits both to the Centre and to the North a wide variety of arrangements between Aboriginal communities and station management. Numerically these ranged from stations such as Yambah near Alice Springs with a small permanent Aboriginal community of no more than eight to ten people to stations like Napperby in the Centre and Victoria River Downs in the North with permanent communities totalling around 130 to 140 Aborigines. Some of these station communities have traditional links with the surrounding land areas and have been on a particular station for generations while others, for example most of the Aborigines on Maryvale station, have come to the area only comparatively recently and have developed new ties. It did seem clear from our observations and discussions that in at least several instances the relationship between the Aboriginal community and pastoral management was affected as much by the community attitude to the manager as the reverse and we were told of instances where in the past Aboriginal groups had followed a particularly well-respected 'boss' well outside the limit of their traditional tribal preserves. On the other hand at Lake Nash the manager told us that employment had virtually ceased during 1970 and that most Aborigines had left the station due to a clash with the previous manager. The community which currently totals around 140 and represents a fairly stable grouping had returned promptly as soon as there was a change in managers. It is clear that in this kind of permanent community situation there are often strong ties between management and the Aboriginal community and we received indications that at least some pastoralists felt an obligation to find employment for all the able-bodied men who belonged to their own station community.
89. Outside this situation there is evidence (especially in the Centre) of station owners and managers cutting permanent employment of Aborigines down to a minimum or nothing. Many are now following the practice of employing a team of Aboriginal stock workers on a temporary basis as single employees in the mustering season and letting them go back to centres such as the Aboriginal community at Finke or to Government and Mission settlements when the work is finished. In addition, there are indications throughout the territory that many Aborigines (mostly among the younger generation) feel more mobile and are prepared to travel greater distances — at least for a short time — to find employment.' (p. 43)
90. 'Repeatedly during our tour we were told of the unreliability of Aboriginal employees and of cultural factors limiting their usefulness and of the additional costs not recognised by the Award of providing for their medical and social care. We are persuaded that these claims are not based on racial grounds but on the experience of those concerned. Often Aborigines do not work as well or as consistently as whites and they require much more supervision. The average productivity of Aboriginal labour is below that of white labour.' (p. 16)
91. 'Of the 4,305 living on pastoral properties at 31.12.69 (mid-period date), there were 2,733 adults, of whom 1,481 (1,029 males and 452 females) had been employed for some period during the year. The period of employment of many of the males is known to have been short, but exact figures are not available . . . It is likely that this figure will be held for several years because the apparently increasing rate of natural increase should not be more than offset by the likely loss of numbers resulting from further disemployment of Aborigines in the industry, which over the next few years should not be great.' (p. 36)
92. The way in which tribes are divided between cattle stations is well illustrated by figures taken from surveys carried out in 1967-8 in two different areas, one north-east of Alice Springs, the other in the Roper River. The results are summarised in Appendix III.
93. Recent figures available to me show the largest numbers of Aborigines on cattle stations as follows:

Wave Hill . . . . .	364
Brunette Downs . . . . .	154
Mudginberri . . . . .	123

Rockhampton Downs . . . . .	120
Banka Banka . . . . .	116
Victoria River Downs . . . . .	115
Roper Valley . . . . .	109
Mainoru . . . . .	108
Lake Nash . . . . .	230
Macdonald Downs . . . . .	211
Utopia . . . . .	155
Willowra . . . . .	139
(purchased for Aborigines)	
Napperby . . . . .	136
Tea Tree . . . . .	126
Neutral Junction . . . . .	120

#### 4. Aborigines in towns

94. The 1971 Census revealed a total Aboriginal population in the Northern Territory of 23,253 Aborigines. For the purposes of the Bureau of Census and Statistics 'Aborigines' meant those who were so described to the census takers by the persons supplying the information.

95. Of these, 2,374 lived in Greater Darwin, 1,369 in Alice Springs, 174 in Katherine and 119 in Tennant Creek; a total of just over 4,000.

96. Of the Darwin Aborigines, some 450-500 normally live at the Bagot Reserve and there is a small group camped at Kulaluk and a larger group at Berrimah.

97. In Alice Springs there are about 250 people living 9 miles from Alice Springs at the Amoonguna Reserve and there are several permanent and semi-permanent camps on the Todd and Charles Rivers which would between them probably account for as many more. One of these groups has lived in an old works camp area for some years and two other areas are in the process of having permanent toilet and washing facilities provided.

98. Only a very small percentage of city and town dwellers could establish a traditional claim to the areas where they now live.

## 5. Aboriginal tribes and ethnic blocs

99. In Appendix IV are set out summaries of the past and present positions of a number of tribes and ethnic blocs. These are provided as illustrations of the over-all situation. Here again it will be seen that it is very difficult to generalise as to present-day strengths, cohesion or maintenance of traditional links with land.



# The Problems

100. This leads me conveniently to an outline of the major problems which seem to me to arise in giving recognition to traditional Aboriginal rights in land.

## 1. Aboriginal reserves

101. The terms of reference make it clear that the government wishes to vest title to these lands in an appropriate body or bodies, to ensure that appropriate mineral and timber rights go with the land and to see to it that Aboriginal groups or communities have proper rights over that land.

### (a) THE VESTING OF TITLE

102. There are several ways in which these goals could be achieved. In the first place the title to all reserve lands could be handed over to a council set up for the purpose. No doubt all the members of such a body would be Aborigines. A variation would be to establish more than one such body and perhaps even a separate body for each reserve. In any event the land would belong to these bodies which would certainly have power to lease, and perhaps to transfer title, to Aboriginal groups or communities.

103. A second possibility would be to do without such overall control and to hand over smaller areas of land to particular communities. In the case of the smaller reserves this could produce the same result as the first possibility because there might be only one community on the reserve. But in the case of Arnhem Land, for example, the reserve would

be divided into a number of regions owned by the different communities now existing and, perhaps, by new communities to be established.

104. The third major possibility would be to hand such lands over to traditional land-holding groups.

105. Before considering each of these suggestions in more detail, the point should be made that these are not three clear-cut and quite different approaches. They are capable of modification so that a final scheme could contain elements of any two or all three. The only basic distinction between them lies in whether the actual legal ownership is held by statutory councils, communities or clans.

106. In the case of the statutory councils (I shall assume more than one simply for ease of reference) this has the advantage that legal title to reserve lands could be given to such councils quite simply and quickly. The same legislation which established the councils could grant the land to them and it would only remain to make the necessary appointments to them or hold the necessary elections as thought fit. It would not be difficult to supply such councils with the necessary administrative assistance and expert advice to enable them to carry out their tasks.

107. On the other hand it might be thought that such an approach was too impersonal, too remote from the people living on the land, and that it put too much power into a few hands. Such objections could be met in part by limiting the powers of the councils and providing in the legislation for protection of the rights of communities or clans to occupy and use their traditional lands.

108. The community has some obvious advantages as a land-owning unit because it is the basic political and social grouping for Aborigines in modern society. Most such communities have, in recent years, become used to electing their own councils and attending general meetings of the community to decide matters of common interest. It is true that living arrangements within the community will often be organised in such a way as to reflect clan or dialect group affiliations but, for most purposes, the community functions as a whole. Again it should not prove too difficult to arrange administrative support and independent advice for such communities, provided that there was no general tendency for them to sub-divide themselves into small isolated groups. There is some evidence of such a trend.

109. Disadvantages of the community approach would include the possible difficulty of drawing dividing lines between community areas. Since the same clans or dialect groups may be represented in two or more communities it would not always be easy to draw lines between communities based on traditional relationships to land. The membership of a particular community could also present problems in some cases, because inter-community movement is common. These would probably have to be solved finally by a system of registration — each Aborigine registering himself, and his family, at his community of choice — the community no doubt having the power to accept transferees after initial registration.

110. Another problem which would sometimes arise, both at the outset and later, would be the establishment of new communities at some distance from the old. In some cases, the residents at such out-stations (as they are presently called) might be content to remain part of the larger community. In others, they would probably want complete independence. Some practical way of resolving such problems would have to be found.

111. The method of allocation which might well attract most support at first sight is that which would give the land to traditional land-holding groups. This would have the advantage of most closely approximating Aboriginal law. Further, membership of clans and clan boundaries should always be capable of precise definition; though not without long and painstaking enquiry in some instances. Such a system has been supported by most anthropologists who have responded to my request for information and opinions.

112. On the other hand there are some very real difficulties in this approach. In the first place, such divisions of land were evolved for a food-collecting and hunting life system in which the use of land was shared between neighbouring groups. The areas of land involved are sometimes quite small as, for example, in cases where a single hill or beach is held by one clan, at some distance from its main area, and entirely surrounded by the land of another clan. Arnhem Land, for example, might have to be divided into almost 200 clan units.

113. Even where areas are larger, divisions along these lines would have no regard to present or future productivity or needs. A small group might well be entitled to a large and fertile area and much larger groups might find that their country, which produced only sparsely for food-gatherers, was quite useless for modern food production or any other economic purpose. Major groups in some well-established communities would find that they had no legal claim to the reserve lands on which that community had been established. Even under traditional Aboriginal custom they would have been able to share with the land-holding groups the fruits and wild life of the region. So if Aboriginal title were converted directly into some form of modern title, some groups would get more and others less than they enjoyed under the old system.

114. Another way in which this would occur is that one group or clan may own a large area of land, but as I have pointed out earlier, other groups have recognised rights and duties as the managers or workers for the ownership ceremonies relating to that land. There would be no legal recognition of such rights if land were divided up between clans.

115. There would also be very real practical difficulties in administering an ownership system where, as often happens, the rightful owners belong to several family groups living in communities hundreds of miles apart. Thus I was informed that the three senior owners of one tract of land in the Petermann Ranges lived respectively at Laverton (630 miles west by road) Warburton (260 miles west) and Alice Springs (450 miles east). It would obviously create difficulties to register that tract of land in the names of those men and their families (who could be even more widely scattered).

116. Also relevant to this point is the I.L.O. Convention No. 107 of 1957 dealing with Indigenous and Tribal Populations. It is important that no action be taken which could prejudice eventual Australian ratification of that Convention, which emphasises the claims of indigenous peoples actually occupying traditional lands.

117. To vest title to large areas of land in larger tribal groups would solve some of the problems referred to, but the tribes would still be widely scattered and this would assign to the tribe a social and political unity which it did not possess traditionally. On the other hand it is true that modern transport has made it possible for Aborigines to make and retain tribal contacts which would not have been possible when all movement was on foot.

118. All these are matters which the Aboriginal people themselves must carefully consider. One possible answer would be a blend of community and clan or tribal ownership as found appropriate in different places.

119. One thing which seems quite clear so far as reserve lands are concerned is that ownership, in the first instance, must be communal. Communities will no doubt wish to give leases to individuals in some cases and, at some time in the future, individual title to land may become appropriate. However, inalienable communal title is quite basic to the Aboriginal system and so seems to provide the only possible way of dealing with reserve lands in the Northern Territory today. This appears to be the view of all the communities I have so far visited.

120. Some form of incorporation for Aboriginal groups will thus be necessary for land-owning purposes, and if it is sufficiently flexible to cover both communities and clans, it may well be practicable for different Aboriginal people to organise themselves as they see fit. If a clan or dialect group basis is favoured, I have already said that I would not expect any final difficulty in resolving areas of ownership, although the process would be very intricate and time-consuming. Similarly, if only communities were involved, I would expect the Aboriginal people themselves to be able to resolve areas of responsibility. Any continuing dispute could be settled by arbitrators acceptable to both sides or, in the last resort, an authority prescribed by the legislation.

121. The same method of solution could be applied to a dispute between a community and a clan, but here the guidelines would be harder to establish and the whole task much more difficult. Such disputes would also be more likely to occur, because there is more scope for a conflict of interest arising from overlapping claims.

#### (b) EXISTING RIGHTS

122. One special problem which will have to be considered is the existence of other rights over land in Aboriginal reserves. These rights include current mission leases, such rights as may exist under expired mission leases, existing special-purpose leases to Aborigines and others, possible agreements to enter into special-purpose leases with Aborigines or others, and mining leases and exploration permits.

123. I have already indicated that no real difficulties are anticipated in relation to mission leases. So far as other commitments are concerned, the point has been made to me by several Aboriginal communities that they were not party, in any legal or practical sense, to certain of these agreements, all of which proceeded on the assumption that Aborigines had no recognisable rights in land.

124. On the other hand, such agreements have been entered into in good faith by the lessees or permittees who, in some cases, have spent large sums of money on capital works.

125. One possible approach to this problem would be as follows; I set it out in order to invite comment from those affected:

126. All existing rights should, to begin with, be preserved by the legislation which gives land title to Aborigines. Once the Aboriginal clans or communities have been incorporated and the boundaries of their land fixed, they should become entitled to all rents and fees payable in respect of any agreements, leases or permits affecting their land. They should then review all such arrangements. If they decide to approve them they should continue to receive, as owners of the land, the rents and fees provided for. If they do not approve any arrangement an attempt should be made to re-negotiate it on terms acceptable to the Aborigines.

127. If such re-negotiation should prove unsuccessful, consideration could then be given by the government to the compulsory acquisition of the rights concerned on terms of just compensation. The legislation which preserved existing rights would have to provide for this contingency. Each case would have to be dealt with on its merits and the final decision would depend upon considerations of possible benefit to the Aboriginal community, possible detriment to other parties and cost to the government.

128. In cases involving minerals, any re-negotiation should await the establishment of rules for future exploration and production, against which existing arrangements could be measured.

129. I have been careful, in dealing with existing rights, to speak of rents and fees because obviously mineral royalties create a different problem. Here the government has already announced an interim continuation of the policy whereby 2.5% of the value of minerals recovered on reserve lands goes to the Aborigines Benefits Trust Fund, and of this 10% goes to the community directly concerned.

130. Several communities have suggested to me that the figure of 10% is not high enough and I return to this subject later. Certainly it seems eminently reasonable that a significant part of such royalties should go to regional, Territory-wide or nation-wide organisations of Aborigines and the balance should be retained by the land-owning group, whatever it may be. It is only fair that it should get special consideration because its land is being interfered with. Perhaps the clans most affected should, in turn, get special consideration from the land-owning group.

131. On the other hand it would seem unfortunate that some groups of Aborigines, which might be quite small, should become extremely wealthy while others are comparatively poor, the difference being represented by the presence on their land of a metal or fluid which had probably no significance at all in traditional Aboriginal society.

132. The question of forest products will also have to be considered in this connection but might well require different treatment since the local claims based on traditional grounds would be stronger and the sums involved much smaller.

## 2. Other public reserves and Crown land

133. The types of public reserves which are most relevant for present purposes are National Parks and wildlife reserves. These are dealt with in more detail later under the heading of 'Land usage' and the respective sub-headings of 'Tourists and visitors' and 'Conservation', although clearly these topics overlap.

134. It would be premature at this stage to make any firm suggestions as to how such reserves should be dealt with, but several general comments can perhaps be made.

135. In the first place, conservationists properly argue that some natural habitats of wild life and plants should be preserved at all costs. They urge that in some circumstances the local interests of man, even of Aboriginal man, should be subordinated to those of other forms of life.

136. Certainly Aboriginal man lived in equilibrium with his environment for thousands of years. But if he were to use modern hunting equipment or introduce extensive tourist or pastoral activities to certain areas, the picture could quickly change.

137. Secondly, it should prove generally feasible to employ Aborigines as rangers and guides in protected areas. This is already being done in some places.

138. It seems that the problem will be to identify areas that need and are worthy of special protection, and then to try to reconcile Aboriginal interests with those of conservation in those areas. It may be that a scheme of Aboriginal title, combined with National Park status and joint management, would prove acceptable to all interests.

139. There seems to be no general reason why vacant Crown lands should not be included in appropriate grants of title to Aboriginal communities in cases where a traditional claim is established.

140. However there could well be cases, in areas of potential town development, where Aboriginal claims would have to be weighed against broad town-planning requirements. Other particular arguments against such grants may be available in other instances.

### 3. Pastoral leases

141. One of the Commission's terms of reference requires me to consider 'the desirability of establishing suitable procedures for the examination of claims to Aboriginal traditional rights and interests in or in relation to land in areas in the Northern Territory of Australia outside Aboriginal reserves or of establishing alternative ways of meeting effectively the needs for land of Aboriginal groups or communities living outside those reserves'.

142. This obviously raises some difficult and controversial problems so far as existing pastoral leases are concerned. These leases cover a large part of the Northern Territory and have been granted for varying periods of time. With the rights of renewal they contain they give substantial security of title to existing holders, provided that the conditions of the lease are observed by the lessees. The cattle stations which have been established under these leases vary greatly in size and value. There are some in the centre which barely support — or even fail to support — one man and his family. There are others further north which carry huge herds of cattle and represent vast corporate investments.

143. As to the relationship between Aboriginal land rights and these properties, it is to be noted that the government has already purchased two such properties for the use of Aborigines. These are Willowra and Kildurk. Others are available for purchase if suitable terms could be agreed upon. But there would no doubt be many which are not for sale at all.

144. With regard to these properties it is necessary to bear in mind the findings of the Gibb Committee, referred to earlier. At Page 74 of that Report, the Committee recommended, among other things,

- 'a. that in appropriate areas land be obtained by excision, or by sub-lease from the pastoralists for Aboriginal communities for limited village, economic and recreational purposes to enable Aborigines to preserve traditional cultural ties

and obligations and to provide the community with a measure of autonomy; such land naturally needs access to adequate water supplies but in addition it should be of such an area and such a quality that some supplementary activities may be encouraged upon it, e.g., pig, poultry and fishing, gardening and artifact making, etc.; (pp. 45 and 46) ,

- b. where it is inappropriate to excise or sublease land for an Aboriginal community some arrangement be made between pastoral management, perhaps in co-operation with Government to develop a village community and to provide Aborigines with an increasing say in management of the village area; the arrangement should be the subject of regular review to enable more responsibility to devolve upon the Aboriginal community. (p. 46)'

145. These recommendations are supported today by the Northern Territory Cattle Producers' Council. However it must be remembered that they were made in the context of 1971. I have no way of knowing if the Committee would have reached the same conclusions in the context of an express recognition of Aboriginal title to reserve lands.

146. As indicated earlier, I have so far had very little contact with Aborigines living on cattle stations. However, in a number of instances, Aborigines living on reserves have referred to neighbouring cattle stations. Often reference has been to the exercise of the right contained in leases for Aborigines to wander and hunt over cattle station land. It seems that this right has sometimes been denied, or its exercise discouraged, by property owners or managers fearing interference with livestock.

147. On this point it seems that there has been concern expressed at times about Aboriginal dogs accompanying their owners and disturbing cattle. Other complaints have related to the indiscriminate use of firearms and to a failure to give any warning or notice of the presence of a hunting or camping party on the land.

148. From what I have heard so far I do not have the impression that this is a major cause of concern either to Aborigines or cattle stations. But it may be time to review the very ancient provisions now applying to see if they need reframing to meet modern requirements.

149. Another source of Aboriginal concern is the protection of sacred sites on pastoral leases. The suggestion was made on several occasions that particular sites should be fenced off and protected by notices. The only comments I wish to make at this stage on this topic are, firstly, that the whole question of identifying and protecting sacred sites is under review by the Australian Institute of Aboriginal Studies and secondly that, in some instances, drawing the attention of the general public to Aboriginal sacred sites could be harmful. It might lead to inquisitive investigation in spite of fences or warning notices.

150. Aborigines, particularly older men, have also often indicated in discussions a desire to set up a more or less permanent camp beside some waterhole or soakage which is significant to them. In many cases cattle have so fouled waterholes by constant use over years that they are unrecognisable as the pleasant places they must once have been. In other cases extensive use of bores has so altered the water table that soakages will no longer support life in the dry season. But there are still some



sites which are attractive to Aboriginal people as living areas, whether or not they are associated with employment opportunities.

151. I have set out the impressions so far gained of the interest of Aborigines in land the subject of pastoral leases. However this is one of the areas in which I feel the greatest need of independent advice to the Aboriginal people to enable them to formulate appropriate claims.

152. I do not wish to anticipate the form those claims might take, but matters requiring consideration will include:

- (a) planned purchases or acquisitions of land on which to establish Aboriginal cattle ventures or similar activities;
- (b) excision from leases of areas of land for Aboriginal living purposes;
- (c) rights of access of Aborigines to pastoral properties;
- (d) the protection of sacred sites on pastoral leases, and
- (e) the recognition of land rights by the diverting of lease payments or mining royalties from the Crown to appropriate Aboriginal groups.

153. Since several submissions made to me have referred to possible financial compensation for land taken from Aborigines in the past, I should point out that no questions of financial compensation in place of rights to land are raised by my terms of reference.

#### 4. City and town dwellers

154. The regular residents at the Bagot Reserve at Darwin have made it plain to me that their only concern is to obtain title to the Reserve so that they can develop it as an attractive and useful community living area. They foresee a mixture of houses and flats, including high-rise flats, with special provision for old-age pensioners. In due time they would expect to see the surrounding fence come down and all residents making use of outside schools, hospitals and other public facilities.

155. A necessary pre-condition to achieving such aims is the accommodation elsewhere of all the transients and other temporary residents now found at Bagot. There seems to be no hope of any substantial development at Bagot while the area has to provide for these people, some of whom cause trouble by refusing to observe the rules of the Aboriginal council. Many, of course, are in Darwin for a special purpose and merely require hostel-type accommodation.

156. Beyond expressing my sympathy with the objectives of the Bagot Council I do not feel that there is much that I can do or say to assist the detailed working out of their plans. Their approach, which I have outlined, raises questions of town planning and urban development rather than of the recognition of traditional land rights. Whatever general system is finally adopted, I see no difficulty in vesting title to the Bagot Reserve in a properly elected and incorporated committee of residents. I would, however, advise caution in approaching the question of tenure for individual occupiers of houses or flats. I understand that the Council contemplates individual ownership in at least some cases. Subject to any further submissions being put, I would have thought that a lease for a term of years would be more appropriate, at least for the time being.

157. A more difficult question is raised by the few remaining members of the Larrakia tribe who, in discussions with me, have laid claim particularly to an area of waterfront land between Bagot and Nightcliff which they call Kulaluk. When I met them I was told that there are some 18 members of the tribe now left. Later information suggests that fewer than this number can trace paternal descent from the Larrakia, but there are more who identify themselves as Larrakia because of maternal links. They have told me that the whole of Darwin is built on Larrakia country and written claims submitted on their behalf include claims to several parts of the city, the Larrakeyah Reserve of 14 square miles south of Darwin and 660 acres of land in Darwin to replace land excised from the Bagot Reserve in 1965.

158. Other Aboriginal groups in Darwin have asked for areas of land at Knuckey's Lagoon, Berrimah and One Mile Dam, Francis Bay where they are presently camping, to be set aside for them as housing areas. These again raise no direct questions of traditional rights, although some of these people are descended from neighbouring tribes and their forebears would, no doubt, have had some contact with the Larrakia people and their country. Although such community developments deserve sympathetic consideration, there seems to be no sound reason why such people should be treated any differently from other Aborigines coming from further afield and wishing to live in the Darwin area.

159. The Larrakia group raise some special problems. Clearly they are entitled to consideration as a group wanting to live as a small community and to do so on some part of the traditional lands of their tribe.

160. Whether they should be free to choose the particular site in a developing city such as Darwin raises different questions. One question is the length and extent of their attachment to the area in question; it may have belonged to a different clan of their tribe. Another is the effect of town planning considerations and a third is the possible effect of rights of other persons acquired in good faith.

161. I do not feel able to take this matter any further at this stage and would welcome further submissions on the questions of principle involved. Further factual material may also prove helpful.

162. So far as Alice Springs is concerned, the only groups of Aborigines living outside reserves of whom I have knowledge are those camped on the Todd River and its tributaries.

163. It may be that some of these could trace their descent from the particular clans of the Eastern Aranda people who traditionally owned those areas where they are camped. If so, I have no evidence of it, and unless such a claim is made, the problem seems to me to be again one of social welfare and urban development rather than of traditional land rights. The fact that some people camped there are of the Aranda tribe would give them no more rights than other neighbouring tribes. Their own land could be 100-200 miles away.

164. I should make it clear that in saying that such problems relate to social welfare and urban development I do not suggest that they are unimportant or less urgent than traditional land right problems. I merely mean that they are different problems, as to which I have so far received no direct submissions.

## 5. Incorporation

165. It is obvious that, whatever form the recognition of Aboriginal land rights may take, there must be provision for title to be vested in groups or communities of Aborigines. And, when it comes to using the land, there must be provision for the operation of Aboriginal businesses.

166. Since unincorporated associations, co-operatives and trustee arrangements all have clear defects in the Aboriginal situation there is an obvious need for provisions for incorporation. Further, laws relating to incorporation under the Companies Acts are inappropriate for most Aboriginal purposes.

167. I have no doubt that what is required is a special system of incorporation of Aboriginal groups. This will require a system of registration which automatically leads to the group registered becoming an incorporated body.

168. It seems to me that the system adopted should be sufficiently flexible to permit the incorporation of:

- (a) local land-owning bodies
- (b) regional land-owning bodies
- (c) town councils having a local government role

- (d) business enterprises of a whole community, and probably
- (e) business enterprises of groups within a community.

169. There should also be provision for combination of these functions where appropriate and for one Aboriginal corporation to be a member of another in some cases — as for example where several land-owning corporations join in a business enterprise.

170. Apart from technical problems of membership, management, powers and control of such incorporations, there are two preliminary questions which seem to me to call for comment.

171. The first of these is the risk of proliferation of such incorporations in an Aboriginal community. Some communities may already have:

- (a) a community council for the discussion of Aboriginal questions and for purposes of fostering Aboriginal development,
- (b) a town council for purposes of local government,
- (c) a progress association or social club for development of recreational and other community facilities,
- (d) a housing association, and
- (e) one or more companies incorporated for commercial purposes.

172. Obviously if other incorporated bodies were added to such a list, there could be much confusion and a wasteful overlapping of functions.

173. On the other hand there would be disadvantages in a single, powerful, multi-purpose corporation. The need is for flexibility and freedom of choice in this area.

174. Another question which arises is whether, if an Aboriginal community wishes it, persons other than Aborigines should be admitted to membership of any of the corporations envisaged. The two types of body which might lend themselves to such membership are town councils and progress associations. In either of these cases a minority of non-Aboriginal members might be desired by an Aboriginal community. In some cases which involve the running of a store or licensed premises, taxation or other legal requirements might make it necessary that all persons using the facilities should be members of the organisation running it.

175. Clearly no non-Aborigine should share in the ownership of Aboriginal land or the ultimate control of enterprises carried out on that land.

176. So far as technical matters are concerned, it will be necessary to have simple and flexible provisions for the appointment of boards and committees. Precisely defined membership of the group being incorporated would probably only be important in those cases where dividends were payable or where membership was not based on residence.

177. In view of the large amounts required to be spent on community projects in the foreseeable future, there would seem to be little or no

immediate need for detailed rules protecting individual rights. However, in those cases where royalty receipts are substantial, the need could soon arise.

178. It is suggested that the immediate requirement is for simple legislation, allowing a good deal of administrative discretion. Detailed rules for different types of corporation could perhaps be provided for by regulation, so that the clearly urgent land-owning provisions, for example, need not be delayed by the more intricate trading provisions.

179. It is envisaged that a body would be incorporated pursuant to one or more parts of the enabling Act, each part having its own requirements as to the rules to be adopted before incorporation. Membership would be defined by residence in some cases and by registered list in other cases.

180. In the case of land-owning corporations it is quite likely that different communities may wish for different types of governing bodies. Their preferred methods of appointment may also depend on a process other than election; discussion, consultation and deference to the views of elders are natural to Aborigines. Elections are a recent innovation.

181. In these circumstances it would seem appropriate to require merely that the Registrar should satisfy himself that the people nominated to him have been duly chosen by the community or group as their representatives for the relevant purpose. The method chosen by the Registrar to so satisfy himself, whether by affidavits, certified public meeting, right of challenge after publication or otherwise, could also perhaps be left to his discretion.

182. Some authority should have power in case of alleged corruption or serious mismanagement to suspend or dismiss a governing body and appoint a manager or managers. The whole system should be under the control of the Supreme Court of the Northern Territory or some other appropriate Court.

183. I should conclude this section by saying that I have hesitated to express firm views on any detailed aspect of this subject of incorporation because it is one on which I have received very few submissions and there may be pitfalls which I have not foreseen.

184. Thus one question which will have to be carefully considered is any possible incidence of taxation of Aboriginal corporations. Should, for example, community corporations carrying on business enterprises, the profits of which go to community development, be subject to tax? And even if they distribute dividends, should any company tax be payable? Presumably no tax would be payable on community income from leases, permits or royalties.

## 6. Funds

185. One problem which will have to be faced is the allocation of funds to land-owning and land-using bodies including regional land councils (which are discussed below). In all cases, money will be necessary for purely administrative purposes: providing adequate office space, office equipment, secretarial services, management salaries, reimbursement of fares to attend meetings and similar expenses. Where the organisation is concerned with land usage — pastoral activities, forestry, fishing or tourism for example — much heavier expenses will be incurred. Consideration will obviously have to be given to the desirability of making regular grants either to all such bodies or at least to all those having no significant present income.

186. It will also be necessary to consider the appropriateness of present methods of funding Aboriginal enterprises. I have not encountered any significant criticism of the working of the Aborigines Benefits Trust Fund. Certainly allocation of available monies on application and according to need is a reasonable approach. However the view has been expressed on several occasions that all moderate earnings — from leases, exploration licences or timber royalties, for example — should remain where they are earned. Only major earnings from minerals should be more widely distributed.

187. Another possible view is that all or part of funds available for development should be distributed to communities on a basis of population.

188. Certainly all these questions will require reconsideration in the light of decisions reached as to land ownership.

## 7. Land usage

### (a) GRAZING AND AGRICULTURE

189. It has been put to the Commission that the Aborigine should have the same right of choice as the white landholder in selecting the form of enterprise (if any) which he wishes to pursue on his land; but he should also be subject to the same obligation not to damage or permanently destroy any of the natural resources of the land.

190. The fact that this obligation has sometimes not been observed by

pastoral lessees, or enforced, does not detract from the validity of the argument. Such an obligation is receiving everwidening recognition and the largely undeveloped Aboriginal reserves provide an excellent opportunity for its application, particularly since they would necessarily be developed, in most cases, by use of public monies.

191. If this view were adopted, it would involve Aboriginal communities seeking and accepting the best available advice before developing grazing or agricultural activities. It might also mean that they would have to submit to some restrictions as to the nature and extent of those activities, over and above the obvious legal controls directed, for example, against any spread of cattle disease.

192. Unfortunately the groundwork which would enable sound advice to be given and just restrictions to be imposed has been done in very few areas. Detailed studies have been carried out on Croker Island and in the Wagait Reserve. General Surveys have been made in the Bulman River, Port Keats and Haasts Bluff regions. Not all of these reports have yet been published and, in any event, they represent only a very small part of the total areas having pastoral or agricultural potential in Aboriginal reserves. It therefore becomes necessary to suggest some preliminary measures which should be observed in approaching such development.

193. In the first place it should be said that such activities as market gardening and dairy farming present no problems once expert advice has established their likely success in an area. Nor could the exploitation of wild cattle or buffalo already in an area do any possible harm.

194. The sort of activities which call for closer attention are those such as sorghum or maize growing and the establishment of new cattle projects, especially if they involve the clearing of existing vegetation from any substantial area of land.

195. It seems desirable that an area should be fixed beyond which clearing will not be permitted without express authority, following an appropriate survey of the area. Maximum stocking rates may also have to be fixed, either for regions or for specific ventures.

196. So far as pastoral management is concerned, it is clear that few, if any, Aborigines have been trained or have acquired the skills necessary to enable them to manage cattle enterprises without considerable assistance. The skills of a stockman, which many Aborigines undoubtedly possess, are obviously very different from the skills of a manager. Thus such assistance must be provided for them, and I regard it as vital that substantial salaries be paid to secure the right men for the jobs; having both the necessary skills and experience and also an interest in the broader implications of their work and a willingness and ability to train Aborigines to take over from them in due course. Appropriate contractual arrangements would have to be made, taking effect perhaps after a trial period, to secure the legitimate interests of the employee manager without infringing the ultimate right of the Aboriginal owners to control their own enterprise.

197. Although, as I have said, Aboriginal pastoral ventures should have the best management available, it does not follow from this that commercial profits should be the test of success or failure in such schemes. It may well be that a venture will give a reasonable living standard and useful and pleasant work to a number of Aborigines without being able to show a financial profit. This need not matter, so long as production is maintained at a reasonable level and no harm is done to the land.

198. One question which needs consideration is whether cattle stations purchased for Aboriginal use should be subject to the same form of Aboriginal tenure as reserve lands. In particular, should the government have any direct control over the situation if the property is being allowed to run down? If the purchase has been made for the benefit of traditional owners of the land it would be difficult to distinguish the case from that of reserve lands having pastoral value. If no traditional claims were involved, the situation might be different.

(b) FORESTRY

199. Since 1961 it has been government policy to investigate and develop forest resources on Aboriginal reserves. Royalties, after deduction of 50% for developmental costs, have been paid to the Aborigines Benefits Trust Fund in accordance with Section 21 of the *Northern Territory (Administration) Act 1910-1968*.

200. Some 3,700 acres of plantation have been established on Melville Island and altogether some 700,000 acres of native forests have been designated for protection and management. Over six million acres of forest in Arnhem Land, Melville Island and the Daly River area have been identified as suitable for forestry projects.

201. There are current timber removal operations at Lake Evella, Elcho Island, Maningrida, Melville Island, Bathurst Island, Murganella and the Wagait Reserve. Annual expenditure on forestry within Aboriginal reserves is in the vicinity of \$1m.

202. Obvious advantages to Aborigines from forest developments include profits from forestry and saw-milling enterprises and employment in such work. On the other hand some types of forest operations such as wood-chip industry or the development of pine plantations, would greatly change the face of the country.

203. I am not aware of any objection to Aborigines having control of forestry operations on reserves; provided, as with all other commercial ventures, that competent managers are employed and normal legal requirements and sound business practices observed. The control of bush-fires would present some special problems, particularly in view of traditional Aboriginal practices in the use of fire.

204. Other problems requiring consideration would be those of conservation (see below) and the future of royalty payments: should all Northern Territory Aborigines share in the benefits from forest resources and, if so, at what rate? Current royalty levels in more remote regions



range from 10 cents to 20 cents per hundred super feet. There would seem to be an argument in favour of all earnings from forestry ventures remaining in the area where they are earned.

(c) FISHERIES

205. A number of Aboriginal communities in the North have raised with me questions of fishing rights. They point to their traditional dependence on fish, turtles, shellfish, dugong and other forms of sea life and they ask whether their land rights will extend out to sea and, if so, how far. It seems clear that Aboriginal clans generally regard estuaries, bays and waters immediately adjacent to the shore line as being part of their land. So also are the waters between the coastline and offshore islands belonging to the same clan.

206. Some of the communities which spoke to me were not concerned merely with their traditional methods of food gathering because, looking ahead, they see the development of fishing ventures as one form of commercial activity holding promise for them, and they fear that some of the best areas may be fished out before they can put such ideas into practice.

207. In the absence of any clear-cut claims on this subject I do no more than draw attention to it as a matter requiring careful consideration.

(d) TOURISTS AND VISITORS

208. One question to be determined by different Aboriginal communities is whether they wish to encourage tourists to visit or stay. Even in areas to which few tourists could be attracted, because of the costs and time involved in getting there, Aborigines will need to consider procedures for regulating visitors.

209. It has been made clear to me that most communities will wish to regulate the visits of non-Aborigines to their areas and a number of them are not at all interested in encouraging tourists. Others, particularly some communities in the Centre, see tourism and the sale of artifacts as a significant source of income and will probably wish to encourage visits.

210. Except in the case of existing National Parks which might be handed over to Aboriginal ownership, there seems to be no cogent reason why Aboriginal people should not decide for themselves whether they want tourists or other visitors on their land. It must be remembered however that any bans might include not only holiday makers but also scientists, including anthropologists, archaeologists, zoologists and botanists.

211. Clearly there must be some overriding authority to enter on Aboriginal land in the case of police investigating serious crime, auditors, government inspectors, teachers and a whole range of other persons on official business. I note in passing that some communities would like to have the power to deal with minor crime themselves.

212. Apart from persons having legitimate business with Aboriginal communities, there will no doubt be many other visitors who would be

welcome. It will therefore be necessary to devise some permit system which does not cause unnecessary work or undue delays. Perhaps each community could delegate to the Department of Aboriginal Affairs in Darwin or Alice Springs the discretionary power to issue permits in stated cases, including perhaps all cases involving visits of less than 24 hours. Only those cases which seem to present a problem need then be referred to the community. The arrangements could be reviewed from time to time to ensure that they were working to the satisfaction of the community.

213. I have mentioned above the existing National Parks. The Park which incorporates Ayers Rock and Mt Olga is one the management of which involves large sums of money and many difficult decisions. It is presently run at a substantial loss which is, no doubt, off-set to some extent by profits earned in Alice Springs and elsewhere as a result of the tourist-drawing power of that National Park.

214. The government has already indicated a willingness to return that Park to Aboriginal control. At this stage I merely wish to record the fact that there are some financial and management problems which need to be resolved if this course is to be taken.

215. Other National Parks, which raise similar but less acute problems, include

Finke Gorge (Palm Valley)	. . .	177 sq. miles
Simpsons Gap	. . . .	120 sq. miles
Katherine Gorge	. . . .	88 sq. miles
Ormiston Gorge	. . . .	18 sq. miles

(e) SERVICES: ROADS, WATER, SCHOOLS, HOSPITALS ETC.

*Roads:*

216. The government has established a policy of access-road construction and maintenance for the benefit of rural industries in the Northern Territory. These are low-standard, dry-weather roads. Consideration is now being given to improving standards so that heavy vehicles can use such roads in the dry season. If the improved standard is adopted, the costs of construction in future would be \$1,500-2,000 per mile and maintenance would add a further \$100-200 per mile per year. The costs of any better standard of road, giving all-year access to the main road network, are expected to be borne by the enterprise requiring it. These could be very high indeed.

217. In many cases, particularly in Arnhem Land, if road access were to be provided to a remote industry, the road would necessarily pass through the country of a number of Aboriginal clans which had no connection with the enterprise being served. Questions of conservation of wilderness areas would also arise. There would obviously be a need for careful consultation before any steps were taken.

218. Such consultation would also be necessary whenever an extension of the main road network, such as an Arnhem Land Highway, was under consideration.

219. One question which will have to be decided will be the right, if any, of Aboriginal land-owners to determine the existence or the route of roads intended to pass through their country.

*Water:*

220. Water supply will be of vital importance to the future development of many Aboriginal communities in the Northern Territory and more particularly in Central Australia.

221. In the arid central zone, average annual rainfall varies from about 6 to 15 inches, moving from south to north. Surface supplies are generally unreliable and bore water is relied upon for domestic, agricultural and pastoral purposes. Water fit for human consumption is often difficult to find and many thousands of dollars have been spent by the government in searching for water on Aboriginal reserves. Water shortages are still serious for several communities.

222. Even in Arnhem Land large tracts of country are quite dry for many months of the year.

223. Thus water supply could prove to be a limiting factor for many potential settlements and commercial ventures. It will be important to ensure that the availability of water is fully determined before any substantial commitments are made or much money is spent on such developments.

224. From the viewpoints of health and fair distribution of available supplies, particular Aboriginal communities may have to submit to some restrictions on the way in which water is used and on activities which could affect the quality or supply of water or cause erosion. Thus it will be necessary to consider the relationship between the granting of Aboriginal land rights and the Northern Territory Control of Waters Ordinance.

225. The Water Supplies Development Ordinance which presently provides for assistance in developing or improving water supplies for pastoral or agricultural production will also require some re-consideration in the light of Aboriginal requirements following the granting of land rights.

*Schools, hospitals and other public buildings:*

226. It is beyond the scope of the Commission to examine the adequacy of either hospital and nursing or teaching facilities available to Aboriginal communities.

227. There are, however, two problems which occur to me in this area which do relate to the recognition of Aboriginal land rights. The first is whether relevant government departments will seek to have any special provision made for land on which public buildings or other structures are erected. These might include, for example, schools, hospitals, post offices, water storages, sewerage treatment plants, generating stations, communication towers and lighthouses.

228. A preliminary question, relevant in some cases, would be whether the Aboriginal community wished to control a facility such as a water storage or to have the service provided by government.

229. The reaction of all communities to which I put such questions was that, provided the service was for their benefit and particularly if the area of land was small and was agreed, there would be no problems. I do not myself see this question as raising any serious difficulties, but it does need consideration.

230. The other question, which could raise greater problems, arises from the expressed intention of many tribal or clan groups to move away from existing settlements and back to their own country.

231. The number of out-stations serviced by settlements has been growing recently and re-awakened interest in traditional lands is adding to other pressures in favour of such moves; some existing communities are clearly uncomfortably large by Aboriginal standards.

232. However, the establishment of new, small communities in remote areas, chosen perhaps for traditional rather than practical reasons, must pose some problems in the provision of services. What is the government's obligation to provide health, educational or other services in such cases? How large and how stable does a group have to be before it becomes entitled to such services? To what extent are the leaders of such a group entitled to decide for their families that they do not need schooling or health services?

233. Once again I do not doubt that answers can be found to all such questions, but they do have to be remembered when decisions are made about the level at which land rights should be vested in Aboriginal communities or groups, the method by which they should receive financial support and the priorities of government expenditure.

#### (f) CONSERVATION

##### *Wildlife sanctuaries:*

234. At present almost 19,000 square miles of the Northern Territory are declared as wildlife sanctuaries. These are areas of reserved or unoccupied Crown Land and, once they have been declared, a permit is necessary to enter them. The major sanctuaries are Woolwonga, Murganella and Daly River, all of which are on Aboriginal reserves, and the Cobourg Peninsula and Tanami Desert in both of which Aborigines have a considerable interest.

##### *Wildlife protected areas:*

235. There are 91,000 square miles of country in which wildlife is declared to be protected and it is an offence for anyone other than an Aborigine to carry a firearm or trap. This area is almost entirely made up of Aboriginal reserves, which are automatically protected areas.

*Flora and fauna reserves:*

236. These are areas reserved for the conservation, preservation and control of the environment. They are immune from all mining activity. The main areas so reserved are the Cobourg Peninsula (also a wildlife sanctuary, see above) and Palm Valley, west of Alice Springs.

237. It will be seen from these descriptions that the areas of the Northern Territory which are of greatest immediate interest to Aborigines are also of primary importance for conservation purposes.

238. In particular, the northern wildlife sanctuaries are vitally important as breeding grounds, feeding areas and dry season refuges for water birds, especially the magpie goose. It seems that the population of this important species has steadily declined since European settlement commenced and is still declining. This has been attributed to several factors: damage to habitats by wild buffalo, a series of adverse seasons, increased shooting by week-end and holiday shooters and extensive egg collection by Aborigines, both for food and for sale.

239. Concern for the future of these and other forms of wildlife has led to suggestions in some quarters that Aborigines, who now use cars and rifles for hunting, should not be exempt from provisions protecting some rare or declining species.

240. Such suggestions have been opposed on the ground that natural foods are still an important part of the diet of many Aborigines. For some they are vital. It is also pointed out that in some cases hunting is an important part of ritual observances and, in any event, evidence of Aboriginal responsibility for population decline is not very strong.

241. At all events, possible conflict between Aboriginal wishes and conservation requirements needs further consideration.

## 8. Mineral rights

242. The terms of reference refer to the vesting of rights in reserved lands 'including rights in minerals and timber' in an appropriate body or bodies.

243. I assume that 'minerals' in this context include oil and gas, although it is doubtful if existing legislation relating to royalty payments for the benefit of Aborigines in respect of 'mining' would be so interpreted.

244. The Australian Mining Industry Council has pointed out that rights in minerals can take several different forms.
245. In the first place it could mean that the land-owner also had full ownership of the minerals, in which case the owner could determine whether and on what terms the minerals could be looked for and mined.
246. Secondly it could involve an arrangement whereby the land-owner was entitled to take up a part share in any mining enterprise resulting from successful exploration.
247. Thirdly the phrase could refer to an entitlement to royalty payments.
248. Full ownership of minerals by Aborigines has been advocated in some submissions made to the Commission. This would put the Aboriginal land-owners in a position to determine whether minerals should be looked for and, if found, mined. On the other hand the same controls could be exercised without actual ownership of minerals being vested in Aborigines and there could be some disadvantages in such full ownership.
249. From the point of view of the Australian community, the Australian Mining Industry Council has suggested that there could be dangers in any individual or group being able to lock up a mineral which it would be in the national interest to exploit. Under existing mining legislation no-one is able to do so. The government is free to permit exploration and development on Crown or private lands as it sees fit. The mining industry argues that this situation should remain. From the Aboriginal viewpoint, an unsophisticated community would obviously not be able to develop a major asset itself and it might be persuaded by an unscrupulous operator to enter into an agreement which was not in its best interest. Even an honest company would find it difficult to negotiate terms of a complex mining agreement with an Aboriginal community, and any independent advisers to such a community would also find themselves in a difficult situation where very large sums of money were involved.
250. There must also be a strong argument for saying that earnings from minerals — which are likely to exceed greatly any other source of commercial income for Aboriginal communities — should to some extent be shared among all such communities. This is the effect of the existing practice at Groote Eylandt and Nhulunbuy and it appears to be generally acceptable to Aborigines in the Territory.
251. One basic question which will have to be decided is the role which the government intends to play in mineral exploration. If the government wishes or is willing to undertake a detailed survey of mineral resources on Aboriginal land, that would open up some possibilities which would not appear to apply to exploration by private enterprise. I have in mind, for example, the calling of tenders for development of prospective areas. Presumably such surveys would be made only after consultation with Aboriginal land-owners. Whether those land-owners would have any power to veto either the surveys or resulting mineral developments is a matter for further consideration.

252. If, on the other hand, all exploration is to be left to private enterprise then one scheme which Aborigines and other interested parties should consider in connection with mineral rights is the following. The Aboriginal land councils (referred to below), together with the government and the mining industry, should agree on exploration permit payments and appropriate royalty payments for the different minerals likely to be encountered, which would apply generally on Aboriginal lands in the Territory. No doubt the government would wish to consult with Aboriginal groups in the States, because of the precedent involved.

253. These payments should be generous from an Aboriginal viewpoint but would have to be realistic having regard to amounts payable elsewhere, otherwise there might be insufficient incentive for the industry to explore or mine Aboriginal lands. A specified part of these royalties would go to the local community and the balance to other Aboriginal communities. What proportion should go to the local community and which other communities should benefit would be matters for careful consideration.

254. The grant or refusal of an exploration licence would be a matter, at least in the first place, for the Aboriginal land-owners. On one view this decision should be subject to the right of the government to state that the national interest required the exploration of a named area where permission was being refused, and to grant a permit accordingly. The other view is that the land-owners should have the final say on the matter because, to them, this would be the ultimate test of the reality of their land rights.

255. In negotiating for the grant of a permit, payments would not be in issue because these would have been fixed generally. However such matters as the protection of sacred sites, the entitlement to a part share in any resulting mining operation and the employment of Aboriginal workers, should be the subject of negotiation before a permit was granted. In these negotiations the Aboriginal community would have available to it advice on legal and mining questions either from governmental or independent sources, whichever the community preferred. I assume that, unless other funds were available, any part share in a mining enterprise would be purchased out of royalty payments or monies lent against the security of future royalty payments.

256. The costs of exploration are such that I believe it must follow that an exploration permit would involve the right to produce any minerals discovered. This would be subject only to the protection of sacred sites, and consultation as to employment opportunities and any plans involving land use for mineral processing or for housing. Any reasonable requirements of the Aboriginal community on such matters would have to be met and a method of arbitration established to deal with possible disputes as to what was reasonable.

257. A scheme along these lines would seem to provide one reasonable method of solving mineral rights problems where the project is a major one and the mining company is solely responsible for the development.

258. Where the project is a small one, such that it can be entirely run by the community, I see no problems. In this case I see no reason why the entire profits of the venture should not go to the Aboriginal community involved; or if the community has allowed an Aboriginal group to run the venture in its own interest, then to that group. The arrangements about royalties could provide that they are only payable on production above a specified value.

259. An area in which I see many potential problems is that of the joint venture between Aborigines and others. Some provision would be necessary to ensure that Aborigines were not exploited or otherwise fair arrangements circumvented by such means. In the absence of any relevant submissions I am unwilling to take this question further at this stage. Indeed further submissions are invited on the whole question of mineral rights, including the scheme suggested above.



# Recommendations and Suggestions

## 1. Regional councils

260. It is recommended that two Aboriginal land councils be set up in the Northern Territory: one for the central region, based on Alice Springs, and the other for the northern region, based on Darwin.

261. I have given careful consideration to the question whether these regions should be smaller or larger than I have proposed. The arguments against a larger region, covering the whole of the Northern Territory, are:

- (a) if all communities are to be represented such a council would be too large and unwieldy;
- (b) practical difficulties of travelling arrangements and accommodation would be increased;
- (c) because of climatic differences, there are dissimilarities in the population density and, to some extent, in the social structures as between north and south. This could lead to some differences in solutions of land rights problems;
- (d) there is a convenient dividing line which can be drawn between larger communities having their interests in Central Australia and those having their interests in the North. The only large communities which appear to occupy the middle ground (Hooker Creek and Warrabri) are both clearly southward-looking in their affiliations. I have assumed that the people at Wattie Creek-Wave Hill would also prefer to be represented on the Central Land Council but they should choose whichever they prefer.

262. The disadvantages of establishing smaller land council regions are:

- (a) the extreme difficulty in drawing satisfactory dividing lines between communities when tribal groups are divided between several different communities, and
- (b) the difficulty of providing adequate independent advice and support for a number of regions at the same time.

263. For these reasons I have no doubt that two separate regions should be established in the first instance. However there is no reason why those councils should not in the future amalgamate, or promote the establishment of other separate regions if they see fit to do so. In other words the establishment of these councils should not be seen as being incapable of amendment by the Aboriginal people themselves.

264. As to the composition of these councils, there is an obvious problem of reconciling wide representation with manageable numbers. I believe that representation should be determined by the councils themselves, but unless and until the councils decide otherwise, I would recommend as follows:

*Central Land Council*

One representative each from:

Amoonguna	Napperby
Jay Creek	Willowra
Hooker Creek	Lake Nash
Warrabri	Neutral Junction
Yuendumu	Wattie Creek-Wave Hill
Papunya	Amata
Haasts Bluff	Ernabella
Areyonga	Fregon
Hermannsburg	Indulkana
Docker River	Everard Park
Santa Teresa	Balgo
Macdonald Downs	Warburton
Utopia	Pintupi at Papunya and Yayayi
Tea Tree	Todd River camps

*Note:* The reference from the Minister for Aboriginal Affairs extending my field of enquiry to include some reserves in South Australia and Western Australia, arrived too late to enable consultation with those States before this report was written. Relevant communities have been included in this list of Central Land Council members but there are a number of other points in the report where references to the Northern Territory should now be read as including those State reserves.

*Northern Land Council*

One representative each from:

Bathurst Island	Oenpelli
Melville Island (Snake Bay and Garden Point)	Beswick
Croker Island	Port Keats
Goulburn Island	Daly River
Maningrida	Bagot
Kopanga	Delissaville
Milingimbi	Borrooloola
Galiwinku (Elcho Island)	Mainoru
Lake Evella	Mudginberri
Yirrkala	Roper Valley
Angurugu	Victoria River Downs
	Rockhampton Downs

*Northern Land Council (continued)*

Umbakumba  
Numbulwar  
Ngukurr

Banka Banka  
Brunette Downs

265. It is to be noted that such a representation makes no allowance for the numbers in the various communities.

266. It is thought that multiple representation for larger communities would bring already large councils to an unworkable size and, in any event, there will be several representatives of most major tribes and ethnic blocs.

267. The first meeting of each council should be convened, as soon as practicable, by the Department of Aboriginal Affairs. Representatives of each community should be chosen by the respective community councils. In those cases where there is no such council, the representatives should be nominated by the Department of Aboriginal Affairs after consultation with members of the community concerned.

268. It is envisaged that the first meeting of each council would cover a period of several days, perhaps even a week, during which there would be a full opportunity for discussions, questions, advice and decisions. The Department of Aboriginal Affairs should supply administrative assistance unless and until the council chooses to engage its own staff. In particular, a suitable person, not necessarily from the Department, should be appointed to take minutes in the form of a summary of discussions. These should be circulated promptly and in quantity to all communities represented at the discussions. An appropriate experienced officer of the Department should also be available during meeting times for consultation if required.

269. It is essential that each council should have access to independent advice. In the first place this would be legal advice, but other consultants would probably be required later in fields such as accountancy and business management. So far as legal advice is concerned, it is recommended that the Attorney-General's Department be asked to retain independent senior and junior counsel to advise each council during its meetings and at other times as required. It would obviously be an advantage if such counsel had had experience in Aboriginal affairs or, failing that, in Papua-New Guinea or Pacific Islands affairs.

270. The briefing of both senior and junior counsel is recommended in order to provide necessary flexibility and continuity over time. They need not both be involved at all times.

271. The Attorney-General's Department should also be asked to nominate two firms of solicitors to instruct counsel for these purposes.

272. The councils should, of course, be free to change their legal advisers at any time, the only provision being that, so long as they are being paid from public monies, counsel retained should be admitted to prac-

tise in the High Court and that the firm of solicitors be a reasonably substantial one, having all necessary facilities, and having no conflict of interest by reason of its acting for mining or grazing interests in the Northern Territory or otherwise.

273. The firms of solicitors retained would have to be prepared to take on additional staff, if necessary, to provide the required service. Darwin and Alice Springs agents might have to be employed for some purposes.

274. It is envisaged that all legal expenses, at least until the councils had substantial funds of their own, would be borne by the government on the basis of reasonable solicitor and client costs.

275. It may be that, in time, a comprehensive system of legal aid for Northern Territory Aborigines will make *ad hoc* arrangements such as I have recommended unnecessary. In the meantime, I believe that such arrangements are essential both for the proper carrying out of my task and for further dealings which may be necessary between the Aborigines and the government.

276. In other fields, such as agriculture, forestry and fishing it is not, in my view, important that advice should be independent of government sources. It may well be that the best advice available on such subjects would be found within government departments or instrumentalities.

## 2. Aid to smaller groups

277. I have specifically recommended legal aid for two substantial land councils, but this does not mean that aid should not also be available to smaller groups in appropriate cases.

278. It would be neither practical nor helpful for all communities to be separately represented. However any community or group which has a special point to raise and does not wish to instruct other solicitors, should inform the solicitors retained for the relevant land council (whose names must be widely published for this purpose).

279. If it is found that the special matter can be dealt with by the legal advisers to the land council, without any conflict of interest with the council itself, there will be no problem. If it is found that there is a conflict of interest or if for some other reason separate advice is desired, then a request for special legal aid should be made to this Commission, setting out the circumstances in which it is felt to be necessary. This course will also be appropriate for any community or group which disagrees

with the views finally adopted by the relevant land council and wishes to put a different view.

### 3. Incorporation

280. It is recommended that the Department of Aboriginal Affairs should proceed with plans to draw up a system of incorporation for Aboriginal communities and groups. No doubt the Department will have regard to the suggestions made in paragraphs 165-184 above and to any comments on those suggestions which it may receive. Action on this matter should not be delayed by awaiting the final report of this Commission.

### 4. Vesting of title

281. I have earlier set out the choices open to Aborigines in considering what arrangements for Aboriginal ownership would best suit their needs. Having now discussed these questions with many different communities, I believe I have been able to detect a fairly clear consensus of Aboriginal opinion on the subject.

282. I therefore think it would be helpful to further consideration of it if I were to set out the outlines of a scheme which could be the subject of further discussions among Aborigines. I believe it to be entirely in accordance with Aboriginal views put to me.

283. I stress however that this is put forward only as a suggestion and that land councils, communities, and other Aboriginal groups are invited to propose amendments to it or, if they wish, to urge the adoption of some quite different approach.

284. I suggest that title to Aboriginal lands should generally be vested in community land boards. These boards would consist of representatives chosen by a community, or by several communities jointly, for the purpose and would be incorporated under special legislation. It would be for each community to decide whether the board would be identical

with its community council and whether it should exercise any local government powers or conduct any business enterprises on the land. These decisions would determine under which part or parts of the incorporating act the board would be registered and what rules it would have to observe.

285. It is suggested, however, that each community ought to try to achieve a balance of older and younger people on its board and give attention to representation from the different clans holding land in the community area.

286. Before seeking title to a defined area of land, the community would have to negotiate with existing neighbouring communities to secure their consent to its proposed boundaries. These boundaries should consist, so far as possible, of straight lines on a map. In some cases, neighbouring communities may wish to join together for land-owning purposes.

287. Any disagreements should, so far as possible, be ironed out by further negotiations. It is anticipated that agreement will be reached in most if not all cases, particularly since neither community will be able to secure title to its land until such agreement has been reached.

288. If provision is to be made for the compulsory settlement of boundary disputes, it would take the form of a specially constituted tribunal, arrangements for private arbitration, or a decision by the regional land council.

289. I suggest that all such matters should go to the land council in the first place, with an appeal lying to a special tribunal at least in some cases; for example, those in which the land council is itself interested or where a denial of natural justice is alleged.

290. It is suggested that any areas which cannot properly be claimed by an existing community (such as vacant reserves and perhaps some parts of the Central reserves) should be vested in the appropriate regional land council. The same could apply to areas which cannot for a time be vested in communities because of delay in agreement as to boundaries. For example, it might be convenient to vest the whole of the Arnhem Land Reserve in the Northern Land Council in the first instance.

291. The system would have to provide for transfer of title from a land council to a community board and from one community board to another. The typical case in which a transfer between communities could occur would be one in which a more recently established community wished to become independent of a parent community. It is suggested that title should only be granted to firmly established communities.

292. The question already outlined as to the best method of settling disputes arises again in the case of a dispute between a new and an old community about the right of the new community to separate title.

293. It is assumed that the system of community titles, suggested to satisfy the requirements of both European and Aboriginal law, would

not cut across Aboriginal respect for the views of the owners and managers of any particular piece of land as to the use of that land.

294. As to the form which title should take, it has been urged on me in a number of submissions that it should not be different from that generally available to other Australians. In the case of the Northern Territory, this would mean some form of leasehold title.

295. However I am satisfied that this is not a workable solution. A lease for a term of years would not satisfy either the announced intentions of the government or the expectations of the Aborigines. Further, the I.L.O. Convention No. 107 of 1957 speaks in terms of 'the right of ownership'. I can see no advantage in a perpetual lease and it would certainly be a confusing concept for Aborigines.

296. On the other hand it does not seem to me, as at present advised, to be appropriate to speak of freehold title. In the first place, it seems that title must be communal and incapable of sale or mortgage. It must, however, be capable of voluntary transfer between communities. Provision for unwilling transfer would also seem to be necessary where one community establishes a better claim than another to a particular piece of land. Perhaps regional land councils should have power to resume disputed areas.

297. These considerations seem to point to the need for a special system of land-holding by registration which could perhaps be known as Aboriginal Title. The rights and duties attaching to it would be set out in the Act which provided for such registration. This could be done partly in terms and partly by reference to particular Acts and Ordinances which would apply to such ownership. In this way, any doubts as to the applicability of laws relating to water control or bushfire prevention, for example, could be resolved, along with all questions affecting right of entry.

298. I envisage that title would be given in the first instance by a grant from the Crown of a defined area of land to an incorporated Aboriginal council or community. The grant would be registered by an officer appointed for the purpose as registrar of Aboriginal titles. He could perhaps be the same person as the registrar of Aboriginal corporations. Thereafter, any transfers between corporations would require registration to be effective. The registrar would have to satisfy himself that the proper consents to such transfers had been obtained or, in the event of dispute, that the matter had been ruled upon by the proper authority. The whole system would be under the control of an appropriate Federal Court. Perhaps leases should be similarly registered and controlled.

299. Communities holding Aboriginal title to land would presumably be free to give leases over part of that land to Aborigines or Aboriginal groups. It is suggested that such leases should be permitted only for limited periods but renewable by agreement. Otherwise there is a danger that mistakes might be made in early years, due to inexperience, which would not be remediable for a long time.

300. It will have to be decided whether leases will in future be permitted to non-Aborigines or to companies or partnerships in which non-Aborigines are involved. If so, there would seem to be a case for some supervision to ensure that a board, inexperienced in such matters, is not entering into an unfavourable bargain. There could be a requirement of approval by, for example, the regional land board.

301. It is suggested that there should be no right for any individual, or any group not established as a separate community, to obtain any title better than a lease. If a different view is taken in the future, legislation could then be introduced to provide for it.

## 5. Further submissions

302. It has already been made clear that the main purpose of this report has been to stimulate consideration and discussion of, and invite submissions on, the issues to which the report draws attention.

303. In order that the work of the Commission should not be unnecessarily delayed, it is asked that all further written submissions and requests for an opportunity to make oral submissions, should be in the hands of the Commission by 30 September next.

304. This does not apply to Aboriginal land councils or communities, who could not be expected to meet that time limit.

305. In view of the time which will necessarily be taken in retaining legal advisers and arranging meetings I do not feel able to lay down any time limit for such submissions. No doubt the councils and communities will themselves see the advantages in concluding the work of this Commission as soon as possible.



# Summary

This summary is written mainly for the Aboriginal people of the Northern Territory. I hope that it will be translated into Aboriginal languages and that all members of community councils will see copies of it.

1. I recommend to the government that it should set up two Aboriginal land councils for the Northern Territory. The Northern Land Council should meet in Darwin and the Central Land Council should meet in Alice Springs.

2. After their first meetings, the councils should decide for themselves where their members should come from, although they should try not to have too many members. For the first meetings there should be one representative from each of the following places:

## *Northern Land Council*

Bathurst Island  
Melville Island (Snake Bay  
and Garden Point)  
Croker Island  
Goulburn Island  
Maningrida  
Kopanga  
Milingimbi  
Galiwinku (Elcho Island)  
Lake Evella  
Yirrkala  
Angurugu  
Umbakumba  
Numbulwar  
Ngukurr  
Oenpelli  
Beswick  
Port Keats  
Daly River  
Bagot  
Delissaville  
Borroloola

## *Central Land Council*

Amoonguna  
Jay Creek  
Hooker Creek  
Warrabri  
Yuendumu  
Papunya  
Haasts Bluff  
Areyonga  
Hermannsburg  
Docker River  
Santa Teresa  
Macdonald Downs  
Utopia  
Tea Tree  
Napperby  
Willowra  
Lake Nash  
Neutral Junction  
Wattie Creek-Wave Hill  
Amata  
Ernabella  
Fregon

*Northern Land Council  
(continued)*

Mainoru  
Mudginberri  
Roper Valley  
Victoria River Downs  
Rockhampton Downs  
Banka Banka  
Brunette Downs

*Central Land Council  
(continued)*

Indulkana  
Everard Park  
Balgo  
Warburton  
Pintupi at Papunya  
and Yayayi  
Todd River camps

3. I recommend that the government arrange and pay for independent legal advice for each land council.

4. Each council, when it meets, should think and talk about the suggestions and questions which are written down in this summary. Careful notes of the talks should be taken so that each Aboriginal community will know all about the meetings.

5. When the council members have reached agreement on the matters they are talking about, they should ask their lawyers to tell this Commission or the government what they would like to see done. Some things would be for this Commission to hear and other things might be for the government to hear.

6. If any community does not agree with the things the land councils decide, its council should say so and, if it wants to have advice from a lawyer of its own, it should ask this Commission for help.

7. The suggestions I make about land rights are, I believe, in line with the wishes of the Aboriginal people of the Northern Territory. But if I am wrong about this it is important for the land councils to say so.

8. I suggest that Aboriginal land should be owned by the different Aboriginal communities. This seems clearly to be the right answer for places like Yuendumu, Hermannsburg, Amoonguna, Warrabri and the Tiwi people of Bathurst and Melville Islands.

9. In other cases, particularly in Arnhem Land and in the Central Reserves, I suggest that representatives of the different communities now begin talking to other neighbouring communities — as they are already doing in some places — about boundary lines. Where necessary, the Department of Aboriginal Affairs should arrange transport for this purpose.

10. It seems likely that in some cases two or three communities will want to be together for land-owning purposes. This is something for the communities to decide for themselves.

11. In the case of any Aboriginal land which is unoccupied, or where it is hard to decide on boundaries, I suggest that an Aboriginal land council (either Northern or Central) should be the owner to begin with.

12. Only the older and stronger communities should be land-owners at first. As new communities become stronger they should be able to ask for and own their own land.

13. Any difficulties about boundaries should be discussed at land council meetings. Boundaries should follow the general lines of the country owned by the clans living in each community, but they should be drawn as straight lines on a map, or follow rivers, as far as possible.

14. Each community or group of communities should choose leaders to be a land board for their land. I suggest that there should be some younger people and some older people on these boards and that the different clans should be fairly represented. Each community should decide whether it wants its land board to be the same as its community council or separate.

15. I suggest that, when they have been set up and the land has been handed over to them, the land boards should decide all questions about tourists and visitors, mining exploration, leases for Aborigines and permission for forestry or cattle grazing or farming. Whether the boards should actually be in charge of any business on the land, such as market gardening, cattle grazing, forestry or fishing, would be a matter for each community to decide.

16. I expect that each board would talk to the clan owners and managers of a particular piece of land before making any decision affecting it. In most cases one or more of those owners would be on the board anyway.

17. So far as mining leases and royalties are concerned, I suggest that the government and the land councils and the mining industry should agree on the amounts to be paid in all cases for exploration licences and by way of royalties if mining takes places. The land councils should consider what proportion of royalties should go to the local community and how the rest should be distributed.

18. Each land board would be free to discuss, with any company wanting to explore or mine its land, questions of employment of Aborigines, having a share in the mining venture and the protection of sacred sites.

19. Unless the government decides that it must make the final decision, each land board would be free to refuse permission for mining companies to look for minerals. But if a land board gave permission for exploration, it would have to agree to mining if minerals were found. It could make agreements for the protection of sacred sites and about the place where any houses or factories should be built.

20. The two land councils should, as soon as possible, consider what they think ought to be done about

- (a) leasing of Aboriginal land to non-Aborigines;
- (b) unoccupied Crown lands;

- (c) public reserves other than Aboriginal reserves;
- (d) pastoral leases;
- (e) fishing rights.

21. So far as pastoral leases are concerned, the councils should think about

- (a) the government buying some cattle stations for Aborigines;
- (b) the government arranging for Aborigines to have their own land on some other cattle stations;
- (c) the rights of Aborigines to visit and hunt on cattle stations;
- (d) the payment of cattle station lease moneys to Aborigines, and
- (e) the protection of sacred sites on cattle stations.

22. The land councils should also discuss the whole question of land rights for Aborigines living in towns.

23. In this summary I have set out only the most urgent and important matters for Aboriginal communities and land councils to consider. I rely on community councillors, legal advisers, officers of the Department of Aboriginal Affairs and mission staffs to draw attention to other matters in the body of this report which may be relevant in particular cases.

# Appendix I

## Aboriginal Reserves

	<i>Date of first proclamation of major part</i>	<i>Present area</i>	<i>Population</i>
WONGOAK (Bathurst Island)	1912	800 sq miles	869
MELVILLE ISLAND, BUCHANAN ISLAND and other islands within 3 nautical miles of Melville Island . . .	1941	2,200 sq miles	353
BAGOT . . . . .	1938	57 acres	466
WOOLWONGA (new) . . . . .	1968	195 sq miles	Nil
WANGITES (Wagait) . . . . .	1963	550 sq miles	Nil
DALY RIVER (including Peron Islands) . . . . .	1963	5,200 sq miles	738
MARANBOY . . . . .	1923	6 acres	
ARNHEM LAND . . . . .	1931	37,100 sq miles	6,630
BESWICK . . . . .	1953	1,315 sq miles	517
CATFISH (Hooker Creek) . . . . .	1948	845 sq miles	407
WARRABRI . . . . .	1960	170 sq miles	629
YUENDUMU . . . . .	1952	850 sq miles	886
JAY CREEK . . . . .	1945	116 sq miles	178
AMOONGUNA . . . . .	1961	1,210 acres	258
SOUTH WESTERN RESERVE (R.1028) (Petermann Ranges Area, Haasts Bluff Reserve and Papunya) . . . . .	1920	44,800 sq miles	1,680

There is doubt about the status of the following seven reserves, none of which appear to have Aborigines living on them:

WOOLNER	.	.	.	1892
MANASSIE	.	.	.	1892
LARAKEAH	.	.	.	1892
WOOLWONGA (old)	.	.	.	1892
MALLAE	.	.	.	1892
WARRAMUNGA	.	.	.	1892
MUDBURRA	.	.	.	1909

# Appendix II

## Descriptive Notes of some Aboriginal Communities

### BATHURST AND MELVILLE ISLANDS

#### *History:*

The history of the three communities living at Bathurst Island and at Snake Bay and Garden Point is inter-related.

In June 1911, Father Francis Xavier Gsell, M.S.C. built a mission station on the south-east corner of Bathurst Island. By 1916 the mission had increased its staff to include two French priests and several nuns and some Filipino workmen. For the next 20 years or so the Bathurst Island Mission was the only permanent European establishment in the Bathurst and Melville Islands area. During this time Japanese pearlers visited the islands and in about 1935 their base for contact with the Tiwi was in the Garden Point region. In 1939 the government founded a ration depot at Garden Point. A problem had arisen concerning the number of part-Japanese children born to Tiwi women in the Garden Point area. As a result in 1940 a new Catholic Mission was established to care for these children at Garden Point. Later in the same year the government ration centre was removed to Snake Bay. Garden Point has now also reverted to departmental control.

In recent years there has been some movement by Tiwi people from Snake Bay and Bathurst Island to Garden Point.

#### 1. BATHURST ISLAND

##### *Mission lease*

The present lease was granted to the Catholic Church of the Diocese of Darwin over an area of land being 10,000 acres, situated in the south-east corner of Bathurst Island Aboriginal Reserve. This lease was previously held by it under a Mission lease under the title of The Roman Catholic Mission Society at Bathurst Island, for the purpose of Mission work. The lease commenced on 28 September, 1952 and is for a term of 21 years.

##### *Population (1971 Census)*

<i>Male</i>	<i>Female</i>	<i>Total</i>
403	466	869

### *European staff*

There is a total of 30 which includes 8 trained nurses, one mothercraft nurse, store-manager, schoolteachers (including pre-school teacher), mechanic, builder, carpenter, welder, painter, brick-maker and an administrative staff.

### *Medical facilities*

In addition to a hospital there is an out-patient clinic. The medical facilities are run by 8 nurses, 2 nuns and 23 Aboriginal assistants.

### *School*

Pre-school — 8 Aboriginal girl assistants  
Girls school — 250 enrolments, 15 Aboriginal assistants  
Boys school — 4 Aboriginal assistants.

### *Employment*

6 men working under contract to the Timber Company.  
6 men employed at Pickertaramoor by Forestry Department.  
Subsistence fishing.  
3 self-employed artists and two receiving training.  
16 women employed by sewing centre which produces garments for sale on Darwin market.  
9 women — handicraft.  
6 men — brickyard.  
6 men — welding.  
14 men — carpentry.  
5 men — general building.  
10 men — market garden.  
6 women — kitchen.  
4 men — bakery.  
5 clerical assistants.  
10 assistants — canteen.  
10 assistants — store.

### *Pensions and endowment*

87 — includes invalid and old age pensions.  
140 — in receipt of child endowment.

### *Wages*

300 — receiving training allowances: \$13,000 per fortnight.  
11 — receiving award wages: \$800 per week.

### *Housing*

The Housing Association, an incorporated body, is at present building a number of two-room houses.

### *Water*

Obtained from three bores.



## 2. GARDEN POINT

### *Mission lease*

A lease which commenced on 19 May 1941 and expired on 18 May 1962 was granted to the Catholic Mission Church Diocese of Darwin. The lease covered an area of 133 square miles.

### *Population*

(as at 4 June 1973): 203.

### *European staff*

There is a non-Aboriginal staff of 10 which includes: 2 clerical assistants, 2 primary school teachers, one pre-school teacher, one carpenter, one mechanic and one hospital sister.

### *Medical facilities*

At present the hospital is waiting the arrival of a triple certificate nurse, after which time simple maternity cases will not be sent to Darwin, as they are at present.

### *School*

90 enrolments. Two teachers, with 2 Aboriginal assistants. Level is to 6th grade standard.

### *Employment*

Assistants in carpentry, the mechanic's shop, general maintenance and air-strip work, the market-garden and nursing. There is more than enough work to meet the labour demand. All receive training allowances.

### *Pensions and endowment*

14 — old age pensions  
8 — invalid pensions  
22-25 — in receipt of child endowment.

### *Housing*

A Housing Association has recently been incorporated.

There are 14 brick houses and 6 timber houses which are occupied by approximately 160 people. About 40 people are living in tin huts in the 'old camp' area.

### *Water*

Water is obtained from local springs, which provide an adequate supply.

### *Progress Association*

The Progress Association runs the counter-store. There are four non-Aborigines on the Association, two of whom act as Secretary and Treasurer, and two as committee members. However none have any voting power.

The Progress Association is also responsible for the Social Club and has committees for the organisation of various activities.

*Police station*

A police station is to be built which will station 2 officers.

*Market garden*

There is a current proposal before the Progress Association regarding an extension of the market-garden. At present the garden covers 8 acres and it is proposed to increase this to 14 acres in order to make the community self-sufficient and eventually to sell produce on the Darwin market. The finance required for this scheme is estimated at \$30,000.

*Tourism*

The community sees Garden Point as the centre of any tourist activity that might be encouraged in the Bathurst and Melville Islands area. Day trips from Darwin are the most likely form of tourist activity.

3. SNAKE BAY

*Population*

(as at 4 June 1973): 240.

*European staff*

- 10 employed by Department of Aboriginal Affairs
- 4 employed by Forestry Department
- 4 teachers
- 2 nursing sisters.

*Medical facilities*

There is a 12-bed hospital with a maternity ward, however most maternity cases are sent to Darwin. The hospital is run by 2 sisters and a doctor calls every 5 to 6 weeks.

*School*

72 enrolments. Level is to 6th grade standard and there are 2 male and 2 female teachers with one Aboriginal assistant.

*Employment*

- 20 employed by Forestry Department on full award wages
- 65 in receipt of training allowances. Of these,
- 10 employed at timber-mill and others assist in work-shop, store and general maintenance work.

*Pensions and endowment*

- 30 — old age pensions
- 2 — invalid pensions
- Approximately 40 in receipt of child endowment.

### *Housing*

There are 36 transitional timber houses consisting of 2 rooms, 8 timber houses with bath-room and bedroom, and approximately 12 people living in traditional camp structures.

### *Water*

Shortage of water is a problem. The present supply is from bores and tanks. There is a program to up-grade the water supply by a new reservoir to be built next year.

### *Store*

The store is self-service and is run by the superintendent's wife. It has a turn-over of approximately \$100,000 per annum.

\$2,000 worth of artifacts were sold last year through the store.

## Groote Eylandt

### I. ANGURUGU

#### *History:*

The Church Missionary Association had been active since 1908 in Arnhem Land. It was the policy of the C.M.A. to establish further missions when this became practicable. As a result of this policy the Groote Eylandt Mission was established in 1921 at Emerald River.

Initially the Mission's main concern was to take care of part-Aborigines at this station. After 1930 the policy was to care for all Aborigines living on Groote Eylandt. In 1943 the Emerald River Mission was moved to Angurugu. A Mission lease was granted to the C.M.S. for a term of 21 years commencing on 1 October 1946. The area covered 200 square miles.

#### *Population (1971 Census)*

<i>Male</i>	<i>Female</i>	<i>Total</i>
262	289	551

#### *European staff*

A total of 30 staff which includes 11 teachers and 3 nurses.

### *School*

Pre-school — 56  
Primary — 132  
Post-primary — 26  
Approximately 20 children attend the Alyangula school.

### *Employment*

Two industrial sources of employment on Groote are the Groote Eylandt Mining Co. Pty Ltd (GEMCo), and a prawn factory owned by Gollin Kyokuyo Fishing Co. GEMCo employs approximately 45 men and the prawn factory employs 30 women. There are about 10 men performing contract work, the market garden employs 4, the workshop 4 and hospital 8.

### *Pensions and endowment*

16 — old age pensions  
15 — invalid pensions  
4 — widows pensions  
103 — in receipt of child endowment.

### *Wages*

As at 4 June 1973, 83 people were on training allowances receiving total wages per fortnight of \$5,234.50, and 10 were employed doing contract work.

### *Housing*

About one-third of the Aboriginal population live in European-type housing. The remainder mainly live in structures with timber frames, bark walls and galvanised iron roofs.

## 2. UMBAKUMBA

### *History:*

From 1958-1966 the settlement at Umbakumba was managed by the Church Missionary Society. After that time it came under departmental control.

### *Population (1971 Census)*

<i>Male</i>	<i>Female</i>	<i>Total</i>
148	162	310

### *Pensions and Endowment*

12 — old age pensions  
7 — widows pensions  
59 — in receipt of child endowment.

### *Wages*

As at 20 December 1972 there was a total of 90 adult workers, all of whom were receiving training allowances.

# Yirrkala

## *History:*

In 1932 some Japanese fishermen were killed in Caledon Bay. Three members of an investigating party sent the following year were also killed. The Methodist Mission sought an opportunity to prevent a recurrence of such incidents and in 1935 a Mission was established at Yirrkala.

## *Population*

<i>Male</i>	<i>Female</i>	<i>Total</i>
378	378	756

## *European staff*

There is a total staff of 41 which includes 13 teachers appointed by the Department of Aboriginal Affairs, 2 hospital sisters from the Health Department, 22 members of the United Church, and 4 brick-workers.

## *Medical facilities*

The Health Department has supplied a Health Centre with a dispensary, and a doctor visits every Monday.

## *School*

The staff include a headmaster, deputy head, pre-school teacher and primary teachers.

Pre-school — 58 enrolments  
Primary — 272 enrolments  
Post-primary — 53 enrolments.

## *Employment*

Approximately 30% of adult males are employed. There are 130 persons receiving training allowances, 6 employed in the laundry, 12 at the brick-works, 3 at the hospital, 1 as a police tracker, 6 at Dhupuma College, 6 in the market garden and a number as school assistants and general maintenance workers. There are no Aborigines directly employed by Nabalco.

## *Wages and pensions*

\$4,000 per fortnight is paid in wages.  
32 in receipt of pensions (comprising invalid and old age pensions).  
150-200 women in receipt of child endowment.

## *Housing*

There are 3 types of housing provided. At Stage 1 there are 26 houses built consisting of an unlined fibro-walled structure; at Stage 2 there are 15 houses which offer an improvement on the Stage 1 type of house, having lined walls; and at Stage 3 there are 21 houses which are a larger version of the Stage 2 constructions. The majority of people live in the Stage 1 constructions. There are also some living in a beachcamp.

### *Water*

Water supply is not a problem as there is an adequate supply from the Yirrkala Creek.

### *Social club*

There is no social club as such, but sporting activities are organised on a regular basis between the Yirrkala and Nhulunbuy communities.

### *Store*

The store is run under the direction of a European manager and is patronised by the people from Nhulunbuy as well as the Yirrkala community. It provides the main outlet for artifact production. The monthly turn-over in the store is approximately \$30,000, the profit from which goes to the Town Council.

### *The Dhanbul Community Association*

The Dhanbul Community Association was incorporated for the purpose of receiving the royalties from the bauxite mining by Nabalco and also the profits from the brickworks. The executive of the Association consists of 6 men and 5 women. The Association decides on the allocation of the monies received.

### *Market garden*

There is an extensive market garden producing a variety of vegetables and tropical fruits, including bananas, papaws, and pineapples. The produce is sold through the store at Yirrkala, Woolworths at Nhulunbuy, and some bananas are sold on the Darwin market.

## **Milingimbi**

### *History:*

A Mission lease was granted to the Methodist Overseas Mission Trust Association commencing on 21 December 1945, for a term of 21 years. An area of 81 square miles was covered by the lease, including the Crocodile Islands. The mission was first established at Milingimbi but in 1962 it was recommended to move the site to Ramangining on the mainland. At present at Ramangining there is one house occupied by a Fijian who has established a 40 acre garden.

### *Population (1971 Census)*

<i>Male</i>	<i>Female</i>	<i>Total</i>
371	395	766

### *European staff*

There are 18 staff members appointed by the Methodist Mission, 3 of whom are at Nungalala, and 15 teachers appointed by the Department of Aboriginal Affairs, 2 of whom are at Nungalala.

### *Hospital and school*

A matron and 2 sisters run the hospital. There are 300 children enrolled at school. At Nungalala there are 69 children enrolled.

### *Employment*

There is a total of 164 people employed of whom 120 receive a training allowance. Of the total number of people employed, 31 are working at Nungalala.

### *Wages*

\$7,000-\$7,500 per fortnight.

### *Pensions and endowment*

58 — includes invalid and old age pensions

130 — in receipt of child endowment.

In addition there are 20 women at Nungalala receiving child endowment.

### *Outstations*

On the mainland there is a major outstation at Nungalala which at the time of the Commission's visit had a population of 250-300 people. A primary factor in the drift to outstations is the water shortage at Milingimbi and the existence of conditions more favourable to economic expansion on the mainland.

## **Maningrida**

### *History:*

Maningrida was established in 1957 as a medical, control and trading centre for Aborigines living in the Liverpool-Blyth River area. The function of the settlement was restricted in its early stage to providing training and medical services for the general area.

### *Population (1971 Census)*

<i>Male</i>	<i>Female</i>	<i>Total</i>
573	515	1088

### *European staff*

The Department of Aboriginal Affairs employs 12 people, the Forestry Department 15, the Health Department 6 people and there are 18 teachers. 2 police officers are permanently stationed at Maningrida and other Europeans are employed by the Progress and Housing Associations.

### *School*

200 enrolments.

### *Employment*

140-160 — receiving training allowances

- 20 — employed by Forestry Department and receiving award wages
- 14 — employed by Housing Association and receiving award wages
- 30 — self-employed producing craft work.

*Housing*

The Department of Aboriginal Affairs has built 24 houses and the Housing Association during the past 2 years has built 16 additional houses. There are 45 people living in 'self-help' housing.

*Water supply*

Water shortage is a serious problem. The water is piped 25 miles to Maningrida from Cadell Gardens.

*Outstations*

At the time of the Commission's visit there were approximately 300 people living at a number of outstations. The outstations having the largest number of people were Kopanga, Guyun and Cadell Gardens. It is understood that quite large numbers of people have moved out into the bush since the Commission's visit.

## Hermannsburg

*History:*

In 1875 the Lutheran community in Adelaide decided to organise an evangelical mission to work among the Aboriginal people. As a result the Mission was established at Hermannsburg in 1877. Originally assistance was provided in the way of care for the sick and the aged. By 1894 under the leadership of Reverend C. Strehlow full-scale mission work was undertaken.

At present the Mission holds a Special Purposes Lease which commenced on 7 October 1965, and is for a term of 21 years. The lease which is over an area of 1,470 square miles was granted for the purpose of caring for, protecting, maintaining, training and educating Aborigines.

*Population*

<i>Male</i>	<i>Female</i>	<i>Total</i>
287	308	595

*European staff*

There are 8 teachers, 2 nurses and 13 other staff.

*School*

A total of 230 enrolments which comprise:

- Pre-school — 40
- Primary — 140
- Post-primary — 50



### *Hospital*

The hospital has 8 beds. There is treatment of out-patients on a daily basis.

### *Employment*

There are 108 people employed. Of these 104 people receive training allowances.

### *Pensions and endowment*

61 — old age pensions  
5 — invalid pensions  
116 — in receipt of child endowment

### *Wages*

\$6,206.35 per fortnight.

### *Housing*

Approximately 40% of the Aboriginal population live in European-type houses and 60% live in two-roomed galvanised-iron structures.

### *Water*

Water is obtained from 3 bores and a spring.

### *Social club and store*

Both the social club and the store are managed by the Mission. The approximate monthly turnover of the store is \$16,690.

## **Santa Teresa**

### *History:*

The Catholic Mission in 1935 established the Little Flower Mission in Alice Springs which provided a school for the Aboriginal children in the town. In 1945 when the Army was directed to move the Aboriginal population from Alice Springs, the Mission was given the choice of moving to Hermannsburg or to some other site allotted by the Government. The Mission opted for a place other than Hermannsburg so they were sent to Arltunga. After the war, Bishop O'Loughlin approached the Government for a pastoral block with the intention of raising cattle so that the Mission might become self-sufficient. Subsequently, a Mission lease was granted to the Catholic Church of the Diocese of Darwin Incorporated, for the purposes of mission work amongst and for the benefit of the Aboriginal natives of the Northern Territory. This lease at Santa Teresa commenced on 1 March 1952, and was for a term of twenty-one years. It covers an area of 480 square miles.

### *Population (from 1971 Census)*

<i>Male</i>	<i>Female</i>	<i>Total</i>
243	243	486

### *European staff*

There is a staff of 27 consisting of the Mission Superintendent, 3 brothers, 6 nuns and 17 lay members.

The teaching staff of 8 includes 4 nuns and 4 lay teachers.

The present hospital is run by one nun (triple certificate nurse) and 2 European assistants. A doctor from Alice Springs visits every 4 to 5 weeks.

### *Hospital*

A new hospital building has recently been completed and it is anticipated that it will commence functioning in September when it is fully equipped. At present any cases involving operations or intensive care are taken to Alice Springs for treatment.

### *School*

200 children are enrolled at the school. A sports ground is available for physical education and there are sewing and craft rooms within the school building. Traditional stone carving is taught from time to time by an Aboriginal craftsman. Pottery classes are to commence shortly.

### *Employment*

Of the total population at the Mission, 140 are employed.

The Mission has a market garden, which employs 4 persons, a bakery, brick-field and work-shop. General maintenance work is available such as rubbish collection and, for the women, laundry and sewing. The hospital employs 10 assistants, 6 or 7 persons are employed as stockmen, and 4 as carpenters. There are 20 men working on building houses.

### *Wages and pensions*

There are 30 persons receiving pensions. Approximately \$7,000 per fortnight is paid in wages.

### *Housing*

There are 2 major housing areas; a stone village which can house approximately 400 persons; and tin constructions in an area known as East Side which can house approximately 200 persons. Many people have requested better housing, and so far 3 houses have been constructed for Aboriginal families. It is hoped that the number of houses will be increased to 75 over the next few years.

### *Water supply*

There are 2 water bores which are adequate for present purposes, but new bores are being explored.

### *Social club*

The social club is run by a lay European and its activities include organising Boys Club and Girls Club evenings. The counter-store is run

by a missionary brother. Tourism is not encouraged by the Mission and there is no artifact production for a commercial market.

### *Cattle*

There is a European farm manager with two Aboriginal head stockmen. About 300 head of cattle are run and about 50 horses have been bred.

## Yuendumu

### *History:*

The community at Yuendumu began in 1946 as a ration depot for the Walpiri in the area.

### *Population (1971 Census for Yuendumu and Lake Mackay)*

<i>Male</i>	<i>Female</i>	<i>Total</i>
417	469	886

### *European staff*

There is a total staff of 35 which includes 14 teachers and 5 nurses.

### *Hospital*

The hospital has 8 beds and is equipped to handle 8 in-patients (excluding meals) and approximately 200 out-patients on a daily basis.

### *School*

Enrolments consist of:  
Pre-school — 54  
Primary — 141  
Secondary — 55

### *Employment*

There are approximately 260 people employed on training allowances. 3 Aborigines are employed as staff members. Opportunities for employment include the market garden, hospital, school, work shop, kitchen, mine, cattle, and municipal work.

### *Pensions and endowment*

21 — old age  
9 — invalid  
60 — in receipt of child endowment

### *Housing*

There are no Aborigines living in European-type houses. There have been built 93 'Stage 1 Aboriginal houses' of a rudimentary structure and 4 Stage 2 houses, being an improvement on the Stage 1 type. Other housing consists of various types of temporary dwellings constructed from iron sheeting, canvas and branches.

### *Water*

At present the community is supplied with water from one bore. 3 additional bores have been drilled, but are not functioning as yet.

### *Social club and store*

The social club is responsible to an executive committee which consists of a senior and junior president, a vice-president and 7 committee members including the superintendent. At least 3 of the committee members are required to be Aborigines.

The social club runs the super-market which is under the control of a European manager with a European assistant. It has a wide range of groceries, clothing and hardware items. The approximate monthly turnover is \$27,000.

## **Papunya**

### *History:*

The settlement at Papunya began in 1959 and was officially opened in 1960. Its purpose at that time was to maintain Aborigines from Haasts Bluff and surrounding areas. Its function has now been extended to provide training in employment.

### *Population (1971 Census for Haasts Bluff Reserve and Papunya)*

<i>Male</i>	<i>Female</i>	<i>Total</i>
655	662	1317

### *European staff*

There is a total of 32 which includes 12 teachers, 7 nurses, and 13 staff members consisting of administrative personnel, social club employees and mission workers. In addition there are 6 part-Aboriginal staff members. 2 police officers are stationed at Papunya.

### *Hospital*

There is a 7-bed hospital with an out-patient clinic. The hospital takes care of simple maternity cases, infant- and child-care and home-nursing.

### *School*

As at 6 April 1973 enrolments consisted of:  
Pre-school — 83  
Primary — 143  
Secondary — 61

### *Employment*

6 men — livestock and market garden.  
12 men — workshop.  
15 people — hospital.

There are approximately 170 people, including training personnel, who are engaged in other employment.

### *Pensions and endowment*

64 — includes invalid and old age pensions

190 — in receipt of child endowment.

### *Wages*

Approximately \$9,000 per fortnight is paid in wages.

### *Housing*

About 50% of the Aboriginal population live in houses consisting of a single room and a verandah, 49% live in camps and 1% live in European-type housing.

### *Water*

At present there are 5 bores, but adequate water supply is a problem and 3 more bores are to be equipped this year.

### *Social club and store*

The social club is managed by a European who is responsible to a committee. The social club organises films, recreation activities, the promotion of economic projects, the 3-unit motel. In addition the social club runs the store which had a turn-over in May of this year of \$25,600.

## **Docker River**

### *History:*

In 1968 the Northern Territory Welfare Branch established a settlement at Docker River, which is situated in the Petermann Reserve. Its aims were to relieve the over-crowding at some of the other settlements and to provide a permanent settlement for those people who moved regularly between Areyonga, Amata and Ernabella.

### *Population (1971 Census for Petermann Reserve)*

<i>Male</i>	<i>Female</i>	<i>Total</i>
186	177	363

There is a great deal of movement of people in this area and so population figures fluctuate. The maximum number of people at the settlement at any one time is approximately 600.

### *European staff*

There is a total staff of 9 consisting of 2 teachers, one nurse, 4 Department of Aboriginal Affairs officers, and 2 social-club officers.

### *Education and medical facilities*

There is a school and a clinic on the site, both of which are held in large caravans.

### *Employment*

General maintenance work, market gardening, and artifact production is available. As at 11 May 1973 there were 56 people employed.

### *Pensions and endowment*

As at 11 May 1973:

51 — in receipt of pensions; \$1,054 per week

65 — in receipt of child endowment; \$591 per month

### *Wages*

Average payroll per fortnight: \$3,198.13.

### *Housing*

There is only one European-type house. The settlement consists of caravans and mobile metal structures. Most of the Aboriginal population live in traditional-type structures in camps.

### *Water*

The water supply is adequate at present, and there are plans to increase supplies by operating 2 new bores.

### *Store*

A new store has been completed which is run by an all-Aboriginal incorporated body, the Docker River Social Club. The store is run under the direction of a European. Artifacts are sold through the store. There is a passing tourist trade of one or two cars and one bus per week. To cater for tourists, a tea-room and tourist camp with shower facilities have been introduced. The Social Club also has held an Authority to Prospect. At present there are two or three Aboriginal prospectors.

### *Outstations*

At Wingellina and Giles Creek.

## **Willowra**

This property of 1,886 square miles, recently purchased by the Commonwealth Government for the benefit of Aborigines, provides a useful example of the organisational problems which have to be solved. It is situated in the northern part of the Alice Springs District, immediately east of the Tanami Desert Wildlife Sanctuary. The Lander River runs through it and it is in Walpiri country. To be more exact the Lander River Walpiri hold the land in this region from north of Lake Surprise as far south as Mt Leichhardt, the actual land-holding units being four clans.

Naturally the white man's boundaries of the Willowra pastoral lease bear no relation to the Aboriginal clan areas. However, it is generally true to say that Willowra is held by three clans, although one has only a small area in the south. Each of the three has substantial land-holdings

outside the boundaries of Willowra, mainly to the east and south. The fourth clan holds land to the west and south of Willowra. The total area owned by the Lander River Walpiri would probably be contained within Willowra, the two neighbouring properties of Anningie and Mt Barkly, the Tanami Desert Wildlife Sanctuary and the unoccupied desert country to the north-east of Willowra.

Of the two clans which can claim most of Willowra, it is believed that some 16 adult males were recently living on the property and 23 were living away from it. Of the other two clans, 11 were on the property and 19 away. Members of these other clans are managers of the land-tending ceremonies of the first two.

If this land were to be controlled on the basis of traditional clan boundaries, two clans would benefit greatly and a third would receive some benefit although most of its traditional territory is on the Mt Barkly pastoral lease. Probably none of these three sections of Willowra would be commercially viable by itself, in spite of the improvements made since the land was first leased. Although close to a clan boundary, the homestead of Willowra is probably entirely on one clan's land. The fourth clan would be left to pursue claims to parts of the Wildlife Sanctuary and, perhaps, a small part of the Mt Denison pastoral lease.

The difficulty in apportioning Willowra on a traditional clan basis is obvious. Apart from the practical problems suggested by the above summary there are problems of natural justice arising from the inter-linking of clans and shared usage of land which undoubtedly occurred before white contact.

On the other hand, if control is to be on a community basis, what rights should be given to non-resident members of the Lander River Walpiri or of other neighbouring clans? What if they should later wish to adhere to the community? If these questions ever become important, a possible answer would be that the community should be confined to those who choose to register their membership in the first instance and those others who are later admitted to membership by the community; perhaps after a period of probation to show their good faith in applying.

# Appendix III

## Surveys of Aborigines on Cattle Stations

The results of a recent detailed survey on this subject are not yet available. However the following information, although somewhat out of date, illustrates the complexity of the situation.

1. Towards the end of 1968 a survey of Aborigines on cattle stations in the Roper River area was conducted for the Australian Institute of Aboriginal Studies by Mr J. E. Bern.

This, taken together with the most recent census returns then available, showed the following results, station by station.

<i>Eley</i>		<i>Moroak</i>	
Total numbers . . . .	62	Total numbers . . . .	27
Linguistic groups		Linguistic groups	
Mangarai . . . . .	20	Rittarrngu . . . . .	9
Yangman . . . . .	15	Ngalkan . . . . .	8
Jingali . . . . .	6	Rembarrnga . . . . .	4
Alawa . . . . .	6	Six others . . . . .	6
Mara . . . . .	5		
Six others . . . . .	10	<i>Urapunga</i>	
		Total numbers . . . .	29
<i>Hodgson Downs</i>		Linguistic groups	
Total numbers . . . .	41	Ritarrngu . . . . .	17
Linguistic groups		Ngalkan . . . . .	10
Alawa . . . . .	37	Others . . . . .	2
Four others . . . . .	4		
		<i>Roper Valley</i>	
<i>Mountain Valley</i>		Total numbers . . . .	93
Total numbers . . . .	67	Linguistic groups	
Linguistic groups		Rembarrnga . . . . .	40
Rembarrnga . . . . .	23	Ngalkan . . . . .	18
Ritarrngu . . . . .	20	Ritarrngu . . . . .	14
Jimba . . . . .	18	Mangarai . . . . .	9
Others . . . . .	6	Six others . . . . .	12



<i>Mataranka</i>		<i>Mainoru</i>	
Total numbers . . . .	30	Total numbers . . . .	65
Linguistic groups		Linguistic groups	
Yangman . . . . .	15	Rembarrnga . . . . .	55
Mangarai . . . . .	15	Gupapuyngu . . . . .	6
		Others . . . . .	4

Thus the major linguistic groups were divided as follows:

<i>Rembarrnga</i>		<i>Yangman</i>	
Mainoru . . . . .	55	Mataranka . . . . .	15
Roper Valley . . . . .	40	Eley . . . . .	15
Mountain Valley . . . . .	23	Moroak . . . . .	1
Moroak . . . . .	4		<hr/>
Eley . . . . .	1		31
	<hr/>		<hr/>
	123	<i>Jimba</i>	
	<hr/>	Mountain Valley . . . . .	18
<i>Mangarai</i>		<i>Mara</i>	
Eley . . . . .	20	Eley . . . . .	5
Mataranka . . . . .	15	Roper Valley . . . . .	4
Roper Valley . . . . .	9	Mountain Valley . . . . .	1
Moroak . . . . .	1	Hodgson Downs . . . . .	1
Hodgson Downs . . . . .	1		<hr/>
	<hr/>		11
	46		<hr/>
	<hr/>	<i>Alawa</i>	
<i>Ritarrngu</i>		Hodgson Downs . . . . .	37
Mountain Valley . . . . .	20	Eley . . . . .	6
Urapunga . . . . .	17		<hr/>
Roper Valley . . . . .	14		43
Moroak . . . . .	9		<hr/>
Mainoru . . . . .	1		
	<hr/>		
	61		
	<hr/>		
<i>Ngalkan</i>			
Roper Valley . . . . .	18		
Urapunga . . . . .	10		
Moroak . . . . .	8		
Eley . . . . .	1		
Hodgson Downs . . . . .	1		
	<hr/>		
	40		
	<hr/>		

There were also at least 14 other groups represented at one or two stations each. The total numbers of these groups were 32 and no group had more than six members:

Ngandi	Ganalbingu
Jingali	Walpiri
Jauan	Mudbra
Garawa	Wagaman
Niyabuinga	Wandarang
Goodanji	Mund
Gupapuyngu	Burera

The area surveyed lies immediately south of the Arnhem Land Reserve and south and east of the Beswick Reserve. It covers some 7,000 square miles. There were 414 Aborigines shown in the census and of these 126 were adult males.

2. Early in 1969 Mr J. E. Bern made a similar survey of Aborigines on cattle stations north-east of Alice Springs. The area contains 25 stations of which 14 had no resident Aborigines. Only 6 had over 20 residents.

This survey, combined with a 1967-8 census, showed the following results:

<i>Aileron</i>	<i>Utopia</i>
Anmitjira . . . . . 77	Aranda . . . . . 121
Others . . . . . 3	Aljawarra . . . . . 9
	Anmitjira . . . . . 4
<i>Bushy Park</i>	Kaiditj . . . . . 4
Aranda . . . . . 5	
Anmitjira . . . . . 2	<i>Waite River</i>
	Aranda . . . . . 16
<i>Macdonald Downs</i>	Anmitjira . . . . . 1
Aljawarra . . . . . 167	Aljawarra . . . . . 3
Aranda . . . . . 19	<i>Woola Downs</i>
	Anmitjira . . . . . 8
<i>Ooratippra</i>	
Aljawarra . . . . . 17	<i>Yambah</i>
	Anmitjira . . . . . 4
<i>Ti Tree</i>	Aranda . . . . . 2
Anmitjira . . . . . 50	Others . . . . . 8
Kaiditj . . . . . 8	
Others . . . . . 4	
<i>Tobermory</i>	
Aranda . . . . . 2	

Thus the main tribes were divided as follows:

*Aranda*

Utopia . . . . .	121
Alcoota . . . . .	45
Mt Riddock . . . . .	26
Macdonald Downs . . . . .	19
Lucy Creek . . . . .	19
Waite River . . . . .	16
Bushy Park . . . . .	5
Yambah . . . . .	2
Tobermory . . . . .	2
Ti Tree . . . . .	1
	<hr/>
	256
	<hr/>

*Aljawarra*

Macdonald Downs . . . . .	167
Ooratippra . . . . .	17
Utopia . . . . .	9
Waite River . . . . .	3
Aileron . . . . .	2
	<hr/>
	198
	<hr/>

*Anmitjira*

Aileron . . . . .	77
Ti Tree . . . . .	50
Woola Downs . . . . .	8
Utopia . . . . .	4
Yambah . . . . .	4
Bushy Park . . . . .	2
Waite River . . . . .	1
	<hr/>
	146
	<hr/>

# Appendix IV

## Descriptions of Tribes and Ethnic Blocs

(Note: This Appendix has been prepared by Dr Nicholas Peterson and is adopted by the Commission as part of its report.)

### THE TIWI

The Tiwi live on Bathurst and Melville Islands to the north of Darwin. Although only twenty miles of open water separates them from the mainland, which can be dimly seen on a fine day, the people are certain that there was no contact with it in the past. Indeed the mainland was believed to be the home of the dead in the traditional cosmology.

The cultural isolation of the Tiwi is reflected in a number of ways. The people lacked both the boomerang and the spear-thrower, practised neither of the main initiation rites on males and lacked clan religious rites of the kind found throughout the rest of the Northern Territory. Their land-holding system however seems to have been very similar to that found on the mainland, although the two anthropological accounts of it differ slightly.

Hart and Pilling (1960) state that a man's rights in land were primarily derived from the country in which his father died. According to them men near death endeavoured to be in the father's country, thus creating a tendency towards patrilineal inheritance of land. Goodale (1971) on the other hand is quite firm that land ownership is based on patrilineal descent and that place of death only sets up secondary rights if outside one's patrilineal area. There is general agreement that the land-owning units were grouped together into 7-9 districts. None of the authors present any evidence of the elaborate managerial system found on the mainland but this is not unexpected in the absence of localised clan religious cults.

Early experiences with Portuguese slavers and Macassan trepangers made the Tiwi implacably hostile to outsiders, but as interest in north Australia increased, their isolation was frequently impinged on. Until the turn of the century the longest disruption of their isolation was by the attempted British settlement at Fort Dundas 1824-1829; but the hostility of the Tiwi to the settlement served to prevent the introduction of any real change and was an important factor in its abandonment. At the

turn of the century a buffalo-hunting enterprise, based on the site of the present Paru village, was established, and in 1911 Father Gsell started a mission immediately opposite on Bathurst Island. Gsell set about systematically altering traditional practices among those people who resided at the mission. Many people remained in the bush on Melville Island; however those on the southern coast were at a more or less permanent village where they interacted with the sailors of the Japanese pearling fleets. The government tried to discourage this contact by moving many of the Tiwi involved to Darwin, but a second contact point grew up at Garden Point, forcing the establishment of a supervised ration depot there in 1939. In 1940 a new Catholic mission was established there for part-Aboriginal children and the government ration depot for the Tiwi was moved to Snake Bay. Today most Tiwi live on their own islands but with Darwin so close a number have taken up permanent residence there.

Goodale, J. C.

*Tiwi wives: a study of the women of Melville Island North Australia.* (Seattle, University of Washington Press, 1971)

Hart, C. W. M. and  
Pilling, A. R.

*The Tiwi of North Australia.* (New York, Holt, Rinehart and Winston, 1960)

#### THE ANINTILYAUGWA AND NUNGGUPUYU

Anintilyaugwa is the name of a clan on Groote Eylandt but has come to be used for the people of the island as a whole. These people have close links today with the Nunggupuyu of the adjacent mainland between Rose River and the middle of Blue Mud Bay. Links with the mainland were made possible in the past by the stepping stone of Bickerton Island but the fact that the languages spoken by the two peoples are mutually unintelligible although structurally similar, indicates some social distance between them historically. Traditional ties through migration and marriage have been greatly strengthened through the use of boats and charter aircraft in more recent times.

Groote Eylandt and Bickerton between them have 14 clan land-holding groups, all of whom speak Anintilyaugwa. The Nunggupuyu speakers are divided among 10 clans, all with territory on the mainland. The pattern of land-holding in both areas is very similar to that among the Murngin, the difference being that the managerial relationship is not formalised on Groote Eylandt.

Well before Flinders visited the Gulf of Carpentaria in 1803, Macassan trepangers established a number of base camps in the area for use during their wet-season visits. Permanent settlement on the island by outsiders did not take place until 1921 when the Church Missionary Society established a mission on the west coast for part-Aboriginal children. Contact with the islanders themselves was slight and it was not until 1925 that any of the missionaries even saw an Anintilyaugwa woman. Attention was not directed towards the indigenous population in any

concerted way until the outbreak of the war, when the establishment of an air base at Grootte Eylandt led to a decision to remove the part-Aboriginal children from the island.

On the eastern side of the island a European trepanger, who had worked the coastal regions of the area since the 1920's, set up a base at Umbakumba that was later taken over by the Church Missionary Society and more recently by the government.

The composition of the two Aboriginal communities reflects traditional territorial ties: the people at Umbakumba are largely from Grootte Eylandt itself while those at Angurugu are mainly Bickerton Islanders. The number of Nunggupuyu speakers on Grootte Eylandt is few, most living at Rose River on the very southern fringe of their own country. Rose River was established in 1952 by the Church Missionary Society and drew part of its population from Roper River Mission and part from people still spending their time in the bush. Living with the Nunggupuyu are a small group of Murngin, mainly from the area around Blue Mud Bay.

## THE MURNGIN

The people of north-east Arnhem Land from Cape Stewart to Blue Mud Bay are collectively known as the Murngin in the anthropological literature. Although culturally unified they did not form a coherent social entity and had no single term for themselves. The term Murngin is apparently derived from the name for the deadly shovel-nosed spear which in the context of inter-clan relationships is applied to groups that have a history of being aggressive to the clan of the speaker. Thus the description is subjective, each clan nominating different groups as Murngin, depending on the history of past feuds and conflicts.

There are from forty-five to fifty Murngin clans that between them occupy an area of 15,000 square miles, giving each clan an average of some 300 square miles. The terrain is rich and varied with a long shore line, leading to the localisation of clans and a fragmentation of language, so that each clan claims its own dialect even though the average numbers per clan only lie between 40 and 50. Despite the linguistic fragmentation there is a proliferation of ritual links between clans. These are of two kinds. There are those created by having territories along the track of a common ancestor such as the Djankawu sisters and there are those created by the managerial link that is extended beyond the mother's clan to that of the mother's mother and the mother's mother's mother's clans.

Like the other coastal people of Arnhem Land, the Murngin had extensive contact with aliens well before the arrival of Europeans. Macassan trepangers regularly visited the north coast each wet season, leaving when the winds moved to the south-east. Conflict with the Aborigines was common during the period for which there is documentation and continued until the government finally stopped these annual visits in 1907. During the 1920's and 1930's Japanese pearling fleets worked the coast and conflict was again not uncommon. In 1932 three Japanese were killed in Caledon Bay and shortly afterwards one of the policemen

sent to investigate and two of his companions, were also killed. This led to demands for a punitive expedition from Territory residents, which was averted by the offer of an anthropologist, Donald Thomson, to visit the area to establish the causes of the problems, and by the missionary societies' expression of interest in setting up a station in the area. This the Methodists did, founding Yirrkala in 1935.

Yirrkala was the second mission station in Murngin territory. The first had been set up on the western edge at Milingimbi in 1923 and later a station at Elcho Island (Galiwinku) was started in 1942 after a false beginning of a few months in the 1920's. This sequence of establishment has had an important influence on the distribution of the clans today. Through contact with the Mission boat that sailed along the coast to the Roper River, many of the peoples of Buckingham Bay and Arnhem Bay learnt about the Mission at Milingimbi and shortly afterwards settled there. Other groups who lived much closer to the Mission but were inland remained in the bush until well after the war. The result of this drift Westwards is that today more than 200 people have developed links with Milingimbi, although Galiwinku is much closer to their clan lands.

Galiwinku itself is mainly composed of the coastal and island people in its immediate vicinity, but because of the Rev. H. Shepherdson's policy of making living in the bush a real alternative to Mission life, by supplying valued items to groups in the bush through a system of small airstrips, it has developed links with the hinterland too. The number of out-station groups has varied since the establishment of the first strip in 1949, but today there are four in regular use, allowing upwards of seventy people to live in their own country. Also, at Lake Evella, Galiwinku has established a saw mill, to cut local stands of cypress pine, and a village in which about 140 people live. At Howard Island it plans a cattle project built about the desire of a small group to live and work on their own land.

Yirrkala has only one outstation at present, at Caledon Bay, but Milingimbi, with its plans to set up a new town on the mainland to overcome water problems, has encouraged three independent groups to move back on to their own land for much of the year, and established a major outstation in connection with its cattle project at Nungalala.

Thus the period of depopulation of the interior of Arnhem Land has come to an end and many Murngin are now moving to live on or near their own clan lands. The three mission stations still remain the main centres of population, Yirrkala with 756, Elcho with 971 and Milingimbi with 766, but upwards of four hundred people are away from these main centres.

## THE ARANDA

The country of the Aranda-speaking peoples stretches to the north and west of the Simpson desert. Roughly speaking it was bounded by the Sandover River to the north and the Finke River to the south, thus including Alice Springs and considerable parts of the Macdonnell and

Harts Ranges. Strehlow distinguishes five major groups, the Western, Southern, Eastern, Central and Northern Aranda who all spoke dialects of a common language but lacked any political cohesion.

The traditional land-holding system as described by Strehlow was very similar to that of the Walpiri, including a strong emphasis on the manager relationship, for which they used a cognate term. As with the Walpiri, each clan area contained at least one major ceremonial site that was the focus of clan religious celebrations. Such clan areas appear to have covered from 300-600 square miles and to have been relatively densely populated in contrast with the spinifex plains.

The principal agent of social change among the western and northern Aranda was the Lutheran Mission established at Hermannsburg in 1877. The initial impact on the people was slow and it took several years before many Aborigines became permanent residents at the Mission. By and large the missionaries were opposed to the traditional religion although Strehlow Snr had strong anthropological interests and wrote about it. The Aranda, and their south-western neighbours the Matuntara, suffered from punitive expeditions led by police in reprisal for extensive cattle killing, made possible by the hilly nature of the country, that gave them cover from pursuers. These factors and the fact that Alice Springs was in the centre of their territory drew the people away from living off the land.

By the Second World War the clan ceremonies seem to have fallen into disuse, in the Hermannsburg area at least, and in consequence details of the clan estates are known only to the very old. During the Commission's visit it was clear that the younger generation identify strongly with the region as a whole but poorly with particular tracts of land within it. This is in marked contrast to the Walpiri, Pintupi and Pitjantjatjara who, because they have maintained their traditional clan religious celebrations, have a detailed knowledge of the countryside, even though the more remote places have not been seen for over twenty years.

The present-day distribution of the Aranda is wide, but generally speaking the people tend to live in the community closest to their own section of Aranda country. The owners of the Mereenie Range and the gaps visited by tourists along the Macdonnell Ranges live at Hermannsburg; those people who own the land on which Alice Springs and Pine Gap now stand live at Amoonguna and St Teresa. The Northern and Eastern Aranda live on several cattle stations and members from all areas are to be found in various camps around Alice Springs itself.

## THE KUKATJA/LURITJA

The location of the Luritja peoples has been something of a mystery in the anthropological literature. The difficulty arises from the fact that the word is a specifically Aranda term used for their immediate western neighbours and, by extension, all people who live to the west of them. Some anthropologists have adopted the Aranda use of the word and extended it to include all the western desert people, but as more became



known about this area, varying local terms have come to be used for different groups, leaving the term Luritja for the true western neighbours of the Aranda. These people have called themselves Kukatja, but today they frequently use the term Luritja.

The majority of the Luritja live at Papunya, Haasts Bluff and Hermannsburg. Their country lies around Papunya, stretching from the Ehrenburg Ranges in the west to near Derwent Creek in the east and south from Mount Wedge to the Krichauff Ranges. Little detail of their social organisation is known, but it is assumed to be similar to that of the Aranda.

## THE WALPIRI

Traditionally the Walpiri occupied an area of 35,000-40,000 square miles east from the Western Australian border to the Stuart Highway and south from Winnecke Creek to the Stuart Bluff Range. Topographically this area can be divided in two, with the spinifex plains of the Tanami Desert to the north and the mulga-supporting hills in the south. This distinction was recognised by the Walpiri themselves who called the inhabitants of the former Wanayaka and of the latter Mantjangana (mulga seed eaters), although the people of both areas spoke minor dialectical variations of the same language. Some writers have identified four regional sub-groups of the Walpiri, but the evidence for them today is poor and only the two mentioned are now readily recognised by the people themselves.

Throughout Walpiri territory the land-holding unit was a small clan of 30-40 people identified with a specific tract of land. The most marked variation from the normal Aboriginal land-holding pattern here was the elaboration of the managerial relationship which was marked out by several special terms.

Secondary links with other clan estates could develop where an individual was 'conceived' in the territory of another clan he called by the term father, particularly if that clan were small in numbers and, because of demographic fluctuations, composed of men younger than the outsider when he was in middle-age. Under such conditions the outsider, who would have been allowed to attend the clan's ceremonies, often ended by being one of the most knowledgeable persons about that clan's rites. Such a man could not only instruct the younger true owners of the rite in correct performance but would also instruct his own sons in it, as well as showing them the rites he had inherited from his own father. In consequence it is not uncommon to find men claiming two clan estates as their own; that of their father's father and that in which their own father was conceived. Close questioning usually reveals which area is that truly belonging to a man's clan.

The Walpiri today are a vigorous and flourishing people with a strong orientation towards the past. At the turn of the century they probably numbered 1000-2000 giving a population density of one person per 30-40 square miles. Warburton was the first to travel through their country, later to be followed by miners in the Tanami gold-rush of the

early 1900's. Major movements away from the bush to live on cattle-stations did not take place until the Coniston massacre in 1928 when more than 50 Walpiri, and their eastern neighbours, the Yanmatjiri, were slaughtered by a police punitive expedition after the spearing of a white man. The drought of the following year further added to the drift from the bush.

It was at Mt Doreen Station, opened in the early 1930's in the heart of Walpiri country, that most Walpiri received their first prolonged contact with white men. Here men, women and children received payments of food in return for collecting wolfram, and later the men received such payments for working as stockmen. During the Second World War many Walpiri men were encouraged to leave their tribal territory to work for the Army in compounds along the Stuart Highway, returning to their homeland afterwards when various settlements were established for them. Today their numbers have grown to over 2,500, and they have expanded the area they occupy to the south-east and north. In both cases this expansion was the result of European settlement which in the south-east attracted the Yanmatjiri close to the Stuart Highway allowing the Walpiri to move on to the cattle-stations vacated by them; in the north, establishment of the Hooker Creek settlement 40 miles beyond Walpiri territory, but for Walpiri people, has led to a slow transfer of the land as the Walpiri are gradually given the ceremonies related to the area by the Gurindji. Apart from these locations the Walpiri are to be found in large numbers at Yuendumu, Warrabri, Willowra and Papunya, and in smaller numbers on various cattle-stations adjacent to the above communities.

## THE PINTUPI

Detailed description of Pintupi social organisation and land-holding patterns is almost non-existent. However it is clear that in most respects their social organisation is similar to that of the Pitjantjatjara although their co-residence at settlements where the Walpiri live is leading to the adoption of a number of features of Walpiri social organisation.

The exact meaning of the term Pintupi is unclear but it is used loosely by the Walpiri for their western and south-western neighbours who speak a number of closely related dialects. People called Pintupi by the Walpiri inhabited an area that stretched a hundred miles or so west of the West Australian border and north from Bloods Range to Lake Mackay.

Traditionally the Pintupi had clan land-owning groups but do not appear to have the managerial relationship in the formalised way. However their ready adoption of the Walpiri terminology and participation in Walpiri ceremonies indicate that the strong tie between nephew and maternal uncle was still important.

The Pintupi were the last major group to leave the bush. This they did quite recently: between 1957 and 1964 more than two hundred people were encouraged to leave the desert. Today the majority of Pintupi live

at Papunya well to the east of their own country. A few are found at Yuendumu and others at Balgo Mission in Western Australia.

Last month, considerable numbers of Pintupi elected to move out from Papunya to set up their own community at Yayayi about 25 miles further west. Although closer to Pintupi country, Yayayi is still in Luritja country.

## THE PITJANTJATJARA

This powerful and conservative people traditionally occupied the area from Ayers Rock to Gill's Pinnacle and south from Lake Hopkins to the Birksgate Range. Their western neighbours were the Ngatatjara and their eastern neighbours the Tjunkuntajara.

The first impression on speaking to Pitjantjatjara men is that land ownership is determined by place of birth, but in the final analysis it emerges that it is inherited from the father as elsewhere in the Northern Territory. A Pitjantjatjara man asked which country he owns will nearly always reply that he was born in his father's country. Berndt (1943:371) comments that the place of birth was usually in the father's country and that even where the people had moved away to live around European settlements they often returned to their own country for an impending birth. The question of what land a child born outside its father's country owns, it critical to understanding the Pitjantjatjara system and to establishing that it does not differ radically from the typical system of automatic inheritance from the father.

Berndt does not make a direct statement about land owned in such cases but he does say quite definitely that if a child is born outside its father's country the father's own totemic ceremonies (i.e. the title deeds to the land) are still more important for the child, thus confirming that the land-holding group is the patrilineal clan as elsewhere. The main difference from the peoples to the north and east is that secondary links are set up with other areas not by place of conception, as amongst the Walpiri for instance, but by place of actual birth.

In the absence of any detailed study of Pitjantjatjara religious behaviour the existence of a formalised managerial relationship remains in doubt. In marked contrast to most other peoples of the Northern Territory, however, a much stronger emphasis in religious rites is placed on ties between a man and the generations of his grandfather and grandson.

From the 1870's to the 1930's the Pitjantjatjara had contact with exploration parties of one sort or another and lone doggers seeking dingo scalps. Interaction with the scalpers introduced many people to a cash economy for the first time, and scalping has remained a source of income for a few people up until the present day. In 1923 and again in 1930 Aboriginal emissaries from Hermannsburg travelled deep into Pitjantjatjara country encouraging a number of people to migrate eastwards out of their country towards the mission. This led, during the Second World War, to the setting up of ration depots at Haasts Bluff and Areyonga by the Finke River Mission. Most Pitjantjatjara who moved

in settled at Areyonga but some went closer to town, taking up permanent residence at Jay Creek. Other people remained in the bush until the early 1960's only moving into the settlements as a result of the activities at the Woomera Rocket Range in South Australia which necessitated the safeguarding of Aborigines living in the test flight path.

In 1968 Docker River Settlement was established on the western edge of Pitjantjatjara country to relieve crowding at Areyonga and to encourage permanent settlement amongst people who regularly moved between Areyonga, Amata, Ernabella and neighbouring cattle stations, by providing facilities for them within their own territory. The settlement proved even more popular than expected. The original plans were for a population of 150 but by 1971 it had risen to over 360. Although the majority of people came from Areyonga, the relatively high wages attracted Ngatatjara-speaking peoples from Warburton Mission in Western Australia as well.

Berndt, R. L.

'A preliminary report of field work in the Ooldea region, western South Australia.' *Oceania*.  
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