

White Police and Black Power: The Origins of the NSW Aboriginal Legal Service

“Liberties are not given, they are taken” – Aldous Huxley

“The origins of the NSW Aboriginal Legal Service lay in the response by Aboriginal people to police activities in and around Redfern at the close of the 1960s” – Paul Coe



Foreward

On the occasion of the 50 Anniversary of founding of the NSW Aboriginal Legal Service it is appropriate that we be reminded of the dramatic manner in which the service came into being. It also affords the opportunity to acknowledge the Aboriginal people who were the founding fathers and mothers of not only the first Aboriginal Legal Service in Australia, but also in doing so they had created the first free shop-front legal aid centre in the country. Many of those early Aboriginal activists are now deceased and deserve acknowledgement and recognition for their work.

This essay not only honours the original founders of the NSWALS, it also examines the context of the times that saw the service develop and emerge. That in itself is part of an important era of Australian history in which Aboriginal issues came to the forefront of Australian politics for the first time in a significant way. The newly formed NSWALS was to

be at the centre and forefront of the tumultuous events that led up to the 1972 *Aboriginal Embassy* protest in Canberra which in turn brought an end to the assimilationist era that had dominated government Aboriginal Affairs policies for the previous hundred years.

The early NSWALS was a revolutionary body in the sense that it was a completely new concept of Aboriginal organisation. Previously virtually all organisations and agencies that purported to exist for the "benefit" of Aboriginal peoples had been (and were still then) dominated and controlled by white administrators and white staff. The policies of such organisations were created by non-Aboriginal people and were invariably in accordance with governmental assimilationist policies and were primarily focussed on welfare and education issues. (It might be noted that education was a key component of the policy to indoctrinate Aboriginal children into accepting and absorbing the Anglo-Celtic values that the eugenicist-inspired Policy of Assimilation required). Aboriginal people had no say in their own destinies, either as individuals or groups. Therefore, the emergence of an Aboriginal organisation that had evolved from within the Aboriginal community and was now being successfully administered and controlled by Aboriginal people was quite a revolutionary idea back in

These new organisations were ones which would evolve out of community needs as determined by any given Aboriginal community. A concept in which any organisation developed to meet or alleviate those needs or problems would be overseen and controlled by community members and when the organisation was created it would be administered and controlled by an Aboriginal Board of Directors drawn from the specific given community.

In that way it was believed that the organisation would not only be Aboriginal controlled but also be directly accountable to the community by way of every community member being able to vote at an AGM. These new types of organisations were described by their founders as Aboriginal Community-Controlled Survival Programs in the sense that they were seen as merely stop-gap measures created to ensure the survival of the community until such times as the concept of genuine Land Rights was established.

Introduction

In 1973 on the occasion of Australia Day, Dr. Herbert Cole ("Nugget") Coombs, the Chairman of the Council for Aboriginal Affairs, Governor of the Reserve Bank and influential Government advisor to six Australian Prime Ministers, speaking at a University of Western Australia Summer School, declared that,

The emergence of what might be called an Aboriginal intelligentsia is taking place in Redfern and other urban centres. It is a politically active intelligentsia...I think they are the most interesting group to emerge from the political point of view in the whole of the Aboriginal community in Australia.

Coombs' belated realisation was already shared by many with an intimate knowledge of the indigenous community of the day, and what he was specifically referring to, but too timid to spell out. was a newly emerged collective of activists who would become known among other things as, the Australian Black Power Movement. It was this group of activists in Redfern, who were closely aligned with similar collectives in Brisbane and Melbourne that would develop a coherent ideology of which a central part was a concept they developed around community-controlled self-help organisations that were consistent with their notions of Self-Determination. It was from that scenario that the NSW Aboriginal Legal Service had its origins.

Black Power was a political movement that emerged among African-Americans in the United States in the mid-1960s. The concept sought to express a new racial consciousness, and Robert Williams, of the NAACP, was the first to put the actual term to effective use in the late 1950s. Malcolm X and Stokely Carmichael also had major roles in the formation of the ideas of Black Power. Malcolm X inspired a generation of black activists throughout America and beyond, whilst Carmichael 'made Black Power more popular, largely through his use of the term while reorganizing the Student Non-violent Coordinating Committee (SNCC) so that whites would no longer possess leadership responsibilities. The term was catapulted into the Australian imagination when the Victorian Aborigines Advancement League (AAL) under the leadership of Bruce McGuinness and Bob Maza who, galvanized by the same notions as Malcolm and Stokely, 1968 invited a Caribbean activist and academic, Dr. Roosevelt Brown, to give a talk on 'Black Power' in Melbourne. The initial result was frenzied media overreaction that was closely observed by younger activists in Brisbane and Sydney, thus the term came into use by a frustrated and impatient new indigenous political generation.

For the purpose of this article I define the 'Black Power movement' as the loose coalition of individual young indigenous activists who emerged in Redfern, Fitzroy and South Brisbane in the period immediately after Charles Perkins' 'Freedom Ride' in 1965. In this article I am particularly interested in the small group of individuals involved at the core of the Redfern 'Black Power movement', which existed under a variety of tags including the

'Black Caucus'. This group themselves defined the nature of the concept of Black Power that they espoused. Roberta (then Bobbi) Sykes said Australian Black Power had its own distinct (from US) interpretation. She said it was about *'the power generated by people who seek to identify their own problems and those of the community as a whole, and who strive to take action in all possible forms to solve those problems'*

In Redfern Paul Coe saw it as the need for Aboriginal people *'to take control both of the economical, the political and cultural resources of the people and of the land...so that they themselves have got the power to determine their own future.'* Bruce McGuinness, speaking in 1969 as Director of the Victorian Aborigines Advancement League (AAL) had declared that Black Power *'does not necessarily involve violence' but rather was 'in essence...that black people are more likely to achieve freedom and justice...by working together as a group'*. So, the Australian version of Black Power, like its American counterpart, was essentially about the necessity for Black people to define the world in their own terms, and to seek self-determination and independence, on their own terms and without white interference.

Maori academic Linda Tuhiwai Smith, in her book *Decolonising Methodologies* has asserted,

a critical aspect of the struggle for self-determination has involved questions relating to our history as indigenous peoples and a critique of how we, as the Other, have been represented or excluded from various accounts...indigenous groups have argued that history is important for understanding the present and that reclaiming history is a critical and essential aspect of decolonization

Further, the great American historian Howard Zinn postulated that a national history serves only to justify the existence of the nation, which means, mainly, that it lies, and if it ever tells the truth, it tells it too fast, racing past atrocity to dwell on glory. Hence moments of importance and significance to indigenous peoples are almost always drowned by the more powerful national narrative. Thus, an indigenous version of events from an indigenous perspective is important for a greater understanding of where we have been and what lessons, if any, such an understanding might tell us about where we are today.

Historical Background

One of the most important elements of a better understanding of history is context.

To better understand the influences and inspirations for the 1970s Australian Black Power Movement one needs to understand the context of their times., as well as being aware of the historical circumstances from whence most of them came.

Since the 1860s, as the Aboriginal peoples in regional areas of south eastern Australia experienced the spread of the white invasion and forcible occupation of their homelands, there can be said to have been significant resistance, both passive and active. Heather Goodall notes that in NSW from the beginning of black/white contact '

Land was seen by its Aboriginal owners as a central factor in their experience of colonialism. Their sense of invasion, of loss and deprivation of land was expressed clearly and unarguably'.

Land continued to be at the heart of Aboriginal concerns and protest over many decades, and many disputes were conducted at a very localised level. However by the 1920s a self-educated former Aboriginal drover, Fred Maynard, who had been an active in the Waterside Worker's Federation during the first World War and later a member of the Sydney chapter of Marcus Garvey's Universal Negro Improvement Association (UNIA), had set up the Australian Aboriginal Progress Association (AAPA). The AAPA, officially launched in February 1925, was not only the first Aboriginal political organisation of the modern era, but also said to be the first to create formal links between communities over a wide area.

An equally important aspect of the AAPA is the role it played in planting political seeds that flowered in future generations of indigenous political leaders in south eastern Australia. And through the AAPA's adoption and adaption of the ideas of Marcus Garvey it became the first time Aboriginal political activists in the modern era had engaged with international ideas of black consciousness and black nationalism.

The AAPA eventually grew to have eleven branches, mainly in northern NSW and more than 500 members. An indication of just how successful the AAPA was in its political organising and agitation was the fact that the NSW authorities (the police and the NSW Aboriginal Protection Board) made concerted and ultimately successful moves to have the organisation suppressed by 1927.

In the 1930's two new significant Aboriginal political organisations emerged. The first in early 1936 was the Australian Aborigines League (AAL), established by William Cooper, Doug Nichols, Bill and Eric Onus and others in Melbourne. Membership was open to all Aborigines and the aims of the group were '*to gain for Aboriginal people those civil and human rights denied since occupation*'. This was a significant attempt by Victorian Aboriginal political activists to try and assert control over their own destiny.

In NSW a year later Bill Ferguson and Jack Patten founded the Aborigines Progressive Association (APA) in Dubbo. Bill Ferguson was an ex-shearer who have been a trade unionist with the Australian Workers Union (AWU) and he would run the western NSW branch of APA. Jack Patten had been born on Cummergunja Reserve on the NSW/Victorian border and had during the 1930s honed his skills as an orator on the Sydney Domain alongside another great activist of that era, Pearl Gibbs. Patten would head up the north-eastern barch of APA and in 1938 would publish the first black political newspaper, *The Abo Call*. Jack Patten's son Cec was an important figure in the ALS during the 1970s and 80s thus providing a historic as well as familial link between the generations of activism.

In 1938 on the occasion of the Sesquicentenary of the first fleet the AAL and the APA joined forces to hold a protest meeting. William Cooper from the AAL declared that the 26th January was a "*Day of Mourning*" and the meeting which was held in Elizabeth Street was attended by such Aboriginal political luminaries as Pastor Doug Nicholls, Pearl Gibbs, Bill Onus, Marge Tucker, as well as Patten and Ferguson. This event was the first major Aboriginal protest of the 20th Century that received extensive reportage in both local and overseas media. The protest, inspired by Cooper, was described by Heather Goodall as a 'brilliantly symbolic plan...recognised as a turning point in capturing white attention'. Of those who attended that 1938 meeting, a few like Doug Nicholls, Pearl Gibbs and Marge Tucker were still alive to counsel and impart wisdom to the young emerging black power activists in the late 1960s.

These were difficult and tough times for Aboriginal political organisers because of the range of restrictive and discriminatory state laws that controlled the movement of indigenous people. Just how tough it could be was demonstrated by the protracted dispute at Cummeragunja which began in 1937 and in part prompted William Cooper's disillusionment and idea for a protest at the Sesqui-centenary celebrations the following year.

Aboriginal residents had at first sought William Cooper's assistance over grievances with the

Protection Board manager. When Cooper's moderate tactics of petitioning the NSW Protection Board failed, the community turned to former Cummeragunja resident Jack Patten who, on Friday 3rd February 1939, was arbitrarily arrested when he addressed the people on the reserve. Two thirds of the residents immediately packed up and crossed the Murray River into Victoria and thus withdrew their labour from the NSW Protection Board. This action has been described as, 'perhaps the first direct political action taken by Aboriginal people which lay outside the guideline offered by the established system'. The same author points out the vital importance the Cummeragunja strike in terms of its,

profound effect on the thinking of [the] Aboriginal people involved, despite its lack of short-term success. Former Cummeragunja residents who moved to Melbourne in the 1940s and 50s had learned a valuable lesson on the intransigence of the white bureaucracy and the possibility of direct and united Aboriginal action. These people and their sons and daughters became part of the core of activists who were to take a much more radical line in the Aboriginal movement for self-determination in the late 1960s.

But in the short term, the Cummeragunja Strike had taken the wind out of the sails of most of the southeastern Aboriginal organisations which had failed to win the battle of wills, despite concerted campaigns, and despite the 'Day of Mourning', William Cooper's more conservative approach seemed discredited. It is significant that the children of the Cummeragunja exiles were among those most attracted to the more direct action tactics of the Black Power movement in the late 1960s.

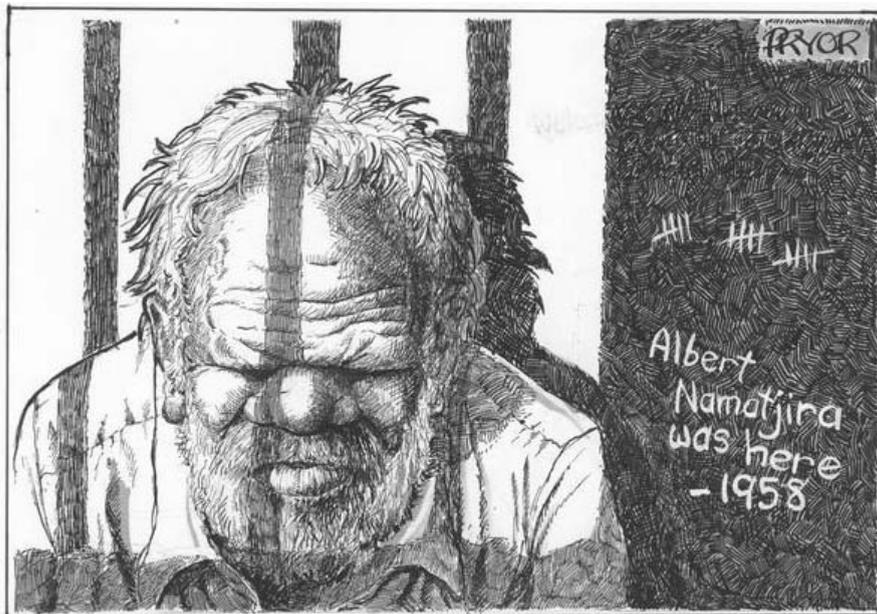
Goodall notes that 'political organization of all types was constrained in the conservative atmosphere of Menzies' post-war Australia'. Nevertheless, in February 1958 twenty-five people representing eight organisations, met in Adelaide and formed the first national Aboriginal organisation, The Federal Council for Aboriginal Advancement (FCAA). Of the twenty-five people who were at the meeting, only three (Bert Groves, Doug Nicholls and Jeff Barnes) were Aboriginal. As the organisation grew the dominance of non-indigenous people on its governing committee became entrenched, and even as it changed its name at its Easter conference in 1964, there were rumblings of Aboriginal discontent at lack of indigenous control. But in NSW the focus remained on local struggles usually over issues of land, segregation and discrimination until 1965.

Then, former soccer-player and student at University of Sydney, Charles Perkins, decided to emulate similar action to one deployed by the American civil rights movement as he sought to

expose the level of segregation and racism rampant in NSW at the time.

In February 1965 Perkins and Reverend Ted Noffs of the Wayside Chapel organised a "Freedom Ride" with 30 white Sydney University students from the group Student Action for Aborigines (SAFA).^[30] He took SAFA on a bus ride into some of NSW's most notoriously racist country towns. They were pelted with eggs and rotten fruit when they tried to desegregate the Moree swimming pool and such was the level of violent response they encountered that the hired bus driver left the tour halfway through out of fear. But the resultant publicity resounded around the world and exposed the vicious nature of Australian racism in an unprecedented way. As Adam Shoemaker described it,

Internationally inspired, a product of cooperation between whites and blacks committed to the same ideals, confrontationist but non-violent, the Freedom Ride was a consciousness-raising exercise that 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 that was to continue and expand in the 1970s and 1980s.



Redfern Black Caucus and the Aboriginal Legal Service

The Freedom Ride had the effect of inspiring a young generation of Koori political activists in southeast Australia to stand up for their rights. Paul Coe and his sister Isobel had grown up on Erambie Mission in Cowra, Gary Williams at Nambucca Heads and Gary Foley in both

Tenterfield and Nambucca Heads, Billy and Lyn Craigie at Moree, Keith Smith at Nowra, Bob and Sol Belleair at Tweed Heads and Michael Anderson in Walgett. Lyall Munro had been inspired by the Freedom Ride when it passed through his home town, and he later said the experience enabled him to see *'the power of direct action that day in Moree.'* All of these young people had then been part of the significant Aboriginal migration to the city that had occurred during the 60s. As Gale wrote in 1975,

...Aborigines continue to move out of their isolation into the mainstream of Australian city life...[they] are no longer willing to accept the lowest position in the socio-economic scale...This resurgence of Aboriginal identity has led to a change in the patterns of race relations in this country...

Whilst a few of the future young activists like Coe and Williams had matriculated at high school, the majority whilst having had a better education than their parents' generation who had been systematically and deliberately deprived of any meaningful educational opportunities, had nevertheless dropped out of school very early. Often this was because the education system itself was perceived by many Aboriginal youth as a part of the system that oppressed them. Paul Coe spoke of the *'isolation of the black kid going through the present education system'* in which they were *'forced to aspire towards lower middle class values' and 'conditioned to uphold and try to keep white material values.'*^[35] Furthermore, at that time school *'histories, encyclopedias and other popular works, informed by social evolutionary ideas, represented Aborigines as primitive and passive people.'* Thus, these young Aboriginal immigrants from the rural areas of NSW and beyond, in part saw themselves as people who rejected the eugenicist tenets of the 'Assimilation Policy' in the education system as it existed at that time.

Coe himself had come from Erambie mission in Cowra and a long tradition of family and tribal resistance, and as Peter Read pointed out in his book on the Wiradjuri people, A Hundred Years War,

Paul's father Les had been one of the fiercest opponents of managerial rule and his mother Agnes is the chairperson of the Wiradjuri Cultural Committee. Paul's grandfather was the third of the trio who had refused to sign its agreement to the Manager's entry regulations on Erambie Station in 1955.

In mid-1960s these young people, like most Koori arrivals from the bush at that time, they began to congregate around the Foundation for Aboriginal Affairs (FAA), a social/welfare centre established by community leaders like Charles Perkins, Ken Brindle, Chicka Dixon and

Jack Hassan and boxers Roy Carrol and Teddy Rainbow.

The FAA had set up premises in an old funeral parlour at 810 George Street, near Central Railway Station,^[38] and by 1968 had become the major social congregation point for the increasing number of young arrivals from the bush and more established Koori city-dwellers. It was at the social functions held by the FAA that most of the later Black Power movement had met other young people and began to discuss the events of the day. Many had participated in the campaign for the 1967 referendum and had respected and supported the Gurindji campaign and Charlie Perkins and Ken Brindle in and various actions through 1967 - 69. As a result, by their late teens they had developed a relatively sophisticated knowledge and understanding of politics and political methodology from old hands like Brindle, Perkins, Shirley "Mum Shirl"



These young people were acutely conscious of the strong sense of alienation and injustice, and the hostility toward white authority that they had in common with many of these African-American servicemen.^[45] Another reason why the young Redfern activists came to focus on the USA was because at that time there was very little available in the form of alternative political literature for them to study. Very little being written at that time about the historical situation

Furthermore, only one bookshop in Sydney sold the type of material they were after. This was the *Third World Bookshop*, run by Bob Gould, an anarchic Sydney left wing identity. It was from Gould's bookshop that the Redfern activists began acquiring their reading matter, at first by the simple and expedient way of theft, and later when Gould agreed to provide the group with whatever books they wanted, gratis. The bulk of the relevant literature that Gould had related to the African-American political struggle, and so the Redfern activists began consuming the works of Malcolm X, Huey P. Newton, Bobby Seale, George Jackson, Eldridge Cleaver and Angela Davis. But, as Goodall reminds us, it is also important to remember that in 1969 these Redfern activists '*were just as aware of the seizure of Alcatraz by Vine Deloria Jnr as they were of the Panthers'...and Bury My Heart at Wounded Knee was as widely read as Cleaver's Soul on Ice.*'

Opposition to the new notions of black assertiveness being developed came from some of the older, more conservative sections of the indigenous movement, predictably including QLD President of the assimilationist One People of Australia League (OPAL), Neville Bonner, who wrote to the Brisbane Courier Mail, 'OPAL disassociates itself from Mrs. Kath Walker's disruptive brand of Black Power, that which used solely as a disruptive tactic.'^[55] But the Redfern/Fitzroy "Black Power" groups were conscious of the "winds of change" sweeping through Africa and other parts of the colonised world and saw themselves and the Koori situation in the context of de-colonization. Consequently one of their major slogans was 'self-reliance' which meant they were dedicated to creating a new form of Koori community organisation; one which was first and foremost Aboriginal-controlled.

It was only natural that the young Koori activists would look more closely at recent events in the United States where the civil rights movement was caught up in the same cathartic process. As Max Griffiths said, '*the success of Black political activism in the USA provided a stimulus and a model for the more militant urban Aborigines*' and young historian the late Scott Robinson observed,

'The Black American experience was the most profound exogenous influence on Aboriginal political activism in the 1960s.'^[59] *In America, black communities had become disillusioned at the pace of change under the old conservative, passive, Christian leadership of Martin Luther King and a younger generation of activists sought direct confrontation.*

The young Kooris of Redfern saw striking similarities in the American experience and their own communities. They began to adopt and adapt the strategies and tactics they were reading and hearing about in America. Thus when Redfern activists pondered the problem of police harassment in their own community, they were drawn to consider methods adopted the Black Panther Party of America, operating in the San Francisco suburb of Oakland, California.

The American Black Panther Party for Self-Defense's early program called the 'Pig Patrol' attracted the interest of the Redfern group. In the Oakland ghetto a situation existed regarding police harassment and intimidation that seemed to the Australian young radicals to be very similar to their experience in Redfern. Panther leader Huey P. Newton's response to the Oakland situation had been to research California law and ascertain that it was legal for citizens to carry firearms as long as the weapons were not concealed. Armed with this legal loophole, Newton then armed the Panther's with guns and set out to 'defend the black community'.^[62] In the US experience, this tactic of direct, armed confrontation with police resulted ultimately in the leadership of the Panthers being decimated, but this did not deter the Redfern group.

The basic Panther idea of a group to monitor police activity seemed to the Redfern activists to be a good one. It was felt that by monitoring and keeping a record of police harassment of the community they might be able to build a solid database of information that they might then use politically to alleviate the situation. Thus the collective that had gathered around Coe and Williams, who included Billy Craigie, Tony Coorey, Alanna Doolan, Bronwyn Penrith, Les Collins, Isobel Coe and myself, began gathering information Saturday night in 1969 when young activists including Coe, Williams, Billy & Lyn Craigie, Bob and Kaye Bellea, Foley and others began observing and collecting information on the regular police raids against the Koori pub the Empress Hotel in Redfern. About the same time the Redfern activists were developing and extending contacts with similar young indigenous groups in Melbourne and Brisbane.

At the 1968 FCAATSI Conference in Canberra, members of the Redfern group had encountered Kath and Denis Walker and Don Brady from Brisbane and Bruce McGuinness and Bob Maza for the Aborigines Advancement League in Melbourne. Both the Victorian and QLD groups had since visited Sydney and strong friendships developed between the three groups, largely based on an almost identical political philosophy centred on indigenous Self-Determination and economic independence. The means by which this was to be achieved was through Land Rights and the method was direct confrontation. These were the ideas that bonded the different groups from a diverse range of historical circumstances together. Additionally, numerous other individuals from all parts of Australia drifted to Redfern to see what was happening. Some, like Roberta Sykes and Naomi Mayers stayed and became involved, whilst others, like Colin (Black Mac) MacDonald of South Australia and Black Allen Murawulla from Western Australia, and Les Collins from QLD came and absorbed and travelled on to pass the word

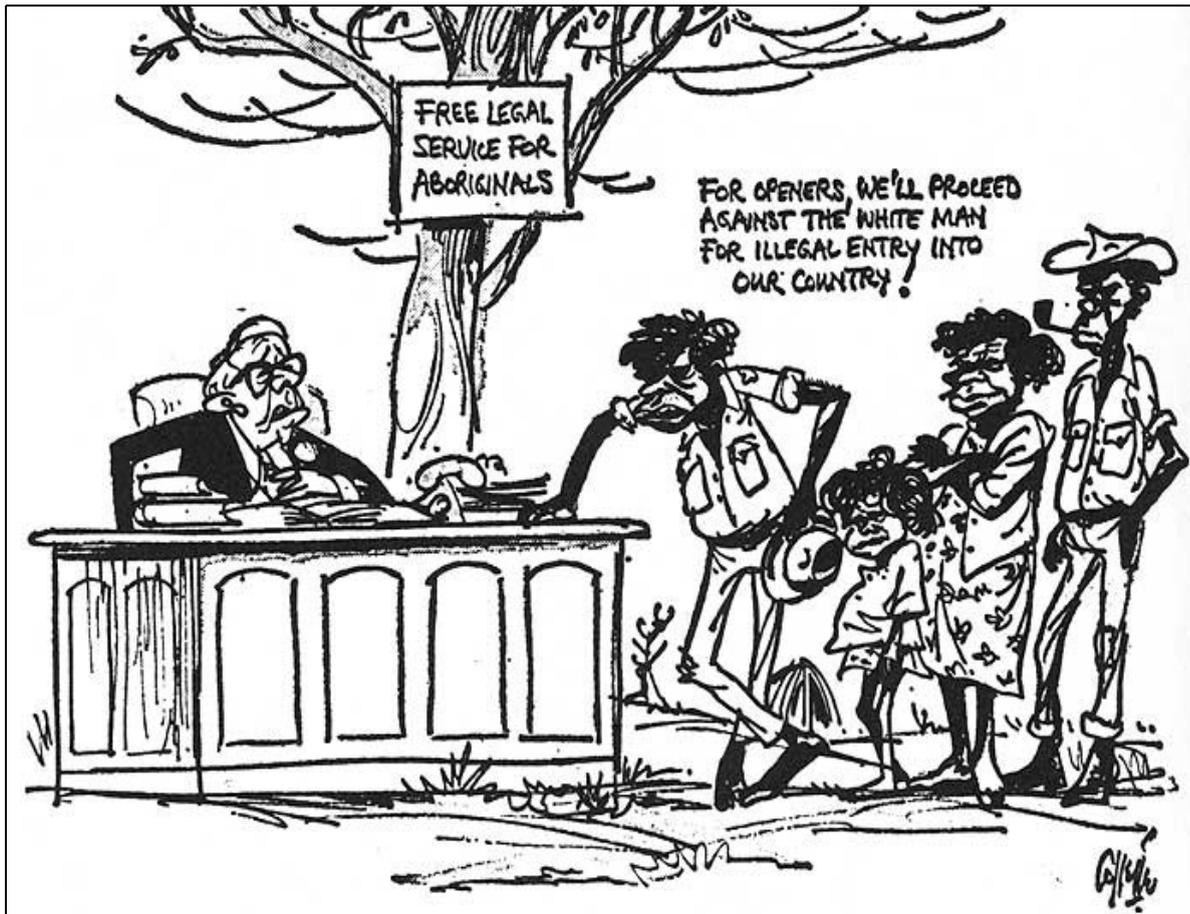
Roberta Sykes remembered that she first met Denis Walker on Evelyn Scott's verandah in Townsville where he told her, '*Sydney's where the action will happen. There are many young Blacks working there...It's lots closer to Canberra, we have to put pressure on federal politicians to honour the referendum.*' In Redfern, the activists monitoring of the police had resulted in increased attention from the police toward the activists. The notorious NSW Police squad, the 21 Division, originally created in the 1930s as an early form of paramilitary unit to deal with the Darlinghurst "Razor Gangs" of that era, suddenly began a presence in Redfern and the level of police harassment of the community increased. The famously corrupt Sydney detective Roger Rogerson was at this time a member of 21 Division and in a 2017 Documentary he described the task of the 21 division as having to "*clear and clean up the streets*" of Sydney, a task he took to with relish when assigned to Redfern with the Division.

Meanwhile, the NSW police Crime Surveillance Unit had secretly compiled a dossier on the "Black Power Group" in which detailed information on key activists was combined with the records of Aboriginal bank robbers in order to accentuate the implied criminality of the group. The document, which was distributed to all police stations in NSW, called on all districts to be alert for any of the people named in the dossier and that their presence and activities should be immediately reported to the central office of the Crime Surveillance Unit in Sydney; Sykes said of this period, '*the group of community activists who were in the process of setting up a range of services to the Black community had, of course, attracted the attention of ASIO and the police.*'

At this time activists in Melbourne, Adelaide and Brisbane also reported increased police surveillance and harassment, and individual responses to this more intense attention varied. In the case of Black Power leaders Bruce McGuinness and Denis Walker, the reaction was defiance.

Meanwhile, back in Redfern, within a matter of months Koori activists collected a mass of evidence of arbitrary arrests, arbitrary arrests, beatings, wrongful imprisonment and other serious allegations. As Paul Coe had in the interim began his studies in Law at University of NSW; he was able to enlist the support of Professor J. H. Wootten, the respected Dean of the Law Faculty at UNSW to their cause. This could be said to be the turning point in development of the ALS in part because it connected the Redfern activists with eminent members of the legal profession who could not only assist in the development of a uniquely Aboriginal designed, shop-front legal aid centre, but who also provided a thin veneer of protection from police harassment so prevalent at the time.

With the support and assistance of Professor Wooten the Redfern group set about to try and replicate the idea of shop front legal aid in Redfern. Early white lawyer recruits Eddie Newman and Peter Tobin assisted in the recruitment of solicitors and barristers willing to do volunteer work once a month or fortnight. John Russell and people from South Sydney Community Aid helped to locate and secure a vacant shop in Regent Street in the heart of the Black community. A community working bee transformed the shop into a law office and early in 1970 Australia's first free, shop-front, legal aid centre opened its doors for business.



On 29 December 1970 the Minister for Aboriginal Affairs, Mr. William Wentworth, announced a \$20,000 grant (and thereby formal Commonwealth recognition) for the Redfern Aboriginal Legal Service, which he described as the 'first of its kind in Australia'.^[70] The establishment of the Redfern ALS was to create a resurgence of pan-Aboriginal nationalism as a surge of confidence swept through the Aboriginal community in Sydney. For the first time Aboriginal people were being represented in Sydney courts and were defending charges brought against them by Police.

Conclusion

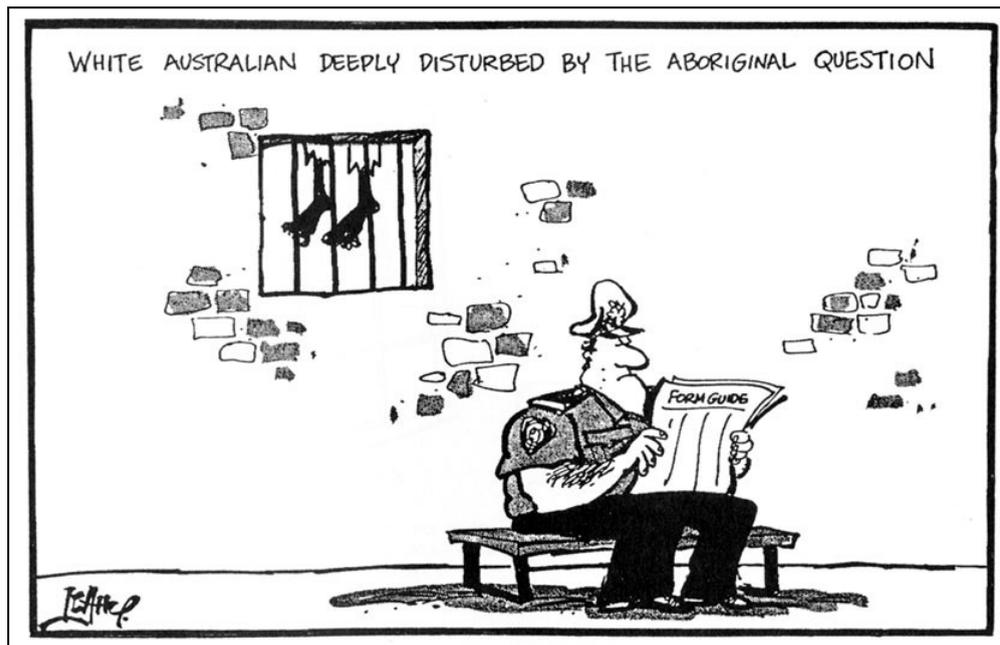
For many reasons the NSW Aboriginal Legal Service today is not the organisation that it was originally conceived to be. That is understandable given the passage of 50 tumultuous years and the inevitable evolution of such type of organisations over that period of time. However, two things remain important for the new organisation today. They are firstly that it should always remember its true origins and the underlying philosophy of Aboriginal community-control. The second is that as an organisation they need to play a key role in advocating greater change in a criminal justice system that the Royal Commission into Aboriginal Deaths in Custody 25 years ago found to be deeply embedded with racist attitudes toward Aboriginal people in particular, and brown people generally.

That the NSW ALS should remember its origins should go without saying. But it is also important to remember the detail as well as the general history, because it is in the detail where we find the most interesting parts of history. The story of the origins of the ALS in Australia is as epic and full of heroic people as any of the great stories of Australian history. It is a classic David and Goliath type struggle by a small group of politicised Aboriginal activists who were determined to upset the 1960s status quo of police and institutional brutality and violence against their community in Redfern. The repercussions of what this small group of Redfern activists achieved were felt nationwide as Aboriginal Legal services based on the original Redfern model sprang up all over Australia during the subsequent decade.

Furthermore, the basic concept of community-controlled organisations as instigated by the Redfern ALS model led within months to the creation of the first shop-front Aboriginal Medical Service in Redfern. This idea in turn led to a sudden proliferation of Aboriginal community-controlled health services. Many other community organisations such as The Breakfast for Children program and Murawina women and Children's centre, and the Redfern Housing Co-operative emerged as a direct result of the Redfern ALS, so that the broader historic impact of the ALS was far greater than might seem from a dry reading of just a basic history of the service. And this is simply a history of the origins of the ALS. There are 50 more years of historic events in which the NSW ALS was a key participant, but that for now can be left to other historians of the future.

The second reason why today's Aboriginal Legal Service might want to remember the circumstances of its origins is because of the daunting role that lies ahead.

When the ALS was created the imprisonment rates for Aboriginal people seemed to be grossly disproportionate, but we didn't really have any facts because the changing rates of incarceration of Aboriginal and Torres Strait Islander peoples could not be systematically tracked until the advent of a national prison census in 1982. An Australian Law Reform Commission report said that "These data revealed, for the first time, the enormous over-representation of Indigenous Australians in prison. The ratio of Indigenous to non-Indigenous imprisonment rates per head ranged from 3.3 in Tasmania to 29.0 in Victoria. As the 1980s progressed, the number of Indigenous prisoners increased".



Among the significant findings of the later 1987 Royal Commission into Black Deaths in Custody was that the reason so many Aboriginal people dying in custody was because of the "gross over-representation" of Aboriginal people in custody. The Commission made 339 recommendations the overwhelming majority were either immediately ignored or ultimately forgotten, the result of which we have seen a continuing increase in Aboriginal imprisonment rates nationally.

By 1991 Aboriginal prisoners constituted 14.4% of the total prison population, but by 2017 they constituted 27.4% of the overall prison population. Russell and Cuneen have observed that the rate of Indigenous incarceration has increased by 45 per cent since 2008. These appalling statistics merely serve to highlight the importance of the work of any Aboriginal Legal Service today. It is clear that the more passive role it has adopted in its 50 year evolution in the legal system has not achieved the type of results that underpinned the great political leap forward that occurred between 1968 and 1975. Maybe it is time to consider a change in tactics.

One of the great ironies of history was that at the time in 1970 when the Federal Government had been forced into providing funding for the embryonic NSW Aboriginal Legal Service and the Committee was to employ their first full-time solicitor, there were no Aboriginal lawyers in Australia, so a non-Aboriginal solicitor, Alan Cameron was employed. It also is a great irony that today, when we have dozens of Aboriginal lawyers and Aboriginal Legal Services in abundance (relatively), there are more Aboriginal people imprisoned than there have ever been. This paradox should motivate us to work harder and maybe, like the activists of old, be firmer in seeking the desperately needed reforms to a system that keeps on imprisoning our children and grandchildren.

Dr. Gary Foley
1st May 2020

