

SOVEREIGNTY

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THE KING IS DEAD - LONG LIVE THE KING!

The 'Iron Lady' of Britain, Prime Minister, Margaret Thatcher, declared to the world - via courtesy of the BBC on 19/5/1982 in reference to the Falklands War episode - or debacle -

"Sovereignty is ours. It has not been changed by invasion and Sovereignty must never be changed by invasion."

Her statement defines precisely the position of Aborigines and our rights in land. We were invaded. Our Sovereignty has not changed, has never changed. It has not changed by invasion, despite the fact that the invaders drove us from our traditional and ancestral lands. It has not changed by the fact that our forebears, and we their descendants, were pushed into small areas of land called by white Australia *Reserves* and those reserves were used to contain and imprison us.

Sovereignty has not changed, despite the terror and the injustices of the British/Australian system levied upon us and the legal fiction of the *peaceful settlement* can in no way be sustained. The King is dead. Long live the King.

My country, the Wiradjuri, covers the most extensive area of tribal land in NSW, approximately one seventh of the total land area, plus the area of traditional usage-passage-commerce with the neighbouring tribal areas. In the British colonialist war of ex-termination against us to deprive us of the land and the enjoyment and ownership thereof, they attempted to completely annihilate and deprive us of life itself. Our resistance to the invasion is clearly recorded in the annals of history. The fact the British used troops against us is a

matter of recorded history. I will quote several examples of the use of soldiers in my land, Wiradjuri. These quotes are a small selection from the many passages of horror that could be so chosen by some historian for every part of Australia:

In October and November (1823) natives attacked the stations belonging to Wylde and Palmer and Marsden, to the west of Bathurst, scattering the herds, spearing cattle and killing some of the stockmen. The men were intimidated and would not leave their huts to round up the cattle and bring them in without protection. The Government station at Swallow Creek was abandoned and the cattle brought in to Bathurst. Wylde asked urgently for military assistance from the Government to protect his cattle, and Lawson agreed that more soldiers were needed to ensure some degree of security for life and property. He dispatched a party of soldiers and prisoners with Wylde's overseers, instructing them not to fire except in self-defence, but to bring in as many prisoners as possible, and particularly not to do any violence to the native women and children. He feared, however, the white persons 'in the first instance have been the aggressors'. 1*

It is quite obvious that the instruction to "bring in as many prisoners as possible" meant that a hostile act would be carried out against the natives no doubt with killings involved.

In an extract from a letter to the Rev. Wm Horton, Methodist missionary at Bethel:

*There is a number of people and a party of soldiers in pursuit of the natives and I hope they will over-take them. I have only sent you the particulars as far as I know.*2*

The Sydney Gazette of June 10th, 1824, also refers to a party of soliders sent out:

*We would hope the report incorrect, which goes to say that a party went out in quest of the natives, for the purpose of spreading destruction among their ranks, but the only horde they fell in with comprised three women; and without questioning the propriety of such a step, immediately despatched the poor inoffending creatures, notwithstanding they were females! If this be a fact, Heaven will not readily absterge so foul a stain - how then is it to be expected that man should justify such blood-stained guilt? *3*

In a letter to the Sydney Gazette on 12 August, 1824, in response to reports of the killing of sixty to seventy 'natives' and five whites, HONESTUS wrote:

Sir: Beyond the Blue Mountains we have 41,000 acres of located land, 83,000 sheep, 1,500 horned cattle, and about 300 horned cattle (sic). The inhabitants are necessarily scattered over an extent of the country 120 miles long by 60 wide. For the defence of this property and population, we have three magistrates, four constables, and a few soldiers. One of the magistrates who left Bathurst but 3 days since, with other settlers of great respectability, report that the natives are assembled in a body to the number of six or seven hundred proclaiming aloud their hostile intention. About 20 Englishmen have already fallen miserably before those pitiless savages; and still a Philanthropist obtrudes himself upon the Public, recommending the 'law of kindness'. Would not the wisest

*of men say ... 'this also is vanity and vexation of spirit'? 'He that spareth the rod hateth his child'. Every true friend to the Aborigines must desire that they be made to learn by terror those lessons which they have refused to acquire under a milder discipline. We are now to oppose strength to strength, that an end may be put to the effusion of human blood.*4*

Those 'lessons' not acquired under the 'milder discipline' were no doubt the recorded instances of feeding the Wiradjuri with arsenic-laden food, etc, or as W H Suttor wrote:

*Under this condition of things the blacks were shot down without any respect. Getting the worst of it, most of them made out into the deep dells of the Capertee country and although some escaped, many were killed there. At the place we are writing of, a camp of blacks had been established. The proclamation of martial law was as undecipherable to them as an Egyptian hieroglyph. This mattered little to the whites - the fiat had gone forth and must be acted upon. So a party of soldiers was despatched to deal with those at this camp. Negotiations apparently friendly, but really treacherous, were entered into. Food was prepared and was placed on the ground within musket range of the station buildings. The blacks were invited to come for it. Un-suspectingly they did come, principally women and children. As they gathered up the white men's presents they were shot down by a brutal volley, without regard to age or sex.*5*

While Bathurst with its surrounding vicinity is engaged in an exterminating war, peace reigns around the ever verdant valley of Wellington." And, "When martial law had run its course extermination is the word that most aptly describes the result. As the old Roman said, "They made a solitude and called it peace". The last

effort of a doomed race thus ended. *6

BRISBANE'S FIAT GOES FORTH:

New South Wales

PROCLAMATION,

By His Excellency Sir Thomas Brisbane, Knight Commander of the Most Honorable Military Order of the Bath, Captain-General and Governor in Chief in and over His Majesty's Territory of New South Wales and its Dependencies, etc, etc.

WHEREAS the Aboriginal Natives of the District near Bathurst, have for many weeks past, carried on a series of indiscriminate attacks on the Stock Stations there; putting some of the Keepers to cruel Deaths, wounding Others, and dispersing and plundering the Flocks and Herds, - themselves not escaping sanguinary Retaliation;-

AND WHEREAS the ordinary Powers of the Civil Magistrates (although most anxiously exerted) have failed to protect the Lives of His Majesty's Subjects, and every conciliatory Measure has been pursued in vain; and the Slaughter of Black Women and Children, and unoffending White Men, as well as of the lawless Objects of Terror, continue to threaten the before mentioned Districts:-

AND WHEREAS, by Experience, it hath been found, that Mutual Bloodshed may be stopped by the Use of Arms against the Natives beyond the ordinary Rule of Law in Time of Peace; and, for this End, Resort to summary Justice has become necessary:-

NOW THEREFORE by virtue of the Authority in me vested by HIS MAJESTY'S Royal Commission, I do declare in Order to restore Tranquility, MARTIAL LAW TO BE IN FORCE IN ALL THE COUNTRY WESTWARD OF MOUNT YORK:- And all Soldiers are hereby ordered to assist and obey their lawful Superiors in suppressing the Violences aforesaid, and all HIS

*MAJESTY'S Subjects are also hereby called upon to assist the Magistrates in executing such Measures as any one or more of the said Magistrates shall direct to be taken for the same Purpose, by such Ways and Means as are expedient, so long as Martial law shall last ...*7*

Soon after martial law was declared many of our Wiradjuri people were herded into a swamp by mounted police who kept shooting until all were killed. The missionary, Rev. Thelkeld reported:

*Forty five heads were collected and boiled down for the sake of the skulls. My informant, a Magistrate, saw the skulls packed for exportation in a case at Bathurst ready for shipment to accompany the commanding officer on his voyage to England. *8*

There were many massacres, some still remembered by place names in current usage such as Murdering Island in the Murrumbidgee River and Poisoned Waterholes Creek near Narrandera.

The following poem tells the story of my immediate family:

KIACATOO

On the banks of the Lachlan they caught us
at a place called Kiacatoo
we gathered by campfires at sunset
when we heard the death-cry of curlew
women gathered the children around them
men reached for their nulla and spear
the curlew again gave the warning
of footsteps of death drawing near
Barjoola whirled high in the firelight
and casting his spear screamed out "Run!"
his body scorched quickly on embers
knocked down by the shot of a gun
the screaming curlew's piercing whistle
was drowned by the thunder of shot
men women and child fell in mid-flight
and a voice shouted "We've bagged the lot"
and singly the shots echoed later
to quieten each body that stirred
above the gurgling and bleeding
a nervous man's laugh could be heard
"They're cunning this lot, guard the river"
they shot until all swimmers sank
but they didn't see Djarrmal's family
hide in the lee of the bank
Djarrmal warned "Stay quiet or perish
they're cutting us down like wild dogs
put reeds in your mouth - underwater
we'll float out of here under logs"
a shot cracked and splintered the timber
the young girl Kalara clutched breath
she later became my great grandma
telling legends of my peoples' death
the Yoorung bird cries by that place now
no big fish will swim in that hole
my people pass by that place quickly
in fear with quivering soul
at night when the white ones are sleeping
content in their modern day dreams
we hurry past Kiacatoo
where we still hear shuddering screams
you say "Sing me no songs of past history
let us no further discuss"
but the question remains still unanswered
How can you deny us like Pilate
refusing the rights due to us
The land is now all allocated
the Crown's common seal is a shroud
to cover the land thefts the murder
but can't silence the dreams of the proud.

And so, with such a lie of 'peaceful occupation', Australia, white Australia, went on to form a 'Commonwealth' in 1901. The Australian Aboriginal saw the cattle industry, the early mining industry in the far north, cemented in Aboriginal blood. The dispossessed "King", his governing structure and authority destroyed, became a slave, as history describes, living not well but on the offal, the remainder of the viands thrown to him by the station-owners, the white stockmen. The Government, refusing to recognise his humanity, did not provide for any social benefit. *Rations* of a most sparse nature were given those who laboured on the Mission or the Reserve. If they spoke in anger, they had their rations cut. Many lived in old derelict car bodies. Whole families lived - and still live - in those old car bodies and under pieces of galvanised iron. Most camp areas have no running water. In many instances in the Northern Territory, the pastoralists won't let Aborigines camp near the creeks 'because it will upset the cattle'.

Blacks see white Australians living most comfortably with a sound economy based on the resources taken from *Black Land*. We find denial and racism in the Church, in the hospitals, in the street where, instead of finding compassion or some sort of gratitude for the great benefits present day Australians enjoy from Aboriginal lands and slavery, we find hatred, jealousy, ignorance, abuse.

The "King" becomes an alcoholic. Others try to imitate whites, others are kept 'as prisoners of war' with 'camp commandants' and police invading their privacy, abusing their human right, flogging them, often killing them - not only with impunity, but with the blessing of the law. Many are today suffering the effects of being displaced persons in our own land. Sick, poorly nourished, ill educated, ten and fifteen crowded per room into derelict houses on reserves, no hot water, psychologically depressed,

many are 'drunk', 'dirty', 'lazy', 'sullen', 'hate white Australia', 'smash windows, doors' and other fifth rate trinkets with which White Australia tries to salve its conscience - and tries to *prove* an international image of benign indulgence with - and all they get from Blacks is the ungrateful stereotype response. Still, Whites ask: "Why? Why??"

We are like we are because *you* in your greed, your inhumanity, your selfish lack of maturity, your outright pathetic bloody ignorance, help the Government in its constant repression, facile trickery and corruption, to continue the denial of our Sovereign Right, our human rights, our rights of independent self-determination. We are what we are *because* we do not want to ever be like you. We don't want to be poor like you - in the spiritual sense. Poor like you are without a sense of justice. Without a sense *Land* and without a sense of culture. Without a sense of nationhood. Without brotherly and family love extending to the tribe. You are not a people to be proud of. You are not a people that anyone *with* the foregoing sensibilities would wish to imitate. We'll stay in here, as drunks, dirty, poor in the material things, sick because the means of our being well have been taken from us; we'll stay in here, knowing the war, the two hundred year war has not availed you victory; knowing it has not ended and will never end until our Sovereign Rights, our Land Rights are recognised. We do not wish to shake hands and blot out the horror, effacing it by joining you as assimilated citizens thank you very much.

Australia's furphy of 'peaceful occupation' was further compounded by the heinous lie of declaring that the Blacks were henceforth 'Subjects of British Law'. Wherein we were given no protection and no 'Citizens Rights' until the Australian Referendum of 1967. Extermination, rape, slavery, the most detestable forms of abuse of human right were allowed to be

most detestable forms of abuse of human rights were allowed to be executed against us. When massacre occurred, no process of law could proceed because Blacks were seen by the courts as 'incapable of recognising and swearing an oath',* plus the attitude that a Black could not testify because his/her word could not be accepted against the word, no doubt the 'integrity', of the white accused. This little bit of legal footwork ensured that mass murderers never had to even fear a legal retribution.

When syphilis was spread amongst the Blacks by the colonists, they and their servants developed the nasty little habit of killing the men and the women, and then raping Black children before making them slaves or killing them. When an arrest did occur in Queensland, the case was brought to nothing because Blacks, and in this case, the Black child, "did not know the nature of an oath".*⁹

Apartheid in Australia was an institutionalised fact. Aborigines were trucked like cattle from their tribal lands and 're-settled' in remote areas on 'reserves' ostensibly for their own 'protection'. They were also pushed out of the town areas to dwell on the river banks, near local rubbish tips, anywhere where they were out of sight of the 'sensitivities' of the white population. From these police controlled and white *manager* controlled areas Aborigines had to have permits, passes to enter to visit families, go to work.

We had to be 'out of town' at clearly defined curfew period, usually sun-down, or, when I was a teenager in Condobolin, Griffith and Leeton, NSW, by fifteen minutes after the Saturday night movies - or when the bus left town. We were roped off, actually by stretched rope, from the 'white' area in the picture theatres, and if we didn't leave town at the curfew hour, we were bashed by police. To guard against this, we would only remain in town after curfew in groups of

eight to ten - outnumbering the police and to stop their little game of punch-up, but still having to move out sullenly under the threat of a gun.

The 'reserves', those pitiful little islands of despair, became 'home' to us. 'Home' where, despite the continuing savagery of the white-man, the taking of our children, the police abuse, the semi-starvation, the sickness, the denial of doctors to visit, or heal our sick, was still 'home'. A survival point where as a group, enough people were in close proximity with the aid of our dogs and a few old hunting rifles, to ensure that those perverts and little white hunting parties could be kept at bay. They became 'our' reserves.

The ever-greedy, implacable whiteman started selling off our reserves. Pastoralists wanted our little islands of land, sometimes ten acre lots, a hundred, sometimes five hundred acre lots. Their friends in the Government, the country Ministers, aided them to re-gazette the land. Wanting ALL of it, the governments declared Aborigines must move off the reserves and become a part of the white communities.

Now, I take you back to 1972, January, Australia Day. William McMahon brought out his Government's paper on Land Rights, promising a twenty-five year 'Special lease' for Christ sake! We moved to confront Australia on this matter by erecting the little tattered 'Tent Embassy' on the lawns in front of Parliament House. The 'Embassy' in itself was a compromise because we had to halt the surge in our own ranks to grab guns and stop a more violent confrontation. The Embassy brought to international notice the predicament we were in.

Out of the land arose several white people of basic integrity, humanity and a sense of justice. Those men were Gough Whitlam, Don Dunstan, Nugget Coombs, Al Grassby. Their female counterpart, the poet Judith Wright. For the first time we were

seeing whites in this country with a depth of humanity and honesty, with a spirit that comes from a native born in the soil. In this I am not being over sensational or sentimental as time, history, will tell. These people, and also many lesser people on the similar rise toward honesty, aided the Black cause by their outspoken comment, their attacks upon policy, their international and political influence.

It was then with the introduction of substantial policy for change, that the real deception, the legal trickery, the filthy in-fighting, the legal fictions Country Party style began.

The Federal Labor Government, committed to Aboriginal Land Rights by policy and the obvious deeply personal commitment of its leader, Gough Whitlam, introduced an Aboriginal Land Rights Bill in 1975. In 1976, the succeeding Government, the National Country Party Coalition passed its own modified version of the Bill, giving in the first instance the Northern Territory Legislative Assembly power to pass complementary legislation. The modified version also took away control of roads running through Aboriginal lands.

Remember the deeply entrenched mining and pastoral influences are such at the local Northern Territory Government and Federal Government level as to have those governments subservient to their interest. Despite the fact that the Land Rights Bill effectively excluded those tribes who were forced off their traditional areas and, by the effects of mass slaughter, could no longer establish before the white man's courts, ownership and traditional occupation, were to be deprived of land and compensation - compensation was never acceded to in the Bills; the only lands available for claim were the reserves, land of traditional occupation, traditional association and occupation from unalienated Crown land areas.

It is well to remember that not one European lost his land or entitlement to land in any of these claims. Those tribal groups whose lands had been stolen for town sites, pastoral leases, not adjacent to Crown land areas were effectively denied claim. The fact that the Aboriginal Land Councils, the Northern Land Council and the Central Land Council had to 'prove' their case and enter into expensive litigation through the enquiring court was another insult to injury, especially in a community where every bit of finance was essential to give urgent relief to the injured community.

To circumvent Aboriginal Land Claims, Mining industry, such as the powerful Mt Isa Mines in Queensland, purchased a pastoral property and took up pastoral leases on properties on which Aborigines had traditional camping sites and sacred areas. Darwin and other towns throughout the Territory extended their 'town borders' earmarking those borders for 'future planning'. Darwin's area is now larger than the city of Greater London. In other areas of the country, local business men formed cartels and purchased available Crown lands.

The Pitjantjatjara Land Claim was altered by subsequent amendment, and indeed, *all* Aboriginal Land Claims, under the present legislation, can be amended or taken away by the same legislative process. If the legislation is seen as having protection under the special application of the racial Act, all such Acts can be repealed at any time the Government decides that legislation made under that Act for purposes of 'positive discrimination' can be repealed when that 'positive discrimination' has been seen to have been effective in redressing some social imbalance. *The deciding factor being the Government's opinion of when that stage has been achieved.* In 1837 the British House of Commons Select Committee on Aborigines acknowledged that:

*... the native inhabitants of any land have an incontrovertible right to their own soil: a plain and sacred right, however which seems not to have been understood.*10*

Concerning the erection of the new colony of South Australia, the Select Committee observed the obvious contradiction that South Australia was described as:

... consists of waste and unoccupied lands, which are supposed to be fit for the purposes of colonisation.

but:

... great numbers of natives have been seen along that part of the coast.

The Select Committee continued:

Such omissions must surely be attributed to oversight; for it is not to be asserted that Great Britain has any disposition to sanction unfair dealing; nothing can be more plain, nothing can be more strong, than the language used by the Government of this country on the subject.

In order to try to halt the continuing invasion of Aboriginals' land by illegal means, the Letters Patent issued to the South Australian Colonization Commission on 19 February 1836 contained the proviso:

*... provided always that nothing in these our Letters Patent contained shall affect or be construed to affect the rights of any Aboriginal Natives of the said Province to the actual occupation or enjoyment in their own persons or in the persons of their descendants of any Lands therein now actually occupied or enjoyed by such Natives.*11*

The Colonization Commission actually informed the House of Commons that no land that the Aboriginals occupied or possessed in enjoyment

would be offered for sale until ceded to the Colonial Commissioner. Even though instructions were issued to implement this undertaking, nothing was done about it. As a result, and despite the Letters Patent:

*... South Australia's Aboriginal people were dispossessed, decimated, and pauperised in similar fashion to those in other Australian colonies.*12*

White Australia's bar-room boys and their back-room boys still do not understand the sacred, incontrovertible, undeniable right we have to our land. These white boys, playing at being 'statesmen', feel that they can allow, amend, take away, swear off, deny any or all aspects of Aboriginal Right in land. It is not the case, and will never be the case at crunch level.

The evolution of conscience, however, in this land will no longer allow political corruption, selling off of the country's land and resources to foreign investment companies, the outright denial of human right by government practice in operation, and an increasing identity in the land and the issues of justice will not, for much longer, be submerged in apathy of the voters as was witnessed in the past. Too many white Australians are now involved. Too many people in overseas countries such as Libya, Nigeria, Cuba are watching the outcome of the struggle for decency and human right. Too many are now prepared to act to achieve positive result and positive understanding of our 'incontrovertible right'.

Forced by an overwhelming increase of world contempt against Australia's treatment of Blacks, the Federal Government carried out a series of publicity stunts in an attempt to placate Blacks and world opinion. The Federal Labor Government under Whitlam, having taken the first great moral leap into Land Rights, hesitantly tried to manoeuvre through the minefield of reaction and entrenched racism.

The National Aboriginal Consultative Committee was formed and the papers and many Parliamentarians gave it a false image in the national press as 'The Aboriginal Parliament'.

Gough Whitlam said, "Aborigines would have restored to them the 'power to make their own decisions'." He added "The NACC will meet at least twice a year in Canberra".

In fact it was a powerless body, without any secretariat of its own and with no funds to call itself together.

It was described officially as an Advisory Body but, in fact, between October 1975 and March 1976 it was unable to meet, at a time of constitutional and political crisis which was certain to affect Aboriginal Australians - and hurt them it did. Again, from March 1976 onwards, for more than a year, the NACC did not meet even once, although the Land Rights Bill was being discussed and debated in Parliament... Finally, the NACC was abolished and the present National Aboriginal Conference, the NAC, was set up, again as a Government initiative.

In its meeting in April 1979, the National Aboriginal Conference stated:

That we, as representatives of the

Aboriginal Nation (NAC) request that a Treaty of Commitment be executed between the Aboriginal nation and the Australian Government. The NAC request as Representatives of the Aboriginal people that the Treaty should be negotiated by the NAC.

*Accordingly resolved that we immediately convey our moral, legal and traditional rights to the Australian Government and that we immediately proceed to carry from our people the suggested areas to which the Treaty should be relevant and that we proceed also to draft a Treaty and copies of the Motion be sent to the Prime Minister and to all Members of the Australian Parliament." *13*

Knowing that our previous applications to have our proper status in land and our rights to compensation, our sovereignty, recognised had, to the mid 1970's, availed us little, either in white society or the legal avenues of redress in white Australia, we called a national conference to be held in Redfern in August 1979, where the National Aboriginal Government representatives were chosen and sent to erect a camp on Capital Hill, Canberra, on the proposed site of white Australia's new Parliament House.

Aborigines set up 'embassy'

CANBERRA. — A group of Aborigines has set up tents on Capital Hill, the site of the new Parliament House, in a new bid for compensation for loss of traditional land.

Five representatives of the Organisation of Aboriginal Unity set up their camp in near freezing conditions on Monday night.

They say they will not move until the Federal Government has agreed to introduce a bill of Aboriginal rights and recognised Aborigines sovereignty over Australian soil.

A spokesman for the Aborigines, Mr. Kevin Gilbert, said they had been deputed as representatives of a national Aboriginal government by Aborigines at a national conference in Sydney on Monday.

Mr. Gilbert said the Aboriginal bill of rights should include:

- Cash compensations for all Aborigines moved off their land;
- Payment of a fixed percentage of gross national product to an elected Aboriginal forum;
- The return of all traditional land and all land where massacres of Aborigines occurred;
- The handing over to Aborigines of all missions and stations occupied by Aborigines.

Yesterday, almost seven years after ACT police tore down the Aboriginal "embassy" of tents outside Parliament House, Mr. Gilbert said the new camp would stay until the bill of rights was guaranteed by the Government.

ACT police officers inspected the camp yesterday morning but took no action.

Melbourne Age 8/8/79

Aborigines stake claim on Capitol Hill

Continued from page 8-3-79

Photographic Image
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Capitol Hill, the planned site for Canberra's new and permanent Parliament House, has been claimed as an Aboriginal sacred site by a group calling itself the National Aboriginal Government of Australia.

The group set up their tent capital on top of the hill at 4am yesterday and issued a statement calling for a Federal Aboriginal Bill of Rights and a treaty of commitment from the Federal Government.

One of the nine-member group, Mr Kevin Gilbert, said that the members had driven all night from Sydney after a meeting there of a national conference called by the Organisation of Black Unity.

The conference had decided to establish the "government" and call for the bill of rights and treaty of commitment, he said.

"Capital Hill is a site of special significance to the Aboriginal people — it was traditionally so to the people of the Monaro region," Mr Gilbert said.

"The recognised spiritual significance to the people of the Monaro region is being lost."

Members of the National Aboriginal Government of Australia with their tent on Capital Hill yesterday: Mr George Rose, left, a man who gave his name only as Kevin, Mr Cecil Patten and Mr Kevin Gilbert.

Mr Gilbert said the Aboriginal people did not recognise the usurping of their land by the British and later the Australian Government, and would never recognise it.

"The national Government of Australia is going to build another Parliament House on our land — they plan to again usurp land from us," Mr Gilbert said.

Officers of the Department of Aboriginal Affairs in Canberra said they were not aware Capital Hill was an Aboriginal sacred site.

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PRIME MINISTER

CANBERRA

The National Aboriginal Government sent a letter to the Prime Minister, Malcolm Fraser, who in reply, indicated that his Minister was prepared to discuss a Treaty with Blacks.

21 AUG 1975

Dear Mr. Gilbert,

I refer to your letter of 17 August concerning a number of matters affecting Aborigines in Australia.

Whilst in no way do I question the sincerity of your motives, I do ask you to examine the validity of your argument that I have been hypocritical in condemning racism overseas in the light of our own treatment of Aborigines. Over the past ten or so years the legal discrimination against Aborigines has been dismantled. At the same time, major programmes aimed at removing the inequities of the past have been instituted. My Government is committed to positive programmes which will restore Aborigines to their proper place in Australian society.

The Government, like others wishing to improve the lot of Aborigines, must contend with the fact that dramatic solutions are not to be found to problems of poverty, housing, unemployment, infant mortality and alcohol abuse amongst Aborigines. The problems are complex and simple answers are not available, as is the case with other indigenous groups throughout the world.

I do not question the need to provide persistent and patient response on a number of fronts to the needs of Aborigines, as determined by themselves in their communities or through their representative organisations. My concern is that your letter highlights the apparent failures of our joint efforts whilst some of the successes, for example, in the provision of Aboriginal medical and legal services and business enterprises go largely overlooked. I believe that this attitude does less than justice to the Aboriginal people themselves as well as to the efforts of various governments on their behalf.

As you will be aware, there are numerous Aboriginal health programmes funded by the Commonwealth. Recent reports by Parliamentary Committees on Aboriginal health are currently being considered by representatives of Aboriginal medical services, Commonwealth and State Health Departments and the Department of Aboriginal Affairs. The effectiveness of these programmes will be evaluated in this process.

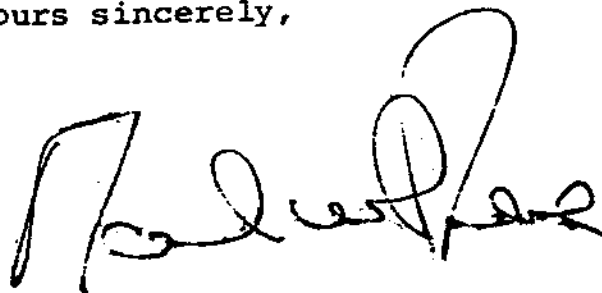
Your statistics on the proportion of Aborigines in prison and of the unemployed are inaccurate, but I concede that there is no room for complacency in either area.

The National Aboriginal Conference, comprising the elected representatives of Aborigines, has already put forward its proposal for a Treaty of Commitment. My colleague, the Minister for Aboriginal Affairs, is examining the proposal and will bring the matter to the Government for its consideration. I understand that some months ago Senator Chaney held informal discussions with some of your group on the proposal. The Government is considering the various proposals which have been put forward. There is no intention to do as you suggest, namely rush through legislation relating to the treaty concept without proper consultation with Aboriginal people.

I make no apology for the attitude of my Government in relation to matters such as Zimbabwe or Vietnamese refugees. Nor do I see the slightest conflict with our domestic policies in relation to Aborigines. Whilst I accept that we can and should do better in the whole area of Aboriginal affairs, such a result can only be achieved by obtaining the co-operation of the whole Australian people.

My colleague, the Minister for Aboriginal Affairs, is willing to meet a delegation of your group in his office at Parliament House. You will be aware that he makes himself accessible to a wide cross-section of Aboriginal organisations throughout Australia. I shall be pleased to discuss the concept of a treaty with the National Aboriginal Conference at a mutually convenient time, if they wish to do so.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Malcolm Fraser', with a large, stylized initial 'M'.

(Malcolm Fraser)

Mr. Kevin Gilbert,
Capital Hill,
CANBERRA, A.C.T., 2600.

The Prime Minister's reply, and indication of his Government's position to discuss a *Treaty*, is in itself a *de facto* recognition of the right of Aborigines to so call for and discuss the manner in which a *Treaty* would apply.

The Government chose to discuss the *Treaty* with the NAC *at a mutually convenient time*. In the meantime, the Minister for Aboriginal Affairs, Senator Chaney, managed to squash the call for a *Treaty* and issued the following:

The NAC has made it plain where it stands in the discussions on the 'treaty'.

It has put aside the idea that caused concern - namely that a treaty between nations was being sought. What is being sought is an agreement about what is needed by and due to the Aboriginal people.

In finding the Aboriginal word 'Makarrata' they have adopted its meaning for this proposed agreement - the end of a dispute and the resumption of normal relations. 14*

Thus, a sovereign *Treaty* would not be entertained, because a *TREATY* was an agreement between two sovereign powers ... and Aborigines were not considered 'equal', were not sovereign. Hence the Blacks were given the choice of nothing or else to enter into a common agreement, called the 'Makarrata', with the Government. The bone to the dog.

Aboriginal ownership, Aboriginal 'Sovereignty' has always been in the forefront of Aboriginal thinking. Many ways of expressing the position of sovereign ownership, apart from bitter fighting, and the assertion of colonisation by force upon us, have been contained in the statements and recognition of sovereign role by the early settlers; titles such as 'King of the Brungles' etc, etc. And the Aboriginal way -- "I am 'boss' for this country". "I got the 'Rules' for this country". "I got the 'business' for this country". And

the control, both social and economic, as well as the spiritual office, was executed by governing figures - and is still executed by governing figures. The 'King', the 'Queen', of the country has not passed away, will never pass away. Trying to grasp a way of communicating and dealing with white governments has many pitfalls, which made themselves apparent from the initial stages of discussing the 'Treaty'. Aboriginal people understand one thing. *We are talking about Sovereign Treaty.*

The Government was now *ready* to discuss the Agreement with the National Aboriginal Conference.

Of course, an 'Agreement' is a far cry from a 'Treaty' and the full domestic and international interpretation of a *Treaty*. There is no doubt that the NAC meant *Treaty*, and the secure status of a *Treaty* in its discussion with Government. However, they were told that the Government would not accept the implications contained in the word 'Treaty' and would accept another terminology. The NAC was somehow, by some misfortune in legal interpretation, told to adopt the word 'Makarrata', a tribal name of loose interpretation meaning:

"Things are OK again after the fight".

Of course, in Aboriginal Law, such a position would have been binding and carry the executive power of equal sovereignty. In white Australian terms it meant, with a sigh of relief, an opportunity to deceive the world and pull the wool over the eyes of old Jacky again. The NAC produced a leaflet circular to the Aboriginal communities which said:

For many years some people have been saying that the Government in Canberra should have an agreement with the Aborigines and Torres Strait Islanders. This Agreement would mean that the Government agrees that Aborigines owned Australia before the white people came here. This agreement would mean that the Government would do some special things for the

Aboriginals. The white people call an agreement like this a 'Treaty of Commitment'. The National Aboriginal Conference had a talk about it and decided it should have an Aboriginal name.

"...THE NATIONAL ABORIGINAL CONFERENCE SAID 'MAKARRATA' WAS A GOOD NAME ...* 15

This statement of position of the NAC clearly shows that the Government by admitting prior ownership of the whole of Australia, immediately placed itself in a position of legal/international consequence. They recognised ownership and prior title, therefore their occupation of the country was an occupation by trespass and invasion. Occupation over-riding the natural right of the indigenous owners. In short, they recognised 'native title' and sovereign status. This recognition of responsibility was clearly indicated, again with full domestic and international consequence, when Senator Neville Bonner put a motion to the Australian Senate in 1975:

That the Senate accepts the fact

that the indigenous people of Australia, now known as Aborigines and Torres Strait Islanders, were

in possession of the entire nation prior to the 1788 First Fleet landing in Botany Bay, urges the Australian Government to admit prior ownership by the said indigenous people, and introduce legislation to compensate the people now known as Aborigines and Torres Strait Islanders for dispossession of their land.

The Australian Senate passed Senator Bonner's motion unanimously. In his introduction to *Human Rights for Aboriginal People in the 1980's*, Senator Bonner said:

May I with due modesty state that a follow up to this motion, and the significance, has been the concept of a Treaty, to be agreed upon between my race and the government 16*

But the Senate motion was only a statement of intent, not of law, and it was never debated by the House of Representatives.



The idea of a **Makarratta**, or 'social compact' is NOT a treaty. It is a rubbish agreement which gives away Aboriginal rights to white political structures. It can always be amended or repealed. A 'Sovereign Treaty' is a solid Treaty of ownership that over-rides all other laws denying our rights.

In May, 1985, Aboriginal people in their hundreds travelled, from all parts of Australia, in old cars, buses and were piled on the back of cattle trucks on a trek covering thousands of kilometres to attend one of the biggest gatherings of Blacks since the invasion. The purpose of the gathering was to decide policies and tactics, to clearly define our position on Land Rights. We met with the government formed National Aboriginal Conference (N.A.C.), who in its last year of existence relayed to the Federal Government that Aboriginals demanded recognition of our sovereign status in original possession and ownership, the right to return to us a land base and the right to compensation.

The National Aboriginal Conference made its views known nationally and internationally and was very quickly disbanded by the Government,

who ceased to fund them when the N.A.C. would not retreat from its sovereign position. It was too hard for white Australia to accept our Sovereignty of entitlement and to meet the obligations it is committed to under the international charter of Human Rights, with fair dealing and integrity. Justice, substantial justice, has never yet been able to motivate the colonial ego half as much as the staged 'generous' and 'charitable' grandstand posturing it has always effected overseas.

Invasion Day, January 26 1988, witnessed the gathering of Aboriginals in their thousands, with tens of thousands of white supporters, to protest the re-enactment of the original invasion. The unity and strength of our people was broadcast to the world telling them, in effect, what Xavier Herbert said: Australia is not a nation but a community of thieves.

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