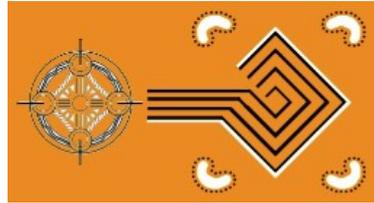


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EUAHLAYI PEOPLES REPUBLIC

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MEDIA RELEASE

Background

In support of the Ghurriebhurrah

In response to a written application, the Indigenous Land Corporation purchased two pastoral properties under the 1998 Commonwealth Land Fund. The ILC divested their 'Interests' in the lands on the June 22, 1998 and on January 27, 2000.

When divesting the Lands, the ILC staff who were responsible for the transfer of the said lands, acted corruptly. The corruption was permitted under the Aboriginal and Torres Strait Islander Act 2005 as amended. That is, under **section 191D, Grants may be subject to conditions**

(1A) The grant of an interest in land by the Indigenous Land Corporation may be made subject to such terms and conditions as the Indigenous Land Corporation determines.

(1B) An instrument determining terms and conditions under subsection (1A) is not a legislative instrument for the purposes of the [Legislative Instruments Act 2003](#)

The employees informed the traditional owners that they (the ILC) had to be granted the right to lease the properties under their trading name Mogila Merino Stud, for 5 years with an option for a further 5 years, so as to regain the 'Money' (\$860,000) that they said, the ILC had loaned to Ngurampaa Limited, the company the ILC registered for the traditional owners, as the land title holding entity.

In 2004, the Australian Tax Office wrote to the directors of Ngurampaa limited that they owed the Tax Office \$86,000 on the loan that was allegedly granted to Ngurampaa Limited. After lengthy enquiries by Ngurampaa Ltd's accountants, it was learnt that the ILC had loaned itself the money. That is, they loaned Mogila Merino Stud the money and NOT Ngurampaa Limited.

The directors of Ngurampaa Limited (now in liquidation) also learnt that the ILC had made certain commitments to the Senate Estimates Committee and at the same time misled the committee when Mr. Wilson (the ILC representative said on Hansard that,

"The ILC decided that it would have a look at the business in terms of its profitability and whether it could actually be a commercial concern. The cases we are talking about - Mogila Merino Stud, Cardabia Pastoral Company and Mount

Clarence Pastoral Company - are now subsidiaries of the ILC and are mentioned in the report. One is in Western Australia, one is in Coober Pedy and one is in New South Wales close to the Queensland border. We have divested the land to the traditional owners, running the business together. They need to pay back the loan to buy us out of the business, and then we can say goodbye”.

Senator Secker queried Mr Wilson when he asked:

“You may not be able to tell me this on the day-to-day operations of the Mogila Merino Stud, but is it a fairly large Stud”.

Wilson responded in the following:

“There are 24.000 sheep in total. It was selling up to 800 rams per year, but we are considerably down on that, unfortunately. I was there last week, in fact, at a board meeting. One of the issues we needed to look at is the enterprise mix within the total sheep business. You would be aware that wool prices have dropped something like 40% over the last six months or so”.

The traditional owners, who were involved in the signing of the documents that resulted in the divestment of the lands to Ngurampaa Limited, said that the ILC had placed a bundle of documents on the table for them to sign. In saying this, the ILC staff present, informed the people that they (the Traditional owners) had to lease the property back to them as the (ILC) had to recover the money that was lent to them (Ngurampaa Limited) Included in these bundle of documents was a document granting them (ILC) a caveat.

When the ILC registered the caveat on Mogila, (caveat No: 6931426T) they responded to the question of the “*Nature of the estate or interest in the land?*” The ILC wrote, “*An equitable interest in the land*”. The question went on, by virtue of the instrument referred to below Nature of instrument: ILC recorded:

“ (a) the caveator’s right to obtain an injunction to enforce the provisions of section 191S of the Aboriginal and Torres Strait Islander Commission, 1989 and the provisions of clause 7.1 of the Deed of Grants of interest in land made between the caveator and the registered proprietor dated 22nd June 1999 (the Deed); (b) the right of the caveat in favour of the caveator contained in clause 7.2 of the Deed; and (c) to secure performance of the obligations referred to in clause 4 of the Deed”.

Section 191S of the Aboriginal and Torres Strait Islander Commission, 1989 as amended, only deals with corporations who have had monies lent to them or who owes money to ILC for their Guarantee to borrow money to buy land. In both cases Ngurampaa limited owes the ILC NO money. The money that ILC write of is the alleged monies that they loaned to themselves when they (ILC) traded as Mogila Merino Stud.

When the directors of Ngurampaa Limited looked at the illegal acts of the ILC it was brought to our attention that the ILC is protected from any wrong doings even if they of a criminal nature.

The ABORIGINAL AND TORRES STRAIT ISLANDER ACT 2005

Section 5A, Application of the Criminal Code

Chapter 2 of the Criminal Code (except Part 2.5) applies to all offences against this Act.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: Part 2.5 of the *Criminal Code* (which deals with corporate criminal responsibility) is excluded from applying to offences against this Act by subsection 199(10).

And

Section 199 (10) reads:

Conduct of directors, employees and agents

(1) Where, in proceedings for an offence against this Act, it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show:

(a) that the conduct was engaged in by a director, employee or agent of the body corporate within the scope of his or her actual or apparent authority; and

(b) that the director, employee or agent had the state of mind.

(2) Any conduct engaged in on behalf of a body corporate by a director, employee or agent of the body corporate within the scope of his or her actual or apparent authority shall be taken, for the purposes of a prosecution for an offence against this Act, to have been engaged in also by the body corporate unless the body corporate establishes that the body corporate took reasonable precautions and exercises due diligence to avoid the conduct.

(3) Where, in proceedings for an offence against this Act, it is necessary to establish the state of mind of a person other than a body corporate in relation to particular conduct, it is sufficient to show:

(a) that the conduct was engaged in by an employee or agent of the person within the scope of his or her actual or apparent authority; and

(b) that the employee or agent had the state of mind.

(4) Any conduct engaged in on behalf of a person other than a body corporate by an employee or agent of the person within the scope of his or her actual or apparent authority shall be taken, for the purposes of a prosecution for an offence against this Act, to have been engaged in also by the first-mentioned person unless the first-mentioned person establishes that the first-mentioned person took reasonable precautions and exercised due diligence to avoid the conduct.

(5) Where:

(a) a person other than a body corporate is convicted of an offence; and

(b) the person would not have been convicted of the offence if

subsections (3) and (4) had not been enacted;

the person is not liable to be punished by imprisonment for that offence.

(6) A reference in subsection (1) or (3) to the state of mind of a person includes a reference to:

(a) the knowledge, intention, opinion, belief or purpose of the person; and

(b) the person's reasons for the intention, opinion, belief or purpose.

(7) A reference in this section to a director of a body corporate includes a reference to a constituent member of a body corporate incorporated for a public purpose by a law of the Commonwealth, of a State or of a Territory.

(8) A reference in this section to engaging in conduct includes a reference to failing or refusing to engage in conduct.

Note: Part 2.5 of the *Criminal Code* deals with corporate criminal responsibility.

How is it at all possible for the Commonwealth government to create a statute that provides excuses and exemptions for the illegal conduct of the Statutory Corporate body and its staff? In the case cited above Mr. Wilson, a senior staff member of the ILC, misled the Parliamentary Committee and he is excused for this.

Ngurampaa Limited conducted a pastoral grazing business which depended solely on "rain". The fact that Ngurampaa limited experienced 3 floods in consecutive years 2010-12 and in 2012, the land was also declared drought affected. In the past 3 years calls for assistance from the ILC fell on deaf ears because of personality clashes and the fact that ILC informs all that

they speak to that ILC will get Mogila back into their hands.

Ngurampaa Limited was constrained by the ILC who continues to maintain a tight grip on the caveat interests and it is this that they use to create a 'Mexican stand-off'. Knowing that Ngurampaa Limited could not borrow any money, including being ineligible for Government Disaster and drought relief funding, because it is essential to be able to give a mortgage interest over the land to get the government aid.

The ILC gave the property over in a deplorable condition, sold sheep that they said belonged to Ngurampaa Limited (24,000); leased Mogila for a \$1 cookie jar per year for 5 years, mislead the traditional owners to get them to sign documents that they had no legal advice on, told the traditional owners lies about money owing, got the people to sign a caveat that they knew nothing about nor even understood what a caveat is and nothing can be done about any of it.

The Australian Commonwealth Government has created a legislative "*escheat*" regime within the Aboriginal and Torres Strait Islander Act 2005 as amended. The legal definition is "*The power of a State to acquire title for which there is no owner*". As a background it is said that:

'historically, reasons existed for escheat apart from the absence of heirs to inherit a decedent's property. When corporations were subject to strict regulations, it was unlawful for a corporation to own property in any way not permitted by its state-granted charter. Any property beyond that needed by the corporation for the operations of its business, or in excess of the amount designated in its charter, or held for a period of time beyond that which was permitted, was subject to an escheat'.

As Aboriginal People we now need to ask what does this all mean in reality? Do we own the land that we gain back in the form of native title or Land purchased for 'Redress for dispossession' as compensation for admitted wrongful colonial acts, or have we never left the Aboriginal protection/welfare period, that is, the ILC writes into all its land grants CONDITIONS of GRANT. In these conditions Aboriginal people cannot use the land in any other way than that approved of by the Commonwealth Government agents in the ILC. There is NO way for Aboriginal people to participate in the private sector business world unless ILC approves. That is the land cannot be used in the same way as non-Aboriginal people where the land is used as the basis of an economic program and banks etc permit overdrafts, loans etc for their businesses and to assist them to develop their businesses.

Under the ILC regime there is NO equal suffrage.

When Aboriginal people fail to make it in the business world all goes back to the central government in the ILC and they can make use of it because they have an endless amount of Taxpayers money to back all that they do.

It is also important to understand that what we have for Aboriginal Peoples is a communistic governing regime over all of our affairs. As an example the story that is cited here, as well as the National Parks 'ownership' - it is ours in name only. If we want this, then our People are forced into signing the documents, if we want our names on it on CONDITIONS that the Government controls it in perpetuity. When Courts approve a Native Title claim the majority are Non-Exclusive. While on the other hand, all white people seek an assurance that their lands are exclusive possession, but not so for Aboriginal land.

The exclusively possessed lands, such as that in the Northern Territory, the Commonwealth Government legislated to set aside the Commonwealth Racial Discrimination Act, to introduce the Northern Territory Emergency Response regulations otherwise known as the "*Intervention*".

In Western Australia our people are NOT aware of what exclusive possession means and as a consequence, the Western Australian Government is seeking to overturn this and take back

the land as non-exclusive possession.

In concluding this expose, it is worth noting that the Governments of today are returning to the old Protection/welfare days. An example of this is the statute of State of New South Wales, 'Aboriginal Protection Board' said at **Section 15**, that:

“Every blanket or other article issued by the Government or by the board to any aborigine shall be considered to be on loan only, and to be the property of the board, and any unauthorised person other than an aborigine who has in his possession or custody any blanket, or other article or portion thereof, which reasonably appeal's from the marks thereon or otherwise to have been so issued shall be guilty of an offence against this Act.

We cannot end without having first drawn people's attention to what the Aboriginal and Torres Strait Islander 2005 at **SECT 4A: Minister may make determinations about what constitutes misbehaviour**

(1) The Minister may, by legislative instrument, make a determination providing that specified behaviour is taken to be misbehaviour for the purposes of this Act.

(2) The Minister may, by legislative instrument, make a determination providing that specified behaviour is taken not to be misbehaviour for the purposes of this Act.

The New South Wales Aboriginal Protection Act 1909 said at **Section 8, 2) The board may remove from a reserve any aborigine who is guilty of any misconduct, or who, in the opinion of the board, should be earning a living away from such reserve.**

And here we are in 2016, nothing has changed. Yes we may live in better housing, have the SO Called FREEDOM of others to mix with other people without fear of prosecution, but we are under their control in every way possible. Our freedom is only guaranteed if you choose to assimilate otherwise, to be an Aborigine, is to be controlled by statute of the oppressors in charge of the invading State.

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