

THE MYER FOUNDATION
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ON ABORIGINAL AFFAIRS

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U.S. INDIANS AND LAND

The United States Indian Court of Claims was originally established in 1855 to arbitrate on special claims by Indian tribes against the government. In the sixty-five years prior to 1946, two hundred and four petitions were filed with the Court.

Subsequently a three-man Indian Claims Commission was established to settle outstanding petitions and a five year deadline for the filing of new claims was set. In that period eight hundred and fifty-two claims were submitted to the Commission. Originally, it had been intended that the I.C.C. would have a life of ten years, but this has since been extended.

Considerable payments have been made to Indians on the basis of their claims. The Court of Claims, which remains as a court of appeal, has awarded almost £45,000,000, and the Indian Claims Commission paid out £10,000,000 between 1946 and 1959.

It has been estimated that it will take twenty years to settle the remaining claims and that payment to Indians on the basis now established will amount at least to £500,000,000.

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ABORIGINAL LAND RIGHTS

Historians have produced few studies on the Aboriginal aspects of Australian history. Consequently, generalisations about the nature of those events which followed the meeting of two peoples and two cultures in this country are made at some risk. However, it can be said with a good deal of confidence that rights of Aboriginal land ownership have not been taken seriously. Compensation given has sprung from necessity and charity. Seldom has assistance been given to Aboriginal people as a right.

There are a few examples of respectful treatment. For instance, the Federal Government has directed that royalties from the development of timber and mineral resources of the Aboriginal reserves in the Northern Territory be paid into a special Aboriginal Welfare Fund.

But treaties have been almost non-existent. John Batman was one of the few settlers who felt that there was a need to discuss the question of land acquisition with the original owners. Most of the colonists accepted the fact that the Queen had said that the newly discovered land belonged to England.

Yet in Canada one hundred years earlier representatives of the Hudson's Bay Company, on instructions from the King, bargained with the local Indians and established a remarkable record of peaceful co-operation. In the United States treaties were negotiated with Indian tribes. Three hundred and seventy-one agreements were ratified by the government up to the year 1871. Then in New Zealand, some fifty years after settlement began in Australia, representatives of the Imperial government sat with Maori chiefs and signed reciprocal guarantees which were incorporated within the Treaty of Waitangi.

The fact that the land issue has been by-passed in Australia is often attributed to factors such as the nature of Aboriginal leadership and settlement, the absence of agriculture and so on. On occasions military force was used to remove knots of guerilla resistance. Usually the settlers, aided by disease, food shortages and the inadequacy of Aboriginal armaments, were able to look after their own interests. But whatever the reasons the result was that Aboriginal communities were dispossessed of their lands.

It has been customary to imagine that the process of alienation ended many years ago when the better land had been settled and the remaining Aborigines buttressed by protective institutions and a series of reserves.

Such conclusions, however, ignore important moral, social and economic considerations which are apparent today.

They ignore also the encroachments taking place in our own generation. For instance, mineral prospectors have worked continuously on many Aboriginal reserves. The Commonwealth Government has established a rocket range and meteorological station over outback hunting grounds since the War. In the late 1950's the Queensland Government negotiated with international mining interests for the development of bauxite deposits in the vicinity of Aboriginal missions on the west coast of Cape York Peninsula. Despite the magnitude of this project the Australian community took no interest in the moral issues raised by such an incursion into Aboriginal lands and, as a consequence, Presbyterian mission authorities found little support for the modest guarantees which they sought on behalf of the Aboriginal community which had been under their care for half a century.

New Developments

Just a few weeks ago the Prime Minister announced that leases had been signed with the Gove Bauxite Corporation permitting the development of mineral deposits in the vicinity of the Yirrkala Methodist Mission on Gove Peninsula, which is within the Arnhem Land Aboriginal Reserve.

A complex set of conditions has been incorporated into the lease and accompanying papers. These conditions, arrived at after consultations between the mining company, the Minister for Territories and the General Secretary of the Methodist Overseas Missions, have been designed to protect the interests of the Mission and the five hundred Aboriginal inhabitants at Yirrkala.

The conditions appear to contain numerous loopholes which the mining company might well exploit at any time of its choosing and the earnestness of the Government in giving Aboriginal welfare a high priority will be tested at any time the French corporation seeks further favours. However, the lease conditions are not the main issue at Yirrkala. The central question towards which attention should be directed is this — are we **ever** going to allow Aborigines to own land?

A number of recent happenings show that there is an Australian conscience on this issue.

The National Missionary Council, which represents most of the Protestant mission authorities, is now engaged in reforming its policy. The issues of Aboriginal land ownership are being faced for the first time. This is a most significant moral stirring.

Gove bauxite developments brought the land issue to new prominence at the Annual General Meeting of the Federal Council for Aboriginal Advancement which was held in Canberra during Easter. Two significant principles relating to land were stated at that gathering. The principles were that —

- (1) Aborigines at Yirrkala have a basic right to be consulted about the use of land in their area rather than be informed afterwards of decisions made in their absence.
- (2) Aborigines should have a secure land tenure which may not be superseded even by mineral rights. That is, ownership of land should be vested in the Aborigines themselves **in a special way**.

Again these same issues rose to prominence at a Seminar on Aborigines convened in Melbourne on 20th April by The Society of Friends.

The Methodist Commission on Aboriginal Affairs, a body constituted by the Victorian Methodist Conference, also held a conference recently. Aboriginal autonomy and Aboriginal land ownership emerged from these discussions of policy as issues to be faced seriously by Christian Australians.

Finally, Mr. D. Nicholls, a prominent member of the Victorian Aboriginal Community, has resigned from his position on the Aboriginal Welfare Board. In doing this he claimed that he was protesting against the Government plan to shift Aboriginal families from the Lake Tyers Reserve.

2) Three points of view are represented in this new interest in Aboriginal land rights. To some it is a key moral issue. It is felt that our attitude to Aboriginal land-holdings reflects upon the sincerity of any stand taken on vital issues such as restricted immigration, human rights, and the treatment of minorities. Others see it as the factor which will finally determine whether or not official welfare policies will be effective. To this school of thought dispossession is synonymous with disrespect. Their argument suggests that most people of Aboriginal inheritance will lack the personal confidence necessary to deal with the problems of adjustment forced upon them and that this condition will remain until land alienation without compensation has been pronounced as wrong, and has been reversed. The third group believes that all growing communities require land. They say that, apart from being a source of emotional security, land is essential to independence, the fundamental asset for significant programmes of economic development.

All this suggests that the Aboriginal land question has **moral, emotional, and economic** aspects which cannot lightly be disregarded.