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Aboriginal Land Rights:  
The next battle ground!

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In early November 1961, on the last day of sitting of the 23<sup>rd</sup> federal parliament, the Chairman of the Select Committee on Voting Rights for Aborigines, George Pearce, tabled his Committee's Report in the House of Reps. It recommended unanimously that all Australian aborigines should have the right to vote. But the other members had different things on their mind as they rushed to get back to their electorates. The next election was due on Dec 9; at that stage no one had an inkling that the ALP, under Arthur Calwell's leadership, was going to push the Coalition to within one seat of losing office. The Menzies Government was saved by the 200 preferences of the Communist Party candidate in the seat of Moreton, which went to Jim Killen, and to the famous self-sent telegram proclaiming "Killen, you're magnificent".

One of the victims of the big swing to Labor in Queensland was George Pearce who lost his seat of Capricornia. The report he tabled was briefly debated in 1962 and amending legislation to the Electoral Act was passed. In April 1963 Aboriginal affairs again attracted the attention of the House as a consequence of the regulations promulgated to enable the development of the bauxite deposits at Gove to take place. The Select Committee on Voting Rights, two years previously, had done its job well. The Committee had visited 39 aboriginal communities and had talked to many hundreds of Aboriginal people. We were as well informed on the condition of life for Aboriginal people at the time as it was possible for a group of parliamentarians to be. It is worth noting that not once during this lengthy process of visitation and consultation was the issue of exclusive land rights for Aborigines raised.

Kim Beazley Sen was the leading Labor figure on the Committee, and he and I shared bedrooms on many a night during the Committee's travels. He and I wrote the report, adopted unanimously by the Committee, for presentation to the Parliament.

Following the 1955 Split in the ALP, (an event which facilitated my election to the Parliament as the Member for Fawkner), the Left gained much greater influence within the Caucus as members such as Jim Cairns and Gordon Bryant began to influence policy. The CPA had held to a separatist line since 1932, even to the point of demanding Aboriginal sovereignty, and separatist doctrine began to emerge in parliamentary debates, albeit in preliminary form, in 1963.

On 9 April 1963 Minister Paul Hasluck made a statement to the House on the Welfare of Aborigines of Gove Peninsula. A consortium of overseas aluminium interests (Nabalco) had come together to obtain mining leases for extraction of the bauxite at Gove and the building of an alumina refinery there. This was in the very early days of the development of the alumina and aluminium industry in Australia and, naturally, the Government was very keen to facilitate the success of the project. The Methodist Church had maintained a mission at Yirrkala since the 1930s and as Hasluck explained

"On these isolated reserves, Christian missions were established to bring the Christian religion to the people and to minister to their physical needs. . .

In the present generation considerable changes have taken place. Under the policy of assimilation the intention is that aboriginal people should have the opportunity of living without any limit on the exercise of their Australian citizenship, and on equal terms with all other Australians. For the sake of their advancement more purposeful measures in health, education, housing and occupational training have been commenced. On Government settlements as well as on the missions, facilities and staff have been increased and the government has helped finance the missions both with capital assistance and with subsidies for staff so as to improve schools and promote industry. With these changes in the manner of living, and with the increase in the size of the aboriginal population that has taken place, one of the emerging problems on all settlements and missions to-day is how best to help the transition from a sheltered life on a mission to a full life in the general Australian community at the normal Australian standards. At the heart of this task is the difficulty of providing gainful occupations. I am sure honourable members will appreciate that if there is nothing profitable to do at home the up-and-coming educated younger generation will either leave home too early and make a mess of their lives, or they will stay at home and rot in disappointment."

Hasluck made this speech 42 years ago. The problem he described is just the same today, with this difference, that the educational standards of the young aborigines of the 1960s were far superior than those of today's, and the social disintegration he predicted is far, far worse than he could have imagined.

On 23<sup>rd</sup> May 1963 a debate took place on Hasluck's statement. There were three speakers, Kim Beazley, myself, and Gordon Bryant. It is noteworthy that for the first time in the Parliament the issue of aboriginal land rights was raised in the context of the mining leases at Gove. Kim Beazley was never a friend of the Left but in his speech he argued for the creation of a new form of land title for which only Aborigines would be eligible. Beazley referred to the ILO Convention 107 (which Australia had not ratified) and which, curiously for an international body created after WWI comprising trade union, employer organisation and government representatives, declared in Article 11 that *The right of ownership, collective or individual, of the members of the populations concerned over the lands which these populations traditionally occupy shall be recognised.* Beazley went on

"That is a very simple statement. It may not be easy to work out the precise form of title for tribal people. That is not easy anywhere on the face of the earth. But it should not be beyond the wit of the Government and its advisers to create an aboriginal title to land on aboriginal reserves in the Northern Territory".

In responding to Beazley I quoted the Report which he and I had written two years previously.

"As the nomadic aboriginal adults are moving to the settlements and missions, gradually renouncing their nomadic and semi-nomadic lives, their children attend schools where their integration commences.

It was demonstrated to your Committee that any policy other than integration of the aboriginal people into one Australian society would be impracticable. . . . As a situation of complete integration is inevitable, your Committee considers that the aim of the Commonwealth should be to assist integration to continue as smoothly and speedily as possible."

Beazley's speech was the first sign that the ALP was turning its back on the policy of assimilation which Hasluck had championed since the 1930s and which had been widely accepted throughout Australia during the 1950s. If Aborigines were to take their place in Australian society without any limits on their rights as Australian citizens, then they would be able to become owners of freehold titles or leaseholds, or any form of title which other Australians could obtain, whether by purchase or by government grant. The argument for a special form of Aboriginal title was the first step to the policy of separatism which became, a short decade later, government policy under Coombs, Whitlam and Fraser.

Now that ATSIC has finally been laid to rest, the debate over the future of Aboriginal policy has moved onto Land Rights. The Howard Government has promised to undertake reform of the Northern Territory Aboriginal Land Rights Act, passed by the Fraser Government in 1976. Two developments are driving reform. The first is the realisation within the Coalition and in some degree within the ALP, that the Coombsian policies of the last 35 years have been responsible for the social and moral disintegration of many Aboriginal communities, and the premature deaths of many thousands of Aboriginal people, all too often as the victims of Aboriginal homicide. The second is the prospect of the resurgence of the world's nuclear power industry, a resurgence driven in part by the surging price of coal as well as, perhaps, by Peter Garrett's recent and short-lived apostasy on the issue. The NT has long been regarded by exploration geologists as a uranium province of world class, and the prospect of uranium exports worth billions of dollars is, from a Commonwealth Government perspective, a very enticing one. However, until the barriers to exploration and mining in the aboriginal lands of the NT (more than 50 percent of the NT) are dismantled, there is zero prospect of such an outcome.

It is, therefore, necessary to read again the Reeves Report of 1998. John Reeves QC, former ALP member for the NT, was commissioned by Minister John Herron to carry out the periodic review required by the NT ALR Act, and he performed this task with diligence and perception. His conclusions were highly distasteful to the Left, and Daryl Melham, then Shadow Minister, had no difficulty in persuading Lou Lieberman, Chairman of the House Committee on Aboriginal Affairs, to join with the Left in dumping the report.

The Reeves Report will be very useful to the Government in considering what steps to take in reform of the NT ALR Act. Reeves noted

"knowledge and skills, unlike the land, are much more likely to provide the base for economic independence. They are much more likely to provide young Aboriginal Territorians with the ability to obtain a job and an income and to become a confident and proud member of his or her community."

He noted also that "NT Land Rights has been an economic cul-de-sac for Aboriginal Territorians".

Now that the issue has been joined the Left has lost no time in drawing lines in the sand. For example, Warren Snowdon, co-author with Nugget Coombs of *A Certain Heritage*, long time proponent of separatism, and federal MP for the NT and more recently the seat of Lingiari, has not resiled from the doctrines of his mentor. In reading his speech in the House of Reps on the abolition of ATSIC, I was reminded that the debate on "land rights", in particular on the incommensurability of communal ownership, has not changed for more than forty years. The key issue then, and remains even more so today, was whether policy should be supportive of assimilation and integration, or whether it should promote separatism, on the

grounds that the preservation of Aboriginal culture was incommensurable; regardless of any intimations of Aboriginal desires to enjoy the benefits which mainstream Australian life affords.

For more than 30 years now, separatism has been the doctrinal driver of policy, but the fruits of separatism have now become so repugnant to Australian opinion that slowly we are reversing course and returning to the Hasluckian doctrines of 50 years ago. The more speedily we can effect this reversal the sooner we will see an improvement in the awful statistics of aboriginal morbidity such as suicide, homicide, family violence, child abuse and substance abuse. The Left is wilfully blind to this tragedy, as they have been blind to so many of the consequences of their policies throughout the world.

Richard Trudgen, in his book *Why Warriors lie down and die*<sup>1</sup>, described the situation in Arnhem Land.

During the 1960s the level of government funding to missions increased. This allowed mission stations to use their self-generated resources to create further work opportunities for Yolnu. The many industries included saw-milling, cattle, farm crops and pastures, vegetable and fruit gardens, hatcheries, fisheries, bakeries, craft and the like. Yolnu also learnt trades as carpenters, plumbers, electricians, painters, fitters and turners and mechanics. . . Also under missions sponsorship, many young potential leaders were sent away for a Western style education in Brisbane.

As the Coombsian policies of “self-determination” began to bite during the 1970s, the missions were shut down and socialist structures of communal decision making were imposed by Canberra. Trudgen commented:-

During the 1970s, industries and services were transferred to Yolnu, but because many of the previous mission staff eventually left, a number of industries and services collapsed. This left Yolnu blaming themselves for not being able to make things work. ‘Did these projects fail because we are Yolnu?’ many asked me in 1994-5 when I was researching why transferred projects failed. But public ownership of industry did not work in Russia, so how was it supposed to work for Yolnu?<sup>2</sup>

Trudgen quotes a report written in 1948 written by an Australian-American Scientific Expedition which carried out medical research in three major communities in Arnhem Land.

‘The general build is athletic. Shoulders, thighs, and muscles of the vertebral column are well developed and strong. . . Carriage, posture and gait are excellent . . . in no instance was an obese adult encountered.’ When I first arrived at Milingimbi twenty five years later, [1973] this was still a good picture of the condition of the Yolnu. I lived, worked, laughed and cried with a proud, strong and healthy group of people who found death usually in old age<sup>3</sup>

Another twenty-five years on have changed for the worse. . . scabies are endemic. Other diseases like diabetes, high blood pressure, heart attacks, stroke, cancer, renal failure, and obesity are decimating them. Yolnu are now dying in their early to mid-forties or even younger, and at such a rate that life seems to lurch from one funeral to another.

Trudgen's story of the Yolnu is characteristic of Aboriginal communities throughout Australia and, contrary to the Left's passionate faith in these attempts to replicate the ill-fated "New Australia" settlement in Paraguay, the smaller and more remote these communities are, the worse the story becomes.

At the heart of the battle is the doctrine of communal title, which is at the core of the various Aboriginal Land Rights Acts. The players are polishing the one-liners which they hope will decide the outcome of the battle. Noel Pearson, whose ability to run both sides of an argument has been noteworthy, wrote (Aus 19 April 2005)

Aboriginal people are now at a critical juncture in the confrontation between our culture and the imperatives of the modern world. The communal nature of our society and our landholding is at the core of our heritage, and will be an enduring part of our future -- notwithstanding the view of many people that we should simply abandon it as a debilitating encumbrance.

In the debate on the ATSIC Amendment Bill which took place in the House on 16 March 2005, we find that the Left have learnt nothing since Mark Latham opened the door to the abolition of ATSIC in March 2004. Latham proposed its abolition because he could see that Labor's continuing identification with ATSIC, and the separatist policy it symbolised, was going to further erode Labor's support within its core blue collar constituency. So he abandoned ATSIC and John Howard moved quickly to put Latham's new position to the test. The Senate did not agree with Latham and stalled the Bill by referring it to a Committee. After the election, however, it was clear that abolition was only a matter of time so there was no point in prolonging the agony.

The Left were represented in the debate by Warren Snowdon, Peter Garrett, and Carmen Lawrence. Snowdon wrote in the Canberra Times (10 March 2005)

As a group, [the aborigines] their literacy rates are the worst in the country, their life expectancy levels are among the lowest in the world and their children are crippled by easily preventable diseases such as rheumatic fever, trachoma and middle ear infections. . . . This merging of the distinctly separate issues of land rights and indigenous poverty, as though the first caused or should have alleviated the second, has been one of the successes of the Right in recent years

But it is both a misinterpretation of the history of land rights and a convenient scapegoat for decades of neglect by successive governments. Communal land ownership, which in a statutory sense dates back to the *Aboriginal Land Rights (Northern Territory) Act 1976*, was never granted as a means to alleviate poverty. It was returned in recognition of indigenous people's perpetual ties to their land and the central role land plays in nearly all aspects of their culture, including kinship relations, language and spirituality.

This comment goes to the heart of the matter. For the Left, Land Rights is a statutory declaration of aboriginal spiritual superiority, and thus underlines the illegitimacy of the European settlement which began in 1788. In his speech Peter Garrett used Justice Gerard Brennan to drive that point home.

Justice Brennan made the observation which fundamentally drives this debate: that it was Aboriginal dispossession as a historical fact that made possible the conditions that we in modern Australia enjoy. The mainly unencumbered

development of modern Australia came about as a result of that dispossession..

On the spiritual connection between the Aborigine and the land, Pastor Paul Albrecht, who grew up at Hermannsburg and spent his life as Superintendent at the Finke River Mission, had this to say

Much is made of the Aborigines' attachment to their land, and of their need to be on their land for their well-being. There can be no doubt of the importance the more traditional Aborigines still attach to their land. However, much of what is said on this subject gives the impression that the Aborigines' attachment to their land is genetic---something they were born with, something they have even when they are brought up in an Australian urban setting, without any knowledge of their own language, and without any in-depth knowledge of the mythology relating to their land.

The Aborigines' attachment to their land has nothing to do with genetics, but everything to do with learning, and the subsequent internalisation of the knowledge that has been passed on. Aborigines were/are animists, believing that the supernatural beings (also known as totemic ancestors) who were active at the dawn of time, are still to be found in the land they shaped and fashioned. They also reside in its flora and fauna, in the natural phenomena like thunder and lightning, in the sun, moon and stars, and in the humans to whom they gave birth. It is these same supernatural beings residing in the land and in the people of that land that gives the Aborigines their unique attachment to their land, and their sense of oneness with the land. While our relationship with land can be described as an "I--It" relationship, theirs is an "I--Thou" relationship. This relationship is taught by the adults and initially learnt informally by the children. Then after initiation comes the more formal and in-depth instruction. Men who are prepared to apply themselves to the rigours of learning, and I might add, are prepared to accept the physical pain which is often inflicted as a part of the teaching process, are eventually taught all the knowledge pertaining to their personal totem, and to the totems of their land.

None of this learning, and the suffering (and mutilation) which goes with it, occurs any more. There is no way in which that life and that culture can be restored, and in my view it would be unthinkable to try. There is no other future for the Aborigines which makes any sense but that expressed by Paul Hasluck 40 years ago. The Left have fought against that view since the 1930s. They have been in charge of policy under Whitlam, Fraser, Hawke and Keating. The results are simply expressed in Mr Kurtz' dying words "The horror! The horror!" And yet the Left will not give up. Malcolm Fraser, in particular, has adopted a public position as the scourge of the Labor Party. The Opposition, he claims, should be saying what he is saying. Given that he bears, along with Coombs and Whitlam, a heavy responsibility for the degradations suffered by the post 1970s Aboriginal people, it has to be said the he personifies the triumph of ideology over every human sentiment which most Australians regard as important in their lives.

Land Rights, in particular the NT Aboriginal Land Rights Act, passed by the Fraser Government in 1976 when Ian Viner was Minister for Aboriginal Affairs, is an important part of the chain of causation which has brought us to this present state. By taking more than

half of the area out of the NT, the main job generating industries of the NT, mining and pastoralism, have been seriously retarded. The idea that Aborigines could obtain rents from those industries as the price for access to the land has been promoted relentlessly by the Aboriginal industry and the Land Councils which live off royalties and access fees. Nothing is more important for every Australian man than getting a job. Land Rights, and the idea of rentier life style which is connected to Land Rights, is an important part of the culture, the Left imposed culture, which prevents Aboriginal men from getting a job. Warren Mundine described the situation in these words:

. . . we believed that once we had land rights all these wonderful things were going to flow from it, that we were going to have a land of milk and honey; there was going to be economic development, our communities would be safe, we'd reverse the ills and problems that colonisation put upon us, and we'd have this great lifestyle.<sup>4</sup>

Prior to the 1966 Stockmen's award, the pastoral industry in the NT was completely dependent on Aboriginal workers. Now there are virtually none, and the skills which the Aborigines brought to the industry are lost. At the same time there is a shortage of workers in the industry, and the cattle leases which the Aborigines secured have long been abandoned. In 1991, Colin Tatz, one of the major gurus of the separatist movement, noted that the excision from Wave Hill at Wattie Creek, renamed Dagarugu, was deserted, along with other leases that were supposed to have provided various Aboriginal groups with an economic base. It is ironic that Gough Whitlam poured some soil at Dagarugu into Vincent Lingiari's hands at the handing over of the title deeds to Wattie Creek, and that Warren Snowdon's new federal seat is named after him.

Warren Mundine was appointed in November 2004 by Minister Amanda Vanstone to the National Indigenous Council. He is a significant figure in the NSW branch of the ALP and national Vice-President of the party. Although he genuflected to the Land Rights altar in his remarks on the ABC, the following comments show why he was singled out for reprimand by Warren Snowdon..

I was a very strong supporter, in fact I was very radical when you go back those 25 years, as a young student, and looking for land rights and native title and improving our communities. But then looking at the promises and looking at the feeling of the community that we could have done it, and then 25 years of experience and life, has taught me that what we're doing is really trapping our communities in a poverty situation.

If we don't have economic development on our land, we aren't able to use that land for economic reasons, then the people on those lands can't expect to receive the same services that you receive in Sydney or Melbourne or other places. You've got to be able to build those communities and break the poverty cycles. And what we've seen out of that, because people are caught in their situations, is that we've seen a social breakdown, we've seen law and order issues, are major issues on Aboriginal communities.

I was just looking at the statistics just before Christmas where in NSW the murder rate of Aboriginal women is 11 times higher than the general population, 9 times for males. Aboriginal women who have been incarcerated has gone up 800% in the last 10 years. Out of those 800% women who have gone into incarceration you're looking at 70% of those women have been

sexually assaulted under the age of 14. So you've got huge, huge social problems within those communities, and the only way we can move forward is by creating a safe community, so very strong law and order issues, and at the same time using land and other activities on that land that could bring economic benefits to all of us. And the third part of that is actually the profit. People should be rewarded for hard work, so when they work hard and they create profits, they should receive and reap the benefits of that. At the moment, they're not.<sup>5</sup>

Warren Mundine, like the Howard Government, has not yet been prepared to recognise that the doctrine of Land Rights is in itself an instrument of imprisonment for our Aborigines, and that if they are to become free to make their way in our C21 world, they must break down the prison walls which were established by the NT Land Rights Act and the various State Acts which followed. When Aborigines have exactly the same rights in land and mineral titles as other Australians, then they will be free; but not till then.

During the 1960s, as Hasluck described, because of the work of the missions and Government stations, and the patrol officers, the Aboriginal children of that time were becoming literate and numerate, and capable of entering into the economy. In the 1970s the Whitlam and Fraser Governments shut down the missions and the Government stations and declared that self-determination and land rights would bring about the rapid transformation of Aboriginal society. Well there has been a transformation and the Howard Government now has to pick up the pieces of an appalling third-world situation.

All policy now must be directed towards rescuing the children from this plight and ensuring that they get an education which will enable them to take their place in 21st century Australia.

The Land Rights debate is an important part of that process, since by restoring the Aboriginal Lands of the NT to the system of land tenure which everyone else enjoys, the myth of rent-seeking as a satisfying way of life will be destroyed..

1. Published by Aboriginal Resource and Development Services Inc, Darwin, 2000., p 43

2. Ibid p 47.

3. ibid p 7

4. ABC National Radio 24 Jan 2005, Selling Native Title.

5. Ibid