"Indigenous sovereignty-never ceded": sovereignty, nationhood and whiteness in Australia

Angela M. Pratt
University of Wollongong


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Chapter Five: Acting Sovereignty: The Aboriginal Provisional Government

We must stop talking sovereignty and start acting it (Geoff Clark, Aboriginal Provisional Government Deputy Chairman, cited in Aboriginal Provisional Government 1992a).

To be, and to act as, a nation of people independent of whites ought not to be a controversial issue. ... To impose our own laws in our own communities; to raise our own finances from our own portions of this continent; to have our own diplomats and passports and our own Olympic team is our right as a Nation of people. Those rights are, or should be, the aim of our movement. ... The APG stands for the right of Aboriginal people to have the ultimate say over their destiny (Aboriginal Provisional Government 1992a).

Introduction

On a wintry August day in Hobart, Tasmania in 1992, a group of national leaders arrived at Hobart airport to attend an important conference being held that week. As is the custom for visiting dignitaries, a special VIP section of the airport was used to officially welcome them, and they were driven to the city in a convoy of cars. Each car had a national flag flying on the bonnet, and police stopped all other traffic at intersections as the convoy passed through, as is not unusual for the arrival of visiting national leaders (Aboriginal Provisional Government 1992b). What was unusual about the VIP treatment afforded to this group of visiting dignitaries was that they were not leaders from countries outside Australia, or even high-ranking members of Australian parliaments – they were leaders from various Aboriginal communities, the flag on their car bonnets was the Aboriginal flag, and they were in Hobart for an Aboriginal Elders conference organised by the Aboriginal Provisional Government (APG). The APG organised for the visiting Elders to be treated as Heads of State on their arrival in Hobart, because it befitted their status as ambassadors of the Aboriginal communities they were representing. Aboriginal Elders are not usually the recipients of VIP welcomes, however, because the status afforded them by the APG is not recognised by Australian institutions. When Aboriginal Elders are recognised as leaders by Australian institutions, their status as such is certainly not seen as equivalent to the status of leaders of other sovereign nations from around the world.
This chapter focuses on the demands for the recognition of Indigenous sovereignty articulated by the Aboriginal Provisional Government since it was established in 1990. The chapter examines how non-Indigenous responses to the APG have been mediated by hegemonic Whiteness and by dominant White constructions of nationhood and sovereignty. In many ways, the occasion of the official welcome at the APG Elders Conference emblematises the chapter's central themes. First, it demonstrates one of the most notable characteristics of the APG's sovereignty agenda – it consistently concentrates on acting rather than simply talking sovereignty, as the first epigraph to this chapter suggests. Second, the refusal of White Australian institutions to recognise Aboriginal community Elders as the leaders of nations symbolises White Australia's refusal to recognise Indigenous sovereignty and, indeed, its unwillingness even to engage in discussion or debate about it. Third, the fact that the official welcome accorded to the Aboriginal Elders in Hobart was unusual, in other words, not normal (but that a similarly constituted gathering of White national leaders would expect to receive an official welcome of this sort) demonstrates the normative nature of Whiteness and, in particular, of White structures of power in Australia. Thus, in examining White responses to the APG's assertions of Indigenous sovereignty, this chapter further develops the central themes of this thesis. It also explores the particular responses and anxieties that are provoked when an Indigenous group not only asserts sovereignty but also challenges the state's claim to sovereignty over Indigenous people by acting out their own sovereignty as well. Because of the importance of the APG's model and the extremity of responses it has provoked, the analysis contained in this chapter is the most substantial thus far. As such, it demonstrates the culmination of the themes that have been discussed in previous chapters.

As with the Indigenous activists and groups that have been discussed in the previous chapters, the academic literature is almost completely silent on the APG and/or on its demands for the recognition of Indigenous sovereignty. With the exception of some articles by APG activists, most notably Michael Mansell, few academic works treat the model of Indigenous sovereignty articulated by the APG as
worthy of significant analysis. As Kelly points out, the APG model has received "little serious discussion" outside the Aboriginal and Torres Strait Islander community (1993: 12). As will be seen later in this chapter, authors such as Reynolds (1996a), Patton (1995a), and Windschuttle (2000f, 2001b) each refer to the APG, but they tend to be dismissive of it (albeit for vastly different reasons). This is despite the enormous recent growth in literature on race relations between Indigenous and non-Indigenous people in Australia (which has been noted elsewhere in this thesis). It is also despite the fact that the APG has set out a cogent and comprehensive model of what the recognition of Aboriginal sovereignty would mean in practice. Although my discussion of the APG in this chapter is necessarily selective, the lack of engagement with the APG's assertions of Indigenous sovereignty in the academic literature represents a gap that this chapter attempts to fill.

The chapter is divided into four main parts. First, I discuss the prelude to the establishment of the APG and the context in which this occurred in 1990, particularly the anxiety created by Michael Mansell's visits to Libya in the late 1980s. Second, I outline the APG's establishment and its model for the recognition of Aboriginal sovereignty through the creation of an Aboriginal nation-state. Third, I analyse responses to, and critiques of, the APG model in terms of the relationship between hegemonic Whiteness and hegemonic discourses of nationhood and sovereignty. Fourth, to underscore the distinction between the APG model and what is currently "on offer" to Aboriginal people within the existing framework of the nation-state, I discuss the APG's critique of the High Court of Australia's Mabo (1992) decision, the ensuing native title legislation, and the APG's appraisal of the government policy of "reconciliation."

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105 Where the APG is mentioned in academic literature by non-Aboriginal authors, it is usually only very briefly and always in the context of a different set of issues and preoccupations, including the APG as a brief exemplar. For instance, two selected parts of the APG Papers are reproduced in Attwood and Markus' (1999) collection of 200 documentary sources. Ryan briefly discusses the establishment of the APG in her book on Aboriginal history and politics in Tasmania (1996: 284-285). Similarly, Bennett refers to the APG in his brief discussion of Aboriginal sovereignty in the second edition of his book on Aboriginal people and Australian politics, although he incorrectly cites the year of the APG's establishment (1999: 201). In an article on the relationship between reconciliation and international human rights, Pritchard includes the APG as an example of the long history of Aboriginal political activism in Australia (1999: 614).
The prelude to the establishment of the APG

The formation of the APG in 1990 and the response to its formation from White Australia should be read against the background of Michael Mansell's "radical" political activism in the 1980s, most notably his trips to Libya. As I show here, many non-Indigenous people in Australia greeted these trips with anxiety often verging on hysteria.

Mansell goes to Libya

In the mid-1980s, Michael Mansell was a lawyer working for the Tasmanian Aboriginal Centre (TAC), one of the peak bodies for Aboriginal people in Tasmania at that time. After the Hawke government's promised national land rights legislation had dropped off the national political agenda at the end of 1985 (as discussed briefly in Chapter Four), the TAC became increasingly frustrated about minimal consultation with the Aboriginal community in land rights negotiations between the federal and state governments in Tasmania. Subsequently, the TAC embarked on a campaign "promoting the idea of a sovereign Aboriginal nation" (Ryan 1996: 277; see, for example, Pugganna News 1987a). In this context, Mansell made his first trip to Libya in April 1987, to attend the World Conference Against Zionism, Racism and Imperialism (his trip was not funded by the TAC – it was paid for by Aboriginal organisations on the mainland). While there, he spoke as a member of a "sovereign people" whose country had been taken from them and whose rights had been "suppressed ever since" (Mansell 1987: 6), and, in response, the conference recognised Aboriginal people in Australia as a sovereign people (Ryan 1996: 278). According to Ryan (1996: 278), Mansell also discussed the idea of getting Libya to recognise Aboriginal sovereignty and nationhood – including the recognition of Aboriginal passports – although he "never asked the Libyans for money and they never offered any" (see also Jones 1988: 54). According to Jones (1988: 54) and Ryan (1996: 278), Mansell also discussed membership of a loose-knit umbrella group of national liberation groups called Mathaba, which counted among its membership organisations such as the Palestine Liberation Organisation and the Irish Republican Army.

Possibly, it was this overt association with Arab nationalism and other national liberation fronts popularly characterised as "terrorists" that most raised the ire of the
Australian government – because raise their ire it did. Then Aboriginal Affairs Minister, Clyde Holding, was reportedly enraged. According to Ryan, he demanded assurance from the TAC that no Commonwealth money had been used to finance Mansell’s trip, and he ordered an audit of the TAC’s books to check for any financial discrepancies, of which the audit found none (1996: 278-279). Holding then threatened to cut the TAC’s funding if it subsequently accepted any money from the Libyan government. Even though the TAC was not on (Libyan President) “Gaddafi’s payroll,” Holding stopped Commonwealth funding to the TAC for three months anyway (Everett 1987: 1).

During Mansell’s time in Libya, the Australian government convinced itself that Mansell was an agent of the Libyan government, which was planning to establish a “revolutionary presence” in the South Pacific (Ryan 1996: 279). On 2 May, for example, the Brisbane Courier Mail reported that then Foreign Minister Bill Hayden had gone to New Zealand for a “cloak and dagger” meeting with the New Zealand government, which was also worried about the “very real possibility of Libya, via Vanuatu, becoming a revolutions for hire centre.” Consequently, the Government had “hit the ‘serious problem button’ in a hurry” (Courier Mail cited in Ryan 1996: 279). This was most obviously demonstrated by then Prime Minister Hawke’s order that Libya close down its Australian embassy because of its “campaign” to “destabilise” Australia and other South-Pacific nations, an order that was reported internationally in newspapers such as the Boston Globe (May 20 1987: 88). Similarly, then Queensland Premier Joh Bjelke-Peterson suggested that Mansell’s trip to Libya was evidence of an Aboriginal-inspired terrorist conspiracy against non-Aboriginal people in Australia (Bonner 1987: 306-307). Mansell’s response to this sort of criticism turned the idea of terrorism on its head:

Australia was invaded by a bunch of terrorists from England, and the fruits of that terrorist activity are now vested in the Australian Government who refuse to give it up to Aboriginal people. So who is the terrorist? (cited in Ryan 1996: 279).

Moreover, as Kahn pointed out, Australian governments support “terrorism” when it suits them, such as through the sale of live sheep exports to Libyan markets (Kahn 1987: 20; see also TUCAR Newsletter 1987).
White responses to Mansell’s trip to Libya demonstrate several continuities with discursive strategies employed to dismiss Indigenous sovereignty demands, which I have discussed in previous chapters. For example, conservative groups such as the mining lobby suggested that Mansell’s visit to Libya was the culmination of an attempt by “Marxist revolutionaries to gain control of the Aboriginal ... Land Rights Movement.” The mining lobby went on to say that the push for the “creation” of an Aboriginal nation would have “grave implications for Australia’s economic prosperity” (Australian Journal of Mining 1987: 17). This demonstrates anxiety about the perceived threats that recognition of Indigenous rights would pose to White entitlement and, in particular, to White wealth. Western Mining Corporation Managing Director Hugh Morgan drew on the discursive construction of the inauthentic Indigene to marginalise Mansell:

Here is a white skinned, blue eyed Tasmanian, who proclaims himself as an Aborigine, flies off to Libya, an East German satrapy, in order to negotiate funds for an independence movement in which, presumably, he will have pride of place (Morgan 1988a: 22, my emphasis).

Morgan also claimed that, because Mansell was “employed as a legal officer with the Aboriginal Legal Service,” his “self-styled” activism was supported by the Australian government and motivated by Bicentenary-inspired “self hatred and neurotic guilt” (Morgan 1988: 22). In fact, as Jim Everett, the then TAC State Secretary, pointed out at the time, Mansell was on holidays from his work at the TAC when he went to Libya (Everett 1987: 1). And, given the federal government’s response to Mansell’s trip, it is rather bizarre to claim they supported it.

The Australian media’s response to Mansell’s first Libyan trip was mixed: the Hobart Mercury, for example, suggested that “few right-minded people would disagree with Mr Mansell’s search for justice; the means chosen are highly questionable. Mr Mansell wants to embarrass Australia on the international stage” (cited in Ryan 1996: 278). Following his speech at the conference, sections of the Australian media alleged that Mansell had invited terrorists to Australia (Jones 1988: 54). The media, and the non-Indigenous public more generally, became increasingly concerned about Mansell’s second visit to Libya in April 1988, when they learnt that Mansell planned to ask Colonel Gaddafi to impose economic sanctions on Australia – by not accepting live sheep exports – until Australia recognised Aboriginal sovereignty.
(D. Mansell 1988: 5-6; M. Mansell 1988b: 2-3; M. Mansell 1988c: 3; Ryan 1995: 31). Some regional newspapers argued that Mansell's passport should be withdrawn and that he should not be allowed to leave Australia, while others argued that he should not be allowed to return (Ryan 1996: 281). Mansell maintained that his Libyan visits were misinterpreted by the Australian media and that this was because Aboriginal people had "suddenly posed some sort of threat to the establishment of White Australia in the sense that they lost control of the lid of oppression on the Aboriginal pot" (cited in TUCAR Newsletter 1987; see also Mansell 1987: 4-5). I will return to the theme of White panic later in the chapter.

Indeed, throughout the White Bicentenary in 1988 when Mansell continually advocated the recognition of Indigenous sovereignty, he received a similarly hostile response (see, for example, Mansell and Miles 1988: 11-12). Mansell suggested that this was because the very issue of Indigenous sovereignty disrupted White people's sense of "righteousness" (I described this in Chapter Four as the sense of the "good" national self), which was being promoted through the bicentennial "propaganda" (Mansell & Miles 1988: 12). It is important to point out that then, as now, Mansell attracted critics from Aboriginal communities as well. For example, in May 1987, the Age ran a piece by former Liberal Senator Neville Bonner - the first Aboriginal person ever elected to Australia's federal parliament - on the issue of Libyan support for Aboriginal people. Bonner strongly criticised Mansell's promotion of the idea of separate Aboriginal nationhood and his bid for Libyan assistance to this end (Bonner 1987). Similarly, on 27 May 1987, the Age quoted long-time Aboriginal activist and bureaucrat Charles Perkins criticising Mansell and his promotion of the "radical solution of a black nation" (cited in Attwood and Markus 1999: 309-310).

More important for my purposes, however, is the relationship between White critiques of Mansell and hegemonic constructions of sovereignty and nationhood. First, the fact that the promotion of the very concept of Aboriginal sovereignty was labelled as "radical" demonstrates the hegemony of the incontestability of the state myth. Again, it shows how hegemonic discourses construct as "drastic" or "extreme" those positions that challenge the dominant discourse of nationhood in which the sovereignty of the Australian state - and Indigenous peoples' incorporation into it - is
the unquestioned norm. Second, the concern about the economic ramifications of Mansell’s lobbying of Gaddafi indicates the way that White interests, particularly economic ones, are privileged within hegemonic discourses of nationhood; that is, it demonstrates the centrality of capitalist interests to the White nation. Third, the recognition of Indigenous sovereignty and nationhood, and particularly Libya’s apparent support for it, were considered to be destabilising forces, which further demonstrates the following point: “stability” is equated with the state, and any alternative configuration of sovereignty is by definition “unstable.” I described this in Chapter Two as the sovereignty versus anarchy binary (Ashley 1988; see also Mansell and Miles 1988: 11). Nicoll argues that, within this kind of framework, a situation in which Indigenous people are involved in running the state apparatus or, worse still, controlling their own structures of governance is, by definition, “out of control” (2001b: 159). The anxiety that the spectre of Indigenous sovereignty provoked is evident in Bjelke-Peterson’s allegations of conspiracy and its connotations of reprehensibility and illegality, but this is also a logical conclusion in the discourse of state sovereignty: if the state’s sovereignty is legitimate, any challenge to it must be illegitimate.

Policing political borderlands

In his discussion of the policing of “racial fantasy” in late-1980s far-western New South Wales, Morris provides a further example of the White unease that Mansell’s association with Libya inspired (2001). Citing a report of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC), Morris discusses police fears that there would be an Aboriginal “insurrection” during Australia’s Bicentenary celebrations in 1988 (2001). Several months after Mansell returned from his first trip to Libya, police intelligence reports were filed in November and December 1987, asserting that an armed Aboriginal uprising was being planned (Wootten 1991: 165). Significantly, one of these reports alleged that Mansell had used government funding to purchase firearms, which were “believed to be hidden for use” in the planned uprising in 1988 (cited in Wootten 1991: 162). The intelligence report that first raised police concerns was based on a police constable’s observation of two Aboriginal men sitting on the bonnet of a car in the bush. The report stated that this was a “suspicious circumstance,” because the men were “known [A]boriginal activists who, although not vocal in their beliefs, do make it obvious that they are pro-Aboriginal and perhaps anti-police”
(cited in Wootten 1991: 164, my emphasis). The two men were sitting on a car bonnet in the bush because their car had broken down, and they were waiting for help (Wootten 1991: 164). Nonetheless, the intelligence report alleged that, although the reason for the men’s presence was “unknown” to its author, it was possible that they were holding one of a series of meetings to “organise protests or similar disturbances for the 1988 Bicentenary” (cited in Wootten 1991: 164). In this context, being “pro-Aboriginal” evidently meant that one’s actions were necessarily dubious: the reports were taken so seriously that four Tactical Response Group (TRG) officers were deployed to Brewarrina in January 1988, apparently because of the fears of an armed uprising (Wootten 1991: 165). This surveillance is analogous to that attracted by Black Power activists in Sydney’s Redfern in the early 1970s.\footnote{Gary Foley writes that police surveillance of Aboriginal activists associated with the Black Power movement in Redfern in the early 1970s attracted a disproportionate amount of police attention: [t]he Police Crime Surveillance Unit 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 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 Group in Sydney (Foley 2001: para.29).}

This points to several of the themes of this chapter and of the thesis as a whole. As Commissioner Wootten commented in his report describing this series of events, the police intelligence revealed a “completely unjustified paranoia on the part of the local police ... a willingness to report completely unsourced gossip and to misinterpret quite innocent events in amazing ways” (Wootten 1991: 161-162). Notwithstanding Wootten’s criticism of the affair, Morris argues that the police’s paranoia exemplifies the racial struggle to maintain dichotomies of self/community and Other. This struggle, I argue, is shaped by a transgressive fantasy of the reversal of a hierarchy of power. It is tempting to suggest further that these are the repressed memories of the originary dispossession that have been so successfully removed from national consciousness that they can only return in the form of a nightmare (Morris 2001: para. 7).

These anxieties, and the attempts to contain the allegedly “insurgent” forces that provoke them, are typical of many non-Indigenous responses to Mansell’s later activism with the Aboriginal Provisional Government. Morris argues that this example

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shows a struggle to control social space, which not only maintains normative categories; in fact, it constitutes nothing less than the "policing of cultural and political borderlands" (Morris 2001: para.10). It will be argued in the remainder of this chapter that the hegemony of Whiteness, and of dominant discourses of sovereignty and nationhood, is another way in which Australia's political borderlands are policed and controlled.

**Acting sovereignty: The APG's establishment and the model for the recognition of Indigenous sovereignty**

Because the APG is so poorly chronicled in Australian academic literature, it is necessary to give an overview of the APG's establishment and its model for the recognition of Aboriginal sovereignty. Then I will go on to a detailed examination of the ways that White people have responded to the APG. Accordingly, this section of the chapter first discusses the reasons for the APG's establishment and explores some of the responses it received. It then outlines the APG's structure and organisation, gives a detailed account of the APG's model for the recognition of Indigenous sovereignty, and discusses one key aspect of the APG's approach to "acting" sovereignty – the Aboriginal passport.

**Reasons for and responses to the APG's establishment**

The establishment of the Aboriginal Provisional Government on 16 July 1990 stemmed from Mansell's sovereignty activism with the TAC in the late 1980s. The APG was Mansell's brainchild, although several Aboriginal activists from different Aboriginal communities around the continent, including Geoff Clark (who would later become Chair of ATSIC) and Bob Weatherall, were also closely involved. The APG's key aim was to bring about change so that, "instead of white people determining the rights of Aboriginal people, it will be the Aboriginal people who do it" (Mansell 1994b: 16). Since its establishment, the APG has argued that this change would be achieved through the recognition of Aboriginal sovereignty via the creation of a sovereign Aboriginal state.
The APG grew from a combination of what might be broadly categorised as practical and philosophical concerns. Practically, the APG activists shared a sense of frustration that White government-funded programs aimed at giving assistance to Aboriginal people had not advanced Aboriginal causes. This lack of progress was most obviously represented by the Hawke government’s failure to deliver national land rights legislation and Hawke’s reneging on his promise of a treaty.\textsuperscript{108} In particular, according to Burrowes, the APG’s formation can be seen as a response to the establishment of the Aboriginal and Torres Strait Islander Commission (ATSIC) a few months earlier in March 1990 (Burrowes n.d. a, n.d. b; Mansell 1993a: 9). Many Indigenous people saw (and continue to see) ATSIC as a further incorporation of Aboriginal affairs into the non-Indigenous bureaucracy and, therefore, as “another step down the road of assimilation” (Burrowes n.d. a: para. 4; see also Mansell 1995a). As Foley subsequently argued, “the fact is that ATSIC is yet another failed attempt by non-Koori bureaucrats to decide what is best for Kooris” (1995: 344-346). The APG certainly saw bodies such as ATSIC as being too embedded in White bureaucratic structures and too constrained by their service delivery roles to fulfil the role of a national political organisation. They wanted an organisation that was visionary, genuinely independent, and able to play an agenda-setting role rather than one that was constrained by the imperative of responding to the government of the day (Aboriginal Provisional Government 1992b).

Philosophically, the APG’s critique of existing White government policy, and of ATSIC in particular, was that this policy assumed/assumes that Aboriginal peoples’ incorporation into the Australian nation-state is unproblematic and uncontested. From this perspective, it is “as if the future for Aborigines is a foregone conclusion. It is as if

\textsuperscript{107} Although Mansell continued to work for the TAC, Ryan notes, however, that at least some members of the TAC were unhappy with its association with the APG and moved to distance the TAC from it (1996: 284-285).

\textsuperscript{108} It also included programs aimed at improving Aboriginal health and access to education and housing. Although these programs had had many benefits for Aboriginal communities, the APG argued that the 15 or so years prior its establishment in 1990 were marked by a discernable decline in momentum toward, and government interest in, measures aimed at improving Aboriginal peoples’ access to justice (Aboriginal Provisional Government 1992a). The APG explained this in terms of the fact that even government policies that were ostensibly supportive and constructive operated within a White-designed, White-dominated, and White-controlled framework (Aboriginal Provisional Government 1992a).
somewhere somehow a group of white people made the decision about our future but forgot to ask us if it was okay” (Aboriginal Provisional Government 1992a). Because ATSIC’s establishment participated in – rather than departed from – this policy mould, ATSIC itself could be seen as yet another example of the ongoing denial by federal governments in Australia of Aboriginal peoples’ sovereignty, land rights, and rights to self-determination. Therefore, the APG viewed ATSIC as a means by which Aboriginal peoples’ aspirations for political and social reform would be deliberately marginalised and diminished (Aboriginal Provisional Government 1993b).109 In so far as this explicit critique of the recently established ATSIC formed part of the rationale for creating the APG – and in so far as the APG’s creation can therefore be seen as in opposition to the creation of ATSIC – it is not surprising that the APG received hostile responses from some parts of White Australia.

As the APG itself anticipated, the response to its formation from the non-Indigenous community was fairly predictable. For the most part, the media was dismissive and/or bemused. The then Minister for Aboriginal and Torres Strait Islander, Affairs Robert Tickner, was openly hostile: he refused to meet with APG representatives, even in their non-APG capacities, or about ostensibly separate issues, such as the return of cultural artefacts to the Tasmanian Aboriginal community (Associated Press, “Aboriginal Leader Declares Provisional Government,” July 11 1990). Tickner’s refusal to meet with the APG seems to have been fuelled by a perception that it was not a “legitimate” organisation, where legitimacy presumably derives from endorsement by the state apparatus. Tickner mentions the APG on a couple of occasions in his recently published political memoirs. In these instances, he consistently describes the APG as “self-styled” (Tickner 2001: 112, 209), which demonstrates the norm of state-mandated legitimacy – after all, organisations that are “state-styled” do not need to be described as such. The APG was disappointed, although not surprised, by the then Minister’s refusal to meet with them, attributing it to his role as a representative of the state whose very existence was premised on the denial of Indigenous sovereignty:

[it] confirms that the Federal Government will not consider a treaty or sovereignty or anything else which may lead to Aboriginal people controlling

109 As mentioned above, however, APG Deputy Chairman Geoff Clark would later go on to become ATSIC’s Chairperson.
themselves through self-government. ... Tickner represents the vested interests of a white nation seeking to maintain control over Aboriginal people and our lands. Tickner’s success depends on whether he can prevent discussion of any sort taking place about that issue [of sovereignty] (Aboriginal Provisional Government 1992a; see also Mansell 1992a).

Mansell notes that conservative commentators labelled the APG’s plans as akin to apartheid (1994b: 16). This raises two points with respect to the theoretical framework of hegemonic Whiteness which I employ in this thesis. First, as I discuss in more detail in later parts of this chapter, this tendency to liken the APG’s assertion of sovereignty with South-African style apartheid demonstrates the hegemonic nature of White sovereignty, and the ways in which hegemonic notions of sovereignty regulate White responses to Indigenous sovereignty. This is because, as Chapter Two explained, hegemonic conceptualisations of sovereignty define or construct sovereignty as something which excludes the cultural practices of non-Whites: as something which is constitutively White. The appropriation by Indigenous people of a White model of sovereignty – as is the case with the APG – thus sits outside the White norm of what sovereignty itself is. Hence the need to label it as radical, dangerous, and even immoral: all of which are connoted by the label of “apartheid”. Second, in the ascription of the label of “apartheid” to the APG, the APG’s assertion of Indigenous sovereignty is clearly viewed as race-based. In this discourse, the Australian state’s claim to sovereignty is not only seen as uncontested and unproblematic, but it is not viewed as race-based. This is despite the centrality of Whiteness to its establishment and continuing existence, as Chapter Two discussed. This further demonstrates the invisibility of Whiteness in dominant discourses of sovereignty, and the description of the APG model for recognising sovereignty as apartheid thus demonstrates one of the discursive practices of hegemonic Whiteness.

The APG’s formation also drew mixed responses from the Aboriginal community. Some sections of the Aboriginal community were critical about a perceived lack of consultation over the APG’s establishment.110 In the discussion on Keith Windschuttle

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110 The APG argued in response that its creation reflected the will of a significant proportion of the Aboriginal population, who had long been calling for Aboriginal people to stop using rhetoric about sovereignty and begin to start acting it instead (Aboriginal Provisional Government 1992a).
below, I show how this kind of criticism has often been seized upon by the APG’s White critics to dismiss the APG’s assertion of Indigenous sovereignty and discredit its demands. These examples demonstrate the White strategy, which I first described in Chapter Three, of discrediting Indigenous peoples’ demands for the recognition of sovereignty by constructing them as “unrepresentative.” They also demonstrate the homogenising and universalising function of White discourses about Indigenous peoples and Indigenous identity: these discourses draw on an expectation that Aboriginal people should all share the same political ideals and aspirations, which leads to dismissive treatment when they evidently do not.

Both the APG and individual activists associated with it have continued to attract labels such as “radical,” “separatist,” and “extremist.” The APG argues that its blueprint for Aboriginal freedom, independence, and self-determination is described in these ways because it poses a very direct challenge to “over 200 years of white supremacy and domination” (Aboriginal Provisional Government 1992a). The remainder of the chapter demonstrates how this is the case: because the APG challenges the assumptions and the structures on which White power and privilege are based, White responses to it construct the APG as being outside the normative discourses by which White power and privilege are reinforced and maintained.

**APG structure and organisation**

Undeterred by the initial response to its formation (and perhaps encouraged by it), the APG went about consolidating its support base and resources. By 1992, it had offices and representatives in all states and territories and a membership of over 1000 people, and it had issued several hundred Aboriginal passports, which are discussed in more detail below (Aboriginal Provisional Government 1992a). The APG established an Executive, which included its founding members: Weatherall as Chairman, Clark as Deputy Chairman, Josie Crawshaw as Treasurer, Kathy Craigie as Executive Officer, and Mansell as National Secretary (Aboriginal Provisional Government 1992a).

During this period of consolidation, the APG urged Aboriginal people to attend APG meetings, engage in discussion and debate about the APG’s ideas, and put
themselves forward to be on the APG Executive (Aboriginal Provisional Government 1992a). The APG also encouraged White people to support the APG by paying for their occupation of Aboriginal lands on a “pay the rent” principle, with rent payments calculated on people’s capacity to pay (Aboriginal Provisional Government 1992a). In order to develop its strategies, directions, and ideas and to raise awareness about its aims, the APG held its Elders conference in Hobart between 27 and 29 August 1992. At this time, the body of elders governing the APG’s activities was formed. The conference ended with a resolution that the APG put “the Australian government on notice that they will now be spearheading a long term campaign to consolidate Aboriginal rights and to set the agenda for Aboriginal political development in the future” (Aboriginal Provisional Government 1992b). Joe McGinness, a prominent activist in the 1960s and known for his involvement in FCAATSI and the 1967 referendum campaign,\textsuperscript{111} described the APG Elders conference as an “historic event” in the Indigenous human rights movement (Aboriginal Provisional Government 1992b).

During the first few years of its existence, the APG also began publishing the APG Papers, a manifesto of sorts, which constitutes the most comprehensive articulation of the APG’s purpose and aims (Aboriginal Provisional Government 1992a, 1992b, 1993a, 1993b, 2002). The APG Papers consists of five volumes, which discuss the APG’s views on a range of issues including Aboriginal sovereignty, the APG’s model for an Aboriginal nation, reconciliation, the Mabo decision and native title, the Australian constitution, and, in its most recent volume, the issue of a treaty between Aboriginal people and non-Indigenous people in Australia. Mansell has published excerpts of these papers in various scholarly journals (see, for example, Mansell 1992b, 1993c, 1994a, 1994b). Despite the fact that it is probably the most comprehensive and cogent articulation by an Aboriginal organisation of a model by which Indigenous sovereignty could be recognised, the APG Papers has been all but ignored by White academics in the scholarly literature in Australia.\textsuperscript{112} Below, I discuss in more detail how White academics’ failure to engage with the APG Papers and its model for the recognition of

\textsuperscript{111} See, for example, McGinness (1991).
\textsuperscript{112} One exception to this general rule is the inclusion of two excerpts from the APG Papers published in Attwood and Markus’ (1999) Documentary History of the Struggle for Aboriginal Rights.
Indigenous sovereignty can be read in terms of the relationship between sovereignty, nationhood, and Whiteness.

The APG model for the recognition of Aboriginal sovereignty

The most important feature of the APG for the purposes of my argument is its emphasis on acting sovereignty. I show below that the APG's acting out of Indigenous sovereignty - and, in particular, its refusal to accept the legitimacy of existing government authority over Aboriginal people and land - provokes a distinct set of responses and anxieties among White people and institutions in Australia. This is because the APG directly and actively challenges the assumption that Aboriginal people's incorporation into the Australian state is unproblematic and uncontested. The APG's sovereignty agenda is founded on the belief that Aboriginal people, and Aboriginal people only, have the right to control their own lives and communities and to determine for themselves their future direction, including their relationship with the Australian state:

neither ATSIC nor all the money in the world can appease the feeling of being "done to," of alienation from our true place in our lands, of the feeling of being "occupied." The best efforts of white government have not worked. It is time for change (Aboriginal Provisional Government 1992b, my emphasis).

Therefore, the APG's emphasis on doing sovereignty, on asserting authority and taking control, can be seen as being in deliberate juxtaposition with the feeling of being "done to." Similarly, its articulation of a model for Aboriginal nationhood can be seen as the strategic deployment - or appropriation - of the concept of "nation" to create an Aboriginal-controlled and Aboriginal-dominated space to counter the feeling of alienation that stems from being dominated within the White Australian state. It is also for this reason - the APG's appropriation of White models of sovereignty and nationhood - that the APG's assertion of sovereignty provokes anxiety and panic from White people. This is because the APG upsets White hegemonic constructions of sovereignty and nationhood, which effectively construct sovereignty as something which can only be practised or exercised by White people and through White institutions. With this in mind, I now outline the APG's model for Aboriginal sovereignty and nationhood.
One of the central features of the APG model is its emphasis on land. In the APG model, Indigenous people, rather than the crown, are assumed to have underlying title to the whole of the continent now known as Australia. The land base of the Aboriginal nation would consist of at least all of what is currently referred to as crown land (land owned by the government), plus some additional lands. The test for which lands would fall under the jurisdiction of the Aboriginal government would be "the land needed by Aboriginal communities to survive on." This would therefore end the current need for Aboriginal people to "beg governments or judicial bodies" for land to be returned. The remaining land not needed by Aboriginal people could then be kept by White people "as a basis for them to continue their nation" (Aboriginal Provisional Government 1992a). The APG's test for rights to and control over land is therefore radically different from the test that Aboriginal people must currently confront in order to "claim" native title: currently, only unused crown land can be claimed.\footnote{Even then, Aboriginal people must prove that they have had a continuing connection with the land, which has survived White invasion and occupation – this is discussed in more detail in the section on Mabo (1992) below.} The important distinction between these two schemes lies in the relationship between sovereignty and the test for rights to land. Under the native title regime, the crown is assumed to have underlying title to all land in the Australian continent, and Aboriginal people can only make claim to native title where it has not been extinguished by an act of the state. The White state, therefore, is considered to be the legitimate sovereign authority. The APG model, however, assumes that Aboriginal people have underlying title to the continent, and their interests are therefore prioritised or privileged in the determination of title to land (Aboriginal Provisional Government 1992a). This is one example of how the APG directly challenges the "incontestability of the state" myth: the idea that the White claim to sovereignty over the continent of Australia is legitimate, uncontested, and unproblematic. This demonstrates why the APG provokes considerable anxiety among White people whose critiques of the APG are founded on an assumption that the sovereignty of the Australian state is beyond question.

Under the APG model, in exchange for Aboriginal people "giving up to perhaps half of the country to white Australians," the Australian government would need to
provide some compensation. According to the APG, this would not necessarily take
the form of money but could include arrangements for Aboriginal people to have
access to specialised institutions such as medical, educational, and telecommunications
facilities (Aboriginal Provisional Government 1992a). Aboriginal author and
playwright Jack Davis wrote in the first volume of the APG Papers that the strategy for
winning back land would be to wage a long-term campaign of rallying people to
particular communities to occupy the specific pieces of land being reclaimed. It would
also involve passively resisting attempts to remove them where necessary, which
would eventually lead, bit by bit, to White authorities conceding land to Aboriginal
communities (Aboriginal Provisional Government 1991). While Davis acknowledges
that this campaign would, by its very nature, be a long, difficult, and costly one, as
articulated by him, the APG strategy of occupying land can therefore be seen as
opposed to the feeling of “being occupied,” as described by Mansell above. It is also
important to note here the discursive shift that occurs when Aboriginal people, and not
the crown, are presumed to have underlying title to the whole continent: the discourse
is of Indigenous people giving up land, as opposed to the state giving it to them. This
illustrates the challenges that the APG’s mode of acting sovereignty presents to
hegemonic notions of White sovereignty and nationhood and to the discourses that
keep this hegemony intact. Simply put, hegemonic notions of White sovereignty and
nationhood rely on the White state having underlying title to, and therefore being in
control of, land. The APG model of Aboriginal sovereignty proposes to bring this
White control of Aboriginal land and communities undone.

According to Davis, the “political unification” of these Aboriginal communities
would form the Aboriginal nation (Aboriginal Provisional Government 1991). Thus,
the APG’s model of the Aboriginal nation is essentially a White federalist model,
though there are some important differences between the APG model and the
operation of White Australian federalism, as I discuss below. The fact that the APG
model is based on the White system of federalism raises interesting questions when it
is derided for being a form of apartheid or “black separatism,” as briefly discussed
above. This is particularly so when it is recalled, as academic commentators such as
Reynolds (1996a: 182-183) and Coombs (1994: 229) have pointed out, that the APG’s
model for the recognition of Aboriginal sovereignty is not unlike the self-government
currently exercised, quite uncontentiously, by Australia’s external territories such as Norfolk and Cocos Islands. What this suggests is that it is not that the state cannot entertain the possibility of a shared configuration of sovereignty or that Australia’s political structure cannot cope with a distinct proportion of the population wishing to govern themselves.

Rather, it is specifically the spectre of Indigenous self-government and Indigenous people having a distinct claim to sovereignty that provokes anxieties, such as those about Aboriginal “separatism”. (These anxieties are discussed in more detail in the following section on responses to the APG’s model.) The division of powers between state, federal, and local government shows that shared sovereignty is a built-in feature of the Australian political system. A brief example in relation to Norfolk Island demonstrates this point. In a 1992 parliamentary debate on self-government in Norfolk Island, former federal National Party Leader Ian Sinclair told the House of Representatives that

> in Australia we believe that people should have the right to govern themselves. It is therefore, very much a matter for the people of Norfolk Island to determine the extent to which they wish to maintain their association with Australia (cited in Aboriginal Provisional Government 1993a, my emphasis).

Yet these same principles do not carry over into support for Aboriginal community self-government, particularly self-government as proposed by the APG model. Deriding the APG model as a form of “black separatism” therefore suggests that it is not the prospect of independent or autonomous self-government that is worrying for White commentators, but rather, the prospect that independent self-government APG-style would not be controlled by Whites. This demonstrates the pervasiveness of Whiteness in hegemonic constructions of White sovereignty and nationhood, and the way hegemonic Whiteness mediates or regulates discussion about Indigenous sovereignty. This is because the APG model challenges the idea that sovereignty can only be exercised by White people and White institutions. Further, the possibility of Indigenous sovereignty also implies the illegitimacy of White sovereignty, thus further fracturing the “incontestable state” myth on which the Australian state’s claim to legitimate sovereign authority depends.
Also central to the APG model is the assertion that Indigenous systems of law and governance are equal, rather than subordinate, to their White equivalents. Under the APG model, each Aboriginal community would determine its own laws, appropriate to the particular community's circumstances, therefore ending the present situation in which Aboriginal communities have no choice but to abide by White law. Some Aboriginal communities could therefore practice "traditional" law, whereas others who have been more exposed to White society might opt for a combination; the important point is that each Aboriginal community would be able to choose the laws appropriate to their particular situation. Furthermore, the APG makes it very clear that Aboriginal people would not be compelled to live on Aboriginal land but that, if they so wished, they could continue to live under the jurisdiction of White Australia. In response to "scoffing" at the "peculiar" boundaries such a distribution of land would create, the APG points out that it is not unusual for different territories of the one state to be separate from one another, citing the US states of Alaska and Hawaii as examples (Aboriginal Provisional Government 1992a). In addition, and as was discussed above, the APG points to the concurrent operation of Australian local, state, and federal jurisdictions to demonstrate the workability of legal pluralism (Aboriginal Provisional Government 1993b: 16). It also points out that its case for the importance of genuine self-determination is not without precedent in Australia, citing both the Royal Commission into Aboriginal Deaths in Custody (1991) and the Australian Law Reform Commission's report on Aboriginal customary law (Crawford 1982) as examples that lend weight to this argument (Mansell 1993c: 9-11).

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114 As is the case in other jurisdictions, anyone from outside the Aboriginal nation entering Aboriginal land would have to abide by the legal system of the community whose land they are on and, conversely, any Aboriginal people entering land over which non-Aboriginal people had jurisdiction would be expected to do the same. There would, however, be scope for leniency toward visitors who broke laws unfamiliar to them; that is, non-Indigenous people who broke laws with which they were unfamiliar while on Aboriginal land might not be punished as strongly as an Aboriginal person would be, but, "by the same token, we would expect that Aborigines who broke the white man's law would also be treated in a lighter way than white people themselves" (Aboriginal Provisional Government 1992a). The APG concedes that this possibly represents one of the disadvantages of their model for an Aboriginal nation, because Aboriginal people would no longer be able to make a claim to "carry their own laws onto Australian government controlled areas" (Aboriginal Provisional Government 1992a).
In the APG model, political control would be vested in each individual community, as opposed to the top-down hierarchical model implicit in White Western governance structures. Local communities would have "absolute control over their day-to-day activities and the direction in which the Aboriginal communities are to move" (Aboriginal Provisional Government 1992a). This is akin to White forms of local of municipal government, where local or municipal councils are reasonably autonomous in the day-to-day governance of their local areas. A national government would be needed (elected via the local community-controlled councils) to negotiate with foreign governments on external issues and to facilitate co-ordination of the various Aboriginal communities. The Aboriginal government would operate alongside all other governments in the world, including the Australian government, and would "not be subordinate" to those governments (Aboriginal Provisional Government 1992a, my emphasis). The important feature of the APG's model in political terms, then, is that "white legislation would have no application whatsoever ... because absolute control over Aboriginal land would be vested in Aboriginal communities" (Aboriginal Provisional Government 1992a). It is also important to point out that the APG model is different to the Australian model of federalism. Where federal, state and local governments have discrete powers over some areas (such as the federal government's responsibility for defence and foreign affairs), and concurrent powers on other issues (such as health and education), the federal law prevails in the event of any inconsistency. In the APG's model, each community would retain absolute control; if a local community wanted to build a casino, for example, the national Aboriginal government would have no power to stop it (Aboriginal Provisional Government 1993b).

Along with its outlines of how the Aboriginal Nation would be structured in terms of governance and land, the APG's model also includes an analysis of the resource base that the Aboriginal Nation would require, and would be able to be achieve, based on federal government budget figures. Using 1992 figures, for example, the APG estimated that the Aboriginal national government could command more than $6 billion from a combination of mineral royalties (from companies mining on Aboriginal
land), property income (also generated from Aboriginal land), and tax. At the same
time, the APG estimated that annual federal government spending on Aboriginal
programs was around $2 billion and that an Aboriginal Nation would therefore have
more resources at its disposal than are currently spent on Aboriginal people by White
governments.

The most recent volume of the APG Papers outlines how Aboriginal sovereignty
could be recognised via the negotiation of a treaty or treaties in Australia (Aboriginal
Provisional Government 2002). The APG has also joined in more general calls by
Indigenous people for a treaty over the last few years (Nagaiya 1999), although the
treaty issue has always been on the APG’s agenda (Mansell 1992c). Importantly, in its
discussion of the treaty issue, the APG points out that a treaty negotiation process
would be a way of recognising and resolving the problem of competing claims of
Indigenous people and the Australian state to legitimate sovereign authority, as I
discussed in Chapter Two (Aboriginal Provisional Government 2002). That any treaty
between Indigenous and non-Indigenous people in Australia would need to be a
recognition of Indigenous peoples’ sovereignty highlights the irreducibly interna-
tional aspect of treaty-making. This therefore demonstrates the gap between what (I
understand) many Indigenous people mean when they call for the negotiation of a
treaty and the kind of “agreement” that was being discussed in the context of Prime
Minister Hawke’s response to the Barunga statement. This aspect of treaty
negotiations is also particularly important in my critique of the British Columbia treaty
negotiation process in the following chapter.

The Aboriginal passport

Whereas the APG’s model for Aboriginal Sovereignty and Nationhood is a cogent
articulation of how Aboriginal sovereignty would “look” if and when it is recognised
by the White Australian state, perhaps the most lucid example of the APG’s acting of
sovereignty is in the issuing of Aboriginal passports. The APG’s Aboriginal passport
campaign had its origins in Mansell’s trips to Libya in 1987 and 1988, as discussed

115 The APG Papers points out that these estimations do not necessarily mean that an Aboriginal
government would rely on these same revenue-raising mechanisms, but it makes the point
above. Like the Aboriginal Tent Embassy's use of the term "Embassy," the Aboriginal passport campaign can be read as an appropriation by the APG of the paraphernalia of White sovereignty and nationhood. This helps to explain the kinds of White responses the APG passports, and the APG more generally, provoked. The passport campaign was designed to challenge the legitimacy of government authority over Aboriginal people with a passive form of resistance and to demonstrate to Aboriginal communities that it is possible to "reject the white man's control ... in practical ways" (Aboriginal Provisional Government 1992b). The Aboriginal passport was an especially poignant and effective way of doing this because of the particular dilemma it created for Australian immigration officials when they were presented with an Aboriginal passport on an Aboriginal person's departure for or return from overseas. Migration laws provide for people without a "valid" passport to be deported to their country of origin but, as Mansell puts it, "Where ... are they going to send us?" (Aboriginal Provisional Government 1993b). The APG argues that the example of Aboriginal passports demonstrates that, if Indigenous people begin to act as if their consent has been withdrawn (or, moreover, as if it had never been given in the first place), the White system of control and domination "begins to fall apart" (Aboriginal Provisional Government 1992b; see also Mansell 1998a). Through the withdrawal of this consent (through things such as refusing to carry an Australian passport), the APG therefore directly challenges not only the state's domination of Indigenous people but also one of the central political norms upon which that domination relies – the idea that the legitimacy of the state's exercise of sovereignty is based on the consent of those who are being governed by it.

The Aboriginal passports were part of the APG's broader campaign of civil disobedience, which included refusing to vote in the White electoral process and refusing to pay the resulting fines. In 1992, for example, Mansell himself was prosecuted for failing to enrol to vote. When his case was heard in the Hobart Court of Petty Sessions, his lawyer's address to the Court illustrated the issues this sort of civil disobedience aimed to raise:

that there seems "ample scope for the development of an economically sustainable Aboriginal Nation based on available figures" (Aboriginal Provisional Government 1992a).
[b]y failing to enrol to vote Mr Mansell has adopted a very popular but critically important Aboriginal position. His refusal rather than his failure to enrol to vote raises the jurisprudential question of the value of a law being imposed on a people who strongly object to it. That objection is not based on unreasonable or selfish motives of private gain but it is based on the historical and political grounds that the people at whom the amended voting laws were directed quite simply wish to be left alone by white governments at all levels (cited in Aboriginal Provisional Government 1993a).

Mansell’s lawyer’s address also highlighted the way in which the state responds when such issues are raised. She pointed out that, despite the high proportion of Aboriginal people who do not vote, the Aboriginal Legal Service was unable to find any other precedent of a prosecution for failure to vote. It could only be assumed, therefore, that it was Mansell’s high-profile “radical” activism that brought him to the attention of the Commonwealth authorities. In other countries, Mansell’s lawyer argued, this “would be accepted as political prosecution of vocal resistance leaders who must be subdued” (Aboriginal Provisional Government 1993a). This example demonstrates the extremity of White responses provoked by the APG and activists associated with it: in Mansell’s case, the response to a relatively minor and common infraction was an emphatic (re)assertion of the state’s authority. I argue that the perceived need for this level of response reveals the White anxiety that was and is caused by the APG’s challenges to the validity of the state’s authority over Indigenous people. Mansell’s prosecution can thus be read as an attempt by the state to clamp down on activism that challenges the legitimacy of its authority.

The spectre of Indigenous sovereignty: Critiques of the APG model

The APG’s arguments for the recognition of Aboriginal sovereignty and its model for how this could take place have attracted considerable criticism from White people and institutions in Australia. Criticism has come from politicians and government, from conservative media and academic commentators, and from commentators who are usually seen as “progressives” on issues to do with Indigenous rights. It is important to note that the APG has also attracted criticism from Indigenous people. Noel Pearson, for example, has said and written that the details of the APG model are unclear and the schema “uncompelling” (Pearson 1993b: 14), even though Mansell struck an inspirational chord among many of Pearson’s generation in the 1980s.
Marcia Langton appears to concur with Pearson, arguing that his "logical analysis [demonstrates] that the choice presented by Mansell is illusory" (2002: 86). Consequently, she advocates an approach that recognises that the fate of Aboriginal people will always be "entwined with Australians," albeit Australians who are "historically and intellectually blind to difference." She points out, however, that Pearson took the APG's ideas as propositions "requiring close scrutiny and rigorous analysis. He built bridges with Michael Mansell" (Langton 2002: 85). And, as the discussion of Mabo and the native title regime later in the chapter suggests, Pearson was not entirely unsympathetic to the ideological basis of Mansell's position, nor was Mansell to the Pearson engagement in the native title legislation negotiations. The important point here is not that Pearson engaged in debate with the APG's model; rather, it is that White Australia, by and large, has failed to do so. The focus of the following discussion, then, is on the logic of non-Indigenous responses to the APG's sovereignty agenda, and I argue that these responses are mediated by dominant constructions of – and indicate White anxieties about challenges to – hegemonic notions of nationhood and sovereignty.

Indigenous sovereignty denial, Part I – If in politics, marginalise, silence, and ignore

The response of White governments to the APG's model demonstrates many continuities with White responses to assertions of Indigenous sovereignty discussed in earlier chapters of this thesis: White politicians have tended to ignore the APG model

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116 Pearson's critique was made against the background of negotiations and debates over native title legislation following the Mabo decision in 1992, which will be discussed in more detail later in the chapter. In that article, Pearson critiqued Mansell's model on the grounds that it does not address questions about whether sovereignty inheres in Aboriginal groups at the national level or whether it exists at the local (or some other) level, and he queries whether the concept of an Aboriginal nation has roots in the pre-European past. Pearson argued that, because of these unresolved questions, there is considerable confusion over many of these ideas in the Aboriginal community, and, moreover, that the absence of effective debate or development of these ideas by the Aboriginal community means that for the most part the ideology of nationhood remains retarded, having failed to progress beyond 1970s style rhetoric and sloganeering. As a consequence the sovereignty concept faces huge problems within the Aboriginal community and the realpolitik of jealous Aboriginal localism, let alone the realpolitik context of the colonial state. The onus lies with those who insist on this agenda to provoke energetic debate and thought regarding the concept and then to suggest an accompanying strategy. That the failure to deal with these difficult problems, and the continual assertion of ill-conceived notions [of] sovereignty, will embarrass the Aboriginal rights cause, is clear (1993b: 14-15).
and to justify this response by marginalising the APG activists who have promoted it. This should be understood in the context of the government's response to Mansell's trips to Libya in 1987 and 1988. When seen as continuous, rather than as discrete or unrelated events, government responses to the APG can be read as attempts to dispel the spectre of sovereignty activism by closing down avenues through which such activism could be pursued. The closure of the Libyan Embassy in Canberra and attempts to discredit Mansell in the media exemplify this. When it has apparently succeeded in eliminating the threat (or, at least, in reducing its threatening capacity), the state (and the various governments in which it is embodied) then employs a series of strategies to ensure the threat remains dormant or, at the very least, marginal and isolated.

The most obvious of these strategies is to marginalise those in whom the threat inheres – in this case, the APG and its associated activists. This was demonstrated by then Minister Tickner's refusal to meet with APG activists after the APG's initial establishment, which can be read as a deliberate strategy aimed at punishing the APG for calling into question the state's approach to the management of Indigenous-state relations. Thus, the APG activists not only were viewed as delinquent; in addition, their delinquency was punished with a punitive form of discipline, when they were locked out of the state apparatus altogether (Nicoll 2001b: 163). This was further exemplified by the APG's lack of representation on bodies such as the government-appointed Council for Aboriginal Reconciliation until Geoff Clark became Chair of ATSIC in 1999 (and an ex-officio member of the Council).117

It is important to note that this strategy of marginalisation has been employed by both major Australian political parties during their respective terms in federal office and opposition, demonstrating the continuities in White responses to the APG across the political spectrum. In October 1997, for example, Mansell and other members of the National Indigenous Working Group (NIWG) on native title were in South Africa

117 It is important to note, however, that the APG's critique of the policy of reconciliation – which is discussed in more detail below – suggests that they may have declined an invitation to sit on the Council for Aboriginal Reconciliation even if one had been
discussing, among other things, the possibility of boycotts of the Sydney Olympics because of the government's handling of the post-Wik amendments to the Native Title Act. Liberal Senator Nick Minchin, then Special Minister of State with responsibility for Native Title, issued a press release entitled "Mansell should tell South African's [sic] the truth about Aboriginal Land Rights." The press release suggested that Mansell and other members of the NIWG were being deliberately dishonest about the federal government's position on native title, which was aimed at providing a process that would be "fair and equitable for all Australians" (Minchin 1997, my emphasis). Thus, Mansell is constructed as dishonest, in opposition to "fair" and "equitable" position of the Australian government, and therefore in opposition to the interests of "all Australians." This demonstrates the construction of dissent as "un-Australian", which is a commonly used discursive tool in Australian political discourse.

Similarly, when asked about the threat of boycotts during a press conference, Prime Minister Howard responded that

"[t]he native title issue is something that should be resolved in Australia by Australians. Australians are never impressed when people go overseas and dump on their country, never ever. It's always the wrong way to get your message across. And it's obvious from what Michael Mansell, for example, has said that the whole purpose of his and his mates [sic] exercise is to embarrass the Government. He's not interested in Australia and he's not interested in a fair resolution to this issue" (Howard 1997, my emphasis).

Here it is important to note first that Howard was responding to Mansell in Mansell's non-APG capacity. Read in the context discussed above, however, Howard's dismissal of Mansell can be seen as continuous with the historical marginalisation of the APG and its associated activists. This is revealed through an analysis of the discursive tools Howard employs here. He begins by asserting Indigenous rights generally – and native title specifically – as something that should be worked out within the framework, or apparatus, of the Australian state. This can be read as a dismissal of Mansell's long-standing argument (both with the APG and prior to its establishment) that the Australian state has no legitimate claim over Aboriginal people. Howard goes on to chastise Mansell – "Australians are never impressed. ... It's always the wrong way" – and to place him outside the framework of Australian state – "he's not

forthcoming. See Mudrooroo's discussion of the politics of the Council for Aboriginal
interested in Australia.” Again, the implication is that Mansell is being “un-Australian.” Howard also implies that, because Mansell dares to challenge the “fair” solution offered by the normative framework, Mansell’s proposed solution must, by definition, be “unfair.” This might also be read as a discursive positioning of Mansell in opposition to the popular Australian norm of the “fair go.” That is, Mansell is constructed in opposition to the “good” White national self that I have discussed in earlier chapters.

Such strategies of marginalisation employed by both sides of politics can be seen as part of a project aimed at upholding and protecting the hegemony of state sovereignty. Thus they also maintain the “incontestability of the state” myth, by marginalising and silencing any voices that propose an alternative configuration of Indigenous–White relations to that mandated by the state apparatus. The High Court’s Wik decision found that native title and pastoral leases can coexist, and, in the event of any conflict between the rights of the pastoralist and native title holder, the pastoralists’ rights would always prevail. Yet Howard proposed a series of amendments to the Native Title Act, which would extinguish native title on all pastoral leases, irrespective of the potential for coexistence. Therefore, Howard’s response to Mansell also reveals the way in which this project is geared toward the privileging of White interests, and thus that the strategies employed to marginalise Indigenous advocates are inherently racialised. By criticising the blanket extinguishment of native title on pastoral leases that Howard was “offering” in his so-called 10-point plan, Mansell was not being “fair.” A “fair” resolution, in Howard’s terms, was one in which White interests were privileged, and protected against even the possibility of coexisting with Indigenous interests, which were and are constructed as a threat.

Drawing on the work of Morris (2001) discussed earlier in this chapter, we can say that the APG’s model for the recognition of Indigenous sovereignty directly challenges the binary between Self and Other upon which the hegemony of White nationhood and state sovereignty depends. As Chapter Two discussed and as I have argued elsewhere, one element of the self/other dichotomy in discourses of Australian nationhood is the

construction of the self as "good" and of the "other" as benefiting from that goodness (Pratt 2000). Mansell explains how the idea of Aboriginal people governing themselves disrupts this discourse:

Australians feel a great sense of achievement for having built their nation. They see any injustices, such as have befallen Aborigines, as not being sufficient to handicap the cause of continuing to build their great nation. As a result, Australians have developed a tunnel vision and intolerance toward attitudes which do not subscribe to that of their own on the issue of nationhood. This explains the horror expressed by politicians and media especially to Aboriginal assertions of "not being Australian, but Aboriginal." Yet the identical position taken by Norfolk Islanders was actually relied upon by the Australian Government to give them what they wanted (cited in Aboriginal Provisional Government 1993a, my emphasis).

The "horror" that Mansell describes is manifested in anxiety about the "reversal of a hierarchy of power," and, in order to quell this anxiety, it is necessary to marginalise or isolate its cause. Similarly, Naidoo argues that, when the self-image of a society is confronted with a "threatening truth" (for example, the truth that Australia was never terra nullius and that White people therefore do not own the land on which our nation-state is built), a commonly used defence mechanism is to avoid the truth, and therefore the trauma it threatens to provoke (Naidoo 1998). One way of activating the defence mechanism, seen here in government responses to the APG and activists associated with it, is to marginalise, silence, punish, and/or ignore them. Another, seen in the following discussion of conservative commentators' responses to the APG, is to vigorously reassert the discursive constructions of Self and Other upon which the denial of Indigenous peoples' sovereignty, nationhood, and rights to land have historically been based.

Indigenous sovereignty denial, Part II: Keith Windschuttle and the conservative bandwagon

Because Michael Mansell has arguably been one of Australia's most prominent "radical" Aboriginal activists in the last two decades, it is not surprising that both he and the APG should have attracted criticism from conservative commentators. The preceding discussion about the response of mining industry executive Hugh Morgan to Mansell's trip to Libya shows how and why this might occur. One of the most sustained conservative critiques of the APG's model for Aboriginal nationhood and sovereignty, however, has come from Keith Windschuttle – ably assisted at times by a line-up of like-minded colleagues – in a series of articles in right-wing publications
such as Quadrant magazine (Windschuttle 2000b, 2000c, 2000d, 2000e, 2000f, 2001a, 2001b, 2002). In these articles, Windschuttle’s critique is not directed at the APG as such but at a group of White scholars – including Henry Reynolds, H.C. Coombs, Stuart Macintyre, Garth Nettheim, and Canadian academic Patrick Macklem – who, Windschuttle suggests, have “seduced” many “highly educated Aborigines” with the “rhetoric” of Aboriginal sovereignty and self-determination (Windschuttle 2000c: 16; see also Windschuttle 2002). In this way, the central thread of Windschuttle’s critique of the APG deploys the familiar conservative tactic of constructing Indigenous sovereignty activists as naïve and vulnerable to radical left-wing influence. Much of Windschuttle’s discussion of the Aboriginal sovereignty agenda is ripe for critique, but an extensive rebuttal of Windschuttle’s arguments is beyond the scope of this chapter and has been partially undertaken elsewhere (see, for example, Evans and Thorpe 2001; Manne 2001: 93-105; Reynolds 2000b, 2001). Instead, I focus here on four aspects of the critiques offered by Windschuttle and other conservatives of APG-style models for the recognition of Indigenous sovereignty. Dominant White conceptualisations of nationhood and sovereignty underpin these critiques and subsequently function in the maintenance of hegemonic Whiteness.

First, Windschuttle argues that the idea of an Aboriginal state such as that proposed by the APG is not based in Aboriginal culture, but it derives rather from the concepts of nation and state in the European political tradition (2000c: 14). Therefore, in Windschuttle’s schema, the idea of Indigenous sovereignty is constructed as “inauthentic.” Moreover, according to Windschuttle, Aboriginal culture is not complex enough to have developed on its own – or to be able to incorporate – the sufficiently modern systems of political organisation and government that Aboriginal statehood would necessarily entail. For example, Windschuttle opines that “spiritual affiliations and responsibilities for sacred sites ... do not imply anything as secular or as radical as an Aboriginal government” (2002: 27). In addition, in his broader project on the “myth” of frontier violence, Windschuttle not only constructs Aboriginal people as “traditional” and their cultures as fixed, but he also employs a primitivist discourse about Aboriginality to demonise them as well. In an argument disputing Reynolds’ description of Aboriginal resistance on the Tasmanian frontier, for example, Windschuttle asserts that Aboriginal violence was not motivated by resistance. Rather,
so Windschuttle's story goes, "the motives of the Aborigines lay in a combination of revenge and plunder. ... The actions of the Aborigines were not noble: they never rose beyond robbery, arson, assault and murder" (Windschuttle 2002: 29). In this view, Aboriginal people were not even "noble savages" – they were just savages.

Conversely, Windschuttle writes that "it seems obvious to me that, given what else we know about the conduct and culture of the early British colonisers of this continent, the claims by historians that they engaged in systematic massacres and genocide of the Aborigines would have been totally out of character" (Windschuttle 2002: 23). As Reynolds (2001) and Evans and Thorpe (2001) have pointed out, the conclusions reached by Windschuttle on the basis of a small number of colonial records are entirely spurious. More to the point, in relying on those few colonial records only, Windschuttle privileges knowledge from sources that might best be described as partial, given that the writers of the records on which Windschuttle's argument depends had a direct interest in Indigenous dispossession. Moreover, these sources are also pervaded by racist colonial ideologies and assumptions.118 But, by thus conceiving of Aboriginal peoples and cultures as in opposition to White people, Windschuttle reinscribes the discursive dichotomy that represents White people as modern, progressive, and civilised (thereby implying that colonisation should be seen as a beneficial process) and the Indigenous other as primitive or rudimentary. Put simply, in this dichotomy, White people are "good" and Indigenous people are inferior and "bad."

Windschuttle's thesis that White culture is inherently superior has a specific application in his treatment of Indigenous customary law. He argues that the problems of instituting customary law in the way described in the APG model are insurmountable, and he maintains that attempting to do so would have detrimental effects on Aboriginal people (2001b: 20-21). For Windschuttle, the Western legal system is not ethnocentric as some "cultural relativists" claim ("cultural relativist" is a pejorative term in Windschuttle's dictionary). Rather, it is in fact universally applicable, because it incorporates the accumulated experience of English common law.

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118 See Attwood (1996).
and the best international judicial "argumentation." Furthermore, Windschuttle declares, Western law's cases and judgments have all been "written down," whereas Indigenous law only exists in oral form. Therefore, it is "not in the same league." This is because Aboriginal customary laws were "developed for the needs of small-scale hunter-gatherer communities," so they "cannot hope to handle the problems of complex, highly developed societies ... where most Aborigines now live" (2001: 21). In this instance and in many others, Windschuttle's argument collapses under the weight of its own flawed logic: just a few pages later in the same article, he discusses the justiciability of arguments for Aboriginal sovereignty and notes that "it is very difficult for a court to establish Aboriginal concepts of land ownership" (2001b: 22). If the Western legal system's applicability is as universal, neutral, and value-free as he suggests, it should surely recognise Aboriginal concepts of land ownership. The reason it does not, of course, is that the Western legal system (and Western political and economic systems) is neither neutral nor value-free: it is inherently tied to particular sets of norms, interests, and values such as the protection of White proprietary interests.

The second aspect of Windschuttle's critique of the APG that I wish to consider is his suggestion that arguments for Aboriginal sovereignty have "so far assiduously avoided the question of whether the rest of the population actually supports them" (2000c: 14). This strategy of marginalising Indigenous sovereignty activists as unrepresentative is a theme that I have discussed in earlier parts of this chapter and the thesis. To imply that Indigenous people who assert sovereignty should be representative of the entire Indigenous population indicates a tendency to homogenise Indigenous people in discourses of Australian nationhood. This functions to reinforce the self/other dichotomy by maintaining the categorical boundaries on which the binary is based. With this manoeuvre, Windschuttle also advances his ideological project of denying the very possibility of Indigenous sovereignty. He cites a host of demographic statistics showing that the majority of those to whom he refers as the Aboriginal "rank and file" have non-Indigenous partners and live in capital cities or major regional centres. This is evidence for the conservative argument that Indigenous people have "voted with their hearts" (Johns in Lateline 2000) and "voted with their feet" (Windschuttle 2001b: 22) to assimilate into White society. This rhetoric also draws
on the discursive construction of inauthentic Indigeneity: it implies that Indigenous people who do choose to live in towns and cities, and who have thus "chosen" to assimilate, have somehow surrendered their claims to authentic Aboriginality. Again, the internal contradictions of Windschuttle’s argument become clear when we recall that he argues that a conspicuous absence from the debate about sovereignty is "an account of the tangible benefits sovereignty might bring to Aboriginal people." However, in support of his view that the Indigenous sovereignty agenda is only driven by a small Indigenous political "elite" (as distinct from the "rank and file"), he asserts that it is "plain that an Aboriginal state would provide positions of power and influence for the small, university-educated political class of Aboriginal radicals who are now behind the idea" (Windschuttle 2001b: 17; see also Windschuttle 2001a).

The third aspect of Windschuttle’s argument that I wish to examine is the idea that the recognition of Indigenous sovereignty through an APG-style model would be akin to establishing a system of apartheid in Australia. This exemplifies the White "separatist" anxiety that I have discussed in earlier parts of the thesis. Windschuttle (2001b: 17), for example, argues that a treaty (the precursor to the exercise of Indigenous sovereignty) would "re-establish political rights based on race" and would therefore violate the principle of equality before the law. Similarly, in response to a comment from Michael Mansell in a debate on the ABC’s Lateline program in 2000, Gary Johns – a former federal Labor Minister and currently a senior fellow at the Institute of Public Affairs (a right-wing Australian think tank) and, like Windschuttle, a regular contributor to Quadrant – suggested that the APG’s model would mean that the 40,000 or 50,000 Aboriginal people who live in Sydney would have to "suddenly emigrate and move to, say, Cape York" in Far North Queensland. According to Johns, this idea is "a nonsense. It’s foolish and damaging to race relations. ... You’ll be less free, more confused, more litigious and I’ll be less friendly" (Lateline 2000, my emphasis).

In response, Mansell has pointed out that the idea of an Aboriginal government is "not to put up brick walls or barbed wire fences to keep whites out and blacks in" (Aboriginal Provisional Government 1993b). Indeed, the APG has always made it clear that Aboriginal people living in urban areas (or any other areas, for that matter) would not be compelled to move to Aboriginal land – which would be scattered across the
continent — in the event of the creation of the Aboriginal state. And Mansell also points out that the central feature of South African apartheid was that it was imposed by Whites on blacks out of a belief in White racial superiority (Aboriginal Provisional Government 1993a), whereas the APG model is based on the right of Aboriginal people to make a choice about self-government (cited in Aboriginal Provisional Government 1993b). Therefore, it is disingenuous to suggest that Indigenous nationhood and South African apartheid are somehow analogous. Further, as I have discussed above, the derision of the APG model as a form of apartheid or black separatism demonstrates the regulatory function of hegemonic Whiteness in White discussions of Indigenous assertions of sovereignty: the existence of separate, autonomous self-governing territories within the Australian state suggests that it is not actually "separatism" which commentators like Windschuttle and Johns oppose. Rather, it is the challenge the APG presents to the dominant conceptualisation of sovereignty as inhering only in White institutions which provokes the outcry against the APG model as a form of "black separatism."

This sort of criticism, however, points to some important features of dominant conceptualisations of White nationhood and of Indigenous peoples' place within them. For instance, the argument that the Indigenous-specific rights (such as those to self-determination) that might be recognised in a treaty violate the principle of equality before the law indicates an assumption about the homogeneity of rights. This assumption is central to conservative White constructions of nationhood, and it functions to "assume away" Aboriginal rights by appealing to the populist rhetoric of "equality for all" (Goldberg 1998a: 6). This manifests itself in a rights discourse within which equality is understood as sameness (this was demonstrated by the rhetoric of Pauline Hanson's One Nation party). The centrality of White dominance to this framework is seen in Johns' response to the possibility of Aboriginal nationhood — it is a nonsense that will be damaging to race relations, making Aboriginal people less free and White people less friendly — because a configuration of state power in which Aboriginal people assert a greater level of control over their own affairs is seen as foolish, absurd, and counterproductive. It also draws on the discursive construction of Indigenous delinquency, positioning as deviants those Aboriginal people such as Mansell, who challenge the assumptions of homogeneity entailed in this discourse.
The fourth aspect of Windschuttle's thesis that I wish to discuss is his "most serious complaint" – the "secessionist" agenda of the APG (2000c: 15). Windschuttle is concerned about "the likely post-establishment political consequences" of creating an Aboriginal state. Because it would not be "content to remain consumed by the Australian Commonwealth," Aboriginal sovereignty and nationhood would necessarily lead to the "break-up of Australia" (Windschuttle 2000c: 8, 15). In the context of this "complaint," Windschuttle strongly opposes arguments for a treaty between Indigenous and non-Indigenous people in Australia, warning that, "short of open insurrection, a treaty is the most politically effective way of realising an Aboriginal state" (2002: 22). Once signed by the Commonwealth, a treaty – which would include "motherhood statements" about broad principles such as Indigenous peoples' self-determination – would be left to the courts to interpret and therefore be "out of the hands of our democratic processes" (Windschuttle 2002: 22, my emphasis). The resulting Aboriginal state would "provide a bargaining position for its leaders to exert far more influence over mainstream Australia than anyone now imagines."

Citing Mansell's visit to Libya as an example, Windschuttle (2001c: 23) argues that it "would also provide a political platform from which to play to a world audience and to make allies who would not necessarily share Australian interests" (Windschuttle 2001c: 23). This would jeopardise Australian sovereignty, and "mainstream Australia" has therefore "nothing to gain from [a treaty] and everything to lose" (2001c: 23).

Windschuttle's argument raises several significant points. First, his concern about the "break-up" of Australia indicates hegemonic discourses about Australian nationhood and sovereignty, which assume that Aboriginal peoples' incorporation into the White nation-state is uncontested and unproblematic and that the sovereignty of the White nation-state is both legitimate and stable or fixed. Related to this is the disingenuity of describing the APG's agenda as "secessionist," which is discussed in more detail below in the section on Henry Reynolds' critique of the APG. This can be seen as a more extreme manifestation of the White "separatist" anxiety discussed earlier. The centrality of White dominance to this conceptualisation of nationhood is demonstrated by Windschuttle's implication that a configuration of sovereignty in which Indigenous people asserted a greater level of authority – or, indeed, authority in
their own right – would be "out of control" (Nicoll 2001b: 158). Implicit in this conservative thesis is a fear that, if the recognition of Indigenous sovereignty – in something like the APG's terms – was to be achieved, non-Indigenous people might suffer some adverse consequences through being made to recognise our acts of injustice against Indigenous people. This kind of anxiety is often evident in conservative rhetoric about Indigenous people. An example that explicitly deploys the language of harm and punishment can be found in a 1997 press release from the NSW Farmers Association. This press release followed Michael Mansell's proposal for an international boycott of Australian beef exports:

"[T]he NSW Farmers' Association has called on aboriginal [sic] leaders to disassociate themselves from threats by ... Michael Mansell, to punish pastoralists by organising international bans of beef exports. ... Mr Mansell seems to be blaming today's pastoral industry for all the injustices done to aborigines [sic] in the past. He seems determined to make today's farmers pay the price of reconciliation on behalf of all Australians (NSW Farmers Association 1997, my emphasis)."

Also explicit in this example is the drive to marginalise the source of the threat, in this case, by calling on Aboriginal leaders to "disassociate themselves" from Mansell. Also interesting in this example is the way "reconciliation" is seen as a "price," which has to be "paid" by all Australians.

The project that underpins Windschuttle's work is his desire to discredit the academic work of Reynolds and others. He makes this explicit when he says that his commentary on Aboriginal sovereignty is part of a broader project "aimed at questioning the credibility of these ... groups of scholars on the Aboriginal question" (Windschuttle 2002: 23). But, as Lumby points out in an article entitled "The De-Skilling of History" (2002: 41) – which is a rejoinder to Windschuttle's more general critique of recent historical scholarship in his 1994 book The Killing of History – Windschuttle himself has no credentials as a historian. Nonetheless, Windschuttle's aim in questioning the credibility of Reynolds and others is to "set straight the record

Furthermore, Windschuttle strongly criticises the work of scholars such as Reynolds on the grounds that they lack evidence, but he draws his own conclusion without providing any evidence at all. For example, on the question of casualties during the "Black War" of 1824 to 1831 in Tasmania, he says that, "[a]part from the total of white casualties, however, all of [Reynolds'] claims are false. My own tally of the credible Aboriginal death toll is less than one hundred" (Windschuttle 2002: 28). He makes this claim without providing any evidence whatsoever.

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of Australian history by closely examining the evidence of the current orthodoxy.” This must be done, he says, because “on balance ... neither our historians nor our anthropologists can be trusted to tell the truth about Aboriginal Affairs” (Windschutte 2002:23). Rather, the “massacre stories” “invented and exaggerated” by historians such as Reynolds (and a long line of others before him on which he based his arguments) have been part of a long-term project designed to “justify the policy of separating Aboriginal people from the European population.” In Windschutte’s eyes, this began with the missions and reserves of the nineteenth and twentieth centuries and culminated in the more recent push toward Aboriginal statehood (Windschutte 2000f: 6). This aspect of Windschutte’s attack on “pro-Aboriginal” academics is noteworthy not for his claim that their work might be influenced by their politics but for his suggestion that his is not. As Lumby points out, it is “Windschutte himself whose theories are grounded in emotive, ideologically driven rhetoric” (2002: 41). As Cahill’s research has shown, Windschutte’s work is part of a broader right-wing intellectual campaign spearheaded by Quadrant magazine and aimed at demonising “political correctness” and the so-called “black armband view of history.” This campaign portrays proponents of these “agendas” as “nothing more than self-interested, guilt-ridden, left-wing activists with bleeding hearts; blinded to the truth by their own personal and political agendas” (Cahill 2001a: 64-65; see also Cahill 2000, 2001b).

But what is the aim of the broader campaign to discredit “black armband” versions of history? And, specifically, why does the spectre of Indigenous sovereignty impel Windschutte and his conservative fellow-travellers into what Evans and Thorpe describe as anxiety-driven “denial, distortion and disremembering”? (2001: 29) Evans and Thorpe suggest that it is

intensely discomforting to conceive of an Australian social order where the mass murder of certain people, identifiable by their ethnicity, was a way of life, executed by a minority of perpetrators, tolerated by the settler majority, and winked at by a state which, in other settings, upheld the precepts of British culture, law and justice (2001: 29).

120 Similarly, in his polemic on the stolen generations and the Right, Manne describes the sort of denialism of Windschutte and others as part of a “culture war” over Aboriginal dispossession (2001: 102).
Reynolds suggests that Windschuttle is "projecting his own anxieties onto the imagined conspirators" (2001). In order to do this, it is necessary to reassert ever more vehemently the discourses that were initially used to create and maintain this version of history in the first place. As Schaffer argues, the broader Quadrant project is a way of "shoring up the remnants of belief and reinvesting ... in an imagined and unified historical past" (2001). As Morris puts it, this can be seen as an attempt to "reorder the power hierarchy" (Morris 2001) by reinscribing the ideas that initially ordered the seemingly stable and fixed power relations of the past.

The logic of Windschuttle’s project may be summarised as follows: it begins with construction of the historical Aboriginal figure as primitive, savage, and subsequently "bad." This is in opposition to the "good" White settler. The only way that Aboriginal people can be "redeemed" is through the "best" that the inherently superior Western civilisation has to offer. Thus, Windschuttle (2000c: 16) argues, we should be "helping" Aboriginal people to "complement their ancient cultures" with the "best" of Western civilisation, by which he means the "liberty, equality and prosperity of the prevailing political, legal and economic systems." Aboriginal peoples’ ancient cultures are therefore juxtaposed with Western civilisation, drawing on the dichotomy of the "traditional" and "primitive" Other versus the "modern," "civilised," and "progressed" Self.\footnote{It is ironic that Windschuttle so easily slips into dichotomising the self and the other in this way: as part of his broader project on discrediting left-wing intellectuals, Windschuttle (2000a) attacks Edward Said’s Orientalism (1995), in which Said theorises the kind of self/other dichotomy that Windschuttle constructs here.} Of course, Windschuttle conveniently ignores the fact that the "best" of Western "civilisation" (the prevailing legal, political, and economic systems) has been fundamental to the usurpation of Aboriginal land ever since the initial invasion and to creating what Windschuttle benignly refers to as Aboriginal peoples’ "existing social problems." But, as Chapter Two suggested, this is typical of the structural amnesia that is instrumental to hegemonic constructions of nationhood. As Renan argues, "forgetting, I would even go so far as to say historical error, is a crucial factor in the creation of a nation" (1990: 11). Thus, Windschuttle’s thesis avoids what Naidoo (1998) refers to as the "threatening truth" of the violence at the very core of Australian nationhood. It does this by reasserting a discourse that is based on a belief
in “Australian exceptionalism, the inherent superiority of Western materialism, and on an indignant insistence that Indigenous Australians subsume themselves within it” (Evans and Thorpe 2001: 38). As long as Aboriginal people accept their place within this framework, they are “good” Aborigines. If they challenge it, however, as the APG and its associated activists do, they are “bad.” In Windschuttle’s logic, it becomes necessary to demonise, or construct as delinquent, both the White intellectuals who have “peddled” the “utopian, revolutionary and romantic” strand of western intellectualism responsible for ideas about Indigenous sovereignty (Windschuttle 2000b: 11), and the “small” group of educated Aboriginal people whom it has “seduced.” Windschuttle seeks to dispense with the spectre of Indigenous sovereignty by relegating it to the sphere of delinquent Indigenous opinion, thereby recasting the myth of peaceful settlement into the realm of national “truth” or “fact.”

Indigenous sovereignty denial, Part III: The “progressive” critique of the APG

The preceding discussion critiqued Windschuttle’s attacks on the historical work of scholars such as Henry Reynolds. This section of the chapter argues that, although commentators such as Reynolds are typically seen as “progressive” and as identifying with the intellectual Left, they may also help to reinforce assumptions that are central to hegemonic constructions of White nationhood and that maintain the denial of Indigenous sovereignty in Australia. As Marcia Langton points out, many Aboriginal people have relinquished any expectation that White Left intellectuals might provide Aboriginal people with appropriate political or intellectual support, “because their tendency [is] to produce ideology for the conservation of the current state of things” (2002: 87). In particular, the following discussion demonstrates how “progressive” commentators have sometimes helped to reinforce what I described earlier in this thesis as the “incontestability of the state” myth – the idea that sovereignty can inhere in the state only and that the state’s assertion of sovereignty over the continent now known as Australia was and is legitimate.

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122 Similarly, Johns argues that it is the “white romantics who have fed the intellectual fires of Aboriginal separatism in Australia” (2001: 9).
According to Henry Reynolds, after the Australian High Court overturned the myth of terra nullius in relation to Aboriginal title to land in the Mabo (1992) decision, it was necessary to move on to “tackle the question of Aboriginal sovereignty” (Reynolds 1996b). As Chapter Two noted, Reynolds took up this task in a series of publications, most notably his book Aboriginal Sovereignty (1996a).\textsuperscript{123} Although Mabo was an important landmark, Reynolds argued, it only began the process of undoing legal injustice to Indigenous people. He reasoned that, if terra nullius was wrong with respect to land title, it must also have been wrong with respect to sovereignty (Reynolds 1996b). This is because the issues of property and sovereignty effectively represent two sides of the same coin:

[for 200 years Australian law was secured to the rock of terra nullius. One pinioned arm represented property, the other sovereignty. With great courage the High Court recognised native title in the Mabo judgement and released one arm from its shackles. The other remains as firmly secured as ever and seems destined to remain there for some time but in the long run the situation will prove unstable. What is more, the resulting legal pose will become increasingly uncomfortable as time passes (Reynolds 1996a: 15).

Reynolds’ thesis in his work on Aboriginal sovereignty can be summarised thus: in preserving the “other half” of the terra nullius or settled colony doctrine, the High Court’s Mabo (1992) decision raises “a fundamental problem at the heart of Australian jurisprudence.” This is because the settled colony doctrine holds only if “there literally was no sovereignty – no recognisable political or legal organisation at all – before 1788” (1996a: 13-14). In turn, that proposition can survive only if “underpinned by nineteenth-century ideas about ‘primitive’ people,” and, argues Reynolds, it is therefore a view that is “increasingly difficult to sustain” (1996a: 13-14). However, the High Court was of the view in Mabo (1992) that any questioning of the settled colony doctrine would seriously “fracture” the skeletal principles upon which the Australian legal system is based. That is, according to Reynolds, the High Court believed that recognition of Aboriginal sovereignty would “lead to unacceptable trauma” (Reynolds 1996a: 15). This leads Reynolds to ask:

[what then should be done about injustice if it is ingrained in the bones of the system, if the skeleton itself is impregnated with values which come down to us from the era of European imperialism and white racism? Do diseased bones have to be saved from surgery at all costs? (Reynolds 1996a: 15).

Reynolds responds to this question by arguing for a recognition of Indigenous sovereignty, but in such a way that Indigenous sovereignty would be essentially commensurate with existing Australian legal and political structures and institutions. Using the same rationale that the High Court used in overturning terra nullius as it applied to land title, Reynolds argues that Indigenous sovereignty can be seen as both pre-existing and surviving the assertion of British sovereignty:

[i.f, as the High Court declared in Mabo, native title was extinguished in a piecemeal fashion over a long period of time, the same clearly happened with sovereignty. If native title survives in some places then remnant sovereignty must also still exist among communities that still recognise, exercise and accept their traditional law (Reynolds 1998: 211, my emphasis).

According to Reynolds, the recognition of “remnant” (or “left-over”) sovereignty of Indigenous communities that still “recognise, exercise and accept their traditional law” requires a rethinking of the concepts of nation and state, as well as a reconceptualising of the relationship between the two so as to avoid their conflation in the term “nation-state.” By conceptualising nation in terms of “culture, traditions, descent and identity,” and the state in terms of “legal, political and constitutional institutions,” Reynolds argues that Australia has never been one nation but instead consists of three: Aboriginal people, Torres Strait Islanders, and non-Indigenous Australians. “We share a country, a continent and a state,” according to Reynolds, “but not a nation” (Reynolds 1996a: 178). Drawing on the work of scholars of nationalism and national identity such as Anthony Smith, Reynolds argues for a “prising apart” of the concepts of nation and state (Reynolds 1998: 214), or for what Smith describes as a “de-linking” of “ethnic and national aspirations from statehood and sovereignty.” This would make possible social and political recognition of Indigenous peoples, enabling them to achieve “a broad cultural and economic autonomy within ‘joint’ or ‘overarching’ states” (Reynolds 1996a: 185-186).124 That is, Reynolds posits an understanding of sovereignty as being vested in the state but as able to be shared. The recognition of Indigenous peoples’ sovereignty in this way would make Australian law and history more commensurate with each other (Reynolds 1996c: 12), subsequently resolving the

124 See also Reynolds (1997: 38) and Reynolds (1998: 214) for examples of the distinction he makes between “ethnic” and “civil” nationalism.
problem at the heart of Australian jurisprudence, which was Reynolds’ point of departure.

Reynolds’ work on Aboriginal sovereignty was and is an important contribution to academic debate about Indigenous peoples’ rights in Australia, as the range of reviews and responses it has received attest. Indeed, Windschuttle’s attacks on Reynolds indicate how Reynolds’ work touches a raw conservative nerve. Significantly, *Aboriginal Sovereignty* remains the only monograph in Australian academic literature to date that takes as its primary focus the issue of Aboriginal sovereignty. However, I argue here that Reynolds’ work on Indigenous sovereignty, and his treatment of the APG therein, reveals the way that “progressive” White scholarship can be unwittingly complicit in the maintenance of White race power and privilege.

One key criticism that can be made of Reynolds’ work is that he is apparently unwilling to engage with Indigenous articulations of sovereignty and models for self-government that are not endorsed by the state. In his discussion of how Indigenous self-government might look in practice, for example, Reynolds surveys a number of Indigenous and non-Indigenous people and groups who have outlined positions on issues of Indigenous self-determination. He also considers the arguments of some of those who have articulated models of how Indigenous self-government could be organised and structured. He discusses in particular detail the self-government model outlined by a Committee of Aboriginal and Torres Strait Islander people established by the Queensland government in 1990, as it is articulated in the Committee’s discussion paper *Towards Self-Government* (Queensland Legislative Review Committee 1991). The Committee’s discussion paper outlines a range of different models for Aboriginal self-government and the ways in which these models could be implemented using existing legislative and bureaucratic structures (Queensland Legislative Review Committee 1991). Reynolds describes the Committee’s work as “the most creative thinking to date on the question of the constitutional relations between Aborigines and Islanders and the state” (Reynolds 1996a: 139, my emphasis) and as the “most thorough

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and sophisticated assessment of Aboriginal and Islander desire for self-government” (Reynolds 1994: 285, my emphasis). At the same time, he dismisses the APG’s position on these issues as vague, unattainable, and unrealistic. In a 1994 article, for example, Reynolds describes the APG idea of the creation of an Aboriginal state as follows:

[s]ecession from Australia faces insuperable legal, constitutional and political problems. The APG seriously overestimates the likelihood of international support for overturning a sovereignty so long established. Existing proposals for action are vague, brief and unrealistic. The belief that sovereignty can be captured in a gradual piecemeal fashion greatly underestimates the immense difficulties of breaking out of the state. ... It seems a world away from most secessionist struggles (Reynolds 1994: 284, my emphasis).

Reynolds consequently devotes less than a page to discussing the APG in Aboriginal Sovereignty. In a brief overview of the APG position, he suggests that, although the APG’s destination of Aboriginal statehood and “de-facto secession” is clearly determined, “the way to reach it is poorly articulated” and the APG’s plans “lack detail and substance” (Reynolds 1996a: 138-139).

Reynolds’ rationale for effectively dismissing the APG’s contribution to this debate is significant for several reasons. First, Reynolds’ suggestion that the APG’s plans “lack detail and substance” is somewhat inaccurate because, as my discussion of the APG model above demonstrates, the APG Papers is arguably at least as thorough and creative as the Towards Self-Government report that Reynolds holds up as a benchmark. This is not to suggest that the APG’s model is necessarily “better” than those that Reynolds highlights, or that it is one that would be preferred by the majority of Indigenous people, or that Reynolds is mistaken to commend the Towards Self-Government report. Rather, my point is that Reynolds’s dismissal of the APG has contributed to the process of making invisible an important contribution to the debate about Aboriginal sovereignty and self-determination. This dismissal is all the more powerful given Reynolds’ prominent status as an academic and as a public intellectual more generally: as Reynolds himself has noted elsewhere, historians’ voices carry

127 Similarly, Frank Brennan has argued that separate nationhood is a “theoretical possibility only for a discrete population having its own land base, economic resources and social structure,” but most Aboriginal people in Australia today “find themselves as part of the Australian community and the Australian nation” (1995: 128-129).
considerable weight in national debates about Indigenous rights (Reynolds 1999a, 2000a).

Reynolds' characterisation of the APG's model as "secessionist," however, points to more fundamental aspects of Reynolds' dismissive attitude towards the APG. To secede is to "withdraw formally from an alliance, an association, a federal union" (Oxford English Dictionary 1989). That is, secession is a withdrawal from some sort of formal agreement entered into previously. To describe the APG as secessionist is therefore inaccurate, because the fact that Indigenous people have never consented to their incorporation into the White Australian state is central to the APG's rationale and to its agenda of "acting sovereignty." That is, the sort of agreement that the term "secession" retrospectively implies was never made. The problem with Reynolds' argument, then, is that it rests on an assumption about the legitimacy of the Australian state and the institutions by which it is constituted, including the High Court.

Moreover, because he takes the High Court's Mabo (1992) judgment as his point of departure, Reynolds' analysis of the issue of Aboriginal sovereignty centres around the question of whether the "extinguishment" of Aboriginal sovereignty was legal, as opposed to whether it was legitimate. As Chapter Two discussed, legitimacy is the basis on which the normative framework of sovereignty in this thesis is based. As Wolfe argues, when the argument is reduced to merely legal considerations, Indigenous peoples' rights are allowed to "stand or fall according to the dictates of the invaders' legal system," thereby rendering those rights "subject to legislative climates, stacked judiciaries and other such vicissitudes" (Wolfe 2000: 143-144). The High Court's judgment in Mabo (1992) rejected the idea that terra nullius was part of the common law system on which Australia's legal system is based. As Wolfe points out, however, "even if terra nullius could conclusively have been shown to be part of Australian law, it would still have been a specious colonial ideology" (2000: 143); that is, it may have been legal, but it would not have been proper or legitimate in terms of moral justification. Reynolds' focus on legal questions leads him to argue for a recognition of what he describes as Indigenous peoples' remnant sovereignty, using the same rationale that the High Court used in recognising native title; that is, he argues for the recognition of only that Indigenous sovereignty that is "left over" after the
imposition of the Australian state's sovereignty, and this "remnant" sovereignty must be endorsed by the Australian state before it can be exercised. As Curry points out, "what we must ask ourselves is whether a partial sovereignty can properly be called sovereignty at all" (1999: 21). The line of argument Reynolds employs here effectively legitimates the process by which Indigenous sovereignty was usurped in the first place, as suggested by the APG's critique of the Mabo (1992) judgment, discussed below.

The distinction between originary and derivative sovereignty is also important here. Reynolds advocates a recognition of Indigenous peoples' originary sovereignty (as Chapter Two explained, sovereignty deriving from Indigenous systems of law and government and pre-existing the imposition of British law) via a form of derivative sovereignty (a right of government deriving from the imposed sovereignty of the Australian state, which is delegated by the sovereignty of Australian governments and is not able to be in conflict with them). This position is revealed as Reynolds slips from using the term "sovereignty" in the early chapters of Aboriginal Sovereignty to using the less specific terms "self-determination" and "self-government" in the latter chapters of the book, where he discusses models for the contemporary recognition of Indigenous governance rights. It is also seen in the way he favours the model proposed by the committee of Aboriginal and Torres Strait Islander people set up by the Queensland government over that of the APG: the Queensland Committee's model, however creative and sophisticated, is nonetheless endorsed by the state. The APG model, on the other hand, refuses to accept the legitimate authority of the state. The APG therefore rejects the idea of replacing Indigenous peoples' originary sovereignty with a subordinate form of derivative sovereignty, because the APG refuses to accept the legitimacy of the state from which that sovereignty would derive. This is why the APG's model of Aboriginal sovereignty is not secessionist, but, because Reynolds' analysis elides the fundamental question of legitimacy, he is able to dismiss it as such.

It is helpful to put this another way. The APG rejects the idea that Australian sovereignty, as it is currently configured, has any redeemable moral basis, whereas Reynolds' analysis is based on his faith in the ability of Australian law to accommodate Indigenous land rights (Rowse 1993: 22-23). Tim Rowse describes Reynolds' position
(not specifically in relation to Aboriginal Sovereignty – Rowse makes a more general point) as a belief that the “moral traditions of imperial statecraft” and the “moral flexibility of Australian property law” are retrievable; that is, Reynolds holds to a belief in “some underlying moral potential within Australia’s colonial liberalism” (Rowse 1993: 23-24). In a debate with Mansell and Paul Coe on ABC radio in 1987, for example, Reynolds argued that Aboriginal people “tread a dangerous path when they assert sovereignty as a moral right, since they risk losing their legitimacy in the eyes of settler communities” (Moran 1998). Rowse describes the exchange as follows:

[The moral excesses of the sovereignty argument drew [Reynolds’] fire: “To challenge sovereignty, really, you need an army behind you.” Reynolds warned against insisting on the moral principle of “sovereignty” because “people don’t like having their consciences continually poked” (1993: 23).]

This suggests that, at the heart of Reynolds’ dismissive attitude toward the APG, lies not a critique based on lack of detail or substance but a philosophical difference about the legitimacy of the sovereignty of the Australian state. There are contradictions and limitations inherent in any position that relies on the moral capacity of state institutions to deliver justice without allowing for an examination of the morality of those institutions’ foundations.

In his deliberation on the question of whether Indigenous peoples can be seen to have had sovereignty in the first place, Reynolds takes state sovereignty as the norm against which “assertions” or “claims” about Indigenous sovereignty should be measured or justified. This is demonstrated by his repeated use of the term “rudimentary” to describe the sovereignty Aboriginal people exercised over Australia before the initial invasion in 1788.128 By taking state sovereignty as his conceptual referent, Reynolds can dismiss Indigenous models of sovereignty that refuse to accept the legitimacy of this frame of reference, such as that articulated by the APG. But the act or process of doing so is also an act or process of dismissing alternative knowledges – that is, Indigenous ones – and of reinforcing hegemonic norms – that is, White ones – to do with the meaning of the very concept of sovereignty. Although it might be argued that Reynolds’ argument is based on realpolitik considerations, it is important to bear in mind the relationship between normative frameworks and the realpolitik:

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128 See, for example, Reynolds (1996c: 11).
normative conceptual frameworks can significantly influence the way that realpolitik debates are played out. The APG rejects Reynolds-style dismissals of its position on these grounds: it points out that its demands “acknowledge the takeover as real” but nonetheless dispute its legitimacy (Aboriginal Provisional Government 2002).

To return to a metaphor Reynolds himself employs, surely the reinscription of hegemonic understandings of sovereignty is a way of avoiding surgery to the “diseased bones” of the system, which are “impregnated with values ... from the era of European imperialism and white racism” (Reynolds 1996a: 15). But, just as the High Court did in Mabo (1992), Reynolds holds to and maintains the incontestability of the state myth. Thus he avoids dealing with the “trauma” that might be entailed in an excavation of the “diseased bones” of Australia’s legal and political system. This happens at a cost to Indigenous peoples, because this refusal to “excavate diseased bones” maintains White race power and privilege by reinforcing the constructions of sovereignty and nationhood on which that power and privilege depend. This examination of the complicity of White scholars in hegemonic processes illustrates another a general point. This is that it is wrong for White scholars to see ourselves as always distinct or different from White racists, to see racist White people such as Keith Windschuttle as “Other,” and to see ourselves as never implicated in the maintenance of the oppressive state structures and practices that we seek to critique.

"The court gives an inch but takes another mile": Land and sovereignty in Mabo (1992)

Henry Reynolds’ assessment of the Mabo (1992) decision – although partly critical of it – suggests that, if the High Court’s rationale for recognising native title was extended to the issue of Aboriginal sovereignty, it could provide a basis for contemporary recognition of Indigenous peoples’ sovereignty within the Australian state. In contrast, the APG’s analysis of the High Court’s decision is less optimistic. The APG’s model for the recognition of Indigenous sovereignty is based on the premise that underlying title to the Australian continent should rest with Aboriginal people. Consequently, the APG’s appraisal of the High Court’s decision and its legislative expression in the Native Title Act (NTA) offers an important analysis of Mabo (1992) in terms of the concepts of Whiteness, nationhood, and sovereignty with which this thesis is centrally
concerned. It is also particularly pertinent to this chapter, because the APG's critique of Mabo (1992) and the native title regime reveals the gulf between the APG's model of sovereignty and what is currently "on offer" to Indigenous people through the institutions of the Australian state. In addition, as the previous section of the chapter illustrated with respect to Reynolds, various responses to the APG's analysis of Mabo demonstrate how hegemonic Whiteness works to reinforce the norms upon which the denial of Indigenous sovereignty is based.

Overview of the judgment

According to the APG, the High Court's "first and most positive step" in the Mabo (1992) judgment was the abandonment of the "long held legal fiction that Australia was a 'no-man's' land when whites first arrived" (Aboriginal Provisional Government 1992a). But, like Reynolds and many of the commentators discussed in Chapter Five, the APG was disappointed that, although the sovereign rights of Aboriginal people were considered during the case, the Court refused to consider the way that the concept of terra nullius had been applied to Indigenous sovereignty as well as to Indigenous title to land. The APG was particularly scathing of those aspects of the judgment that show a more general White tendency to deflect responsibility for denial of Indigenous rights:

[I]the Court was at pains to point out that it was the Crown and not the judges who took away the territory of Aborigines. In their view, the courts have failed only by not recognising any form of Aboriginal title. The physical loss of their territory and sovereignty was nothing to do with the courts. This attempt at distinguishing one area of injustice attracting the court's attention from another is palpably absurd and unsustainable. The Court refused to follow precedent on the issue of terra nullius [with respect to land] for to do so would be to maintain a legal fiction based on political convenience. Yet the very same convenience was relied upon by the judges to shut the door to any Aboriginal hopes for arguing Aboriginal sovereignty in the Courts. This aspect of the judgement is pure hypocrisy (Aboriginal Provisional Government 1992a).

Following Mabo (1992), commentators such as Frank Brennan noted that Indigenous sovereignty is a political, rather than a legal, claim (Brennan 1995: 127). The APG argues, however, that the Court's refusal to engage with the sovereignty issue was effectively an attempt to close down Indigenous efforts at having sovereignty recognised, because even "the most sympathetic politicians refuse to consider, let alone discuss, Aboriginal sovereignty" (Aboriginal Provisional Government 1992a). That is,
the judgment takes as given Aboriginal peoples' incorporation into the Australian state (see Aboriginal Provisional Government 1993b); implicit in this assumption is the idea that the legitimacy of the state's establishment is beyond question. Thus, as Chapter Four briefly discussed, the case did not dispute the sovereign rights exercised by Australian governments: the Murray Islanders did not dispute the claim by Whites that the whole continent passed into the hands of the British "when a flag was stuck in a beach at Botany Bay and proclamations read," nor did they contest that, from that day "the common law of England applied throughout the length and breadth of the continent and its islands. In fact the case was dependent on that being so" (Aboriginal Provisional Government 1992a, my emphasis).

Therefore, according to the APG, if the Murray Islanders sought no more than some legal protection from the "Queensland government's efforts to keep the "Fed's [sic] from our Aborigines," then for them the case was good news. However, the importance of the case is its anticipated bearing on the land rights of Aborigines elsewhere" (Aboriginal Provisional Government 1992a). Whereas some scholars such as Webber (1999) have argued that Mabo (1992) and native title provide for a limited degree of Aboriginal self-government, the APG argues that it does not, because it does not provide for any genuine degree of Aboriginal control. As a result of its refusal to engage with the issue of Aboriginal sovereignty, Mabo (1992) protects and in fact rewards the British invasion and occupation of Aboriginal land, because the people least affected by the invasion benefit most from the decision. The reverse of this is also true: those most affected benefit least.

**Native title as an inferior form of title**

One of the central elements of the APG's critique of the Mabo (1992) judgment is that the configuration of Aboriginal title to land in Mabo (1992) and in the NTA represents a form of land title that is inferior to that enjoyed by non-Indigenous Australians. The native title regime privileges White interests at the expense of Indigenous interests, and it thus demonstrates the way that Whiteness is embedded in Australia's institutions. Specifically, the APG argues that Mabo (1992) and the NTA make it difficult for Aboriginal communities to have an economically independent land base, which, as many commentators have argued, is central to self-determination. This is
largely because the Court ruled that native title rights are "not assignable outside the overall native [title] system," and they therefore can be lost by the "abandonment of the connection with the land or by extinction of the relevant tribe or group." The APG argues that native "title" therefore amounts to little more than occupational rights, which cannot be "sold, traded or dealt with in any way except to be returned to the crown." This means that native title rights provide less security and less freedom than freehold and leasehold land, or land held under land rights legislation. Native title also offers less security than "deeds of grant in trust," which can be sold and traded (Aboriginal Provisional Government 1992a). An obvious conclusion is that, because they can hold only an "inferior" class of title, Indigenous peoples will necessarily continue to be economically dependent on White government.

The APG also criticises the fact that native title must, on one hand, be "proved" on the basis of occupation prior to British invasion and, on the other, on the basis of continuing connection with the land, irrespective of whether the Aboriginal group in question has been forcibly removed. Yet, even where native title has been wrongly extinguished, the Mabo (1992) decision did not allow for payment of compensation, which further reveals the inferiority of native title compared to other forms of tenure (Aboriginal Provisional Government 1992a) and provides another example of the institutionalisation of White race privilege. In this way, the application of White legal standards to the adjudication of native title protects White interests in land, by ensuring that none of the effects of the wrongful application of the doctrine of terra nullius are actually dismantled. These examples illustrate what the APG might describe as the native title regime's fundamental flaw: it is configured on the assumption that the Crown, not Aboriginal people, has underlying title to the whole continent.

The construction of Aboriginal identity within the native title regime

One tenet of the APG's critique of the Mabo (1992) judgment – which closely relates to the criticism that the native title regime privileges White interests and values – is that Aboriginal society is treated as inferior in at least two important ways. First, the APG argues, the judgment reflected a view of Aboriginal society as "primitive."

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Although the Court drew on precedents in international law to make the point that it was "no longer acceptable to draw adverse inferences from cultural differences," the APG maintains that the High Court only paid that principle "lip-service" (a strategy that was discussed in Chapter Four). This is because the Court went on effectively to rule that the "status of Aboriginal rights to land at the time of the invasion [was not] equivalent to that of Europeans, but something less" (Aboriginal Provisional Government 1993b). This may be seen in the way that the Court drew an analogy with first nations in North America to make its judgment, saying that Aboriginal peoples' rights here were "no less clear, substantial and strong." Although the Court did this to highlight the way Australia's management of Indigenous-state relations compared poorly with other invader-colonial societies, the APG argues that, in doing so and in subsequently failing to draw an analogy with the rights of the Europeans (or specifically the British) whose rights were/are being asserted – and upheld – in comparison, the Court was asserting (perhaps unwittingly) a "racist position indeed" (Aboriginal Provisional Government 1992a).

Second, the APG is critical of the way the Court chose to deal with Aboriginal people as a race rather than as a nation of people. This distinction was central to the Court's finding on the existence of native title and to the configuration of native title so that it is inferior to other forms of title to land, as discussed above. Whereas other interests in land can be handed down or "disposed" of through sale and trade, the Court ruled that native title cannot, because the group in question "must retain their identity in a biological manner" and the right is a personal (rather than transferable) one only. That is, for Aboriginal people to access and exercise native title rights, they must be able to demonstrate that they have maintained "traditional" laws and customs. The APG (1992a) argues that one consequence of this is that the test for survival is effectively reduced to "strains of blood." As Chapter Two noted, Wolfe describes this requirement as "repressive authenticity," a discourse that imposes on Indigenous people the task of "acting out" stereotypes that have been produced by colonial discourses (Wolfe 2000: 134). The penalty for failure to do so is "disqualification from the concessions that the colonising society grants to the stereotypical native of its own imagination" (Wolfe 2000: 134). As Mansell (1995c) has pointed out, to allow one culture, but not another, to adapt and change is
discriminatory. For the APG, this was disappointing because, at a time when Aboriginal people "are moving in the direction of nationhood" and following the trend of other peoples in determining their membership and identity on nonbiological criteria, the High Court was "marching to the tune of a different drum" (Aboriginal Provisional Government 1992a).

The APG argued that the Mabo (1992) decision would find favour with two groups, the first being Aboriginal groups who are able to benefit from the "more useful aspects of the case" and who will be able to use the decision as a "device to prevent further interference with the occupation" of their land. The second group to benefit will be people "whose ideas on the destiny of Aboriginal people rest entirely upon manipulation of white compassion" (Aboriginal Provisional Government 1992a) – that is, people, both Indigenous and non-Indigenous, who are content for the rights of the Aboriginal population to be determined by the strength of the support that can be extracted from White institutions and forms of justice. As the APG critique of the decision suggests, however, the APG itself anticipated that the decision would find "many critics within the Aboriginal community, all of whom justifiably expected more.” This is because so few Indigenous people are unaffected by the process of dispossession the Mabo (1992) decision effectively rewards:

[w]hat then of the remaining 250,000 or more Aborigines? Is their fate predetermined by the extent to which they have suffered even more hardship through being more exposed to white contact? ... the Court did not overturn anything of substance, but merely propounded white domination and superiority over Aborigines by recognising such a meagre form of rights over land. The Judges did little more than ease their own conscience of the guilt they so correctly feel for maintaining white supremacy. ... If Mabo represents the best the legal system has to offer, Aborigines will be put off by the effort and costs involved in litigating for such puny reward. Mabo offers something for those who are grateful for small blessings, but nothing in the way of real justice (Aboriginal Provisional Government 1992a).

Critiques of the APG’s position on Mabo (1992)

It is important to note that, just as the APG’s model for the recognition of Indigenous sovereignty attracted criticism from within Indigenous communities, so too did the APG’s critique of the Mabo (1992) decision. In contrast to the APG, for example, Noel Pearson viewed Mabo (1992) and the native title negotiations as an opportunity to reach a settlement that addressed land rights and self-determination to
a far greater degree than otherwise would have been foreseeable (Pearson 1993b: 17; see also Pearson 1993a, 1994c). However, it is also important to remember that, although Mansell was sceptical about the possibilities of the *Mabo* (1992) judgment and the native title regime, he played a significant role in the native title debates in 1992 and 1993. The central concern of this thesis, however, is not with discussion, debate, and disagreement within Indigenous communities or with consequent shifts in their political strategies. Rather, I focus here on discussing the ways that White responses to the APG’s position on *Mabo* (1992) can work to reinforce hegemonic Whiteness and the denial of Indigenous sovereignty.

One example of this can be found in the work of White philosopher Paul Patton. In a series of articles published in 1995, Patton discusses the implications of the *Mabo* (1992) judgment for Australian society by drawing on a range of poststructuralist theories to consider the High Court judgment in terms of questions of identity, difference, and freedom (1995a, 1995b, 1995c, 1995d). He sees *Mabo* (1992) as the potential beginning of a process by which Australian society might “shift from one solution to the problems created by the difference on which this (post) colonial society is founded” (namely exclusion through the non-recognition of Indigenous rights such as native title) toward another solution in which “cultural differences are recognized as such and respected, instead of being misrecognised as lack or inferiority, or decried as”

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129 At the same time, however, Pearson agreed with some of the APG critiques of the Court’s judgment (see, for example, Pearson 1993a: 78, 1993b, 1994b: 156-159).

130 For example, Mansell was one of a delegation from the “Eva Valley meeting” of Aboriginal people who met with then Prime Minister Keating in August 1993. At the beginning of August 1993, the Council for Aboriginal Reconciliation had convened a meeting at Eva Valley station (in the Northern Territory) of about 400 Aboriginal people from around Australia, to formulate a response to a discussion paper on the proposed native title legislation released by the federal government in June 1993. This resulted in the Eva Valley statement issued on 5 August 1993, which rejected the federal government’s position on the proposed legislation at that time. It was also the basis for the arguments put to the Prime Minister later that month by the Aboriginal delegation from Eva Valley, which included Mansell and others, such as then Aboriginal and Torres Strait Islander Social Justice Commissioner Mick Dodson (Brennan 1995: 54-55; Mansell 1993b: 7-10; Rowe 1994a: 118-119). Mansell was also closely involved – albeit with some scepticism – in the ensuing negotiations leading up to the passage of the NTA through federal parliament (Brennan 1995: 55, 62, 71; Hunter 1994: 106; Mansell 1993b). Mansell was a member of the “B Team” of Aboriginal negotiators who dealt with the minor parties (the Greens and the Democrats) to extract the best deal possible when the legislation passed through the Senate. The “A
threats to national unity" (Patton 1995a). To take up the challenge of moving beyond exclusion or assimilation of difference, "up to and including Aboriginal self-determination," argues Patton, would be to "explore paths towards the establishment of a postmodern republic" (Patton 1995a). Patton argues that Mabo (1992) can be read as what Deleuze describes as an exercise of freedom -- "a conception of human society in which the possibilities for change are in principle without limit" (Patton 1995c: 117-118). Paradoxically, however, in Patton's postmodern republic, the exercise of Aboriginal self-determination does in fact entail substantial limitations. According to Patton,

[from a legal point of view, it is wrong to claim that Mabo provides any support whatever for Aboriginal sovereignty over the continent. ... However Aboriginal Provisional Government leaders such as Michael Mansell argue that Mabo adds legitimacy to the claim of Aboriginal sovereignty. It is interesting to note that the conservative claim that Mabo threatens the sovereignty of the "Australian" people is to some extent mirrored by the views of those associated with the APG. ... Challenging the basis of the British claim to sovereignty ... is not equivalent to asserting the sovereignty of an Aboriginal nation. The argument of Mansell and others that such a separate national identity should be established not only fuels the fears of conservatives such as [mining company executive Hugh] Morgan and [historian Geoffrey] Blainey, it risks sharing the same monolithic conception of the appropriate political form under which relatively autonomous Indigenous socialities could flourish (Patton 1995a, my emphasis).

Fiona Nicoll has recently undertaken a considered critique of the Patton's dismissal of the APG's sovereignty claims (2002), which raises three particularly pertinent points in the context of this chapter and thesis. First, Nicoll demonstrates that Patton's "supremely confident" dismissal of the APG relies on what has been described elsewhere in this thesis as the "incontestability of the state" myth -- the notion that sovereignty can only inhere in the state and that the state's assertion of sovereignty over Indigenous peoples and lands is immutable and must therefore be accepted as legitimate. In Nicoll's view, Patton assumes "that sovereignty means the same thing across the vast economic, cultural and political divide that separates Indigenous and non-Indigenous Australians," thereby removing "any ground of epistemological authority from 'Mansell and others'" (Nicoll 2002: para.21). That is, like Reynolds, Patton is dismissive of the APG's position on sovereignty because it refuses to accept

Team," consisting of representatives from ATSIC, various land councils, and other Aboriginal organisations, led the negotiations with the government (Brennan 1995: 62, 71).
the legitimacy of an analytical framework that takes state sovereignty as the norm. As Nicoll points out, it is rather disingenuous for a staunch post-structuralist such as Patton to assume that the existence of the nation-state is a monolithic and unquestionable "fact" (2002: para.23). That Patton's attitude toward the APG relies on this sort of normative framework is particularly disappointing, given his insistence – in the same article in which he dismisses the APG position on Mabo (1992) – that "we must become capable of thinking of cultural differences in positive terms, as specific differences between distinct ways of life where none of these is singled out as the standard by which others are unilaterally judged" (Patton 1995a: my emphasis).

Second, this invites the question of what Patton knows about "Indigenous or any other form of sovereignty that is not constitutively white" (Nicoll 2002: para.21). This question is raised by Patton's discussion of Reynolds' Aboriginal Sovereignty, in a 1997 review article (Patton 1997). In this article, Patton praises Reynolds' "exemplary critical scholarship" for its "overwhelming case for a more flexible concept of sovereignty ... which would allow due recognition of the rights of Indigenous people" (Patton 1997: 232). Although Patton is still dismissive of APG-like arguments - "Aboriginal sovereignty need not be construed as implying the formation of an independent state" (1997: 232) – in this analysis, he does write that "Mabo provides implicit support for the recognition of Aboriginal sovereignty" (1997: 230, my emphasis).

In this instance, Patton apparently contradicts his earlier claim: "From a legal point of view, it is wrong to claim that Mabo provides any support whatever for Aboriginal sovereignty over the continent" (Patton 1995a, my emphasis). This suggests that Patton's acceptance of arguments about Indigenous sovereignty depends on the normative framework in which they are being made. That is, Patton's analysis relies on a normative framework that is commensurate with that employed by Reynolds – a framework in which the legitimacy of the state's claim to sovereign authority is not questioned or challenged. Because the sovereignty asserted by the APG is assumed to exist outside the state – or without its permission, as Nicoll points out (2002: para.25) – the APG analysis of Mabo (1992), and the APG's position on sovereignty more generally, falls outside the normative framework upon which both Patton's and Reynolds' analyses of Aboriginal sovereignty rely. This is why both scholars can so
readily dismiss the assertions of Aboriginal sovereignty made by the APG, while appearing to support a different form of its recognition.

The third aspect of Nicoll’s critique of Patton is to do with the way that “progressive” scholars can sometimes unwittingly cooperate with the maintenance of White hegemonic norms that inform the denial of Indigenous sovereignty. Nicoll discusses this with particular reference to Patton’s argument about the similarities between the APG’s sovereignty position and the claims about Indigenous sovereignty made by conservatives such as Hugh Morgan and Geoffrey Blainey:

Paul Patton’s conflation of a sovereignty that is actively possessed and violently defended by white supremacists – on one hand – with the performative assumption of Aboriginal sovereignty by Aboriginal activists – on the other – betrays a wilful ignorance of the mechanisms through which white race privilege is established and maintained in Australia. It is not that the sovereignty assumed by the APG is less real for being performative. However it is distinguished from white sovereignty because it is assumed without the permission of the State. Which precludes it – by definition – from being monolithic (Nicoll 2002: para.25).

Thus, Patton’s dismissal of the APG is based on a refusal to see beyond the limits of his own normative framework or, for that matter, to even acknowledge that he has one. Rather, he assumes the position of the objective, neutral, value-free White scholar, a subject position described by Aileen Moreton-Robinson as the “white know-all” (cited in Nicoll 2003: 4). This is exemplified most clearly by Patton’s delineation, on one hand, of the “overwhelming case for a more flexible concept of sovereignty” (Patton 1997: 232) but, on the other, his equal insistence that this “need not be construed as implying the formation of an independent state.” In this way, Patton is like Reynolds in his dismissal of the APG’s position and his apparent acceptance of the state as legitimate. This position effectively reinscribes or reinforces the White hegemonic norms about the nature of sovereignty on which the denial of Indigenous sovereignty is based. The reinscription, rather than interrogation or critique, of these norms can be seen as an act of complicity in the reinforcement of the oppressive structures those norms are used to maintain.
"The White man's dream continues the Aboriginal nightmare": The APG critique of "reconciliation"

The APG's critique of the concept of "reconciliation" – conceived as one part of the state's approach to the management of its relationship with Indigenous people – also demonstrates more broadly how current approaches to Indigenous-state relations are designed to maintain hegemonic Whiteness and dominant White Western constructions of Australian nationhood and sovereignty, as well as to reinforce the norms and values on which those constructions rely, including the denial of Indigenous sovereignty. The following discussion of the APG and "reconciliation" shows that one of the ways that this is achieved is through the silencing, marginalising, and making invisible of voices and groups – such as the APG – that advocate the recognition of Indigenous peoples' sovereignty. The APG's appraisal of the government policy of reconciliation – contained in the APG Papers – further illuminates the differences between the APG's model for recognition of Indigenous rights and the limitations of, and problems with, the frameworks within which this recognition currently takes place.

The APG levels three main criticisms at the government-mandated policy of reconciliation. First, the APG criticises the policy's focus on attitudinal change as a precondition to achieving reconciliation. This was emphasised by the Hawke government, which established the policy of reconciliation, along with the Council for Aboriginal Reconciliation, and charged the Council with responsibility for implementing the policy (Council for Aboriginal Reconciliation 1992: 6; Department of the Prime Minister and Cabinet 1991: 24). But, as long as the prevailing power structures – which, this thesis argues, are reinforced by dominant constructions of nationhood and sovereignty – go unchallenged, the policy's focus on attitudes will be limited. According to the APG,

[t]hose who believe that, despite all the evidence, we can all be reconciled to live harmoniously under one nation, believe in tooth fairies and fantasy. Australia is a racist country. ... The Reconciliation Council was set up to alter these attitudes but the deeply ingrained attitudes have not been seen to have changed one bit. The reasons for the Council's vain efforts to date is [sic] because of the insurmountable problem: attitudes against Aborigines are caused by the entrenched belief that white domination should prevail. The Council's approach is to address the symptoms of that attitude, not the source of it (Aboriginal Provisional Government 1993a, my emphasis).
Nicoll points out that there is "an important distinction within the verb 'reconcile,' depending on whether [it] is conjoined by 'with' or 'to'" (2001b: 154). Reconciling *with* "conveys the meaning of 'harmonising,' 'healing' or 'making friendly after estrangement,'" whereas reconciling *to* "implies a relationship of unequal power whereby a dominant agent can render another submissive" (Nicoll 2001b: 154). The APG argues that the policy of reconciliation aims merely to "encourage Aborigines and whites to say hello to each other in the streets, and to allay the mining and pastoralists' fears about 'reckless' claims that Aborigines have rights to land throughout Australia" (Aboriginal Provisional Government 1992b). Therefore, the policy necessarily obscures the much more fundamental problem of the dominance of Aboriginal peoples' needs by White interests, so Aboriginal people are forced to "rely on their masters for the basic necessities of life" (Aboriginal Provisional Government 1992a). Because it focuses only on White attitudinal change as a precondition for reconciliation, rather than on the institutions and structures that function to maintain White power and privilege, the policy of reconciliation is based on the view that Indigenous people should be "reconciled to" their place within the Australian state.

Second, the APG criticised the policy of reconciliation on the grounds that it is too vague and nebulous to be meaningful:

> Nobody really knows what is meant to happen when the process of reconciliation is complete. Is there meant to be a social policy document capable of being implemented by governments? If so, how could that possibly be better than the 339 recommendations of the Black Deaths in Custody Commission ...? And if the Council is meant to enquire into the circumstances of Aborigines, has that not already been done, over and over again? (Aboriginal Provisional Government 1992a).

Furthermore, the APG argued that, because the policy was so vague and ill-defined, it would be subject to criticism that it constituted a waste of taxpayer funds, which would in turn only further expose Aboriginal people to the "racist but oft-stated view that we are over-privileged" (Aboriginal Provisional Government 1992a). As I have argued elsewhere (Pratt, Elder, and Ellis 2001: 145-146), in the 10 years of the policy's official existence, the idea of "reconciliation" was able to be taken up by so many non-Indigenous people "precisely because of the vague, ambiguous and rhetorical nature of the concept itself." As a result, the discourse of "reconciliation" can work to help
White people reassert the subject position of the "good" White self, which I discussed earlier.

The third aspect of the APG's criticism of the policy of reconciliation can be seen as a more general point encompassing the first two. This criticism concerns the way that "reconciliation" is designed to fit in with the norms and values of Australian nationhood:

[all this was done on the pretext that "we all may live as one united people." This latest attempt at "bringing the people together" has not changed Aboriginal suspicion at all. ... [Aboriginal people] are growing impatient with having to wait the outcome of yet another well-meaning but ill-considered plan of whites before getting back the only things of importance to them: land, improved conditions and self-government (Aboriginal Provisional Government 1992a).

The nation-building nature of the reconciliation project is exemplified in the nationalism that informs the official discourse of "reconciliation." It is also apparent in the way that reconciliation discourse has often marginalised the voices of Aboriginal people who seek more than attitudinal change and fine-sounding rhetoric. As Mudrooroo notes, groups such as the APG were not represented on the Council for Aboriginal Reconciliation during its 10-year existence – or, at least, not in their own right (1995: 228-229). Moreover, according to the APG, the Minister for Aboriginal and Torres Strait Islander Affairs who presided over the establishment and first few years of the policy's implementation, Robert Tickner, responded with "deafening silence" to concerns about the policy raised by groups such as the APG (Aboriginal Provisional Government 1992a). As an Editorial in the Aboriginal Law Bulletin in 1993 commented, Aboriginal people were "justifiably sceptical of the reconciliation process as a consequence of it being imposed after limited consultation, of the seemingly superficial bi-partisan approach of the Liberal and Labor parties, and because crucial issues such as sovereignty have been conspicuously absent from the agenda" (Aboriginal Law Bulletin 1993: 3). Mansell (1999) argues that the imperative to silence alternative, "radical," or otherwise dissenting voices in the interests of Australian nationalism was also evidenced in Prime Minister Howard's 1998 election night pledge

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131 As noted above, APG Deputy Chairman Geoff Clark became an ex-officio member when he was elected to the Chair of ATSIC in 1999, and he was a member of the Council until its dissolution in 2000.
to commit himself to reconciliation and his subsequent appointment of Philip Ruddock to the newly created Reconciliation portfolio. According to Mansell, these were not genuine attempts to come to terms with important issues of race relations; they were strategic measures aimed at heading off the possibility of boycotts and Aboriginal protests at the Sydney 2000 Olympics (Mansell 1999).

Also apposite to this thesis is the way that the discourse of reconciliation has marginalised the APG and, to a large extent, made it invisible. In the mid-to-late 1980s, when Australian debates about Indigenous issues were largely dominated by a focus on the issues of treaty and land rights, Michael Mansell was one of the most prominent Aboriginal activists in Australia. In the last decade, and particularly the last five years, the voice of the APG has generally found it difficult to compete with discussion and debate pertaining to “reconciliation” and with voices from government-sanctioned Aboriginal organisations such as ATSIC. In fact, as Moran argues, because of the APG’s critical stance on the policy of reconciliation and because of its insistence on asserting Indigenous peoples’ rights to the recognition of their own sovereignty and nationhood, Mansell and other “radical” Indigenous activists pose a problem for official discourses such as “reconciliation” (Moran 1998). The APG challenges the dominant constructions of Australian national identity and nationhood on which those discourses rely:

[the official discourse [of reconciliation] has difficulty accommodating or dealing with those indigenous people who position themselves symbolically outside the Australian nation. Their call[s] for justice and land rights [are] seen by many non-indigenous Australians as utopian and threatening. By refusing to recognise that their rights, including land rights, exist only according to British-derived law – implicitly or explicitly asserting continued sovereignty – they step outside and potentially undermine the discourse that legitimises the Australian nation as the sole occupant of the Australian territory (Moran 1998).

If we return to Morris’ discussion about the policing of “cultural and political borderlands” (2001), we can argue that, in this context, this policing is achieved by marginalising and making invisible challenges and disruptions to the discourses that legitimise Australian nationhood and that subsequently provoke anxiety in White people. As the APG’s critique of it demonstrates, “reconciliation” can be seen as one of the discourses that legitimate White constructions of Australian nationhood and the claim to sovereignty on which those constructions rely. Michael Mansell and the APG
are, therefore, a source of anxiety for White people, because they directly challenge White constructions of nationhood, claims to sovereignty, and the discourses that underpin them. Therefore, White institutions must ensure that, as far as possible, the voices of these activists are not properly heard.

Conclusions

Some commentators have suggested that the APG’s position on Aboriginal sovereignty and the model it has articulated to achieve its recognition are effectively ambit claims. For example, Pearson wrote in 1993 that Mansell’s agenda “is often interpreted as a deliberate strategy to set the extreme position, with a view to settling for the best compromise at some stage when the adoption of this strategy has extracted maximum concessions from the State” (Pearson 1993b: 16). Indeed, Mansell more or less acknowledged this in a panel discussion on ABC TV’s Lateline in 2000. When asked whether the creation of separate Aboriginal states were genuine goals or bargaining chips, Mansell responded by acknowledging that the “bulk of Aboriginal people” may not want to pursue separate Aboriginal statehood, but that

“it’s an option that’s still open, and certainly we do throw the threat at the Australian Government because it is a political fact of life that if the rules of a cricket game are being written by the one ... team who dominates the other to the stage where it’s such a one-sided cricket game, we can in fact pull up stumps, take our cricket bat and ball and go and play another in another game, another ground” (Lateline 2000).

Nevertheless, the issue of “ambit claims” relates to a number of themes in this chapter. For example, the proposition that APG-like arguments are “ambit” demonstrates the hegemonic nature of discourses and conceptualisations of Australian nationhood and sovereignty that legitimise the Australian state as the rightful occupier of the continent and as having underlying title to all the land therein. Yet Indigenous rights in Australia are discussed and judged in a normative framework that is informed by discursive constructions of Australian nationhood and sovereignty as uncontested, unproblematic, and, ultimately, legitimate. As the APG points out, challenging the legitimacy of Australian governments is contentious because it “strikes at the heart of the insecurities of nations” (2002). Therefore, organisations such as the AFG, which challenge the state’s legitimacy, are necessarily positioned as outside the
normative boundaries or categories on which the state's claim to legitimacy relies, as this Chapter has shown.

This chapter has deliberately focused on a specific aspect of the activities and arguments of the APG and its associated activists. In addition to the APG's activism considered here the APG Papers includes discussion on a range of other issues (such as the Australian constitution), and the APG – although strongly critical of the UN system at times – has been involved in Australian delegations to the UN's Working Group on Indigenous Populations (Clark 1996). Individual activists associated with the APG have been significant participants in campaigns and debates not specifically related to their APG roles. This is most obviously demonstrated by Michael Mansell's involvement in the NTAs negotiations in 1993 (and, since then, in his membership of the National Indigenous Working Group on Native Title) and Geoff Clark's more recent election to the ATSIC Chair. It may also be seen in Mansell's prominence in the Tasmanian political and Aboriginal communities and his general contribution to other issues.\(^{132}\) This chapter therefore does not purport to fill the gap in Australian academic literature on the APG. I point out these other activities of APG activists to avoid as far as possible the tendency of White Australians to "pigeon-hole" Indigenous people and Indigenous politics into neatly defined and distinct categories. This tendency is one of the tools often used to discredit Indigenous voices through the representation of them as contradictory – as though White political agents are not complex, and White politics never entail contradictions.

Therefore, this chapter should not be read as a complete chronicle or history of the APG, and although it has been critical of many White responses to the APG – it should not be read as necessarily advocating the APG position *per se*. The APG Papers makes it very clear that the APG model is *not* supposed to be a final or fully comprehensive one, but it is instead a starting point for discussion and debate. Indeed, as the APG points out, any move toward Aboriginal independence would need to be based on the expressed wish of a clear majority of Aboriginal people (Aboriginal Provisional Government 1992a). This chapter does advocate, however, a more genuinely inclusive

normative framework for discussion and debate of issues relating to Indigenous political rights. I have highlighted the limitations of the normative frameworks in which Indigenous rights "claims" are currently "judged" — that is, the limitations of frameworks that fail to interrogate or challenge the legitimacy of the Australian state's claim to sovereign authority over the continent now called Australia. With this failure, these frameworks reinforce the myth that the Australian state's claim to sovereignty is both legitimate and subsequently incapable of being contested. In highlighting the limitations of dominant normative frameworks, this chapter has made visible the logic of White responses to APG-style sovereignty arguments and to the centrality of Whiteness therein. It has also uncovered the continuities between different discursive strategies and practices in the repertoire of hegemonic Whiteness as they are manifested in responses to Indigenous peoples' assertions of sovereignty, including those responses that are apparently "progressive."

Accordingly, this chapter has further demonstrated the importance of interrogating, challenging, and dismantling hegemonic Whiteness and the power and privilege that it sustains. Once again, this raises the question of how the current state of the relationship between Indigenous and non-Indigenous people in Australia might be different if an "ethics of engagement," such as that outlined in Chapter Two, was employed in White peoples' responses to Indigenous people and groups who assert their inherent sovereignty. This is the question of how things could be different if White people started to see the recognition of Indigenous peoples' originary sovereignty as an obligation and to view engagement with Indigenous people who assert sovereignty as a responsibility. If this were the case, for example, more academic literature might grapple with questions of Indigenous sovereignty; this would contrast to the existing literature, which tends toward dismissiveness of Indigenous people who demand the recognition of their sovereignty. If more scholars began to see the acknowledgment and recognition of Indigenous sovereignty as their ethical obligation, the normative frameworks that currently delimit academic analysis and debate about relations between peoples might gradually shift away from Whiteness-centricity. And, if this were the case, the structures that keep hegemonic Whiteness, and thus White race power and privilege, intact, might slowly unravel. In delineating the extremity of responses provoked by assertions of Indigenous sovereignty that
directly challenge the legitimacy of the state’s authority, this chapter has highlighted the extent of this task. But the extremity of White responses also demonstrates the fundamental importance of the task. This is because, once elucidated, these responses reveal how the maintenance of White race power and privilege prevents the resolution of outstanding questions about sovereignty and legitimacy in Australia. In turn, this prevents the enactment of justice in response to Indigenous peoples’ demands for recognition of their inherent rights.

This chapter noted that Indigenous peoples in Australia have demanded recognition of sovereignty through calls for the negotiation of a treaty. As Chapter Two outlined, treaties can also be potential mechanisms for the exchange of consent between peoples and, therefore, potential mechanisms for resolving competing claims to sovereignty and legitimacy. In discussion and debate about the idea of a treaty in Australia, the example of Canada is often cited as a model from which Australia might learn. The following chapter examines the treaty-making process currently underway in the Canadian province of British Columbia as an example of Canada’s apparently more progressive approach.