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COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES

(HANSARD)

TWENTY-FOURTH PARLIAMENT
FIRST SESSION
1963
(THIRD PERIOD)

HOUSE OF REPRESENTATIVES

Tues., 30th April, 1963
Wed., 1st May, 1963
and
Thurs., 2nd May, 1963

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CANBERRA

that since that time I have heard nothing further about the matter. The Treasurer has not taken the opportunity to discuss it with me or to put me in touch with any of his officers who could tell me anything about it.

I believe that the suggestion that I made last year is a sound one that ought to be adopted. There may be some technical imperfections in the idea—some reasons why it should not be adopted. If there are such reasons, I shall be very willing to consider them. But, in default of my being shown such reasons as would invalidate my suggestion, I propose, when next a measure of this kind is before the House—I understand that that will be just after the next Budget is considered in this place—to submit and to press to a vote an amendment such as I planned on the last occasion to achieve my purpose.

Question resolved in the affirmative.

Bill read a second time, and reported from committee without amendment or debate; report adopted.

Bill—by leave—read a third time.

INCOME TAX AND SOCIAL SERVICES CONTRIBUTION ASSESSMENT BILL 1963.

Second Reading.

Consideration resumed from 16th May (vide page 1479), on motion by **Mr. Harold Holt**—

That the bill be now read a second time.

Question resolved in the affirmative.

Bill read a second time, and reported from committee without amendment or debate; report adopted.

Bill—by leave—read a third time.

Sitting suspended from 5.45 to 8 p.m.

ASSENT TO BILLS.

Assent to the following bills reported:—

Australian National University Bill 1963.
Customs Tariff Bill 1963.
Customs Tariff (Canada Preference) Bill 1963.
Customs Tariff (New Zealand Preference) Bill (No. 1) 1963.

WELFARE OF ABORIGINES OF GOVE PENINSULA.

Ministerial Statement.

Debate resumed from 9th April (vide page 484), on motion by **Mr. Hasluck**—

That the following paper:—

Welfare of the Aborigines of Gove Peninsula, Northern Territory—Ministerial Statement—be printed.

Mr. BEAZLEY (Fremantle) [8.0].—It is some weeks ago since the Minister for Territories (**Mr. Hasluck**) made a statement in the House concerning the excision from the aboriginal reserve in Arnhem Land of a small area of land—small, that is, relative to the 35,000 square miles of the Arnhem Land aboriginal reserve—for development by overseas companies in connexion with the aluminium industry. The Minister could refer at that time to the fact that he is responsible for legislation which ensures that some royalties from the exploitation of these minerals will be paid into a fund for the benefit of the aborigines. The Minister can, therefore, rightly claim credit for the fact that, almost for the first time in history, a government in the Commonwealth of Australia has acknowledged that aborigines have some kind of entitlement to land in the Commonwealth. They have no title to land, but these aborigines were given, by legislation of which the Minister is the sponsor, certain rights to benefit from the proceeds of the exploitation of minerals found within the aboriginal reserve.

This act of the Commonwealth Government has not so far been followed by any of the State governments. We are reminded of the Government of Queensland. Under similar circumstances, in the Weipa aboriginal reserve of the State of Queensland, bauxite deposits began to be exploited, and the simple procedure used by the State Government was to proclaim that the area in question was no longer an aboriginal reserve. In some respects, the Commonwealth is following that procedure by the excision of the Gove Peninsula from the aboriginal reserve.

Some weeks ago, when it was not thought likely that this debate would be resumed, it was considered on the Opposition side that there should be in the Commonwealth Parliament a revolutionary approach to the question of the position of aborigines in

relation to reserves, and that an early opportunity should be sought for the Commonwealth Parliament to declare that in its opinion the time has come to create an aboriginal title to the land of the reserves of the Northern Territory, which are within the constitutional power of the Government of the Commonwealth of Australia. Accordingly, to the Minister's motion that the paper be printed, on behalf of the Opposition I move—

That all words after "That" be omitted with a view to inserting the following words in place thereof:—"in the opinion of this House—

- (1) An aboriginal title to the land of aboriginal reserves should be created in the Northern Territory,
- (2) A form of selection by aborigines of trustees to conduct affairs arising from this title should be devised, and
- (3) Meanwhile the safeguarding of aboriginal rights should be ensured by discussion with spokesmen for the aborigines of the Gove Peninsula area".

Whenever a people are conquered or their territories occupied, the question of legal entitlement to land arises. If the people who have been conquered live by a hunting economy, as the Red Indians of North America did, and as the aborigines of Australia did and do still to some extent, there is no title in land. We need only contrast with that the experience of Australia in Papua and New Guinea, where an agricultural people came under the authority of the Government of the Commonwealth. They had clear customs of entitlement to land, strong family rights and tribal rights in land, and individual rights in the possession of land and trees which no Government of the Commonwealth could set aside. Indeed, the acquisition of land by the Administration in Papua and New Guinea is an extremely complicated process. But they were an agricultural people and the Australian aborigines were not.

Since the first settlement in 1788, we—the European-descended people of the continent of Australia—have never acknowledged that aborigines have any entitlement at all to land. The proclamation by the Commonwealth of large reserves, some of them with great potential, as land for the aborigines in the Northern Territory, will, of course, mean nothing if systematically, when anything of any value is discovered in

them, areas become excised from the aboriginal reserves and the aborigines have what is left.

We do not believe that that is the concept of the Government, but the plain fact is that no Australian Parliament has ever faced the question of whether there is any aboriginal entitlement to land anywhere in the Commonwealth. As the Commonwealth is now 175 years old, it is time that some parliament faced this question. The Parliament of the Commonwealth of Australia will face it to-night as a result of this amendment. Australia is not a signatory to an international convention, which has an appallingly clumsy name but is a very important document—Convention 107 of the International Labour Conference concerning the promotion and integration of indigenous and other tribal and semi-tribal populations in independent countries. Australia is a country which has indigenous, tribal and semi-tribal people and it is an independent country, so that the intention of the convention is to refer to a country such as ours. There are many countries with aboriginal populations, some of them very ancient countries. Japan, for example, has an aboriginal population—the Ainu race. There is an aboriginal population of Formosa and of the Philippines. In each of these independent countries, long after the incursion into those countries of a new race—sometimes the new race, as in the case of Japan, can have been in occupation for over 1,000 years—the aboriginal population, the first inhabitants, go on surviving. We should now define, so late in our history, what rights in land and property—when so much has been alienated, should be given to the aborigines in areas where the Commonwealth has constitutional responsibility. In this matter there is in the community a widespread lack of knowledge of the Constitution of the Commonwealth. Whereas Americans, in the main, are proud of their constitution and teach it in their schools, it would be safe to say that even students who reach leaving certificate standard in Australia leave school without the faintest idea of what is a Commonwealth responsibility and what is a State responsibility. Constantly we as members of Parliament are confronted with correspondence which in many cases should be directed to State members, and State members have the same

experience in relation to Federal matters. Although aborigines in the States do not come under the constitutional responsibility of the Commonwealth, aborigines of the Northern Territory are fully a Commonwealth responsibility.

Convention 107, to which I have referred, and which Australia has not ratified but which the Opposition thinks it should ratify, while facing different situations in different countries, has at least tried to set out this matter of land rights and to induce the countries with aboriginal populations to work out some procedures for creating an entitlement in land. Article 11 of the convention and one or two other articles under Part II dealing with land, have this preamble—

The right of ownership, collective or individual, of the members of the populations concerned over the lands which these populations traditionally occupy shall be recognized.

That is a very simple statement. It may not be easy to work out the precise form of title for tribal people. That is not easy anywhere on the face of the earth, but it should not be beyond the wit of the Government and its advisers to create an aboriginal title to land on aboriginal reserves in the Northern Territory.

Those of us who listened to the Minister for Territories were impressed by the dignity and humanity of his speech. At the same time it was noteworthy that when he spoke of consulting with representatives of the aborigines of the Gove Peninsula area he accepted as representatives of the aborigines the missions of that area. I am not criticizing the missions but I would not have thought, from conversations that I had in Papua and New Guinea and in the Northern Territory, that the original inhabitants of those areas regarded the missionaries as other than their friends, but they certainly did not regard them as their political spokesmen. It is an unsatisfactory position if discussions are to take place between a representative of the Commonwealth Government and a representative of a mission as to what will happen to aboriginal reserves in the Northern Territory.

The second part of my motion seeks the establishment of a form of selection by aborigines of trustees to conduct affairs arising from the creation of a title to land. We concede that to do so soundly and

legally may take the Minister and his department some months, involving many consultations. We felt that in the meantime the safeguarding of aboriginal rights should be ensured by discussion with spokesmen for the aborigines of the Gove Peninsula area. We may be doing the Minister a complete injustice in assuming that he has not consulted spokesmen for the aborigines in the Gove Peninsula area.

When a ministerial statement is prepared it is not always possible for a Minister to forecast what will be misunderstood, what course a debate will take or how people will receive the words that he has uttered. Therefore, we may be misunderstanding the Minister in assuming that consultation with aborigines did not take place. But we do ask in relation to this Gove Peninsula matter and on any future occasion when a similar matter arises out of the discovery of minerals on reserves in the Northern Territory that conversation should take place with aboriginal spokesmen. Otherwise, what are we admitting? We are admitting that this land has been set aside; that the Government may exclude from it influences that it considers may be undesirable for the aborigines. But if anything of value is found on the land, that is the end of it as a reserve and off we go. The logic of that is that the aboriginal populations must be transferred to what becomes less and less desirable country in this Commonwealth of Australia. Any of us who have watched the Minister over the years will know that is far from his intention, but we believe that the three propositions set out in the amendment that I have moved are right and that it is time the Parliament of the Commonwealth faced these issues.

Mr. SPEAKER (Hon. Sir John McLeay).—Order! Is the motion seconded?

Mr. Bryant.—I second the motion and reserve my right to speak.

Mr. HOWSON (Fawkner) [8.18].—I know that all honorable members are tremendously interested in whatever the honorable member for Fremantle (Mr. Beazley) has to say, particularly when he speaks on a subject as important as this one. But when he mentions these problems, particularly this very difficult problem of land, I wonder whether he has carefully