

CWik past catches up / New row set for High Court

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A 30-year-old cabinet decision yesterday prompted a new political brawl over the Wik Native Title Amendment Bill which looks certain to be resolved only by the High Court.

Documents released under the 30-year rule show how cabinet came to back the 1967 referendum granting the Commonwealth responsibility for Aboriginal affairs.

Opponents of the Wik bill say that referendum empowered the Government to make only legislation beneficial to Aborigines.

The argument will be put to the High Court in a challenge to legislation clearing the way for the Hindmarsh Island bridge, which will then become a precedent for any challenge to the Wik Native Title Amendment Bill.

Attorney-General Daryl Williams said yesterday the cabinet documents refuted the argument of those challenging the Commonwealth.

"The documents clearly show that cabinet believed that the power could be used prejudicially as well as beneficially," Mr Williams said.

Aboriginal Affairs Minister John Herron said the documents also showed cabinet specifically rejected a proposal by Liberal backbencher Billy Wentworth, which would have limited the power to laws to advance Aborigines.

But Opposition Aboriginal affairs spokesman Daryl Melham said the Government's claim was not borne out by the documents.

"The Government is being dishonest and deceitful," Mr Melham said.

"The papers, particularly [then-attorney-general] Nigel Bowen's submission, clearly show that the only way the cabinet's policy was intended was as a legislative change that would give them the power to help Aboriginal people and to stop discrimination by the States.

"There's nothing in the documents released that contemplates the power would be used to the detriment of Aboriginal people."

However, Mr Williams said the debate was academic, because the Government believed the Wik bill would be of net benefit to Aborigines, a point rejected by Mr Melham.

"The other disturbing feature is that the Government now concedes it will be going to the High Court and instructing its [lawyers] to argue that in 1998 the Constitution should be interpreted to allow the Commonwealth to practise discrimination," Mr Melham said.

"That's a disgrace and the Commonwealth should stand condemned. These documents show up the hypocrisy of the Government because they don't in any way say if you obtain this power you can discriminate against Aborigines."