

Launch of TREATY (Federation Press)

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Speech given by Peter Andren, Independent Member for Calare

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I thank you and welcome you all to the birth of this extremely important publication. Firstly I pay my respects to the traditional Indigenous custodians of the land on which we stand tonight. In fact this site on the edge of Sydney Harbour and the heart of our first European settlement is symbolic more perhaps than outback Australia of the desperate need for a meaningful compact, agreement, treaty or Makaratta between this continent's original inhabitants and those who stole it under the lie of terra nullius.

Despite our worst endeavours, the Indigenous peoples of this country are still here, having survived everything non-Indigenous have thrown at them – physical and emotional.

But many are in a constant state of grief. Grieving not only for their loved ones who die at an alarming rate from the ravages of white man's disease, not only for their kids who die by their own hands, not only for their men and women folk who die a slow death in a downward spiral of crime, incarceration, crime, not only because they die of so-called natural causes on average 20 years before the rest of us.

They are also grieving, I believe, for the loss of meaningful connection to their land, a connection fundamental to a spiritual health, and therefore a physical well-being. And nowhere is that grieving more acute than here in our biggest city where by and large the majority of our Indigenous neighbours live a marginalised existence, strangers in their own land, or as Professor CD Rowley called his 1970 book, *Outcasts in a White Society*.

While most Australians celebrate the achievements of our Aboriginal sportsmen and women, or dancers, or artists, how

many non-Indigenous Australians have taken the trouble to study and celebrate the real culture, the languages, the spiritual connection to the land?

Aboriginal author Hyllus Maris writes:

*I awakened here when the earth was new...
There was emu, wombat, kangaroo,
No other man of a different hue.*

But of course there came a man and law of a different hue, where materialism fuelled by the Enlightenment gave the conqueror the Christian mission ‘to improve and cultivate the face of the earth’.

Those words are from Henry Reynolds ‘Progress Morality and Dispossession of the Aboriginals’. Like Rowley, Reynolds used the word destruction to describe the deliberate dismantling of a society, a destruction he says ‘*was a benchmark to use while measuring the triumph of civilisation over savagery*’. There’s that word civilisation again – a favourite of George W Bush.

Before I detail some of my observations on this fine work by Sean Brennan, Larissa Behrendt, Lisa Strelein and George Williams I should detail some of my credentials for being so presumptuous as to launch this book. One, I was invited, and for that I am honoured.

Secondly, I hope my 40-year experience first as a student of Indigenous policy in Australia, New Guinea and North America, then as a reporter and news producer in Sydney during the black power movement of the ‘70s, my experiences as a regional news editor and nearly ten years in federal parliament through the native title debate and beyond have given me at least an educated non-Indigenous perspective on the issue of treaty.

As a federal independent Member I hope I have had some success in challenging the stereotypical approach to Indigenous issues so shamelessly exploited over the years by many rural representatives. Despite an enlightened and committed minority of educated and determined non-Indigenous activists, there is still a hugely depressing bigotry and hostility towards Indigenous people in country areas, including major regional centres.

We have towns competing for the economic benefits of new jails – encouraged by law and order Premiers and politicians – jails to house the overwhelming number of Indigenous inmates; jails designed to be closer to Indigenous communities – a tragic twist on ‘bringing them home’.

In challenging the Northern Territory mandatory detention regime through a Private Members’ Bill that was brought on for cursory debate to placate an uneasy government backbench minority, I also challenged my regional and rural electorate that by and large thought it none of their business, or perhaps a good policy for NSW.

By engaging in the native title debate within an electorate where native title had by and large been *officially* extinguished, by hosting a forum on treaty with Mick Dodson and so powerfully addressed by several local high school students, one Indigenous, I hope at least one rural electorate is better informed than it might otherwise have been.

But any impetus for change – in the face of entrenched racism – needs constant renewal through avenues like the largely lapsed reconciliation groups, and better still, a Treaty process and its accompanying debate.

We particularly need to address the misconception that the ‘Aboriginal problem’ (so called) is about rural and remote

Indigenous health and education issues alone – a misconception that's been around a long time.

Indeed at the Commonwealth and State Conference of 1937 seeking to formulate a national Aboriginal policy, Victoria's Chairman of their Aborigines Protection Board said he'd only come to observe, that Victoria didn't have a problem and the real issues were in Queensland, South Australia and Western Australia.

As Rowley observed in commenting on that conference: *'the basic assumptions were that after the inevitable frontier catastrophe there were certain things to be done, almost on the analogy of mopping-up operations, before the aboriginal minority disappeared...'*

As we moved towards more enlightened policies after the 1967 referendum, the word 'treaty' entered the debate at several points, only to be shelved, ignored and overtaken by other agendas that while arguably progressive, continued to ignore the fact that original Indigenous sovereignty had not been addressed.

Indeed Rowley had his own theories on the absence of treaty as he outlined in his *Destruction of Aboriginal Society* in 1970.

Not being a villager the aboriginal had no clearly recognisable claim to a particular area of land; his more subtle relationship with his country was either ignored or not understood.

Malcolm Fraser in his foreword to this book points to the treaties of North America and New Zealand and suggests there is a way forward if government and opposition had the political guts to confront the majority of Australians with the reality of the shameful health and social indices of our Aboriginal

peoples, and the nonsense (my word) that is ‘practical reconciliation’.

Professor Marcia Langton in her foreword suggests, among other initiatives, a constitutional adjustment.

The moral legitimacy of Australia as a modern state will remain at issue while an honourable place for Indigenous Australians in the formal constitution of the nation remains unresolved.

For what it’s worth, I totally agree. Why then did I write and support the NO case against the preamble to the constitution suggested at the 1999 republican referenda? Because it was cobbled together in great haste by several balance-of-power Senators and a wedging, manipulative PM without anything like the input required from Indigenous peoples or through a properly convened constitutional forum, despite Aden Ridgeway’s very genuine input, and support for the preamble on offer.

In their preface the authors suggest a similar lack of proper process in tackling a treaty. They say:

The problem of principle is that in Australia we have never sat at the table and negotiated the most basic terms of peaceful co-existence between the first peoples of this continent and those who came later... by almost any social indicator, Australia’s first peoples typically find themselves on the lowest rung of our society and largely locked out of the wealth of a very affluent country.

This search for a truly practical and moral outcome is the challenge of this book, and this publication will certainly help in that task. It is also the challenge we who may be able to influence change need to take forth with far greater passion to

confront and convert those who would want to deny our collective responsibility to the first peoples of this continent.

Instead of honestly confronting the unfinished business of recognising the reality of the past, we have peppered our political rhetoric with words designed to be all things to all people – giving the impression of supporting moderate Indigenous aspiration while placating the forces lined up to reject any special deal for Indigenous peoples.

In 1972, when Labor won office, the term self-determination was introduced and the previous assimilation policy rejected. In 1974 then Minister Kavanagh spoke of an aim of removing disadvantage so Aboriginal communities and individuals could develop as they wish within the overall Australian society. This was perhaps the closest we have got in the past 30 years to acknowledging the responsibility – but although greatly increased budget allocations were made available, there was no formal treaty.

The first Fraser Government adopted a new policy of self-management and self-sufficiency, not self-determination

There were opportunities to pick up on the Indigenous peoples wish for a treaty, the newly-elected National Aboriginal Conference in 1979 called for a treaty – giving it the name Makarrata ... Malcolm Fraser and his Minister Fred Chaney welcomed the initiative and a Senate Standing Committee examined the feasibility, eventually recommending a constitutional amendment as the preferred option for implementing a compact. However, the change of government and a new emphasis on land rights put treaty on the back burner.

With the election of the Hawke Government, the rhetoric changed to giving Aboriginal people more equity in their own country ... Clyde Holding, the Minister, said in 1983 that the

basic human rights for which Aboriginal people have been struggling are now in sight. If only.

By the end of 1983 ‘consultation’ and ‘self-determination’ are the government’s priorities with direct funding by passing the States.

In 1987 Hawke raised the possibility of a treaty or compact, with then Opposition Leader John Howard showing how consistent he can be in some policy areas by stating that *‘there is no way the Australian people will ever accept that in some way we are two nations within one – nor should they’*.

(The PM’s announcement this week of proposed new industrial and workplace relations laws certainly challenges that statement!)

As the authors of this book remind us in their thorough tracking of the treaty debate, by June 12, 1988 Hawke promised there will be ‘a treaty negotiated’. Nothing eventuated.

However. ATSIC did eventuate in the face of criticism from the Coalition opposition spokesman that it would be a black power parliament with little accountability. How different were the Liberals of the 1970s to those of the late 80s and beyond.

Thatcherism, the religion of individual endeavour and its rewards supposedly cascading down to benefit those below (including the poor and Indigenous) was the new economic and social mantra.

Paul Keating oversaw the beginning of a decade of reconciliation. As the authors point out, some Indigenous groups and their supporters regarded reconciliation as a pale imitation of the real thing – national land rights and a treaty. A political soft option. I must say I agree.

A reconciliation sometimes comes between two equal partners after a marriage break-up. But there has never been a marriage, an equal partnership, of Indigenous and non-Indigenous Australians.

That's the point, stupid.

The partnership has for the most part been unequal and dependant, whatever the policy descriptions. Treaty suggests an equality most non-Indigenous have not been prepared to wear, yet we are paradoxically quick to pick up the cause of inequality elsewhere on the planet.

Despite the continued rhetoric of successive Howard Government Ministers that their goal was 'economic independence for Indigenous Australians' and 'practical measures to increase self-reliance', ATSIC has been discredited and dismembered. We have returned to appointed advisers, services have been again paternalised and mainstreamed and land rights seem to be swinging towards land exploitation and real estate.

As the authors point out, without equity, without recognition of the rights and authority and capacity of Indigenous people to make a binding agreement, or binding regional agreements, there is no way forward down the treaty path. Equally, of course, Indigenous people must accept the right of Australian governments to negotiate on behalf of other constituents.

The authors are more optimistic than I in acknowledging what they see as a strong sign of progress in the wealth of agreement-making with Indigenous groups over the past generation ... from the Whitlam-Lingiari meeting and Northern Territory Land Rights ... accelerated since the recognition of native title in 1992 – however insecure and unequal that title is.

The authors pick up a point that Mick Dodson has also made, that a treaty may well be many agreements, regionally-based, with perhaps an overarching national compact. Such agreement-making as the authors point out, ‘has the potential to deliver outcomes to indigenous communities in the form of opportunities and rights’.

A treaty approach would have a starting point of acknowledgement and a process based upon negotiation.

And using a Howardism to great effect the book suggests a treaty is also about obligations, ‘mutual obligations’ in the true sense of the term.

I commend the authors for the quality of their analysis and I hope this precise, concise and thoroughly readable book gets the wide readership it deserves. I am not optimistic in the current climate that a treaty will be on the table any time soon – we have lost several opportunities over the past 30 years when there were leaders with infinitely more vision and a nation with a kinder disposition.

Let me quote the words of Gatjil Djerrkura to the Institute of Commonwealth Studies in London, July 1999:

In many countries indigenous peoples are re-establishing new constitutional and legal relationships within the limits of existing nation states. These developments show that there are many ways to accommodate different cultures and resolve long-standing grievances. Whilst there is no simple or uniform solution, there is a wealth of comparative experience to draw upon. And this experience suggests that processes are as important as substance.

Are you listening Mr Howard and Mr Beazley? I fear not.

Despite the manufactured enthusiasm of the Murdoch press this week as they paint a picture of a Prime Minister wanting to walk a bridge to common ground with Indigenous leaders on the eve of the Reconciliation Workshop I don't believe this government or this Prime Minister would ever seriously contemplate a treaty.

I had discussions this week with Dr Mike De Gagne, Indigenous Canadian CEO of the \$375 million Canadian Healing Foundation which is addressing the legacy of sexual and physical abuse in Canada's lost generations assimilationist Residential Schools System. Mike says the Canadian healing process involves compensation and a genuine national sorry – something our Prime Minister steadfastly rejects – indeed he won't acknowledge a stolen generation.

No amount of privatisation or commercialisation of Aboriginal land or endeavour, especially no amount of picking winners, will correct the wrongs of the past.

Unless modern Australia forges a treaty with its original custodians, we have no claim to moral or legal legitimacy. Instead of seeking our identity and the birth of our nation at Gallipoli, let us go back to 1770 and complete the job we should have done then.

We owe a deep debt of gratitude to our four esteemed authors for providing this valuable resource to help us on that journey.