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A CHANCE LOST

THE Prime Minister's statement of policy on the Aborigines gives Australia for the first time a definite and fairly clear charter of how the nation proposes to discharge its responsibilities towards them. The conspectus of past achievements and of programs under way that accompanies the statement of policy is impressive and will probably surprise many people. The new policy contains real improvements in that the Aborigines are being given more say in the administration of their own affairs, new safeguards are being provided against the revocation of reserves set aside by the Commonwealth for the benefit of the Aborigines, the nucleus of a policy to protect the interests of Aborigines in the event of mining operations has been formulated, and it has now been officially stated that the Aborigines must be helped "to preserve and develop their own culture, languages, traditions and arts".

The new policy is disappointing on the crucial issue of land rights. It refuses to acknowledge the validity of tribal claims to areas of land and thus rejects the demand that is paramount in the eyes of the Aborigines. In half-hearted recognition that "the Government understands fully the desire of the Aboriginal people to have their affinity with the land . . . recognised by law" the policy offers them "general purpose leases" for up to 50 years. This will not satisfy the Aborigines and the reason given for the refusal "to translate the Aboriginal affinity with the land into some form of legal right" — uncertainty and possible challenge of land titles elsewhere in Australia — is meaningless. The public will suspect that the policy is more concerned with protecting the interests of white leaseholders than those of the Aborigines.

The Government has thus missed an historic opportunity to right a great wrong. Even though it appeals to the Supreme Court decision of last year, "that Australian law did not recognise Aboriginal title to land in Australia", the Government has failed to make use of some of the findings contained in the judgment of Mr Justice Blackburn who heard, and found against, the claim of the Yirrkala tribe to land on the Gove Peninsula. The court found that there existed in the Northern Territory recognisable tribal communities possessing distinct legal systems and verifiable claims to tracts of land that could be given definite boundaries. The Government should have given direct recognition to claims of this nature and it would not have encountered in doing so any of the difficulties arising from uncertainty and challenge to title.

The proposed granting of general-purpose leases, for general economic and social purposes rather than for a single specific purpose as was the case in the past, is nevertheless an improvement in principle and it may even constitute for a future, more enlightened Government an opportunity to give fuller and more durable recognition to Aboriginal claims. As it is, the duration of the leases is limited to 50 years, a term the Aborigines will consider unsatisfactory. A system of lease in perpetuity, or for a term of 100 years with option of renewal, and in open acknowledgement of "Aboriginal affinity with the land", would not have created insuperable difficulties even if it had involved compensation to white leaseholders. In Papua New Guinea, where its actions are subject to the cold scrutiny of the United Nations, the Australian Government is tackling successfully a much more difficult task in protecting tribal land from alienation to foreign settlers. By what right then does the Government apply an inferior standard in the Australian situation?

The success of the new system of leases will depend on how it is administered and on the interpretation put on such limiting phrases as that prescribing that leases must be put to "reasonable economic and social use". The inclination of unenlightened officials will be to interpret "reasonable economic" use in European terms implying a cash profit, rather than in terms of simply living off the land.

In formulating its policy the Government has not taken full advantage of the powers it was given in the referendum of 1967. The new form of lease applies only to land held in reserves under Commonwealth jurisdiction. Thus the States are left undisturbed in their right to dispose of lands used by the Aborigines in their respective territories. It is probable that the Government found it politically unfeasible at this time to attempt to introduce uniform Aboriginal land laws in the States but the Prime Minister must be chided for his not wholly accurate description of the outcome of the referendum "through which the Australian people recognised Aborigines as members of one Australian society". The effect of the referendum was to authorise an amendment to the Constitution giving the Commonwealth the power to make laws affecting the Aborigines in the States.