

# THE AUSTRALIAN

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## We need to work out how indigenous voices can be heard

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GREG CRAVEN THE AUSTRALIAN SEPTEMBER 13, 2014 12:00AM



Henry Parkes, the early Australian statesman known for his thread-of-kinship notion of federation. Source: News Limited

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**THERE is very little truly historic speech-making or writing in modern Australia. Most “historic” utterances are certified as such by spin doctors and the egotists who employ them well in advance of delivery.**

Both now and in the past, genuinely historic prose is characterised by a single thing: the instant crystallisation of indisputable reality. This moral chemical reaction happens but rarely, and can be neither forced nor faked.

Noel Pearson’s Quarterly Essay 55, *A Rightful Place*, is one of these unmistakable occasions. In shifting the debate over the place of indigenous Australians from the chafing divisions of race to the shared fundamentals of culture, Pearson has lifted the line of sight of a nation.

This is an indisputably “constitutional” speech, not merely because it signals constitutional directions — which it does — but because it grapples with the driving constituent forces behind the Australian nation. These are the forces that in turn made and continually remake the Constitution itself.

Pearson’s cultural thesis, upon which any constitutional settlement must be built, is both sophisticated and simple.

At its simplest and most luminous, it posits that Australia is not a snakepit of competing cultures, each writhing in deadly competition with one another. Rather, it is a symphony, in which different instruments and notes — indigenous, British-settler and later migrant — can come

together in a glorious shared harmony.

In this thesis of shared culture that transcends race, there are striking parallels with Sir Henry Parkes's federation notion of the "crimson thread of kinship", essentially a cultural force that united all colonial Australians, regardless of transient difference and dispute.

Parkes, that cheerful 19th-century racist, would have been horrified to be enlisted into such company and such a cause. But again in his championing of the word commonwealth for the new nation, there is that exact sense of universal mutual responsibility and shared possibility propounded by Pearson.

In terms of basic constitutional suppositions, Pearson makes unflinching demands and astonishing invitations. He insists we face our history, in all its glory and horror. We must adjust our constitutional arrangements, not grudgingly but solemnly, as an act of spontaneous moral will.

But he invites us to share in countless millennia of indigenous culture as later Australians who have come to and been taken by an ancient land whose majestic continuity surpasses the all-too-human boundaries of race.

His appeal is paradigmatically conservative, in an utterly apolitical way. The land endures, and the people with it. All of us, inextricably together. The relationship could be expressed as social, familial, tribal or spiritual, but it is definitive, universal and non-negotiable.

So how is our system of government to reflect this profoundly shared relationship, a kinship instantly familiar not only to indigenous Australians but to anyone who has heard the silent breezes of the bush?

Pearson points clearly enough to certain constitutional inevitabilities in pursuing such a vision. The most obvious is the removal of provisions such as section 25 of the Constitution, allowing the electoral disqualification of designated races, and section 51(26), permitting laws to be made for members of a particular race.

In a constitution that values culture rather than ulcerates about race, neither is appropriate and each is irrelevant.

Technically, removal of the race power probably would necessitate its replacement by another authorising legislation for indigenous people. But this would be consistent with their status as a constituent component of Australia's fundamental culture, not as a race.

Beyond these relatively technical amendments lie the really challenging constitutional issues. Imperatively, we must pursue a course of genuine constitutional engagement without the sweeping guarantees of "rights" or "equality" that would doom any referendum to ignominious defeat. Pearson, the realist, volunteers for none of these suicide charges.

What he certainly does understand is that it is one thing to assert a triune culture with indigenous, British and multicultural roots. It is another to embrace it within a representative system of government that works by numbers, especially when the relevant numeral is that only 3 per cent of Australia's population is indigenous.

The answer, therefore, almost certainly lies not in the quantitative representation of indigenous people within governmental structures but in the systematic quality of the policy representations made by those people.

In a historical context where indigenous voices have never carried on the political wind, how do we structure the parliamentary system itself so they are routinely heard, if not reflexively obeyed?

We need to imagine a structure of parliamentary and policy debate that remains as independent and effective as ever it was, but that is routinely informed and enriched by indigenous counsel on indigenous matters. Government would be empowered, not disempowered, by timely and wise counsel on laws affecting matters such as land, language and lore.

Pearson's essay rightly lays great stress on the concept of responsibility, the lack of which constantly has undermined the true destiny of Australia's indigenous people. Responsibility is the calling card of genuine power.

It is the grave responsibility of all Australians to ponder the constitutional mechanisms that may allow indigenous voices routinely to be heard. It would be the equally grave responsibility of indigenous Australians to ensure any body so created worked with the wisdom and expedition of a truly constitutional institution.

Then there is the vast cultural payload that must lie at the pointy end of a recognition that all - Australians share in a culture that is indigenous, British and multicultural in inspiration. Like a child eating a piece of marble cake, we neither should nor can choose between flavours.

Specifically in terms of indigenous culture, we need to understand that constitutionally valuing it is going to be a multifarious process. It will involve everything from intensely practical focuses to profound symbolism.

We will have to face the legislative realities on deeply confronting issues of Aboriginal health at the same time as working to preserve Aboriginal language and spirituality. And we will need to understand that these are not unconnected.

Our Constitution is indeed a book of terms and rules that does not lend itself easily to so broad an agenda. But, contrary to popular myth, Australians have been successful constitutional innovators. We created a great federation from sheep and are not beyond gently improving it.

Accepting the political and technical reality that constitutional indulgence is death, and expansively guaranteed rights and liberties the constitutional equivalent of a suicide machine, why could we not have a declaration of recognition that dealt broadly with indigenous issues and sat alongside the Constitution whenever it was printed?

Could this type of declaration be the charter for the representative body charged with counselling parliament and government on indigenous matters, and why would it be impossible that the Constitution itself include some appropriate reference to both things?

True, constitutions deal only in the fundamental. But as Pearson amply demonstrates, what is more fundamental than one of the three common cultural pillars of the Constitution itself?

Truly, we have the opportunity to ensure the black thread of kinship runs through us all.

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