

**Council of Christians and Jews  
(Victoria, Inc.)**

**Commemoration of the Aboriginal Protest (1938)  
Against German Treatment of Jews**

**Sunday, 31 July 2005**

***Defending in solidarity the truths of history -  
the legacy of William Cooper***

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What sort of Australians would claim that the only real Aboriginals are those who dare not engage in any direct political action for the betterment of their kin?

In striking out the Yorta Yorta appeal in December 2002, the High Court told us that the Yorta Yorta peoples must somehow demonstrate the traditional law and customs of their ancestors in 1788 and that they have continued ever since, substantially uninterrupted.

And they accepted that it was open to Justice Olney, the trial judge, to find as he did that Yorta Yorta native title had been, by 1881, “washed away by the tide of history” to use his colourful but pitiful metaphor.

Justice Olney focused his considerations on the anglocentric and titillating account of Edward Curr, a European squatter, who wrote about mid 19th century Yorta Yorta practices such as gender subservience, ornamental scarring and other exotica. The judge then looked in vain for continuity of these customs in the written record over time and compared the way the Yorta Yorta live now with Curr's descriptions.

By this kind of reasoning, if water or food was abundant and treated wastefully by the Yorta Yorta during Curr's time, then their descendants should be just as wasteful today, regardless of the impact on the environment.

And whether any of the Yorta Yorta ancestors had actually behaved in the way described by European observers is irrelevant. If through ignorance or bias, any outsider had written that this was the way things were, the Yorta Yorta of today would have no option to comply or risk being found to have lost their traditional connection.

Justice Olney also focused his considerations on an 1881 petition to the Governor of New South Wales, written by some Yorta Yorta ancestors. The petitioners sought “a sufficient area of land to cultivate and raise stock ... that we may form homes for our families ... and in a few years, support ourselves by our own industry”. These requests were made, the petitioners argued, as compensation because “all the land within our tribal boundaries has been taken possession of by the Government and white settlers”.

But in 1998 Justice Olney treated the petition as “positive evidence from the claimants themselves” that Yorta Yorta native title had been abandoned. Why? For Justice Olney the die was cast when the petitioners used language inconsistent with that contained in the *Native Title Act* - never mind the fact the legislation was drafted over 100 years later!

William Cooper was twenty years old when the petition was signed. It's a fair chance he knew of its existence. His brother was one of the 42 signatories.

It is not difficult to imagine how William Cooper would have reacted to the 1998 Federal Court decision that his people's connection to country was deemed broken in 1881 by the stroke of a pen.

Look no further than what appears in the record by his own hand. In 1887 William Cooper wrote to a local parliamentarian seeking secure, inalienable land as a source of economic independence for his people. Using a powerful economy of words, he called on the government to secure “this small portion of a vast territory which is ours by Divine Right”. As Heather Goodall noted in her book, *“Invasion to Embassy”*, William Cooper was insisting on recognition of Aboriginal rights of prior ownership. He was, as Goodall states, suggesting that the “small portion”, while limited in area, nevertheless signified the Yorta Yorta peoples’ “vast territory”, and was a symbolic acknowledgement of the continued responsibility the Yorta Yorta peoples had to the largest expanse of their tribal lands.

Obviously no one told William Cooper about the so called “tide of history”!

Much of the remainder of William Cooper’s life was spent continuing to passionately and tirelessly agitate for land justice on behalf of his peoples, the Yorta Yorta peoples, and on behalf of Aboriginal peoples more generally.

William Cooper's struggles were not in vain. Far from it. As his grandson, Alf "Boydy" Turner (*whom I am privileged to share the podium with today*) noted in the foreward to Bain Attwood's and Andrew Markus' excellent "*Thinking black*", William Cooper's fight to "make life better for his people with meetings, letters and simply his presence", rightly earned him "the respect of the wider community".

William Cooper is a national icon. His truly is the quintessential Australian story of refusing to buckle and of speaking out in defence of the truth, upon which a reconciled national identity can be forged.

William Cooper's legacy goes far beyond his people. It extends to the people I belong to: Australian Jews and their brethren worldwide.

In "*Thinking Black*", Bain Attwood and Andrew Markus noted that William Cooper benefited from receiving his education from the Reverend Daniel Matthews in the late 19<sup>th</sup> century. It was Daniel Matthews who encouraged the Yorta Yorta peoples to identify with the Jews of the Bible and formulate a sense of themselves as a disempowered but unified peoples. Through the Book of Exodus, Daniel Matthews encouraged the Yorta Yorta to envision themselves in terms akin to the persecuted and suffering Israelites.

It is one galvanising moment of empathy in particular that we gather here today to commemorate: the deputation from the Australian Aborigines League, led by William Cooper, to the German consulate in Melbourne on 6 December 1938 to protest against Jewish persecution by the Nazis. The delegation, as we know, was refused admittance.

I am honoured today to be able to formally acknowledge the indefatigable efforts of William Cooper and his peoples, the Yorta Yorta, in support of Jewish people. Such acts of defiance, solidarity and courage will never be forgotten.

It will always remain my privilege that in 1993 my firm, Arnold Bloch Leibler, was given the opportunity, through the late Ron Castan's introduction, to act as lawyers and advisers to the Yorta Yorta peoples during their monumental native title struggle for land justice and beyond.

Ours is a relationship built on a foundation of mutual respect and solidarity. Long may it flourish as we each continue to defend the truths of history, which no tide will ever wash away.

Thank you