

OPENING SPEECH

HON MAXIME CARLOT KORMAN, MINISTER OF LANDS

It gives me very much pleasure, on behalf of the Government of Vanuatu, to welcome you to Vanuatu for the purpose of attending this conference of teachers of property law.

I understand this is the seventh conference to be organised by teachers of property law in Australia, New Zealand and the South Pacific island countries. I am told that the original idea for such conferences was initiated and developed by Mr. Michael Weir of Bond University in Queensland, who is with us this morning, and that the first two such conferences were held at Bond University in 1995 and 1997. After that, the conference was carried forward by other academics in Australia and New Zealand and conferences have been held in South Australia, Melbourne, and Brisbane in Australia, and in Christchurch in New Zealand. Now, for the first time, the conference is being held in a Pacific island country, and I would like to congratulate, and to thank, the organisers for arranging for Vanuatu to be the host of the conference this year, 2005.

Originally, I am told, the conferences were confined to teachers of law relating to real property or land. In more recent times however, the scope of the conference has expanded to include teachers of law relating to personal or movable property, including intellectual property. Although as Minister of Lands, I am naturally particularly interested in the law relating to land, I can see the importance of including the law relating to other forms of property in discussions at such a conference. Certainly in this country we have had to give considerable attention to issues relating to intellectual property such as copyright and trade marks, and I am sure these are, in this era of globalisation, also of special relevance in other neighbouring countries in the South Pacific region.

The theme for this conference is traditional values and modern challenges. This is a theme which strikes a very familiar note for me. In this country customary practices and values are very strong, and we appreciate and treasure them as part of our identity as ni-Vanuatu people. But undoubtedly these customary practices and values are under challenge now, and we in this country must devise ways to deal with these challenges in a way which will enable us to take advantage of globalisation, but at the same time retain what is most dear to us. This is not an easy task, as I would like to illustrate by giving one or two examples.

First, the land. The land has been occupied by our families for many generations. Many of us regard it as our father and our mother and as a trust which will be handed down by us to our children and our children's children. It is the place that has nurtured and sustained our forefathers and mothers and provided all that they needed to sustain them. The land, and the trees and vegetables that grew in the land, provided our forefathers

and mothers with their food, their water, their shelter and their clothes. Everything that our fore fathers and mothers needed was provided by, or from, the land.

But nowadays the land cannot give us all that we think that we need as adults in this modern age. The land cannot give us education, it cannot give us skills of trade, it cannot give us a steady income, it cannot give us transport, it cannot give us imported foods, it cannot give us entertainment and sport, it cannot give us modern clothes — all the sorts of things that we have become used to thinking that we should be able to enjoy in these modern times.

And so there are many customary landowners, especially on this island of Efate, who are leasing off their land for 75 years to other people, especially foreigners, for substantial sums of money. This can then be used to provide the additional things that they think that they need these days such as refrigerators, washing machines, bicycles, motor vehicles and buses. To a certain extent this is good, because it provides cash money which enables people to have a life which is more comfortable and more pleasant than that which the land, and the plants and trees that grow on the land, could provide.

But there are some worrying aspects to this leasing of land by landowners. First, there are concerns about the amount of land that is being leased, and more particularly about the proportion of landholding of each family that is being leased. There is a danger that if landowners lease too large an amount, too high a proportion, of their land, there will not be enough land left for the houses and gardens of the landowners, and their children. Some villages now are starting to run out of enough land to provide adequate space for housing and for planting crops for the people of the village.

Second, there are concerns as to what is happening with the money that is received from the lessees; whether it is being distributed fairly to all those who are members of the landowning family, and, further, whether those who do receive the money are using it wisely to provide for the long term welfare of themselves and their children, or whether they are using it for short term consumables that will soon be used up.

Third, there are concerns as to what is to happen when the leases come to an end, in 75 years or so. By then almost all of the leased land will have been developed and will have permanent buildings and other improvements such as drains, water supplies, roads and driveways on them. Will the landowners have to compensate the lessees for these improvements? If yes, they will probably be unable to do so and therefore will have to agree to a renewal of the lease indefinitely so that the land is, in effect, no longer available for the personal use of the landowners or their families. If that happens, it means that the land will be lost forever. If the landowners do not have to compensate the lessees at the end of the lease for the improvements that have put on the land the lessees will surely feel a deep sense of grievance that they will receive nothing for the valuable assets that they have created on the land. Moreover, whether the landowners are required to pay compensation or not for buildings and other improvements, the fact is that they may often find on their land when the leases come to an end buildings such as hotels, warehouses and offices which they have no wish or capacity to use.

What I have been describing are all challenges with regard to land. But there are also modern challenges today in Vanuatu with regard to other kinds of property. Take the plants and trees of this country which provide traditional medicines. The desire for natural herbal medicine is very strong in some countries, but should the plants of Vanuatu which are the constituent ingredients of traditional medicines, and the traditional recipes which are used for the composition of such medicines, be protected as property of those who at present cultivate those plants and have the knowledge as to how they are to be blended together? Then there are the traditional activities of different communities in Vanuatu such as traditional songs, dances and land diving. These are of much interest to people outside this country; should they also be protected as the property of those communities which have evolved these songs, dances and other activities?

These are the kinds of modern challenges to our traditional values regarding property that we are facing in Vanuatu today. And I am sure that, as regards such challenges to traditional values, we in Vanuatu are not alone amongst the island countries of the South Pacific. I am sure that there are other island countries of the South Pacific where the same issues and the same concerns with regard to the use of land and other kinds of property are very much in the minds of people.

I hope, ladies and gentlemen, learned participants at this conference of property law teachers from Australia, New Zealand and the Pacific, that matters such as these will be considered by you in the course of your deliberations at this conference, and that you will find that the discussions at this conference will be both stimulating and fruitful to yourselves as legal academics, but will also be of benefit to the peoples of your respective countries.

With these words, organisers and participants, it gives me very much pleasure to declare that the 7th Conference of Australasian Property Law Teachers is officially open.