

The woman, Mrs Ana Presland, was reported as saying that she was 'over the moon' with the decision.

She plans to just look at the uterus for a while and show it to her children,

then I think I will take it somewhere quiet and peaceful and bury it under some willow tree - something that has been there for years.

aboriginal land in victoria

On 25 March 1987 the Federal Minister for Aboriginal Affairs, Mr Clyde Holding, introduced two bills in the Federal Parliament: the Aboriginal Land (Lake Condah and Framlingham Forest) Bill 1987 and the Aboriginal and Torres Strait Islander Heritage Protection Amendment Bill 1987. The legislation, among other things, provides for two Victorian Aboriginal Communities to be granted inalienable freehold title to land to which they have historical and traditional ties.

a new legislative approach. This legislation is unique because it was introduced in the Commonwealth Parliament at the request of the Victorian Government. After a period of discussion and negotiation between the Victorian Government and the Victorian Aboriginal Community over a period of three years agreement had been reached on the form of legislation to transfer certain land into Aboriginal hands. The original plan was for three bills, the Aboriginal Land (Lake Condah) Bill, the Aboriginal Land (Framlingham Forest) Bill and the Aboriginal Cultural Heritage Bill, to be enacted which would grant inalienable freehold title to two Aboriginal groups. The Bills had been opposed by the Victorian Opposition who had sought to make amendments in the Upper House. The Opposition proposed the conversion of the title to alienable freehold title and the complete withdrawal of the Cultural Heritage Bill.

As a result of the Victorian Government's inability to have the legislation enacted, a request was made that the Commonwealth pass the legislation. The Commonwealth has undisputed powers to legislate in the area of Aboriginal affairs and on this basis agreed to the request of the Victorian Government. This was done subject to certain conditions as outlined by the Minister for Aboriginal Affairs in the second reading speech:

In proceeding with the request of the Victorian Government to enact this legislation, the Commonwealth Government is satisfied that the principles and policies agreed between the Victorian Government and the relevant Aboriginal communities have been faithfully embodied in the Bills now before the House. It should be said however, that the Commonwealth was not privy to the consultations which led to the agreements between the Aboriginal communities and the Victorian Government. Therefore, this legislation should not be construed to imply that the Commonwealth necessarily endorses in every particular the agreements arrived at and should not be regarded as a precedent for Commonwealth legislative action elsewhere in Australia. It is sufficient for the Commonwealth, having been satisfied that the principles endorsed by the Victorian Government and the Aboriginal communities are embodied in the proposed legislation, and having regard to the political situation in the Victorian Parliament, to use the due process of the Commonwealth Parliament to give legislative effect to these agreements. (Hansard, House of Representatives, 25 March 1987, 1514.)

the legislation. The Aboriginal Land (Lake Condah and Framlingham Forest) Bill provides for the acquisition of land from the State of Victoria by its own force and the vesting of that land in the Kerrup-Jmara and the Kirrae-Whurrong Communities. The land to be granted to the

Kerrup-Jmara is half of a square kilometre on which the former Lake Condah Mission was located. Eleven square kilometres of the Framlingham State Forest is to be granted to the Kirrae-Whurrong Community. The land is to be vested in corporations created pursuant to the Aboriginal Councils and Associations Act 1976 (Cth). The communities are to be given full power of management and control of the land subject to the laws of the Commonwealth and Victoria but all minerals will remain the property of the State of Victoria. In addition the communities will have general local government type by-law making powers.

The Victorian Aboriginal Cultural Heritage Bill was enacted by the Commonwealth by means of an amendment to the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth). This Bill provides that any person may apply for an emergency declaration that an Aboriginal place or object is under threat of injury or interference. The application may be made to the Minister, an Inspector or a Magistrate. There is also provision for an Aboriginal community to request the Minister to make a declaration of preservation of an Aboriginal place or object of major significance. The Minister may also acquire compulsorily any Aboriginal cultural property if he is satisfied that it is of such significance that it is irreplaceable and no other arrangements can be made for its preservation. This would of course be subject to the right to compensation.

abolition of the family court?

introduction. In recent months, the status of the Family Court has again come into question. It was reported in early February that the Federal Government was considering abolishing the Family Court and transferring its judges to a family law division of the Federal Court (*Canberra Times*, 8 February 1987). The Attorney-

General, Mr Bowen, was reported to have favoured the merger (*Age*, 10 February 1987). The reports coincided with the publication of a statement of preliminary views by the judicial system committee of the constitutional commission. With respect to the Family Court, its preliminary view was that the aim of any reorganisation should be to vest the major contested family law cases in a division of the Federal Court, with intermediate appeals going to an appellate division of that Court. In response, the Chief Judge of the Family Court, Justice Evatt, agreed that such a proposal might be satisfactory, as long as the specialist functions of the Family Court were preserved and provided that its pursuit of the goals and philosophies for which it was originally established were not hindered. It has since been reported, however, that, in the short term at least, the Family Court will remain untouched (*Times on Sunday*, 29 March 1987).

arguments in support of the merger. Throughout its short history, the Family Court has been subjected to a considerable degree of criticism from legal professionals and consumers alike. Further, some of its judges have been the victims of unprecedented violence. Supporters of the proposed merger argue that the replacement of the Family Court by a new division of the Federal Court would go a long way towards addressing perceived problems in the structure and performance of the Court and, by reducing its high profile, eliminating the violence against it. One such problem is the recruitment of judges of a sufficiently high calibre to a court whose jurisdiction is, in the words of the former Chief Justice of the High Court, Sir Harry Gibbs, 'limited in scope and likely to be emotionally exhausting'. By giving judges of the proposed new division a wider jurisdiction, the merger would, supporters argue, overcome difficulties associated with recruiting judges to the family jurisdiction and provide for them opportunities for pro-