

**Australian Reconciliation Foundation**

**aka ' The Bennelong Group'**

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Late in 1996 with the Wik decision imminent former Chief Minister of the Northern Territory, Hon Ian Tuxworth was invited by the Central Land Council [CLC] to write a paper celebrating 20 years of Aboriginal Land Rights covering the highs and lows of the past and some thoughts on possible ways forward for the years ahead.

Ian rang me Christmas week and discussed the proposal. I had recently completed a 3 year term as Executive Director of the Cattlemen's Union of Australia [CU] and had been responsible for the groundwork that resulted in the Cape York Heads of Agreement. I urged him to undertake the task as it would allow him to put forward a range of thoughts that he had been mulling over for decades and needed to be publicized in order to address the quite erroneous view of Ian that the media had generated in relation to Aboriginal rights. Ian agreed to write the paper if I edited it. Thus, Christmas and New Year was a frenzy of fax transmissions between his home in Perth and mine in Yungaburra, North Queensland. The final document was forwarded to David Ross at CLC and a few weeks later Ian received a call from Peter Yu, then Chair of the Kimberley Land Council [KLC]. He had read the paper and asked if he really believed in what he had written. Having been assured of his goodwill Peter announced that he and Patrick Dodson wished to meet him in Perth to progress the issues and ideas that he had put forward. Ian agreed provided I was also involved in the discussions.

In many ways 1997, the year of reconciliation, was a perfect time to pursue a united journey for our First Nations and we later arrivals, which I believed was sullied by Prime Minister John Howard's determination to introduce a 10-point plan that addressed the mining industry's panic following the Wik decision.

Following two preliminary face to face meetings between Dodson, Yu, Ian and myself agreement was reached that an influential group was needed that would bring together the parties that were furthest apart from each other in the raging debates currently circulating following Wik and the 10 Point Plan. Dodson and Yu suggested we meet with Ron Castan QC who was highly respected by the Indigenous leadership across the country, and if acceptable to all parties, he might provide legal support for the negotiations. Ian had met Ron some years before on a mining matter that affected Traditional Owners and was impressed then of his legal skills and his inherent decency. The four of us met with Ron in Melbourne and quickly agreed he would have the support of all parties.

And so it began.

Ron brought together key indigenous leaders from across the country whilst Ian and I brought together key leaders from the National Party and pastoral representatives. The resultant Bennelong Group totalled 13 core members which included Patrick Dodson, former National Party President and well respected cattle producer Don MacDonald, Peter Yu, Mick Dodson, Noel Pearson, Olga Havnen, Mick Dodson, CLC chair David Ross, Tracker Tilmouth, Bob Katter, Ian and me. Castan secured former diplomat and at that time CEO of the Australian Stock Exchange Michael Costello [ no relation to Peter and Tim] and Michael and I undertook the role as facilitators for each side to

assist in finding common ground during a series of meetings held in Melbourne and Canberra over the following two years.

Pat Dodson and Don MacDonald had not met previously and having spent one day together they had bonded so well that it was unanimous they be our co-chairs.

Using Ian's paper as a starting point we looked at establishing some common ground and from there developed several principles which included recognition, security and certainty enshrined in a framework draft Heads of Agreement. This document included;

1. Recognition of prior settlement and ownership by Aboriginal people.
2. Recognition of valid Crown titles, such as freehold and leasehold
3. Existing Aboriginal land including Aboriginal Reserves be recognised and placed under appropriate title as soon as practicable.
4. Acknowledgement of Aboriginal interests in National Parks, and development of principles for appropriate Aboriginal involvement in their management and development
5. Recognition that whilst Native Title has no effect where a valid freehold or exclusive leasehold title exists, it has full effect over unalienated Crown land.
6. That common law has recognised native title can co-exist with a pastoral lease, but only to the extent that it did not interfere with the rights granted to the leaseholder, and
7. An agreement to separate economic rights on pastoral leases from cultural rights either held or claimed by Aboriginal people.

We also agreed that for loss of rights both past and present, an annual payment be developed with an agreed formula which would provide a long-term capital base for Aboriginal people that allowed greater participation in the economic development of the broader economy, and underpinned the sustainability of their culture.

The meetings held over two years developed several other major principles, all unanimously agreed, as was the undertaking given by all participants. By late 1999 we had a comprehensive document containing extensive common ground hammered out by some key people with national reputations that was ready we thought to present to a wider audience as the basis for formal discussion with all levels of government, political movements, industries and business interests with the aim to enshrine the final principles into a National Treaty, which would then be presented for acceptance to the Australian people, by referendum in the centenary year of federation.

Whilst the group remained consciously under the radar for the entire period there were clandestine meetings held with Labor opposition members including Hon. Simon Crean and Hon. Darryl Melham and Liberal /Nationals, Sen. Ron Boswell and Hon. Phillip Ruddick. Crean and Melham applauded our efforts and whilst Bob Katter was locked in with us both Boswell and Ruddick stuck to the Howard dictum that his 10-point plan was the only way forward.

Whilst disappointed with Howards position it was not unexpected, and we determined to push ahead exploring some marketing ideas including a media campaign, with Don Macdonald and Pat Dodson putting the agreed principles to such media luminaries as Alan Jones and John Laws. We believed the Left side of politics was morally and emotionally in tune with our aspirations whilst the conservative side was willing to thrash an agreement that had hard content, not just leftist moralizing.



If conservatives and Aboriginal people could agree on the principles necessary to achieve real reconciliation, and if presented well to influential people like Jones and Laws, it had a better than even chance to carry the nation at a referendum.

Additionally, we mooted the idea that should the republican referendum succeed Ian and I proposed that Patrick Dodson would ideally be the final Governor General segueing to our first President!

And then Ron Castan was tragically taken from us in October 1999, passing away due to a post-operative infection following minor surgery. We were devastated. He provided wisdom, direction and genuine friendship, and when our individual funds ran low he was always willing to open his wallet for a process he believed so much in.

Dejected and saddened by the loss of this great Australian the Bennelong process stalled and the introduction of the 10-Point Plan then spelt the doom to our shared dream. The friendships forged in those two years however remain as strong today, for there is a bond that develops when men and women bring honesty and goodwill to the table and share a dream to reconcile past differences and understand that our futures are inescapably intertwined and we are, at a fundamental level one people.

I think Noel Pearson summed up the Bennelong Group and its process well in 2004 with his speech to the Australian Lawyers and Social Change Conference at ANU in Canberra.

"Who would have thought that you could get leading figures from the far right of Australian politics endorsing a set of principles which included the establishment of a long-term capital base for indigenous people and their support for a domestic treaty to be put to a referendum? The Bennelong Process allowed both sides, for a brief time, to explore common ground with clear eyes."

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