

consumption of the body, or parts of the body, of a man whom Elkin would describe as one of 'high degree,' appears to have been a way of conserving his greatness within the group."

*The Australian Aborigines*, by A.P. Elkin.

In times of conflict, when the attacking party does not want to fight with the home party, it will "send a number of its women over to the former. If these are willing to settle the matter in dispute without fighting, they have sexual intercourse with the women; if not they send them back untouched."

Elkins also gives an example where wife lending is permissible: "being a mark of friendship or hospitality and in being [sic] practiced between individuals. This is the lending of a wife to a visitor. In such cases kinship rules governing marriage apply." Elkin also describes, of a man's secondary wife, that when a certain ritual action "is received in the affirmative, some of the local group may have intercourse with her."

After describing the initiation of a child, he says, "This is followed by a feast which in Southern Queensland used to be cannibalistic in nature; the body of a person killed in the ceremonial combat was disposed of in this way. In this region cannibalism was a regular feature of burial ritual."

*Red over Black*, by Geoff McDonald.

"The facts are that the overwhelming majority of Aborigines do not want to keep their 'laws' at all, because they are horrible and are the cause of murder and death by bone pointing and create a constant obligation for spearing each other, if not for the purpose of causing death, then injury to various parts of the body for the most unimportant breaches of custom. . . . The investigator should talk to the young full-blood Aboriginal men and women in the Northern Territory about what they think about being dragged back to the old ways."

Account by T. G.H. Strehlow in *The Weekly News*, Sept. 27, 1978, reprinted in John Grover, *The Struggle for Power*. Strehlow, who died in the 1970s, was a well known, very pro-Aboriginal anthropologist, who was raised with the Aranda people, in whose language he was fluent.

"As far as many young black people were concerned, the prospect of escaping from the harsher provisions of tribal law proved virtually irresistible. In Central Australia, at any rate, Aboriginal society was destroyed largely because the young people deliberately deserted their own people.

"This point can be illustrated by what happened to the Pitjantjatjara communities of the Petermann Ranges, whose lands I found almost completely deserted on my two visits of 1936 and 1939, despite the fact that their homeland had *not* been invaded by white settlers nor ravaged by police parties. They had merely 'drifted out' into the areas of adjacent tribes, where white people had set up stations or settlements. . . . None of these drifters ever returned to their old homelands."

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## Interview: Peter Jull

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# Giving Australia the Canada treatment

*For over a decade, Peter Jull was the Adviser on the Constitution in the Prime Minister's Department in Ottawa, Canada. He was the research director of the Nunavut Constitutional Forum, which negotiated the establishment of "Nunavut," a new self-governing Aboriginal territory comprising one-fifth of Canada. All emphases are his own.*

**Q:** I had come across one of your papers on the comparison of the Nunavut region in Canada and some sort of Aboriginal autonomy. First of all, as an overview, you had emphasized the question of autonomy as the Inuits have achieved it. How close would you say the Aborigines of Australia are to that kind of position?

**Jull:** In Torres Strait, it is interesting, it seems that because they are islands and also because Melanesians have less negative racial stereotypes in Australia than Aborigines, both the government and the opposition in Canberra in recent years have been prepared to recognize a sort of special status, if you will, and be more prepared to move toward regional autonomy and self-government than for other parts of the country.

For instance, last year, 1994 on July 1, a new regional administration was inaugurated. I went up to the opening. So there are things happening there.

Now elsewhere in the country, it is very interesting. What has happened [with] the Canadian model, Nunavut being the paramount one but there are a number of other regional land claim settlements around northern Canada, these have been picked up now in Australia. Partly I wrote some information booklets on it, but also Australian academics are getting involved. So a team of Australian academics based in Sydney have written some articles and led some workshops and have a monograph forthcoming and I am doing another one with them shortly. And what happened is that they have brought into the language this term "regional agreement." And so now these are suddenly being sought around outback Australia, in northern parts of Western Australia, throughout the Northern Territory and in North Queensland.

And it is interesting because, whereas the Canadians did their regional agreements piecemeal and not always with a clear big picture, the Australians have just picked up all the Canadian experience, immediately conceptualized it and are using it as a kind of model, and seem to understand its value

and scope better than many of the Canadians themselves. It is really interesting.

I was asked yesterday to go and do a workshop with the main groups in Central Australia in March, so these things are very much alive and what's happened in Australia the last couple years has been so dramatic, that one can only say that now that these regional agreements are becoming a thing here, things could move *very quickly*.

**Q:** Now these regional agreement discussions in Australia, where are they happening and what has precisely happened so far?

**Jull:** At this point they are conceptual only. In the northern part, the people who are really leading the charge are the Kimberley Land Council which is an Aboriginal body in the far north of Western Australia which takes in quite a large area. They are really leading the charge, but also in the Northern Territory then, you have got two land councils, the Northern Land Council for the northern half and the Central for the southern half. They are both very interested, and are actively pursuing the idea.

Then in far north Queensland, the Cape York Land Council, and Torres Strait of course does its own thing. I do a lot of work with them. So those areas are very active. There are some other ones. Oh, yes, the Pitjantjatjara who are the northwest corner of South Australia, is a huge Aboriginal reserve, the Pitjantjatjara land; they are interested. They are looking at a variety of things. They are looking at land ownership, taking over service delivery, governing their own lands. They are looking at direct funding from Canberra, bypassing the states.

There is a trial, one group of the Cape York people, the Wik, have a case going on and they have brought *all kinds of documentation* that's just fascinating. British documents. The British in the early 19th century did have a fairly progressive attitude. And of course that is why Canada ended up with the federal government having Indian affairs powers. The imperial government had held that power because it didn't trust the colonials who were trying to develop land, so they gave the power to the central government, figuring that would be at least some safeguard against the land hunger of the provinces. It is an interesting principle, but it was ignored here. . . .

It is funny, the Aboriginal groups here and the Torres Strait Islanders have kind of discovered me and in a sense taken my background and refocused me, as it were, because I have been doing all this stuff implicitly for years, but now I am really thinking very much in terms of regional agreements, which is an Australian term. The Canadians don't use it at all. Regional agreements is the Australian conceptualization of Canadian land claims experience, basically.

**Q:** How would you evaluate the work of Dr. H. C. Coombs?

**Jull:** Well, Nugget is virtually 90 years old. I have just done a review for a Canadian journal on his latest book. I will send you that. Nugget, I am trying to think of an American equivalent. There are some. There aren't any Canadian equivalents. Nugget is sort of the Benjamin Franklin of this country or something (laughs). He was a country school teacher who worked hard and did a correspondence course and eventually won scholarships to LSE [London School of Economics], got a Ph.D., worked with Keynes. Keynes is one of the few people in the world that he really worships.

He came back, he was economic adviser at the Reserve Bank here and he became the head of it. And he was also economics adviser to seven successive prime ministers. He was in charge of wartime controls, because of course the state took over the entire Australian wartime economy because it wasn't like Canada and the U.S., it was really serious. The Japanese were bombing Australia. Then he headed up and set up this huge wartime reconstruction, and, boy, was it reconstruction. It was kind of a whole social economy for Australia vision.

So Nugget got all that going. It was Nugget's idea to create the Australian National University and he virtually wrote the legislation. It was his idea to create the North Australia Research Unit. He spends a great deal of his time, and I mean months every year, hanging round in outback Aboriginal communities where he has got all kinds of friends and they think he's great and he thinks they are great. He is a remarkable man. He helped get the whole Mabo thing going.

**Q:** How did he do that?

**Jull:** Well, he and a couple of other people were at a conference and Eddie Mabo was upset and they said, "Hey, why don't we bring a court case?" And he has also encouraged a common law case in the Kimberley. I don't know exactly where it stands at the moment. It may have been overtaken by the (Native Title) Tribunal. . . .

The Mabo case *shattered* not only the legal thinking and the policy premise of Australian governments, but it was, "*terra nullius*" (empty land) had become a moral certainty. It became the moral blinker that they had to say that they didn't owe the Aborigines anything. So when that was suddenly stripped away in June 1992, suddenly the society was *stunned!*

And it was very interesting, because governments did not react quickly because they were so stunned. So they shut up. Which was very useful, because that meant that the media had to find people to talk, and so they found me because I was one of the few people they could lay their hands on who actually knew how these things worked elsewhere. So I did a lot of interviews and you know, very nice, said "Look, this isn't the end of the world. This is an opportunity to do things properly, blah, blah, blah." Nicey-nicey stuff.

And people like Henry Reynolds and various other people were doing the same. So, for about nine months, there was this, it was like Churchill's phony war. Nothing much happened except a few of us spreading the word, "This isn't the end of the world, guys. Life can go on."

And so, finally, when the government indicated that it was indeed going to bring down a policy and possible legislation, when that triggered the debate and that happened as soon as Keating was re-elected in March 1993, when that happened, suddenly the public realized, and the mining companies and states went "Oh, my God, the commonwealth is *serious* about this stuff."

That's when the angry stuff started, *but* in that nine-month hiatus there had been enough time to reflect, and, of course, the High Court had enough prestige and there was enough positive or at least open thinking around that had come out in those nine months, that the country, instead of immediately going into a spasm of racist overstatement, which is what a lot of us feared, many key opinion people who would previously have simply dismissed Aboriginal stuff with a one-liner were prepared to say, "Gosh, this must be important, I mean the High Court thinks so, we better look into it some more."

**Q:** So you had quite an impact on that whole shaping of the public opinion?

**Jull:** Oh yes. I was very active in that.

I must admit, I do look at the First World experience. I don't say that it is universal. I don't know, maybe it is. I haven't wanted to look at the Third World, because I felt if we could consolidate a few things, in Nunavut, in Australia, and Alaska, and so on, if we can get some places that work, some models that work, where indigenous peoples have actually *done* it, then we have something to show the world, some standards we can set for other people with less fortunate situations.

*Have we ever seen it happen here!* When I came here a few years ago, this country was so dug in, the Aborigines and their enemies, you know, if somebody had come up with a solution, they would have shot them. They just would not have recognized it. People were so dug in and gradually, over a few years, hearing about other people, having Inuit leaders come and talk to them and so on, has *really* turned that around. "Hey, look, it *is* possible to do things. These other guys had these problems that we have now, and they worked through them."

What was amazing to me in Canada is, really and truly, when you look at how much was accomplished, it happened *very* quickly. We're not talking about multi generations. We are talking about ten years. That is really, in a society where this is not the most compelling issue, that is pretty remarkable.

**Q:** Dr. Coombs wrote this book *Aboriginal Autonomy*, and

he has done a lot of work on the treaty question. Does that imply sovereignty? I thought I saw some discussion of dual sovereignty and that sort of thing. What is he thinking?

**Jull:** I reviewed Nugget's book. . . . I am one of the people who feels that the word "sovereignty" should be avoided simply because it means to people, I mean it is not like the U.S. In the U.S., sovereignty is a good word. . . . In Canada, we decided—we meaning those of us involved with the Aboriginal movement—that sovereignty was a negative, that we had just better not talk about it.

And so we decided, okay, "self-government" is the term. Let's go for self-government. That is a more modest term. That's interesting, because over here some people see "self-government" as threatening. But they also see sovereignty as very threatening.

And so some of us have felt, "Let's avoid the term, let's not talk about it. It raises more questions than it answers, and just doesn't win us any support." However, Nugget—and I was a bit annoyed that he did it—wrote an article, in which one of our colleagues, who is keen on throwing sovereignty around and trying to expand the meaning, was talking it up. So Nugget wrote an apology for it, basically saying, "Oh, yes, we have to look at that," and trying to rationalize it. I just felt that was counterproductive. I really think it would be better to just keep quiet about it and not raise fears and anxieties. . . .

So the basic thing here, and I think it maybe goes back to your fundamental question, the thing that I found *the most interesting* single development or vignette I have seen here was that in June 1993 at the constitutional conference in Canberra at that conference there was a consensus; it really had two parts. One part was that Australia, the settlers of Australia have never consulted or come to an understanding with the Aborigines about the place of the Aborigines, rather the relationship of the Aborigines with this country, with the government and the settler institutions, and to do that now is urgent.

I was just *staggered!* I was just absolutely staggered that a roomful of people, I would say that out of all that roomful of people there were only one or two who really wouldn't have subscribed to any of that.

**Q:** On the overall indigenous question, how much impact, or connections or whatever, does this U.N. Centre for Human Rights, Indigenous Decade, the planned Indigenous Declaration of Human Rights, have in Australia? How much are Australian Aborigines involved in that?

**Jull:** The key body there, now, is Mick Dodson, the Aboriginal Social Justice Commissioner. Dodson's group, they focus on international law, and international rights and translating them into Australia and translating them into Australian standards. They are the *key* group in this country on that. It is a very special role. Essentially the rights stuff is starting to be known.