

Four Native Title Poems and a Colonial Document

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A poetic discourse belongs to an oral tradition, as poems are designed to be spoken. That's why poems are shorter than novels. Poems have to be able to be memorised. Poems by their nature do not take to footnoting, which for its own reasons distracts and displaces the powerful flow of images piled up on top of each other. The legal discourse by comparison demands footnoting so that the propositions presented within it can be placed within the map of precedent and provide a sense of certainty and predicability. That is what the law likes. But poetry, even when it is grappling with substantive legal issues, is allowed to push at the boundaries of thought and to be eccentric and idiosyncratic. It possesses its own different and equally valid map of reality.

Back in Toowoomba

Murgon on a Sunday afternoon,
All the streets named after white men;
And somewhere out there beyond the miles of hissing grass,
The clever black-paper crows croak "Cherbourg".
It was Barambah then, when Unk was a boy.

The neat highway weaves between me and Cherbourg,
The road that passes through tidy docile towns,
Hiding the blood of their guilt behind their neat facades:
Nimbin facades without the paint.

Cherbourg. The good policemen, one white one black.
Tom in his land-rights coloured house, smiling.
Old Unk lying back in his old arm-chair,
Laughing with his joy of life that always survived,
In the house on stilts with its back to the denuded hills,
Talking about native title and what it means to them.

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And I thought, to workshop these concepts that look so hard,
Glossy, white and cold as dead skulls,
To dress them up in the flesh of meaning;
Well, there's a good job for an out-of-work poet,
Because "native title means doing what you used to do on your
land."

Toowoomba, May 1996.

Poem about Company Law

I've had this poem in my head for days,
But have been too busy and straight down the line
To let it be born.
It's about the wild rose red cheeks of the baby in Cullen St.,
The bright wise eyes of the king parrots
Looking at me through the screen of leaves,
As they quietly comment to each other about the sunflower
seeds I left them,
It's about counting the wild birds on the road to Grafton Gaol;
The white drifting egrets, the wise old crows harvesting the
dead kangaroos
That mark the passing of the juggernaut trucks,
That hurtle between nowhere and nowhere as I go to see
someone somewhere.
Out there it is still and dead, the birds dwindle as you leave the
forest behind,
The grim mad walls hide the beating hearts and untamed
spirits
Of the wild ones who have survived the holocaust.
The holocaust, a burnt offering sacrificed whole,
A sacrifice to their gods of ugliness and greed,
Their company law that sacrifices the forests and the birds to
their mill of greed,
Insatiable in their pit of emptiness and despair.
They flog the forests to drive out and destroy the custodians of
the spirit,
They seek to destroy the shadowed mossy wilderness of spirit
That lives forever, beyond the dry white deadness of their law.

Nimbin, August 1997.

Death of the Bandicoot

Three bad things happened, and I thought maybe that's the lot:
A near but didn't quite happen head-on, on the Lismore-Casino
road;

Little brown Tasheya nearly, but not quite running under the
wheels

Of the handsome Koori escort man;

And when I got back from Grafton, my dear old dad, 84,
Puffing and panting into an oxygen mask, but smiling still,
In the delicious cool and nurturing of the Nimbin Hospital.
And in between the shocks and immanence of death in life,
A long-stemmed red rosebud from the asphyxiating walls,
The brick box walls of the Grafton Gaol.

There my lover sits.

I note the paler line that outlines his sensuous mouth,
The gloss of sweat beading his face,
His loving words and touch on this hot lovers' day in Gaol,
The sweet warm smell of his body and clothes,
St Valentine's Day in gaol.

The lowering hot grey sky looms over Grafton,
Over sweltering Grafton Gaol where they keep the people now,
The people who descended from the survivors of the noble
tribes,

The laughing, vigorous people,

Who loved the sacred rivers and the sea teeming with life.

The people so full of life, now locked in that hot brick box.

Long day in the Grafton visiting yard

The brown baby grabs at the diamond arc of water.

Little serious girls play together for hours with the hose,

It's hot, so hot, all the Aboriginal nation is in gaol.

Then goodbye, goodbye until next week:

And the grim gate-man, Cerberus the gate-dog of Hell,

Enjoys his final little petty meanness;

And I say to him, "Thank you for your usual kindness".

Then back through the mango scented air, the long hot drive
home,

Racing beneath the overwhelming mass of green grey cloud,

Past the streaks and blotches of red, yellow and black,

The cloud banners that flag the coming of the velvet night,

And finally following my headlights home

Along the warm damp blackness of the Nimbin Road.
And then the fourth bad thing happened,
The little bandicoot, struck by the car in front;
Dancing and squirming in its agony, blinded by my lights.
I found a spot to turn, but too late,
The next car gave it its fatal blow.
I jumped out, picked up the poor twitching thing,
Its slack little warm bag of body, spirit gone;
Death of the bandicoot, species crash, this just can't go on.

Nimbin, January 1998.

Massacre Poem.

The wheels go round, my mind goes round,
As back and forth, back and forth to Grafton Gaol I go,
Scything through the invisible festoons and webs,
The spirit paths criss-crossing this road,
Designed to extinguish the sacred paths that run forever
From tribe to tribe across this ancient land.

Now here's Crown Lands Commissioner Fry, sadistic fop,
With his lacquered moustache, his high shiny boots, his
investments in Grafton,
Judge, jury, scourger, executioner, it was only 153 years ago on
the Clarence, 1845;
He strode this land, conferring with the Crown Lands
leaseholders at their homesteads,
Then from his Red Rock Headquarters issuing out,
Unleashed his convict ticket-of-leave Mounted Border Police,
His Native Police, murderous outcast slaves to the booze,
His death squad set to bloodily remove
The tribal people standing proudly in the way of white invasion,
Protected only by the spirit of earth, tree and water;
All for the slaughter: men, women, children, babies, all.
Here they lay, their silken skin laced with their crimson blood,
Massacred right here with stirrup irons, with cannon, with
guns, with strychnine,
By rounding up and massacring by death squad, by drowning,
By surrounding the campsites at dawn,
So that the women and children would not survive, could not
escape
The pathological attempt to smash the tribes.
The rivers ran red with blood.

No coronial inquests for these Bundjalung people,
No negotiated treaties about responsibility with their Elders,
No protection of their women, no acknowledgment of debt,
No equal and indiscriminate justice: just killing with impunity,
Following the orders of those who blatantly flouted
The word and the spirit of 2 Vict. No. 27, 21st May, 1839,
Which was the very next day ordered to be read to the Border
Police
By the Crown Lands Commissioners, as regulations, on a
monthly basis.
That was 22nd May, 1839.
Seems like yesterday to me.

So they murdered the people who loved the misty forest,
The custodians of every branch, leaf and stone.

Their ceremonies, their ritual songs, their chants, still echo off
this shadowed cliff,
Looming in memory from the dark water veiled in mist.
The water-hen speaks one syllable of the true name of things,
And the Tribe sleeps, peaceful on the river-bank.

Nimbin, April 1998.

Colonial Notice: 2 Vict., No. 27, 1839.

(The following notice was published at the time of its date)

Colonial Secretary's Office, Sydney, 21st May, 1839.

"His Excellency the Governor desires to draw the attention of all of the owners of stock throughout the colony, and of the public in general, to the extensive powers which by an Act passed in a recent extraordinary session of the Legislative Council (2 Vict., No. 27,) are now vested in the commissioners of lands acting beyond the boundaries of location, as well as to the fact that these commissioners are now magistrates of the territory; and as one of the principal objects which the Council had in view in passing the Act referred to, was to put a stop to the atrocities which have late been so extensively committed beyond the boundaries, both by the aborigines and on them, His

Excellency deems the present a proper occasion to notify the public, that he has received distinct instructions from Her Majesty's Government, to cause an inquest or inquiry to be instituted in every case wherein any of the aboriginal inhabitants may have come to a violent death in consequence of a collision with the white men; and that His Excellency is determined to make no distinction in such cases, whether the aggressors or parties injured be of one or the other race or colour, but to bring all, as far as may be in his power, to equal and indiscriminate justice.-As human beings partaking in our common nature-as the aboriginal possessors of the soil from which the wealth of the country has been principally derived-and as subjects of the Queen, whose authority extends over every part of New Holland-the natives of the colony have an equal right with the people of European origin to the protection and assistance of the law of England. To allow either party to injure or oppress the other, or to permit the stronger to regard the weaker party as aliens with whom a war can exist, and against whom they can exert belligerent rights, is not less inconsistent with the spirit of that law, than it is at variance with the dictates of justice and humanity. The duties of the commissioners of crown lands, in respect to the aborigines, will be to cultivate at all time an amicable intercourse with them, to assist them in obtaining redress for any wrong to which they may be exposed, and particularly to prevent any interference on the part of white men with their women. On the other hand, they will make known to them the penalties to which they become liable by any act of aggression on the persons or properties of the colonists. They will endeavour to induce the chiefs in their respective districts to make themselves responsible for the good conduct of their tribes, and they will use every method in their power to acquire such personal influence over them, as may either prevent aggression or ensure the immediate surrender of the parties who may be guilty of it.-His Excellency thinks it right further to inform the public, that each succeeding dispatch from the Secretary of State, marks in increasing degree the importance which Her Majesty's Government, and no less the Parliament and the people of Great Britain, attach to the just and humane treatment of the aborigines of this country, and to declare most earnestly and solemnly, his deep conviction that there is no subject or matter in which

the interest as well as the honour of the colonists are more essentially concerned."

Author's note: 4 Native Title Poems and a Colonial Document

This is a deconstructionist, post-modernist series of poems, looking "at the things that are behind things" in Dali's words (who could forget Gala and the egg). Greta Bird¹ told me I was there when post-modernism was born in Paris on the Boul Mich in 1968. What a pity I didn't notice. Doubtless Foucault was there too, mingling with the students, thinking about power structures, but I didn't meet him either, and neither did I collect a "*La Lutte Continue*" poster. I didn't even take a photograph of the medical students driving around in their *deux chevaux* tending to those bashed by the truncheons of the gendarmes, nor of the students barricaded in the Sorbonne, fighting for freedom, whatever that may be. Freedom being relative, it was not until 1956 that Uncle Frank Roberts got Aboriginal children into the schools of Lismore. When I started teaching in 1966, any headmaster of any school could, by official regulation, exclude any Aboriginal child if any white parent objected to their presence; and that was how it was, until the regulation was finally removed from the NSW Teacher's Handbook in the mid seventies.²

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² NSW Department of Education *Handbook: Instructions and Information for the Guidance of Teachers* Second Edition Revised Edition-1969. Regulation 5.1.3.4., *Enrolment of Aborigine Children*, states "It is the policy of the Department to encourage the assimilation of aborigine children as members of the Australian community by permitting their attendance at public schools. Nevertheless, if the principal of a school is of the opinion that there are circumstances in the home conditions of aborigine children, whose enrolment is sought, which justify refusal or deferment of enrolment or if he is aware that substantial opposition to such enrolment exists in the local community, he should inform the district inspector of schools and await the departmental decision on the matter": while Regulation 5.1.8.14, *National Aborigines Day*, states "National Aborigines Day is celebrated during the month of July This day has been set aside to remind the Australian Community of its responsibility to assist the descendants of the original inhabitants to become useful citizens. Both Federal and State Governments have adopted "assimilation" as their policy towards the aborigines, and look especially to educational bodies for assistance in the advancement of this aim."

Meantime back in Tabulam, Australia, 1968, my Widjabul friend was being fined \$10.00 by the gunjabul³ for trespassing on Tabulam Mission without a permit to visit his uncle. The *Aborigines Act* 1958 was passed in Victoria, similarly to other parts of Australia, that excluded all part-Aborigines under the age of 34 from reserves. In 1962, "No Aborigine can go to live on a reserve unless he has received an official permit from the Board. These permits can be cancelled and forfeited, and the police are empowered to remove aborigines whose permits have expired." Regulation 19 said that 'application to visit a Reserve shall be made to the Board in writing ... And Aboriginal visitors are supposed to take their own food "...The Aboriginal residents resent the restrictions on the visits of their friends ...The residents feel that they, and not the Board or the Manager, should be able to say who is welcome in their homes and on their reserve."⁴

In the 1960's, NSW Aborigines and part Aborigines were still closely controlled by various Acts by the Aborigines Welfare Board. In 1962, Section 10 of the *Aborigines Protection Act* 1909-1943 was still extant and it stated that "Non Aborigines are prohibited from permanent association with Aborigines. Offenders are liable to a fine ... and imprisonment for one month."⁵ Recently I was having lunch in Lismore with another Aboriginal friend and he said, "I remember not so long ago when us being friends would have been illegal." In 1920, their Granduncle was sent by the Lismore police to Palm Island, a gulag for Aboriginal people, for breaking some minor regulation. He wasn't allowed to come home to his family in Lismore for 32 years. He told them that the people on Palm Island were treated "like dogs, not like men."⁶ The things that are behind things. So much for post-modernist freedom on the Paris boulevards.

Further on in time and space, I stumbled on the *Colonial Notice 2 Vict. 27 1839*⁷ in the NSW Law Library. "What!" I said,

³ Constable, Bundjalung language.

⁴ Murray, W M, (ed), *The Struggle for Dignity, a Critical Analysis of the Australian Aborigine Today, the Laws Which Govern Him, and Their Effect.* Council for Aboriginal Rights (Vic.) March (1962) p 13.

⁵ id, p 55. Also see generally McCorquodale, J, *Aborigines and the Law: A Digest* Aboriginal Studies Press Canberra 1987.

⁶ Roberts, M J, Elder, Widjabul Tribe, Bundjalung Nation, personal communication, March 1998.

⁷ Callaghan's *NSW Acts and Ordinances 1824-1845* Vol 1, W J Rowe, Government Printer Sydney 1854.

thinking fiduciary duty, international human rights law, genocide, equity, administrative law, tort law, and native title, "Why isn't this a forensic document?" It doesn't have any footnotes either. I wrote to an Australian High Court Justice, with an inquiry about the status of the *Colonial Notice* of 21st May 1839. The Judge answered:

"We have looked closely at the Imperial and Vice-Regal despatches in connection with a number of cases in the Court. The British Governors and the bureaucrats at Whitehall were often more humane than the local settlers. I often wince when I hear the British blamed for our misfortunes."⁸

Be that as it may, the *Colonial Notice* referred to here, like poetry, has that resonance of a document that is designed to be read aloud, a necessity in 1839 when less people could be presumed to be literate. The *Notice* was ordered the next day, 22nd May 1839, to be read as regulations on a monthly basis to the Mounted Border Police by the Commissioner of Crown Lands.⁹ Well, we know how much notice the Commissioners of Crown Lands took of the express orders given within it. "The rivers ran red with blood."¹⁰

This is what happens when you are up against a paradigm that wants to obliterate everything that isn't itself.

After reading the *Colonial Notice*, and my Widjabul friend's research on the massacres of Aboriginal people round here, I wrote "Massacre Poem." I asked his permission to submit that poem for publication. He said "Why not, it's the truth."

⁸ Letter to the author from a High Court Judge, 17th February 1998.

⁹ *Historical Records of Australia*, February 1839-September 1840, Series 1, Vol 20, p 257. Mitchell Library, Sydney.

¹⁰ See generally: Medcalf, Rory, *Rivers of Blood: Massacres of the Northern Rivers Aborigines and their Resistance to White Occupation*. Northern Star Lismore 1989.