WHO OWNS THE PAST ? - ABORIGINES AS CAPTIVES OF THE ARCHIVES

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The first part of the title of my paper is an obvious reference to the Australian Academy of Humanities Symposium, of that title which took place here in Canberra almost exactly five years ago. Papers given at that symposium were subsequently published under the editorship of Dr. Isabel McBryde in 1985.¹ In reading through those papers I was struck by their generally philosophical approach to issues of ownership regarding what was considered to be "the past." I was disappointed that a more realistic analysis of what constitutes ownership and how it is effected in relation to the past of indigenous peoples was not given, although Professor John Mulvaney in his paper, "A Question of Values: Museum and Cultural Property", in quoting American historian, Professor W.T. Hagan, did sum up the situation pretty well. The second part of the title of my paper refers directly to the reality for Aboriginal people, a reality we share with the American Indians, of being "captives of the archives."

In this paper I will be using the term 'archives' somewhat liberally to refer to all kinds of collections of information and documents concerning Aborigines, their cultures and affairs, maintained in non-Aboriginal hands.

Dr McBryde, in her introduction to the book, *Who owns the past*, declared that

"The past is the possession of those in power; the past belong to the victor."²

G. K. Chesterton once remarked, concerning the possibility of German occupation of France at the outbreak of World War 1, that 'the culture of the conquered can be injured and extinguished simply because it can be explained by the conqueror' [thus creating a] German picture of France [in which] Germany would 'claim to interpret all the people to themselves'.³

In referring to definitions by Winnebago Indian, Reuben Snake, of what it is to be Indian, Professor Hagan suggested another:

To be an Indian is having non-Indians control the documents from which other non-Indians write their version of your history

He adds further to this reality by pointing out that

...the historical Indian may be the captive of the archives, but the key to those archives is in the hands of non-Indian historians.

He goes on:

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¹ McBryde, 1985.

² Ibid:6.

³ Quoted by Stanner 1979:299-300.

... for the Native American this is more than just some intellectual game. What is at stake for the Indian is his historical identity, and all that can mean for self-image and psychological well-being. At stake also is the very existence of tribes, and the validity of their claims to millions of acres of land and to the compensation for injustices suffered in earlier transactions with the federal and state governments.⁴

The parallels for Aboriginal people in Australia are so obvious as to require no further exploration here.

It is this reality and the way that ownership of the past is effected in Australia, thereby imposing a serious barrier to Aboriginal people in the making of our own history, that I want to address in this paper. I shall focus on three aspects which effectively ensure that ownership and control of Aboriginal historical resources are denied us - these concern

- (1) the distribution of Aboriginal historical resources
- (2) problems of access; and
- (3) issues of legal ownership.

The Distribution of Aboriginal Historical Resources

In their *Handbook for Aboriginal and Islander history*, Barwick, Mace and Stannage (1979) disclose an impressive array of sources of information and documents concerning Aborigines and Islanders. Most of these are in principle available to everyone, including Aborigines and Islanders who can locate them. There are some notable exceptions, for example, police records and some government documents - information, needless to say, which would detail much about the strategies of officials charged with the administration of Aboriginal and Islander affairs.

However, virtually all of these records encompassed in the *Handbook* exist in centralised locations, primarily the capital cities, and frequently across state borders, thousands of kilometres away from the communities to whom they have relevance. Furthermore Aboriginal communities themselves have no library facilities in which the records and documents can be held and used.

According to the *Review of the Australian Institute of Aboriginal Studies*,

Studies of the Aborigines have been stimulated to the extent that the Aboriginal people have probably become, next to the American Indians, the most extensively studied ethnic group in the world.⁵

Yet copies of this research and resultant publications are rarely ever given to the relevant Aboriginal people or communities, although in recent years there has been more accountability by researchers to Aboriginal people.

Our old people are our most valuable sources of our history and culture. It is absolutely essential that we have our own historical resources located in our own communities for ready access to assist our elders in their recollections of our history. Schools in Aboriginal communities are in desperate need of essential reference material so Aboriginal children can learn about their own history and cultural traditions.

This lack of our collections of books, documents, and records constitutes a severe impediment in our quest to make and pass on our own history.

⁴ Hagan 1978:135, 138.

⁵ Walsh 1982:16.

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Problems of Access

This basic lack of equity in the distribution of Aboriginal historical and cultural resources creates immense problems of access. For the economically impoverished Aboriginal community access to these resources imposes a considerable financial burden: the expense of travel and the need to purchase copies of important items, eg. photographs, birth, marriage and death certificates, and books and articles concerning particular communities, make the quest for our history beyond the financial reach of the huge majority of Aboriginal people.

Important and original collections of my cultural resources, resources of the Kunggandji and Yidinji people of the rainforest region around Cairns, are located in Adelaide, Melbourne, Canberra, Sydney and Brisbane. Unless one can obtain a research grant it is simply beyond our means to be able to do our own historical research.

Much of Aboriginal people's own sense of powerlessness stems from ignorance because of this lack of access to information about matters which control our lives. An informed Aboriginal population will have a much greater feeling of power over its own destiny.

Aboriginal people also remain widely ignorant of the existence of records and documents which concern them because the holding institutions have never informed them. I have come across essential resources simply by chance. I lived in Adelaide for two years ignorant of the fact the S.A. Museum had collections of our cultural property gathered by Tindale and McConnell in the 1930s. It was only after I had been told by a former museum employee living in another city that those collections existed that I was able to see my clan designs for the first time in my life. Perchance my visit coincided with that of Tindale and I was naturally eager to find out what else he knew. To my utter amazement he brought out a volume of the genealogical studies he made at Yarrabah in October 1938 and there, before my eyes was my family history extending back to the 1860's. In addition there were photographs of my great-grand-mother and other relatives. My mum and dad were recorded as children. Tindale's genealogies, collected over a period of years relate probably to most of the Aboriginal population of Australia. For many Aboriginal people today his genealogies are the essential key to their tribal identity, to ancestral lands, and to finding relatives. Yet their existence has only just become known in the last couple of years - much because of my own efforts. Many people who have seen their family histories and photographs in Tindale's volumes have cried with joy, but there is also bitter resentment about the fact that we were never told about their existence. And this surely raises not a few ethical and legal questions about the custody and control of personal information regarding still living individuals.

Likewise, while on a visit to the Australian Institute of Aboriginal Studies, the name "Fourmile" rang a bell with one of the staff member. She located tapes recorded in 1959 of my grandfather speaking language. Some of my people have been trying to encourage and revive our language for about the last 10 years yet the existence of valuable resources like these remained unknown to them. One might well ask: is it deliberate government policy to limit funds to institutions like the state museums and the Institute so that they are generally unable to compile comprehensive registers and send catalogues or inventories of their collections of our property to us, and thus maintaining our ignorance for political purposes? As we all know, an ignorant population is very susceptible to political manipulation.

Even when Aboriginal people visit institutions holding their cultural and historical resources the problems don't dissolve. Aboriginal people feel ill-at-ease and self-conscious when entering white institutions which emanate an entirely alien cultural presence. So much depends upon the person at the counter. As Professor Hagan relates:

I suspect that many archivists do not fully appreciate their power to facilitate the researchers, Indian or non-Indian. After working in this field for over a quarter century, I am still dependent to a disturbing degree upon the good will of archivists and librarians. The materials are so varied and vast that the researcher who thinks he knows exactly what is available on his subject is deluding himself.⁶

If this is what Professor Hagan himself feels, what must Indians feel, or Aborigines, especially when sometimes they only have some vague notion of what they're looking for?

Also many institutions contain documents and records which might be quite embarrassing to the institutions themselves because of their past histories in dealing with Aboriginal people. Under such circumstances it is quite conceivable that counter clerks have been instructed to feign ignorance about archival collections.

And finally, on the issue of access, there is a language barrier for many of us with regards to what is written about us. The institutional language of government, law, economics, anthropology and so on, the jargon, is simply incomprehensible to many of us to whom English is a second or even third language.

The nett effect of the lack of our own cultural and historical resources and the difficulties of access to those that exist elsewhere is to foster our dependence on non-Aboriginal specialists in law, history, anthropology, education and in Aboriginal affairs generally. They effectively become our brokers in transactions between Aboriginal communities and the various institutions and the public at large which have an interest in our affairs, and thereby usurp our role as history-tellers. This in turn causes much resentment. As Professor Tatz pointed out:

I am hyper-aware that what knowledge we have, all that is heard, seen and read is white interpretation of Aboriginal being. For Aborigines the ultimate indignity is the sovereignty of those who control the gathering and dissemination of the written and spoken word concerning their situation.⁷

While the situation is changing with the emergence of Aboriginal scholars, historians, and story-tellers like Kevin Gilbert, Bill Rosser, Marcia Langton, Colin Johnson, Roberta Sykes, Maureen Watson - just to name a few who quickly spring to mind - in the context of Aboriginal sovereignty it is completely untenable that one "nation" (ie European Australia) should have a monopoly and control of such a substantial body of information concerning another, the Aboriginal "nation".

Issues of Legal Ownership

The final point I wish to make concerns ownership in the legal sense. The information collected about us is simply not owned by us. With regards to public collections of documents these are Crown property in right of either the Commonwealth or the respective states with ownership vested in various public institutions like libraries and museums. With regards to private collections and research these are protected by laws regarding ownership of both real and intellectual property. Information we give to researchers becomes their intellectual property protected under the *Copyright Act*. I have been in the position of having to ask permission to use records regarding my own family history.

A survey of legislation conducted by Adrian Marrie (1987) under which various collections of our cultural property and records and documents concerning us are administered is most revealing. For example, in State and Commonwealth museum

⁶ Hagan 1978:141-2.

⁷ Tatz 1979:86.

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legislation around Australia, and the Australian Institute of Aboriginal Studies is included here, there is no provision or requirements for Aboriginal input into the management of our cultural resources. There is no requirement for Aborigines to be members of the governing boards or councils, no provision for some form of Aboriginal management or advisory committee, and only in the *National Museum of Australia Act 1980* is there requirement for the employment of Aboriginal and Islander people. Thus we have been legislated out of any effective say over the management of our cultural resources in the museums and the Institute.

That there are Aboriginal members of controlling boards and councils, and some Aboriginal advisory committees is beside the point because without requirements in legislation and the effective definition of powers and responsibilities their existence is merely token. No provision or requirement in legislation means no power. It means for example, that the various museum boards are legally empowered to dispose of our cultural resources without any legal obligation to consult with us. Under s. 13 (3) of the *South Australian Museum Act 1976 - 1985*, the Board, with vested ownership of the world's finest museum collection of Aboriginal cultural property,

In the performance of any of its functions may, upon such terms and conditions as it thinks fit -

b) sell, lend, exchange or dispose of any objects of scientific or historical interest; or

c) lend or otherwise make available to any institution, body or person carrying out scientific or historical research any object of scientific or historical interest from the State collection.

Still with the S.A. Museum, it was pointed out in the *Museum Policy and Development in S.A.: Final Report* that the documentation was "one of the most distinctive strengths of the collections in the Division of Man,"⁸ - now the Division of Anthropology. Elsewhere the *Report* states that:

The call for information on Aboriginal culture in schools, colleges, and universities and by private researchers has never been greater. In addition, museums provide a resource of information for government departments and authorities concerning extremely important issues involving Aboriginal people today in the field of land rights, health, housing, education, social welfare and cultural development. This will be an ever-expanding role for the Museum in the future.⁹

And all virtually obtainable free of Aboriginal controls, discretion largely remaining with the curators whose powers as public servants in the face of officialdom are extremely limited. In a political climate becoming increasingly inimical to Aboriginal interests, who uses this information and to what ends is of grave concern. The situation is compounded because the Museum contains much information of personal concern to thousands of Aboriginal people throughout Australia, the existence of which is unknown to them.

Likewise Aboriginal heritage legislation around Australia is seriously defective. This legislation does not recognise Aboriginal legal ownership of Aboriginal cultural resources and does not put into effect the principles of self-determination - supposedly official government policy in most states. Instead such legislation is highly protectionist with wide discretionary powers governing all aspects of Aboriginal heritage vesting with a government minister. Aboriginal heritage committees, where they do exist, are advisory

⁸ Edwards 1981:31.

⁹ Ibid:66.

committees adding a further insult. Such advisory committees merely emphasise the fact that ownership and ultimate authority over our heritage rests in non-Aboriginal hands. A partial exception is the new S.A. *Aboriginal Heritage Act, 1988*, which gives unprecedented power to traditional owners: under certain circumstances the Minister must delegate his powers to the traditional owners. But even this legislation is divisive, leaving the heritage concerns of perhaps five-sixths of S.A.'s Aboriginal population, who might be construed by the powers that be as non-traditional, in the discretionary hands of the Minister with no recourse to independent arbitration.

Aboriginal heritage legislation is inferior to that enacted to provide for the management and protection of the various aspects of non-Aboriginal cultural heritage. It falls far short of what is possible, within the current constitutional and legislative framework, to provide for the best protection of our heritage and for its ownership and management by statutory involvement of Aboriginal people themselves.

Another area of pressing concern, and not raised in the symposium despite its obvious candidature, is the issue of the protection of Aboriginal folk-lore. Professor Alice Tay, however, did make a passing comment that:

Legal systems have not tackled such thorny question as whether owners of manuscripts or carriers of secret traditions - whether Masons or Aborigines - should have the power to veto the study and publication of these traditions or of relics associated with them, except on the basis of traditional legal principles such as breach of confidence.¹⁰

It seems that a golden opportunity to examine "such thorny questions" was passed by. The Working Party on the Protection of Aboriginal Folklore was formed in 1975 in response to the abuse felt by Aboriginal people over the commercial exploitation of their sacred designs. The high quality of the *Report of the Working Party* belied its shabby presentation as a document. It was released in January 1983, virtually without publicity, a year after its completion. It seemed that the Government preferred not to know about it. However, it was regarded by Peter Banki, Executive Officer of the Australian Copyright Council, as "perhaps that most significant event in intellectual property law in years."¹¹

As Banki points out:

The Report contains innovative recommendations - far beyond the boundaries of copyright ... not only as a suggested means of protecting an important cultural heritage, in addition to offering users improved certainty in the law, but as an attempt to employ fresh ideas in intellectual and industrial property law.¹²

In 1988 we are still awaiting an Aboriginal Folklore Act to provide us with adequate protection of an integral part of our cultural heritage.

At the core of the problem concerning the documentation and recording of our culture and history is the fact that much of it is a shared enterprise undertaken between members of two quite different cultural backgrounds. The documentation itself is a record of the interactions which make up our history. Simple justice would acknowledge the rights of both parties not only to share the physical records of that history but also to share responsibility for their custody and management so that the rights of one party are not prejudiced in order to

¹⁰ Tay 1985:107.

¹¹ Banki 1983:3.

¹² Ibid:1.

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benefit the other. Anglo-Aboriginal history is evidence that simple justice has not occurred and that Aboriginal people have suffered as a consequence.

What is all too evident from the situation I've just outlined is the total lack of any cultural policy formulated between Aborigines and governments which gives Aboriginal people ownership and control over important historical and cultural resources which might be housed in Aboriginal cultural facilities comparable to those available to non-Aboriginal Australians. It is a fact to be thoroughly deplored that in Australia today in no capital city, except Adelaide, is there a major Aboriginal cultural centre owned and controlled by Aboriginal people to complement the many facilities which exist for the celebration of non-Aboriginal culture.

This lack of cultural policy has disastrous consequences for Aboriginal people. What we experience is the effective withholding of our cultural and historical resources from us. We see this as part of a deliberate strategy of assimilation, the real agenda behind the official policy rhetoric of self-determination. If the revitalisation and resurgence of Aboriginal culture is to fully take place, and so that we can contribute our culture to the world heritage on our own terms, then we must once again be able to own, control and enjoy our cultural and historical resources housed within our own community facilities.

Around Australia the establishment of community cultural centres and keeping places is gathering apace. Library facilities within such centres are essential as are facilities for the display of the documents of our history. It is important for Aboriginal people and visitors to see the various pieces of legislation and regulations instituted for our protection; the exemption certificates; the police records; Aborigines Protection and Welfare Board Reports; the "Stud Books"; parliamentary debates recorded in *Hansard*; the photographs, cartoons and so on, for everyone to understand what went on.

The liberation of Aboriginal people can only take place with the help of the educated understanding of the non-Aboriginal community which must confront fundamental truths about its own character. Anglo-Australians must realise that they have no mortgage on civilized behaviour, that at the height of the British Empire and their belief in their innate superiority they too were capable of some of the grossest acts of inhumanity perpetrated by one people on another in the history of mankind. That, for them, will be one of their great lessons of history.

In concluding, I wish again to return to Professor Hagan's words:

... the historical Indian may be the captive of the archives, but the key to those archives is in the hands of non-Indian historians.

The symbolism of the key is paramount representing as it does in European culture, freedom, maturity, authority, responsibility, ownership and control, or to those who don't have the keys, the converse.

To Aboriginal people, the key to our historical and cultural resources and therefore to our cultural and historical identities is firmly clasped in a white hand. Therefore

To be an Aborigine is having non-Aborigines control the documents from which other non-Aborigines write their version of our history.

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