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BICENTENNIAL FOCUS ON ABORIGINES AND LAW

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CANBERRA, FRIDAY:

The Australian Bicentenary in 1988 should provide a focus for consideration of reform of the law affecting Australia's Aborigines.

This was said today by Justice Michael Kirby, former Chairman of the Australian Law Reform Commission. He was launching a book by Dr John McCorquodale "Aborigines and the Law: A Digest" in the Library of the Attorney General's Department in Canberra.

Justice Kirby said that the book collected the court decisions and Acts of Parliament over the past 200 years. He said that whilst a fair review of the material in the book would show that progress had been made in recent years, it would also show much discrimination and injustice. He said that the best way that Australia could commemorate the Bicentenary in a "worthy and honourable" fashion would be by attending patiently and carefully to needs of legal reform which had already been called to notice.

Justice Kirby said that the book was a "remarkable effort". It was completed over a ten year period. It was an almost complete compendium of materials relating to Aboriginals and the law. It was a "massive work of reference - both a dictionary and an encyclopedia of legal materials about the subject". He paid tribute to the Australian Institute of Aboriginal Studies for its "foresight" in supporting such a "comprehensive and useful" project which would be important to politicians, lawyers, policy makers and Aboriginal leaders.

Commemorate if not celebrate

Justice Kirby said that he agreed with the Governor General's assessment earlier this year that early settlers in Australia had sometimes treated Aborigines with "gross inhumanity". But he also agreed that such conduct had to be judged by the standards of the time and that it would be more productive to focus attention on achievable goals than to reject the opportunity for advancement which the Bicentennial anniversary presented:-

"I can understand, against the backdrop of legal, social and economic disadvantage, that many Aboriginals would decline to celebrate the Bicentenary. But they should commemorate it, with the other members of Australia's multi-cultural community. And they should call attention to the needs for law reform to be a lasting monument which the Bicentenary could leave behind. Inevitably, the focus upon where our nation began its modern history will direct attention to our relationship with the descendants of the indigenous people. It is 20 years since the constitutional referendum signalled Australia's turning of a corner in its attention to Aborigines. In that time about \$5 billion has been appropriated to Aboriginal assistance programs. There have been some notable successes - especially in the field of education. But there have been many failings - especially in the fields of health and law. This book, with its record of failure, discrimination and occasional enlightenment, should stimulate attention to the needs of fundamental law reform".

Aboriginal customary laws

Justice Kirby said that he hoped that a future volume of the digest of Aborigines and the Law would include references to developments of Aboriginal law by their own institutions. He pointed out that Maori law and North American native law were well established in similar legal cultures in New Zealand, Canada and the United States. He referred to the report of the Australian Law Reform Commission on the recognition of Aboriginal customary laws which was tabled in Federal Parliament on 12 June 1986. This report contained major proposals for partial recognition of Aboriginal customary law by the Australian legal system which had not yet been implemented.

Justice Kirby said that a fitting monument for the Bicentenary would be consideration of the implementation of the Law Reform Commission report:-

"This could be a more relevant, just and lasting monument to the Bicentenary than some of the other projects 'endorsed' for the Bicentenary but apparently having no connexion other than the attribution of appropriation fund for necessary public work in 1988."

Congratulations to Author

Justice Kirby congratulated Dr McCorquodale and those who had helped in the preparation of the digest. He said that if it "stung" some members of the present Australian legal profession "to a closer attention to the relationship between their discipline and the indigenous people" this would be "no bad thing".

Note on speech: The above speech will be delivered at the Library, Attorney General's Department, Canberra on Friday 13 November 1987. The book "Aborigines and the Law: A Digest" is published by Aboriginal Studies Press, Canberra. For further details contact Hilda Shearer, Australian Institute of Aboriginal Studies, Canberra, Tel (062) 46-1111.