

## Progress and Frustrated Expectations: The Era Since 1961

### Abstract for chapter 5

This chapter surveys the major socio-political developments in Aboriginal affairs from 1961 to 1988. This was a period of rapid legislative change affecting many Indigenous Australians, and a time of escalating Aboriginal self-confidence and achievements on many fronts.

In spite of the difficulties in gaining a balanced historical perspective of the socio-political developments of this time, this chapter isolates three major aspects of a Black Australian response to certain events: the first relates to protest; the second relates to a far greater interest on the part of international bodies; and the third relates to explorations of a pan-Aboriginal identity.

Throughout the 1970s and 1980s Aboriginal Australians consolidated their gains and continued to combat remaining injustices.

#### *Keywords*

Aboriginal Legal Service, Aboriginal or Tent Embassy, Aborigines, Charles Perkins, Federal Council for the Advancement of Aborigines (FCAA, FCAATSI), Fox Commission, Freedom Ride campaign, land rights

## *Progress and Frustrated Expectations: The Era Since 1961*

Just over twenty-five years ago – in 1961 – the New South Wales Minister for Health, W.F. Sheehan, announced that his government planned to outlaw the segregation of whites and Aborigines in the state's hospitals. In many areas of the state, European reaction to this news was hostile and indignant. For example, the chairman of the Moree District Hospital Board stated that he and his colleagues would ignore any such directive and that 'any attempt to alter the current situation would lead to trouble'.<sup>1</sup> As Rowley has revealed, local segregation of whites and blacks was common throughout New South Wales at the time, and the poor health and hygiene of Aborigines was frequently cited as the reason for allegedly necessary and desirable restrictions upon their freedom. That such explanations often masked patently racist attitudes was obvious. For example, towns such as Moree and Kempsey barred Aboriginal children from swimming in public pools unless they were there as part of a school excursion under the supervision of a teacher.<sup>2</sup> When the end of the lesson arrived a whistle would be blown, signifying that the black children had to leave the water, while their white classmates were permitted to remain.

Such colour barriers were important indications of dominant racial attitudes at the time, and also gave rise to Aboriginal indignation and protest. These local restrictions upon Aborigines were significant for other reasons as well. They reflect an important demographic pattern in Australia: in small country communities with substantial Aboriginal populations and continuous and close levels of contact between the races, interracial disharmony is frequently high. It is no coincidence that Moree, a town which segregated hospital patients

and school-children on the basis of race in the early 1960s, was in 1982 the scene of an ugly black/white racial confrontation, which left an Aboriginal man dead and another wounded after a pub brawl. Moree, and other towns like Laverton in Western Australia, have histories of Aboriginal/European conflict and distrust. On the basis of extensive survey work in Western Australia, Ronald Taft reported in 1970 that his respondents who held consistently unfavourable views of Black Australians 'have all had a fair amount or a great deal of contact with Aborigines in the course of their life, and they all come from a Western Australian country or an interstate background'.<sup>3</sup>

This is not to say that all small-town White Australians are virulent racists, nor the illogical corollary: that all white urbanites are necessarily more tolerant and kindly-disposed towards blacks. The fact is that attitudes towards Aborigines vary widely on a regional and economic basis throughout the country. While advances in Aboriginal autonomy and Black Australian achievements have both been marked over the past two decades, and while there have been signposts of increased white sympathy and understanding over that period of time, it is important to note that prejudice of both overt and covert types has persisted in some areas, particularly those with a history of Aboriginal/European friction. Any evaluation of the socio-political situation of Aborigines from 1961 until the present day must acknowledge that the advances that have occurred have not eradicated many inequalities and repressions.

This chapter briefly surveys the major socio-political developments in Aboriginal affairs over the past twenty-seven years. It was a period of rapid legislative change affecting many Aborigines, and a time of escalating Aboriginal self-confidence and achievement on many fronts. It was also an era of frustrated ambitions for Black Australians, who saw the advances seemingly promised by the referendum of 1967 remain largely unfulfilled, and who witnessed a white backlash to many of those positive developments which did take place. Though the 1961-1988 period was one of success in many fields, it was also one of frustrated expectations and hopes. Perhaps most importantly, the era saw the initiative for protest activity in Aboriginal affairs pass from white-dominated bodies to co-operative organisations, and then to groups controlled administratively – if not financially – by Black Australians.

One of the clearest examples of the shift from European direction to Aboriginal control was that of the Federal Council for the Advancement

of Aborigines. From its inception in 1958, the FCAA had been presided over by three sympathetic whites in succession: Dr Charles Duguid, Doris Blackburn and Don Dunstan. Finally, in 1961, Joe McGuiness was elected as the first Aboriginal president of the organisation, which was to have a very high media profile in the debate leading up to the 1967 referendum and in the publicity surrounding the land rights campaign of the late 1960s. The character of the FCAA as an umbrella organisation attempting for the first time to represent Black Australian views nationally was emphasised when, in 1964, the council changed its name and mandate to articulate the aims and grievances of the Torres Strait Islanders as well. The renamed FCAATSI threatened to approach the United Nations in that same year if the federal government did not heed its demands for changes to the Northern Territory legislation concerning Aborigines. Throughout the years following 1961, FCAATSI was one of the most vocal and visible pressure groups in Australia. With increasing assertiveness, stridency and success, it articulated the Aboriginal viewpoint more and more through Black Australians themselves.

Unfortunately, though the trend towards Aboriginal representation of Aboriginal views was followed in other black organisations, their campaigns did not always succeed. During the early 1960s, the Aborigines' Advancement League led by Pastor Douglas Nicholls was involved in two major campaigns in support of land claims for Victorian Aborigines. In the first, concerning the Cummeragunga Reserve, the debate dragged on for four years: not until 1964 was the leased land returned to the Aboriginal community. In the second case, Nicholls and the AAL fought fruitlessly for many years for local black residents who were attempting to wrest control of the Lake Tyers Reserve from the Victorian Aboriginal Welfare Board. Although the campaign began in 1963, only after seven years of pressure (including a petition sent to the United Nations) was the Reserve finally handed back to the Aboriginal people. While the case illustrated the admirable tenacity and organisation of the Aboriginal claimants, it also reflected the fact that the paternalist and protectionist mentality in some Australian state administrations proved hard to change.

Even when the legitimacy of Aboriginal claims was acknowledged, the federal administration could be just as unwilling as its state counterparts to grant Aboriginal wishes. An excellent case in point was the 1963 bark petition tendered to the House of Representatives in Canberra by the Yirrkala people of Arnhem Land. Using 'a political

protest of modern content but . . . traditional form',<sup>4</sup> the Yirrkala people protested against Canberra's unilateral decision to excise an economically, socially and religiously important section of the Arnhem Land Reserve to permit large-scale aluminium mining at Gove. A parliamentary inquiry refused to cancel the exploration and mining licence, although it did voice the view that the Yirrkala people deserved land and/or monetary compensation. The Yirrkala community were very disappointed with this result, and were even more dejected when their case was lost after it was heard in the Northern Territory Supreme Court in 1971 – eight years after the original petition.

For good or ill, and primarily for the latter as far as Black Australians were concerned, set-backs and delays in decision and policy-making were the norm in Aboriginal affairs throughout most of the 1960s. The Northern Territory pastoral wage case of 1965 was a good example of how time-lags could disadvantage Aborigines. In what became the equal wage test-case for the industry, in 1965 the North Australian Workers' Union applied to the Commonwealth Conciliation and Arbitration Commission for the removal of clauses discriminating against Black Australians in the Northern Territory's pastoral award. The proposal met with stiff opposition from owners' and managers' groups, which argued that for the good of the Aboriginal people, a sudden wage rise to parity with whites should be rejected in favour of a gradual, incremental rise – which would ostensibly give the blacks time to 'adjust'. Obviously, this proposal was far more in the owners' interests than in those of their employees. As Middleton has estimated, the pastoralists were able to save 'something in the region of six million dollars'<sup>5</sup> by ensuring that Aboriginal wages rose only gradually over a three-year period. In addition, the power of the managerial lobby was such that it also persuaded the Commission to include a 'slow worker' clause in its decision, which would empower the owners to pay Aboriginal employees less than the standard wage if their efficiency was not deemed up to par – a subjective clause which was open to abuse.

Thus, the early 1960s were a time of flux in Aboriginal affairs. Regionally, territorially, and state-by-state, most of the glaring infringements upon Aboriginal personal liberties were removed as the decade progressed. Yet this was an uneven process which varied significantly according to state. For example, in 1961, only in Victoria were Black Australians permitted to drink alcohol and only there and in New South Wales were they free of restrictions on their

movement, ownership of property and association with whites. The two most conservative and repressive states then as now, Queensland and Western Australia, still controlled Aboriginal marriages just over twenty-five years ago. Yet in that same year of 1961, the Senate Select Committee on Aboriginal Voting Rights endorsed in principle the proposal that all Aborigines should be given the federal franchise. In short, the door which had for so long been locked shut was now ajar, but it would take the concerted action of Aboriginal people themselves to open it further.

One of the most dramatic door-opening activities of the 1960s in terms of novelty, media interest, and the revelation of injustice was the Freedom Ride campaign of 1965, in which Charles Perkins played such a prominent role. Perkins's autobiography, *A Bastard Like Me*, contains an evocative description of the Rides in which he details the personal and collective impact of the events:

The Freedom Ride was probably the greatest and most exciting event that I have ever been involved in with Aboriginal affairs. It was a new idea and a new way of promoting a rapid change in racial attitudes . . . It sowed the seed of concern in the public's thinking across Australia.<sup>6</sup>

In his book Perkins acknowledges that the inspiration for the campaign came from the United States; he also admits that almost all of the riders were sympathetic whites (primarily university students) and that 'not one Aborigine from New South Wales eventually went on the trip'.<sup>7</sup> Internationally inspired, a product of co-operation between whites and blacks committed to the same ideals, confrontationist but non-violent, the Freedom Rides were a consciousness-raising exercise which was very effective. Awakening media interest in Aboriginal affairs was, for the first time, marshalled in favour of the Black Australian cause, to the severe embarrassment of many white townspeople in rural New South Wales. All of these elements foreshadowed a pattern of protest which was to continue and expand in the 1970s and 1980s.

Perkins's description of the events is fascinating. Not only was this the first Aboriginal experiment of this type but it also produced a violent reaction amongst the ashamed white townsfolk, many of whom became abusive crowds. In his words, in Walgett, 'They were swearing viciously in an attempt to provoke the fight they all wanted'.<sup>8</sup> Second, primarily due to media coverage and state government interest, the riders were successful in breaking down racial barriers such as the rule which

banned Aboriginal children from the public swimming pool in Moree. Third, the events raised awareness of inequalities and injustices, not only amongst whites, but amongst blacks as well. As Perkins relates, some leading Aboriginal activists today, such as Michael Anderson and Lyle Munroe, were children who saw the potential for assertive, non-violent confrontation in aid of Aboriginal rights when the riders visited their towns. For the first time, fringe-dwelling and urbanised blacks witnessed successful opposition to the prejudiced dictates of the small-town whites.

The Freedom Riders fought overt bigotry and helped to awaken Aboriginal self-confidence. The walk-out of the Aboriginal people on Wave Hill station in the Northern Territory in 1966 was equally significant, for it asserted Black Australian rights and established the determination to battle for compensation for past injustices. Originally a response to the unfairness of the Arbitration Commission's pastoral wage decision in 1966, the Gurindji strike soon became far more than a battle for higher wages. With the move of the strikers to Wattie Creek (or Dagu Ragu) in March 1967 – an area of traditional and sacred importance to the tribe – the campaign changed into the first clear struggle for traditional land rights in Australia. The genesis of the Gurindji campaign is fully and engagingly documented in Frank Hardy's *The Unlucky Australians*.<sup>9</sup> The story of these Aborigines' nine-year campaign of perseverance, dedication, determination and final victory is a remarkable one. It is significant that the concept of land rights was not one introduced into the minds of the Gurindji by so-called 'southern radicals', but was the logical and natural response of traditionally oriented blacks to their dispossession and exploitation by Europeans.

The overwhelming support for Aboriginal Australians indicated by the results of the federal referendum of 1967 suggests that a majority of Australians sympathised with the Gurindji's campaign. For in 1967, nearly 90% of Australians supported the move to include Aborigines in the national census and voted that the Commonwealth should possess 'a concurrent power in Aboriginal affairs'.<sup>10</sup> However, it is wrong to conclude that general sympathy for Aborigines and a willingness to rectify legal inequalities necessarily implied social or personal approval – or even an acceptance – of Black Australians. There appears little doubt now that many Black Australians (and white commentators as well) became overly hopeful in the wake of the 1967 Referendum, and mistakenly believed that once the overt legal barriers to Aboriginal advancement were removed, more covert personal obstacles would likewise melt away.

The referendum result is often held up as a barometer of cultural *rapprochement* between White and Black Australians. It certainly did signify a general willingness to set blacks upon an equal legal footing, but subsequent events have proven that true social and political equality is still a long way off for most Aborigines. Rowley perceptively de-emphasises the event:

The result of the referendum . . . probably indicates little more than a general view that something has been seriously wrong, that an issue of national importance has remained too long neglected, that it is up to the Commonwealth Government, with its control of taxation, to provide the solution.<sup>11</sup>

Any historical study of Aboriginal affairs reveals that there is frequently a vast gulf between policy and practice: the aftermath of the referendum was no exception to this rule. The very next year, the federal Liberal government asserted that it was unequivocally opposed to the principle of land rights.<sup>12</sup> Its lack of support for the principle disillusioned many Australians both white and black, as Lyndall Ryan put it in 1981:

We saw the referendum as a recognition by white society that Aborigines were a people who needed recognition by the whole of Australia. It would only be a matter of a few years before the Federal government would take over all involvement in Aboriginal affairs and get on with recognition of Aboriginal rights to land. Well, how green we were.<sup>13</sup>

In the post-1967 period the federal government appeared to be moving, not towards an acceptance of the concept (let alone the reality) of land rights, but in the opposite direction. At this time, the courts were also often examples of conservatism, whose judgements benefited the economic interests both of the Australian government and of multinational corporations, at the expense of Black Australians. For example, Mr Justice Blackburn's decision in the 1971 case of *Milirrpum and others v. Nabalco Pty. Ltd. and The Commonwealth of Australia* was that the 'doctrine of communal native title . . . does not form, and never has formed, part of the law of any part of Australia'.<sup>14</sup> Blackburn agreed that, when it was colonised, New South Wales (which included the Gove Peninsula) was 'a colony which consisted of a tract of territory practically unoccupied, without settled inhabitants or settled law' and was 'peacefully annexed to the British dominions'.<sup>15</sup> Aside from the contentiousness of the claim that Aborigines had no 'settled law', Blackburn's ruling that the colony was peacefully annexed represents one of the most glaring fictions in Australian legal history.<sup>16</sup>

The judge then proceeded to disallow contrary evidence, no matter how legitimate:

Whether or not the Australian Aborigines living in any part of New South Wales had in 1788 a system of law which was beyond the powers of the settlers at that time to perceive or comprehend, it is beyond the power of this Court to decide otherwise than that New South Wales came into the category of a settled or occupied colony.<sup>17</sup>

Blackburn therefore concluded that ‘the attribution of a colony to a particular class is a matter of law, which becomes settled and is not to be questioned upon a reconsideration of the historical facts’.<sup>18</sup> Ironically, in one sense this all-encompassing denial of legal redress for present and future Aboriginal claimants was the most useful aspect of the 1971 case, however disappointing it might have been for the Gove Aborigines. The decision made it abundantly clear that the only way land rights could be introduced in Australia was via legislation rather than through the courts. Consequently, no federal government could in future temporise by referring this issue to the judiciary for re-examination. It is therefore possible that Blackburn’s judgement actually hastened the drafting of what was eventually proclaimed as the *Aboriginal Land Rights (Northern Territory) Act* of 1976.

In the early 1970s, urban Aborigines began to perceive the necessity of having adequate legal representation in the courts in which such a disproportionately high number of their people had to appear every day. Consequently, in Sydney in 1970, a number of young black activists began to agitate for the establishment of an independent legal service which would advise and represent Aborigines. The volunteer operation grew rapidly and successfully. It is significant that, from the beginning, the Aboriginal Legal Service of Sydney – which has since been emulated in centres throughout Australia – was a grass-roots demand on the part of ostensibly radical Black Australians. In the words of MumShirl:

These young Blacks, Paul [Coe] and Gordon [Briscoe], Gary Williams, Gary Foley – these radicals and militants as they were being called – had started moving around trying to get some lawyers to take some cases of Aboriginal people . . . From the first day it opened its doors right up to the present, the ALS has done its best to get justice for Blacks in front of the law.<sup>19</sup>

Soon afterwards, Briscoe, his wife Norma, Sister Dulcie Flowers, Elsa Dixon, Professor Fred Hollows, MumShirl and others, helped to launch the Aboriginal Medical Service, which became established in Sydney in 1971. Again, the invaluable work – often unpaid – done

by this agency provided a model for similar services throughout the country. Since their inception, such organisations have made an indelible mark upon Aboriginal affairs, as they deal with basic issues of welfare which Aborigines encounter daily. Many argue that these services do more for the average Black Australian than some government-initiated advisory groups, such as the National Aboriginal Conference. It is important to reiterate the fact that, originally, the initiators and builders of these programmes were denounced by many Australians as 'hot-heads and radical chic ritualists':<sup>20</sup> clearly such radicalism had a very positive and tangible outcome.

Many of the same denunciations were voiced when, on 26 January 1972 (Australia Day) a group of young Black Australians erected a tent directly opposite Parliament House in Canberra, calling it the 'Aboriginal Embassy'. Accusations of Communist sympathy and charges that radical 'stirrers' were behind the project increased when, seven months later, the tent was pulled down by the police amid violence. If the Freedom Rides and the Gurindji walk-out were the two most significant events in Aboriginal affairs during the 1960s, the Tent Embassy was one of the most important symbolic gestures of black determination and defiance of the 1970s. Almost all commentators remark upon the simple eloquence of the demonstration; for example, Charles Rowley enthuses, 'the idea and location of the Embassy was a piece of political genius'.<sup>21</sup> Paul Coe calls it 'one of the most brilliant symbolic forms of protest that this country had ever seen'.<sup>22</sup> Noel Loos and Jane Thomson comment that 'The Aboriginal perspective was communicated very effectively through the media to White and Black Australians all over the country, bringing home to many of them for the first time the justice of the Aboriginal claim for land rights'.<sup>23</sup> Though the impact may have been felt by all Australians, Bobbi Sykes emphasises the fact that 'the Embassy was a *black* affair; it wasn't blacks being guided by whites', and that it was the first truly national Aboriginal political protest: 'the first *national* announcement that the pushing back was going to stop'.<sup>24</sup> It is ironic that a demonstration which was initially named in jest<sup>25</sup> could attract such media attention and academic praise for its brilliance, while the Yirrkala bark petition – originally suggested by distinguished whites visiting the area – fell upon relatively deaf ears.

The Embassy episode deserves more attention. While it is clear that the timing and the siting of the demonstration were both extremely clever, one must ask, 'Did the Embassy really represent a

pan-Aboriginal protest?'. In addition, 'Why was the tent permitted to remain for as long as it did if its presence was such an acute embarrassment to the government?'. In Coe's opinion, the federal government initially tried to ignore the Embassy, but the fact that international publicity increasingly became centred upon the protest eventually forced its hand.<sup>26</sup> This explanation is plausible as far as it goes, but it may not go far enough. The theory which Middleton advances is an intriguing one: that the McMahon government purposely left the demonstrators alone long enough for them to hang themselves on the noose of public opinion.

Clearly, most Australians, even if they were sympathetic to the Aboriginal cause, would have baulked at the excessiveness of the Aborigines' demands, which included claims for large areas of reserve and Crown land throughout the country, financial compensation totalling six billion dollars, and an annual percentage of the gross national income. Even Kevin Gilbert, one of the original organisers of the protest, has written, 'I regret that the land claim put out by the Embassy was not a little more realistic'.<sup>27</sup> It is arguable that the scale of their demands actually lessened the demonstrators' effectiveness and made them appear more like extravagant idealists than authoritative national Aboriginal spokespeople. Second, it is also possible that, the longer the Embassy remained, the more its impact wore off. One of the major strengths of the concept was its novelty but, once begun, it was difficult to end with dignity. Instead, by resisting the forces of law and order (which had been held in abeyance for so long) the demonstrators may well have harmed the image of the Embassy even further by opposing its removal as violently as they did.

Middleton makes a valid point here: 'Once the policy of discrediting the land rights campaign had been achieved – not on the Canberra lawns but on television screens and in peoples' minds – the Government sent the police to remove the Embassy'.<sup>28</sup> There appears to be little doubt that the media's revelation of the fact that the Embassy had been initially funded by the Communist Party of Australia demeaned the land rights campaign in the public eye, and encouraged a popular association of urban black radicals with Communist 'stirrers' even though, as Gilbert protests:

From its inception to its demise, the Aboriginal Embassy was a totally Aboriginal thing. Besides treating us with ordinary courtesy at its inception and providing the car and the funds to kick it off, the Communists had no influence over it nor did they exercise any control.<sup>29</sup>

The Embassy may have been a unifying and reinforcing experience for many Black Australians throughout the country but, as George Abdullah pointed out, it represented a symbolic protest rather than something which led directly to an improvement of black living conditions. In his opinion, it was not an expression of the national Aboriginal viewpoint: 'The tent embassy in Canberra didn't achieve a bloody thing . . . what was missing was the full support of the total Aboriginal population'.<sup>30</sup> It is therefore ironic that many white commentators, such as Rowley, Loos and Thomson over-emphasise its success in conveying Aboriginal demands to the white population. Not only were those demands fairly unrepresentative, but news coverage in fact probably alienated many Europeans. In short, the Embassy was a two-edged sword. While it focussed black attention upon Canberra and acted as a symbolic pan-Aboriginal protest (though it is difficult to gauge the level of support for the demonstration in remote areas such as the Northern Territory) it may also have dealt a blow to Aboriginal/white collaboration over the land rights issue. Similarly, the effect of the media was an ambivalent one: while international coverage undoubtedly did embarrass the Australian authorities to some extent, domestically, the media coverage of the Embassy could very well have polarised opinion against the Aboriginal cause. The Embassy probably acted as both a unifying and a divisive factor, simultaneously influencing different elements of the population.

The Labor Party's accession to power in 1972 had important consequences for government policies and programmes dealing with Aborigines. What was most immediately apparent about Labor's Aboriginal policy was its creation of new instrumentalities to serve Black Australians (e.g. the Department of Aboriginal Affairs, the Aboriginal Arts Board, and the National Aboriginal Consultative Committee) and the massive injection of funds which these new bodies received. The Whitlam era also marked a dramatic shift of government policy vis-à-vis land rights. When the Woodward Commission was established in February 1973, its mandate was to investigate and determine, not whether Northern Territory Aborigines should possess rights in land but, rather, how such rights should be implemented: 'the appropriate means to recognise and establish the traditional rights of the Aborigines in and in relation to land'.<sup>31</sup>

Woodward handed down two reports: the most important recommendation contained in the first was that two federally-funded

Aboriginal Land Councils should be created in the Northern Territory, to represent Black Australian land claims more clearly and effectively. Since their establishment, these and subsequent land councils have become centres for the airing of Aboriginal grievances and political demands, as well as for the organisation of various services: the councils have assumed far more importance than their creators ever envisaged. Woodward's second report of April 1974 was significant for a number of reasons. First, the inquiry, with its emphasis upon the Northern Territory and upon traditional and demonstrable links with land, was founded upon a concept of land rights which automatically disqualified many Aborigines who had moved from their original areas (even if under government direction) or had become fringe or urban-dwellers – a sizeable proportion of the Aboriginal population. In short, land rights was not a national concept but a Northern Territory experiment. Second, by ruling that Territory Aborigines could not block mining in their traditional areas if it was deemed to be in the 'national interest', Woodward further restricted the definition of land rights to one which – in the event of disagreement – yielded to White Australian political and economic interests. Third, by recommending that town lands should be exempt from claim under the legislation, Woodward opened the door to the arbitrary extension of town boundaries by civic leaders attempting to obstruct potential land claims – as has subsequently occurred.

In all, Woodward's recommendations lived up to the letter of Labor's 1972 pre-election promise to institute Aboriginal land rights if elected, but did not fulfil the understood spirit of that guarantee. For at the national Labor party convention in Hobart in 1971 it had been agreed that, as a matter of policy, Aboriginal land rights were taken to include ownership of sub-surface minerals and the consequent control over their extraction. It is significant that, at the party's 1973 conference in Surfers Paradise, this policy was altered to negate these mineral rights. Woodward's findings were in keeping with the relatively more liberal trend of the Labor administration, but reflected an awareness of economic pragmatism which the Labor government itself came to realise upon entering office. Once many Aborigines began to perceive the extent to which Labor promises would not be fulfilled and came to see that the concept of land rights was restricted in so many important ways, their initial optimism in the wake of the Labor victory gave way to frustration. In fact, from the moment that Woodward was appointed some had misgivings, as Gilbert writes:

The government had stressed, right from the start, that consultation with blacks was

central to its thinking. Yet the appointment of Justice Woodward was accomplished without any consultation whatsoever. Blacks felt that no white Australian, no matter how experienced, could recommend on land justice. Many felt that a black jurist or jurists from a neutral country should have been sought for the job and that Aborigines should serve on the Land Rights Commission as well. Clearly it was another case of blacks 'being done to'.<sup>32</sup>

By the time Woodward's second report had been tabled, this attitude had given way to outright indignation in many Aboriginal quarters. James Laughton's viewpoint seems typical of many Black Australians at that time:

The Labor Party has done a lot for the Aboriginal but they still haven't done what they promised . . . As far as land rights is concerned, things really stink. They allocate certain areas to our people and they say, 'That's your land.' But they keep the mineral rights. They go down there and find maybe uranium, bauxite, iron or what have you. Then they just come in and take it . . . They give the Aboriginal something with one hand and take it away with the other. We're only going to put up with that shit for so long.<sup>33</sup>

What is significant here is, above all, the sense of betrayal. Despite the admission that the Labor administration has aided Black Australians it is the unkept promises, the guarantees given in bad faith, which cause the feeling of Aboriginal resentment. In this sense, the Woodward episode was typical of the Aboriginal affairs of the era following 1961. As was so often the case, the arousal of hopes and expectations produced Aboriginal optimism and co-operation; their dashing resulted in Black Australian cynicism and the determination to achieve autonomy from white control.

As the mining issue had revealed, Aborigines often had less power than multinational corporations when it came to exerting pressure upon the Australian government. This fact was all the more important because, for good or ill, mining became one of the primary contact points between Aborigines and Europeans during the 1970s, especially in the Northern Territory. In Vachon and Toyne's words:

Today, overshadowing the influence of missions, pastoralists, and government agencies, mineral exploration and extraction have emerged as the major contact point between Aboriginal and European societies in remote Australia.<sup>34</sup>

In recognition of the sensitivity and importance of this nexus, in July 1975 the Whitlam government established the Ranger Uranium Environmental Enquiry (popularly known as the Fox Commission) to investigate the proposed uranium mine at Jabiru in the Northern Territory. The Fox Commission was given the task of assessing the

potential social and environmental impact of the enormous uranium extraction complex contemplated for Jabiru, including the creation of a mining town virtually *ex nihilo*. Despite the fact that the proposed open-pit mines were in close proximity to Aboriginal sacred sites, and in spite of the documented social and psychological problems which mining had previously brought to Aborigines in other areas of the Territory – let alone the ecological dangers inherent in the open-pit technique – in 1977 the Fox Commission released its findings in favour of the proposed development.

In August of that year, the Fraser Liberal government announced that uranium mining would commence at Jabiru immediately. It also revealed that all mines would proceed simultaneously, thereby ignoring the Commission's recommendation that there should be gradual, sequential development of the region in order to minimise Aboriginal social dislocation. As Broome has noted, it is very telling that, in the entire 415-page report, only one Aboriginal opinion was quoted – and it was an anti-mining viewpoint.<sup>35</sup> Certain privileges were given to local blacks in an attempt to soften their opposition, but the fact remained that once the economic realities had become obvious, the Oenpelli Aborigines did not have ultimate control over the land to which they had supposedly been granted rights by the government. To quote Broome again:

No doubt the attraction of the estimated profits ranging from \$574 to \$3591 million which would 'provide high rates of return on capital invested' was too powerful to allow 1000 Aborigines to stand in the way of development!<sup>36</sup>

At the time the Ranger decision was announced, land rights legislation – the *Aboriginal Land Rights (Northern Territory) Act* of 1976 – was in force in the Territory. Even with this legislative support, the Oenpelli Aborigines were unable to veto mining in their traditional area. Part of the reason was that the 1976 Act was an amended version of Land Rights legislation first introduced by the Whitlam government prior to its fall in 1975 which had, in turn, been essentially based upon the recommendations of the second Woodward Report.

Some commentators have expressed surprise at the fact that land rights legislation of any sort was passed by a conservative Liberal party administration. Broome, for one, takes heart from the situation and observes:

Certainly it was remarkable that a conservative government, partly representing land-holders and mining companies, went as far as it did in this Act. This was evidence

of the growing community pressure for Aboriginal justice.<sup>37</sup>

This may be valid as a partial explanation of the events, but it does not fully explain them. In Ryan's view the 1976 legislation was brought down primarily because of the momentum of legislative change established by the previous Labor government.<sup>38</sup> Moreover, she imputes a rather sinister motive to the Liberal administration, in view of the fact that the Territory was granted self-government soon afterwards, in 1978. Her theory is that, by casting off its jurisdiction, Canberra could shed its responsibility for both the administration and the amendment of the Territory's land rights legislation. In Ryan's words:

There is no doubt that one of the reasons why the Federal government was so anxious to give self-government to the Northern Territory was to give that government ultimate responsibility for the Aborigines in the Northern Territory and to allow it to amend the federal land rights legislation and so make it much harder for Aborigines there to get access to land.<sup>39</sup>

Although it is probably impossible to prove Ryan's claim, there is no doubt that the Territory administration subsequently made significant amendments to its own land rights and sacred sites legislation. In addition, it mounted an intense public relations campaign to persuade Australians that its recommended changes to the federal land rights legislation were in the best interests of all Territorians. For example, in August 1982, full-page advertisements were placed in all the major Australian newspapers under the auspices of the Northern Territory Chief Minister, exhorting readers to send away for an information package which would detail the allegedly urgent need for such changes. In a very professional and polished fashion the package – complete with misleading statistics and maps – argued that a time limit should be placed on Aboriginal land claims; that stock routes, reserves, and public purpose lands should be immune from claim; and that blocking 'future applications for claims being made by the Land Council for land in which the estates and interests are held by or on *behalf of* Aborigines was necessary'.<sup>40</sup>

Clearly, the issue of land rights is a complex and contentious one, not only in the Northern Territory but throughout the entire nation. The matter is complicated by the lack of legislative uniformity on the issue among the various states and territories. In South Australia<sup>41</sup> and the Northern Territory, relevant legislation has been passed and, as has been observed, in the latter case has been subjected to

considerable pressure to limit the scope of its operations. Other states, such as New South Wales and Victoria, are at differing stages of legislative preparation and enactment. Although a land rights act was passed by the New South Wales parliament in 1983, controversy has dogged Aboriginal attempts to claim under its provisions. In fact, the Liberal administration which seized power in March 1988 raised the possibility of repealing and completely re-drafting the legislation. In Victoria the situation is also in disarray, so much so that in December 1986 the state government asked Canberra to assume responsibility for the finalisation of its land rights measures.<sup>42</sup> Western Australia, which has a reputation for relative conservatism in the field, instituted a land rights enquiry in 1983-84. Despite the recommendations of its author, Paul Seaman, the upper house of the Western Australian parliament rejected the *Western Australian Aboriginal Land Bill (1985)* on the grounds that Black Australians should not be given even a partial right to veto mining exploration.<sup>43</sup> Finally, the most intransigent states in the field, Queensland and Tasmania, have dismissed the concept of land rights outright. In fact, in the past the Queensland parliament has prevented the Aboriginal Land Fund (predecessor of the Aboriginal Development Commission) from purchasing properties for Aboriginal communities, let alone contemplating the grant of any territory to Black Australians.

Throughout all of this debate, what has been the role of the federal government, constitutionally empowered with the right to override state legislation in respect of Aborigines? In the view of many Black Australians, in the latter half of the 1970s and during the early years of the 1980s, the federal Liberal government largely failed them. For example, it exerted tremendous pressure upon the Northern Land Council to ratify the Ranger uranium mining agreement in 1978. According to Collins, at the final ratification meeting:

Alex Bishaw, the European manager of the Land Council, stood over the Land Council . . . and he said to them: 'I have been told by a person in Canberra who actually sits in the Cabinet room when Cabinet's making its decisions, that if you don't sign this agreement the government will not arbitrate, they will not negotiate any further, they will legislate to put the Land Council out of existence'.<sup>44</sup>

On other occasions, the Liberal administration maintained a non-interventionist stance, to the detriment of Aboriginal Australians. The classic example of this hands-off attitude was the Aurukun and Mornington Island case of 1978. The federal Liberal government refused pleas to intervene when the Queensland state government offered

the Aboriginal residents, not leasehold or freehold tenure, but only 'self-management' of their state-owned lands. Despite the fact that they are traditional owners who can demonstrate spiritual links with their territory, the people of Aurukun and Mornington Island do not possess the same 'inalienable freehold title as that given to all the reserve people in the Northern Territory'.<sup>45</sup>

The landslide victory of the Hawke Labor government in 1983 rekindled many Aboriginal hopes for uniform federal land rights legislation. However, in spite of the proclamation of the *Aboriginal and Torres Strait Islander Heritage (Interim Protection) Act* in 1984, many Black Australians feel that the government has not been moving rapidly enough to impose its overriding mandate in Aboriginal affairs on recalcitrant states. These fears were reinforced when, in February 1985, the federal Labor government reversed its published land rights policy upholding the right of Aboriginal people to withhold consent to exploration and mining on land returned to them via legislation. The so-called 'preferred model' put forward by Canberra met with such staunch opposition from Black Australian groups that, in November 1986, the government abandoned its proposed national land rights legislation. Even after the return of the Hawke government for a third term in July 1987, the Commonwealth has not been able to go further than to issue an official statement 'acknowledging that Aborigines and Torres Strait Islanders were the original owners of Australia'. But, as Germaine Greer has pointed out, this in itself was not an acceptance of responsibility because 'the federal government used a form of words implying the dispossession was done not by Australians, but the British'.<sup>46</sup>

Throughout the 1970s and 1980s, Aboriginal Australians have organised as never before to consolidate their gains and to combat those injustices which still remain. Mention has been made of the urban response, in the form of legal and medical services, Aboriginal hostels, and other self-help organisations. Black Australians also worked to an increasing extent within the federal system and came to be represented in the most senior ranks of the bureaucracy: in the Department of Aboriginal Affairs – of which Charles Perkins was appointed Secretary in 1984 – the National Aboriginal Conference (NAC), and the Aboriginal Development Commission (ADC), established in 1980. Throughout Western Australia, the Northern Territory, and Queensland, the land councils and their representatives grew in importance as political

spokespersons to an even greater extent than organisations created by white administrators, such as the NAC.

More militant blacks have spurned those who have allegedly sold out to the European system by entering such organisations. In fact, following a review, the NAC was disbanded in 1987 and various replacement bodies have been mooted, including an elected national Aboriginal parliamentary assembly.<sup>47</sup>

In spite of the difficulty of gaining a balanced historical perspective upon such recent socio-political happenings, certain major aspects of the Black Australian response to the events of the past twenty-seven years can be isolated. The first relates to protest. Since the days of the Freedom Rides, Aborigines have voiced their dissent clearly, articulately, and often stridently. They have made increasing use of the mass media to express their grievances (and, likewise, the media have made frequent – if sometimes biased – use of Black Australians). By international standards, the protests have been singularly non-violent and – as in the case of the Brisbane demonstrations of 1982 and the huge Sydney rally on Australia Day, 1988 – have therefore cultivated sympathetic overseas publicity and support. This leads to the second major aspect of the Black Australian response: its ever-increasing international format.

News of the Gurindji walk-out, of the Tent Embassy, and of the 1980 confrontation which pitted the Aborigines of Noonkanbah, Western Australia against the Amax Petroleum Corporation (and the Western Australian government) went around the airwaves of the world. In addition, Black Australians have made more immediate contact with international bodies than via the media; for example, over the past twenty-seven years a number of petitions have been sent by Aboriginal groups to the United Nations. In September 1980, in the wake of the Noonkanbah dispute, a delegation from the NAC travelled to Geneva for meetings with the United Nations Sub-Commission on the Rights of Minorities. The cultural contacts of artists, dancers, musicians and – of special significance in this context – writers, augmented and complemented these political envoys to many nations throughout the world. The result is that international bodies have been taking a far greater interest in the plight of the Aborigines than ever before. The siting in Canberra of the WCIP's Third General Assembly, and the visit of the World Council of Churches' investigative team, both of which took place in 1981, are just two of the most obvious examples of these international bridges of support and concern.

The third significant aspect of contemporary Black Australian protest relates to a pan-Aboriginal identity. It is no coincidence that all Black Australian demonstrations now incorporate the red, black, and yellow Aboriginal flag, the symbolism of which is derived from the land rights campaign: a campaign begun by the traditional Aborigines of the Northern Territory in the 1960s and now close to the hearts and minds of almost all Black Australians. There is probably no corresponding issue in White Australian society which unites the vast majority of its citizens so fervently. Aboriginal protest predated the land rights campaign as such, but that campaign is now the linch-pin of protest. It is a crusade which is bringing Aborigines of all backgrounds and situations closer together; there is an increasing pan-Aboriginal consensus born of the belief that these are rights owed to every Black Australian. Importantly, this accelerating expression of demands on a national scale now incorporates a marked ideological dimension: of respect for traditional culture, pride in Aboriginality, and awareness of the existence of a symbolic Aboriginal nation. It is in their articulation of this distinctive ideology that Aboriginal writers are making a most noteworthy contribution, both to their own people and to Australian society as a whole.

Of course, not all Aborigines – or even all Black Australian authors – are involved to the same extent in this movement. For the illiterate, poverty-stricken fringe-dweller, slogans may be far less meaningful than the certainty of basic food and shelter, but this does not negate the fact that such Black Australians would benefit greatly from the granting of land rights nationwide. Naturally, too, there are rifts in the Aboriginal movement as there are in most social groups, but these are primarily disagreements over ways and means rather than fundamental differences over ends. To require Black Australians to be unanimous in their views would be to impose an arbitrary and unrealistic expectation upon them which white society would be equally incapable of fulfilling.

Judgements made by European observers often import their own cultural preconceptions. For example, there is often the tendency for a reader dealing with Aboriginal literature to succumb to the eurocentric temptation of evaluating the works solely according to Western literary standards – another form of unreasonable expectation. It is illuminating to compare Black Australian writings with those of certain White Australian authors, but this provides only a partial understanding of

the Aboriginal works. In my view, that understanding is really gained from an analysis of Aboriginal literature in its own right; from seeing it as a discrete body of Fourth World literature in which striking themes and concerns emerge. The power and impressiveness of Aboriginal writing stems from the authors' intimate knowledge of their subjects, their strong belief in what they are accomplishing through literature, and their socio-political involvement and awareness. Above all, this strength and distinctiveness derives from their exploration of what it is to be an Aboriginal Australian.

All of the writers to be discussed in the remainder of this study have written and published their work since 1961. It has been a time of rapid social change for Aborigines and of advances in many areas. As Coombs has noted:

Who ten years ago would have believed that all the major churches in Australia would have appeared almost unanimously as the supporters of Aboriginal land and other rights? Who would have thought that all the major newspapers in Australia would in the last three months have expressed support for land rights and for a movement towards a freely negotiated treaty? These changes represent significant achievements.<sup>48</sup>

However true this may be, the same decade was one of abused confidences and unfulfilled promises in Aboriginal affairs. The most glaring of these centred on the issue of land rights, whether in Aurukun in Queensland, Amadeus in the Northern Territory, or Noonkanbah in Western Australia. Hence, it is not surprising that there is both confidence and pessimism in Aboriginal literature, both optimism and cynicism, as a reflection of this era of progress and frustrated expectations. Underpinning all of these views, there is an awareness that, as the next chapter will illustrate, the Aboriginal present can never be divorced from the Aboriginal past.

## Notes

- 1 C.D. Rowley, *Outcasts in White Australia*, (Canberra, 1971), p. 263.
- 2 Richard Broome, *Aboriginal Australians: Black Response to White Dominance*, (Sydney, 1982), p. 176.
- 3 Ronald Taft et al., *Attitudes and Social Conditions*, (Canberra, 1970), p. 31.
- 4 Hannah Middleton, *But Now We Want the Land Back*, (Sydney, 1977), p. 123.
- 5 Middleton, *But Now We Want the Land Back*, p. 113.
- 6 Charles Perkins, *A Bastard Like Me*, (Sydney, 1975), p. 74.
- 7 *ibid.*, p. 76.
- 8 *ibid.*, p. 80.
- 9 Frank Hardy, *The Unlucky Australians*, (Sydney, 1968).
- 10 C.D. Rowley, *Outcasts in White Australia*, (Canberra, 1971), p. 406.
- 11 Rowley, *Outcasts*, p. 384.
- 12 Middleton, *But Now We Want the Land Back*, p. 117.
- 13 Lyndall Ryan, 'Federal Policies in the Seventies', in Erik Olbrei, ed., *Black Australians: The Prospects for Change*, (Townsville, 1982), p. 35.
- 14 *Mihrrpum v. Nabalco Pty. Ltd.*, *Federal Law Reports*, (Supreme Court of N.T., 1971), p. 252.
- 15 *ibid.*, p. 243. (Here, Blackburn was quoting the Judicial Committee's ruling, on appeal from the Supreme Court of New South Wales, in the case of *Cooper v. Stuart*, 1889, p. 286).
- 16 For example, see such examinations of the historical tenacity of Aboriginal resistance as Fergus Robinson and Barry York, eds, *The Black Resistance*, (Sydney, 1975), and Henry Reynolds, *The Other Side of the Frontier*, (Ringwood, 1982). Nevertheless, it must be admitted that, in eighteenth century terms, the annexation was both legal and normal. For a discussion of this issue, see Alan Frost, 'New South Wales as *Terra Nullius*: The British Denial of Aboriginal Land Rights', *Historical Studies*, vol. 19, no. 77, October 1981, pp. 513-523.
- 17 *Milirrpum v. Nabalco*, p. 244.

- 124 *Black Words White Page*
- 18 *ibid.*, pp. 202-203.
- 19 Bobbi Sykes, *MumShirl: An Autobiography*, (Richmond Vic., 1981), p. 74.
- 20 Ann Turner, ed., *Black Power in Australia: Bobbi Sykes versus Senator Neville T. Bonner*, (South Yarra, Vic., 1975), p. 60.
- 21 Rowley, *A Matter of Justice*, (Canberra, 1978), p. 2.
- 22 Quoted in Kevin Gilbert, *'Because A White Man'll Never Do It'*, (Sydney, 1973), p. 29.
- 23 Noel Loos and Jane Thomson, 'Black Resistance Past and Present: An Overview', in Olbrei, ed., *Black Australians: The Prospects for Change*, p. 28.
- 24 Quoted in Gilbert, *'Because'*, p. 29.
- 25 See Paul Coe's comments, quoted in *ibid.*, p. 29.
- 26 Gilbert, *'Because'*, p. 30.
- 27 Gilbert, *ibid.*, p. 28.
- 28 Middleton, *But Now We Want*, p. 160.
- 29 Gilbert, *'Because'*, p. 28.
- 30 Quoted in Kevin Gilbert, *Living Black: Blacks Talk to Kevin Gilbert*, (Ringwood, Vic., 1978), p. 207.
- 31 Broome, *Aboriginal Australians*, p. 185.
- 32 Gilbert, *'Because'*, p. 67.
- 33 Quoted in Gilbert, *Living Black*, p. 218.
- 34 Daniel Vachon and Phillip Toyne, 'Mining and the Challenge of Land Rights', in Peterson and Langton, eds, *Aborigines, Land, and Land Rights*, (Canberra, 1983), p. 307.
- 35 Broome, *Aboriginal Australians*, p. 188.
- 36 Broome, *ibid.*, p. 188.
- 37 Broome, *ibid.*, p. 190.
- 38 Lyndall Ryan, 'Federal Policies in the Seventies', in Olbrei, ed., *Black Australians: The Prospects for Change*, p. 36.
- 39 *ibid.*, p. 37.

- 40 The Northern Territory government's pamphlet, *Draft Proposals on Aboriginals and Land in the Northern Territory*, (Darwin, 1982). The emphasis is mine.
- 41 The *Pitjantjatjara Land Rights Act*, no. 20 of 1981.
- 42 Stan Pelczynski, 'Land Rights Supplement', *Action for Aboriginal Rights Newsletter*, no. 22, 1987, pp. 2-5.
- 43 'Land Rights – The Story So Far', *Land Rights News*, September 1985, p. 9.
- 44 Bob Collins, 'Land Rights in the Northern Territory', in Olbrei, ed., *Black Australians: The Prospects for Change*, p. 46.
- 45 Harris, *It's Coming Yet . . .*, p. 51.
- 46 Germaine Greer, 'Time to Party, or Protest', *The Independent*, 4 January, 1988, p. 15.
- 47 Anne Jamieson, 'The Push for an Aboriginal Parliament', *The Weekend Australian*, 6-7 February, 1988, p. 24.
- 48 Dr H.C. Coombs, 'Commentary', in Olbrei, ed., *Black Australians: The Prospects for Change*, p. 38.

