DUNGALA KAIELA ORATION

Rumbalara Football Netball Club

Noel Pearson
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Thank you very much for your kind welcome. And thank you, Paul.

On behalf of the Yorta Yorta elders and community for this great privilege of addressing this oration this year. I am extremely conscious that I am wearing the suit of my late friend, Lou Griffiths, who worked with the Yorta Yorta people during the Yorta Yorta case.

I just realised that when I walked into the room that Lou had filmed the entire proceedings before Justice Olney in that case. It's an extraordinary archive of evidence and process in that case that he accumulated. And he formed great friendships with the elders of the Yorta Yorta many of whom are now no longer with us. I want to say some things about that case because I believe it was wrongly decided. And I will give you my reasons for why I think it was wrongly decided under the law. I will also give you my reasons for believing that it is still an unresolved issue.

But first, I want to say that there is no other tribe in Aboriginal Australia who has produced more important leaders than the Yorta Yorta. I can't think of any. The Wurundjeri perhaps and the Noongar and a few others, the Yolngu of Northeast Arnhem Land might be a show. But historically, and truly, this particular tribe has contributed more important leaders in the history of the Aboriginal struggle in Australia than any other in the country.

I grew up very intimately connected to Pastor Sir Doug Nichols, because someone in my late years of primary school thrust into my hands his biography and it was a reading that has stayed with me all my life. And there was only one other book. There was only one other biography that I read, one indigenous leader when I was very young, that made that same kind of impression on me and the other one was *A Bastard Like Me* by Charles Perkins. I was given that when I was 10 years old by my headmaster at my primary school.

So I want to acknowledge the extraordinary history of Yorta Yorta leadership and struggle on behalf of our people at a time when the oppression of Indigenous Australians, it’s just extraordinary to reflect the courage that was needed in the 1930s to represent the voice of Indigenous Australia.

I'm conscious that my remarks about the Yorta Yorta case are intruding upon a history belonging to this community, white and black. And I mean not to open wounds gratuitously. But I'd like to share with you my views about that. Before I get to that, I want to share some arguments that I've been developing about why Australian conservatives should make common cause with us about our recognition in this country.

And I've been taken with a concept proposed by the English conservative philosopher named Roger Scruton, who spoke of this idea of Oikophilia. This is a quote from his 2012 book called *Green Philosophy: How to Think Seriously About the Planet*. Scruton says that

> Edmund Burke developed three ideas that it seemed to me were then and ought to be now the core of conservative thinking, respect for the dead, the little platoon, and the voice of tradition. Burke was one of the first major political thinkers to place future generations at the heart of politics. Burke's view of society as an association of the dead, the living and the unborn, carries a precious hint as to how the responsibility for future generations arises. It arises from love, and love directed toward what is unknown must arise from what is known. But the future is not known, nor are the people who will inhabit it. But the past is known, and the dead, our dead, are still the objects of love and veneration. It is by expending on them some part of our care, Burke believed, that we care also for the unborn, for we plant in our hearts the transgenerational view of society that is the best guarantee that we will moderate our present appetites in the interest of those who are yet to be.

The love of home. Love of the home, Oikophilia, is the intriguing idea put forward by Roger Scruton. It is, I think, a most important contribution to how the pressing environmental problems facing human societies might be thought about and responded to. Scruton's book brings together the conservation that is latent in political conservatism, and the conservatism that is latent in environmental conservation.

Love of the Oikos, or household, is the common motivation in stewardship, and protection of the environment and of society. This common motive is for Scruton natural, the shared love of place. He says;

> That it seems to me the goal towards which serious environmentalism and serious conservatism both point, namely home, the place where we are and that we share, the place that defines us, that we hold in trust for our descendants, and that we don't want to spoil. It is time to take a more open minded and imaginative vision of what conservatism and environmentalism have to offer each other. For nobody seems to have identified a motive more likely to serve the environment cause than this one of the shared love for our home. It is a motive in ordinary people. It can provide a foundation, both for a conservative approach to institutions and a conservationist approach to the land. It is a motive that might permit us to reconcile the demand for the democratic participation with the respect for future generations and the duty of trusteeship. It is, in my view the only serious resource that we have in our fight to maintain local order in the face of globally stimulated decay.

Environmentalists staring at the stark and impenetrable wall of liberal self-interest, frustrating their schemes to turn around environmental decay should read Scruton and pause to reflect on where the mobilising of imposed large scale bureaucratic strategies against the self-interest of homo economicus has ended up. Put aside your fantasies of eco-revolution and the great green uber internationale. Scruton proposes another motive as potentially compelling as self-interest: the natural love of home. Oikophilia is the closest that contemporary conservative philosophy comes to the indigenous love of homeland. But Scruton contrasts religious and kinship affiliations with national ones. Incorrectly in my view, he makes assertions about tribal affiliations, which must be answered if his notion is to find common ground with indigenous connection to country.

Scruton does not understand that homelands are central to tribes. Scruton's knowledge of the nature of tribal societies and their relationship with territory is too thin. And this is not his main concern, in any case. That is a pity. Because he would realise that his concept of tribal institutions is limited. After all, it was in respect of Galarrwuy Yunupingu's Yolngu society, that Chief Justice Blackburn famously observed in 1971 that the evidence showed a subtle and elaborate system highly adapted to the country in which the people lead their lives, which provided a stable order of society and was remarkably free from the vagaries of personal whim or influence. If ever a system could be called a government of laws, and not of men, it is that shown in the evidence before me.

Scruton would recognise his description of the filial relationship between Englishmen and their native nation resonates with that between the Yolngu and his tribal nation and speaks to the same conservatism. The barrier that stands in the way of this recognition is Scruton's point about the exclusivity of the tribe. Quote:

> "when it comes to outsiders, the strangers and sojourners in the land of the tribe, they are regarded as outside the law all together and not entitled to its protection. And nor can outsiders easily become insiders, since that which divides them from the tribe is an incurable genetic fault."

Scruton's objections can be overcome if we accept layered identities. In this way, the universal filiation is national citizenship, with one rule of law and system of government. The one rule of law and system of government that applies in Scruton's native Britain is one which does not oblige, and in fact, cannot oblige unfreedom of religion. In the same way that this one rule of law and system of government preserves and upholds all manner of arcane institutions of inherited privilege, staunchly defended by conservatives, from Burke to Scruton, so too are tribal nations, consistent with the idea of a Commonwealth.

The problem with Scruton's view of the tribe is that it is a dated caricature. It might have been true at the time of David Livingston's adventures in Africa, or the Australians making first contact in the highlands of Papua New Guinea, or the first whites entering Arnhem Land, but it is now a view of the past. No tribes today live in isolation from other societies. They live within nations, where layers of history have left layers of identity. These tribes cannot be expected to abandon the institutions of their inheritance, inextricably bound as they are to the homelands of the inheritance. It would be as indefensible as expecting the inheritors of Britain's ancient entitlements to forsake this.

I want to now discuss one aspect of Scruton's idea of conservatism: respect for and connection with the dead. As part of a consideration of what it means to be indigenous. In this passage from the International Court of Justices 1975 Western Sahara case, Judge Amoon captured what lies at the core of the idea of peoples being indigenous to a country. He said:

> "Mr Bayona-Ba-Meya, goes on to dismiss the materialistic concept of terra nullius, which led to this dismemberment of Africa following the Berlin Conference of 1885. Mr Bayona-Ba-Meya substitutes for this a spiritual notion: the ancestral tie between the land, or 'mother nature', and the man who was born therefrom, remains attached thereto, and must one day return thither to be united with his ancestors. This link is the basis of the ownership of the soil, or better, of sovereignty…"

I'm not now concerned with the legal question. I am concerned with the metaphysical question, the spiritual notion, the ancestral tie between the land and the man who was born therefrom who remains attached thereto and who must one day return thither to be united with his ancestors. This is it. This is the nub. This is the essence. This is the source.

Before we have the abstraction of law, we have things that are real. It is the dust of the ancestors mixed with the dust of the land. Before we have abstraction, the lore is not the origin. It is the ancestral bones in the land, that is the source. It is the dust of the ancestors mixed with the land.

It is from that land and dust that the people of the present came and it is to that same dust and land that they remain attached there to. And it is to the same land they will one day return thither to be united with their ancestors.

At the core of all Aboriginal customary law, you find these elements - the ancestral tie to the land. The person born from that land, who remains attached to the land, and whose spirits will one day return to it. I would venture to say that these ideas are universal to all indigenous conceptions of relationship to their country, the world over.

My point is, it is not the law that is the wellspring of indigeneity, it is a reality concerning the dead, the living, and the people to come, and the country to which they are tied. It is a similar reality of which Scruton writes, when he refers to “Burke's view of society, as an association of the dead, the living and the unborn”. If Burke's association is real, then it is real in the sense, captured in Judge Amoon most apposite definition. Man cannot live by bread alone.

The Cape York agenda I've championed has elements of all three great traditions of political philosophy. This is how I explained it in *Up from the Mission*:

> The metaphor of the staircase may provide some fresh insight into why our agenda has so often proven to be so difficult to categorise in conventional political terms. Our focus on social norms has an inherently conservative flavour. But we also emphasised the critical importance of supporting capabilities – and this has a distinctly social democrat flavour. Then we talked about incentives steps that allow people to choose to build their own lives – this has a distinctly liberal flavour.

But I now see that while the liberal component of our agenda was well developed, the conservative element was not. It is still a caricature of conservatism.

Conservatism is not just about social norms. It is the insight that human beings will not be content when the liberal and social democratic agendas are fulfilled. If the engine of self-interest is cranked up, if the structure of incentives is right, if people exercise choice, if private property is well developed, if there's social democratic provisioning of opportunity, and people take responsibility to seize opportunity to build their capabilities, what people will really want to do is to read the Talmud in Hebrew and Aramaic. Or learn archaic Yorta Yorta from old recordings, and build a scale model of King Solomon's temple.

Aboriginal Australian culture is evidence that when humans are at equilibrium, people build traditions tied to languages and land and they pass them on to the next generation. Conservatism is not just about sending your children to school to paint your fence white. It is insight into the imperfection and mystery of human nature. This imperfection and mystery will ultimately make liberal and social democratic structures inadequate, and binhthu: without taste.

Conservatism is the idea that distinct peoples should continue to exist, because difference is an end in itself. The homogenisation inherent in liberalism, and social democracy is risky, because it robs us of many attempts to answer great existential questions. Conservatism is different to liberalism and social democracy. Liberalism is based on a few principles, and then people do the rest through their own choices. But there is no end to the number of human traditions. Japanese and Guugu Yimithirr liberalism are the same. Japanese and Yolngu social democracy are similar. But Japanese and Yorta Yorta traditions are different worlds.

Tradition is, by definition, about the detail and not the broad principle. To work politically for a tradition, you have to make sure the dictionary in 10 volumes is written, you have to record and teach the songs that traverse the continent. Self-interest is the engine that drives everything else in the vehicle of progress. But tradition is the engine that drives human existence.

Conservatism makes the case for continued existence in a deep sense, not just in the trivial sense of having biological descendants. Continued existence is of lesser concern to Anglophone and Sinophone conservatives, because their cultures are large and too powerful to die. No one can have true existential angst that there will be no one left to can and will want to read Shakespeare. Man needs bread, but he cannot live by bread alone.

The two reasons Australian conservatives should support constitutional recognition of Aboriginal and Torres Strait Islander peoples.

First, conservatism sees intrinsic value in tradition and inheritance. Like our British heritage, indigenous tradition and inheritance is important and should be recognised and maintained.

Secondly, conservatives value national unity. They disavow separatism, collectivism and division among citizens, preferring instead individualism bound by a common sense of national unity and patriotism. That is why they should support the removal of references to race that served to divide citizens. In trying to understand conservative objections to the expert panel's proposals it is important to understand the Australian mix of liberalism and conservatism, and the influence of conservatism amongst constitutional lawyers. The influential group, whom Greg Craven dubbed the 'con cons'. This group convening as the Samuel Griffith society, values liberalism and democracy. They insist on parliamentary sovereignty and are ready to accuse judges of usurping that democracy. They value the Australian Constitution as inherited wisdom.

Conservatives resist principles such as equality and non-discrimination in the Constitution. While valuing free and equal participation in democracy, conservative pragmatists do not think such ideals can be protected simply by writing them into the Constitution. Such alterations risk giving judges too much power. In their strong aversion to activist judges, constitutional conservatives tend to forget the history that has

driven this conversation about indigenous recognition. Conservatives are concerned with limiting activism, and therefore do not want symbolic words or sweeping rights clauses in the Constitution.

We need to take account of these views. But what conservatives in turn need to understand, in an effort to find consensus, is that for indigenous people, the movement for recognition has always been about achieving protection and recognition of indigenous rights and interests within Australia. It is about reconciling the fact that there were peoples here before the British arrived and making provision for those peoples in the interest to be recogniSed within the nation.

Symbolism and poetry is only part of it. Substantive change in the national approach to indigenous affairs is the other. Conservatives need to understand our position too. Our people live through the discrimination of the past. We have great legitimate anxiety that the past will not be repeated, and that measures be put in place to ensure things are done in a better way. If conservatives assert that a racial non-discrimination clause is not the answer, then what is a better solution?

In a recent paper, *The Australian Declaration of Recognition*, Julian Leeser and Damien Freeman assert that the Constitution is a rulebook, a practical charter of government that sets out relationships of power, such as between the Commonwealth and the States. It is not a vehicle for aspirations and symbolism. These can be articulated in a declaration, not in the Constitution proper. But if the Constitution is a practical rulebook, then we should also accept that one very important national power relationship is clearly not addressed in the Constitution.

Arguably, therefore, the rule book should be amended to make provision for indigenous people to be heard in indigenous affairs. After all, if unelected judges should not decide what is in the interests of Indigenous Australians, then who should decide? Indigenous people comprise only 3% of the population and hardly get a fair say in Parliament, even on matters directly concerning us. Parliaments have never been good at listening to our people. This is why the discrimination of the past has occurred. And this is the elephant and the mouse problem that has characterised our history.

We can find a way of ensuring that indigenous people get a fair say and laws and policies made about us without compromising the supremacy of Parliament. Perhaps we could consider creating a mechanism to ensure that indigenous people can take responsibility for our own lives within the democratic institutions already established, and without handing power to judges.

Conservatives should agree with the removal of racial discrimination from the Constitution. They believe in national unity and dislike division separatism. They must now also turn their minds to how the Constitution might be altered, so that the discrimination of the past cannot happen again. We don’t want separatism; we want inclusion on a fair basis. We want to be inside the tent. We want our voices to be heard in political decisions about us. A mechanism like this that guarantees the indigenous voice in indigenous affairs could be a more democratic solution to the racial discrimination problem.

Constitutional recognition could therefore include removing the race clauses and inserting a replacement power to enable the parliament to pass necessary laws with respect to indigenous peoples, and incorporation

of a requirement that indigenous peoples get a fair say in laws and policies that are made about us. A new body could be established to affect this purpose, and to ensure that Indigenous peoples have a voice.

Let me now talk about an agenda for the classical culture of ancient Australia. Distinct peoples the world over hold hard to four things: their identity as a people, their territories, their cultural heritage and their language. These lie at the core of what is indigenous about those Australian citizens who are Aborigines and Torres Strait Islanders. Let us look at how they've been accommodated in Australia.

Indigenous identity is recognised at a certain level. The Aboriginal and Torres Strait Islander flags are official flags under the flags act. They fly outside parliament, schools, council chambers and other public buildings. They're found on label pins of leading politicians, and have become an accepted part of the symbolism of this country. But below that, there is no official recognition of the many tribal nations associated with particular territories. Apart from the registrations that occur under land rights schemes, there is no official status or recognition accorded to first tribes.

Some towns and cities have signage at airports or the entrance of towns, or public buildings which acknowledge local tribes, but it is not part of any official scheme of recognition. Welcome to Country ceremonies, and the practices of acknowledging traditional custodians are now part of official protocols in Australia, even if there is more psychological discomfort about it, than say, in New Zealand, where the practice is sincere, and there is no question of embarrassment. I witness many Australian ceremonies that are perfunctory or awkward, reflecting the degree to which we are far from the bicultural society, New Zealand has become.

No doubt it helps, and I am in the wrong building to say this, but it helps if you have the greatest team of any sporting code in the modern world, the All Blacks, but it is impossible not to feel comparatively impoverished, when the haka is performed, and *God Defend New Zealand* is sung in Maori and English. I'm afraid to say one wipes tears from the hem of our enemies, and cringes at our own.

The other great area of work that lies before us is the naming of places throughout the continent. Thousands of cities, towns, suburbs, streets, bridges, rivers, creeks, and other landmarks of Aboriginal names accumulated over two centuries. By the time you count all of the private names of homesteads, farms, residences, buildings, and institutions that are Aboriginal they number in the tens of thousands. And yet there is little awareness of the provenance of these place names. People seem not to know that Coolum is an Aboriginal name, as are a great majority of the town names where I live, it is strange indeed to drive through places with virtually no Aboriginal presence, but bearing all these ancient names.

Many Australians simply do not know the difference between Aboriginal and English names. I now live in a place with the names Nambour, Noosa, Eumundi, Tinbeerwah and Maroochydore. I play a game with my kids to accumulate those names. And then we pass a road yesterday called Murdering Creek Road. I will make a wild guess and say that fewer than one in a hundred of the ancient names of Australia have been officially recognised. Most features of the continent - its contours, swamps, sand hills, mangroves, creeks, rivers, headlands and so on - have Aboriginal names of ancient provenance. How can it be that these names are not officially recognised? Other countries have adopted dual naming practices.

When I visit Yurrgubarraalbigu on the coast near the old Cape Bedford mission, I pass a hill with the prosaic but official name of Round Hill. But its true name is Thamal Nubuun: One Foot. It is ridiculous that a place that had a name at the time of Jesus of Nazareth is no longer officially known by its proper name. This is a vitally important agenda for the country.

This continent is a named continent. And Australians should know this landscape is rich with meaning and history. Through land rights schemes, native title rights at common law and under legislation, land reservations and purchases, much has been done to recognise the territorial rights of the contemporary descendants of the original tribes. This is where accommodation has been made. And the process is by no means complete.

The protection of indigenous heritage in the form of cultural artifacts and places has long been provided for in legislation. These are of mixed quality, and there are gaps. But this is an area of accommodation that has received attention. There are institutions for keeping and displaying the country's indigenous heritage, including a dedicated institution, the Australian Institute of Aboriginal and Torres Strait Islander studies, but these are not properly supported. There is a yawning gulf between the work they are able to do and the work that needs to be done.

Australia does not have a comprehensive agenda for the recording preservation, presentation and utilisation of the country's heritage. The urgent work described by Rachel Perkins at Garma recently, of recording the song lines of Central Australia is just one example of the work that needs to be done before it's too late.

The former director of the then Australian Institute of Aboriginal Studies, the late English archaeologist, Peter Ucko, was the architect of the first beetle push before it's too late, which saw scores of anthropologists and linguists deployed to the four corners of the continent to undertake salvage work by making indigenous language and ethnographic recordings. This work captured the knowledge of the last of the old people born in the bush before the mission era. Some of Australia's leading anthropologists such as Peter Sutton were part of this drive. Australia urgently needs a beetle mark three.

The generation that worked on the cattle stations who were brought up and worked on the country and learned the languages the next generation on from the older bush born generation are now old and passing on. Much of this knowledge will be lost if we do not grasp the importance and urgency of this work.

Also, the work compiled by that first generation of researchers needs to be the subject of urgent work itself, converting the moldering contents of storage rooms of ethnographers who are now in their seniority into forms that are accessible and useful to current generations. It is no exaggeration to say that the notebooks and journals of the researchers who worked in Cape York Peninsula these past 50 years are themselves part of the world's heritage. We need concerted public support to secure it. And of course, much more recording work utilising the latest technology lies ahead of us and lies ahead of new generations of linguists and researchers. The universities need to be a part of this national drive over the coming decades because they need to provide the personnel to make it happen.

Finally, in 2001, the world watched aghast as the Taliban dynamited and destroyed the 1700-year-old Buddhas of Bamiyan in Afghanistan. Treasures of older lineage are in danger of being lost to our nation through blindness and neglect, rather than vandalism.

Let me now briefly impart to you my thoughts about the Yorta Yorta case. I fundamentally believe Justice Olney got that decision wrong. His decision and the subsequent appeal to the High Court of Australia was a travesty of the Australian common law on native title. It was based on a misconceptualization of native title by the courts. The notion that native title is sustained as an artifact of traditional law and custom and not the common law's recognition that people who are in original occupation and possession of land are entitled to the recognition of that possession following that acquisition of sovereignty by the British Crown, was in my view an inaccurate and wrong articulation of the law.

You will recall in the Yorta Yorta case that Justice Olney accepted the claim of the contemporary Yorta Yorta community, that they were connected to a set of ancestors who were occupants of this country. In the 19th century, he accepted that evidence. It was proven in the case that the contemporary claimants were connected with an ancestral group who acknowledged to be connected with this country. And the judge himself accepted that that ancestral group was also descended from the people who were in occupation of this land at the time of sovereignty. The whole link was established. The burdening of the title at the time of sovereignty, the finding of the fact that the ancestors of the contemporary community were here, in occupation of the land in the second half of the 19th century. That whole chain was accepted by Justice Olney as a matter of evidence in that case. The case turned on, in my view, a wrong concept of native title that was adopted by Justice Olney, and on appeal by the High Court. And a disastrous concept of native title took hold in the jurisprudence of Australia.

The idea that indigenous Australians possess a title that is dependent upon traditional law and custom rather than, as should have been the case, the common law's acceptance, that whenever people are in occupation of land, they are presumed to be the possessors of that land. Wherever English law finds anyone in occupation of the land, they are presumed to be the possessors of the land, unless someone can prove a better right, a better possession. The unfortunate conception that was adopted by the court in the Yorta Yorta appeal, I believe represented a complete bastardisation of the original Mabo decision and the meaning of native title.

The jurisprudence on native title in Australia severely went off the rails with the High Court's decision in the Yorta Yorta case. The court disregarded the entire international jurisprudence on Native Title. They looked at Native Title as purely a statutory definitional exercise. They looked at section 223 of the Native Title Act for the meaning of native title, when in truth there is a massive jurisprudence in North America and elsewhere throughout the common law world, that should have been brought to bear in their consideration of the case. And it was not.

This is a matter that I believe is still unresolved. The court's decision at first instance before Justice Olney was egregiously wrong. And I don't believe that this decision by Justice Olney and the subsequent appeal in the High Court that failed, has left a final settlement of the question. I believe that a different answer is in prospect if the claim had not been conducted and viewed under the terms of the Native Title Act.

I will, in one last explanation, try to communicate my problem with this case. When the Native Title Act was enacted in 1993 in the Commonwealth Parliament, the whole advocacy of that act was to protect the common law of native title. It was not supposed to create a new statutory definition of it. Section 223 of the Native Title Act was supposed to just reflect the requirements of the common law. It wasn't supposed to create its own independent definition. But that wasn't the view taken by the High Court in the Yorta Yorta appeal. And it's one of the great tragedies of that case and the appeal ruled upon by the High Court that the approach taken was that somehow section 223 of the act was a statutory definition of Native Title, rather than a capturing of its meaning at common law. And it led to this idea that somehow the Yorta Yorta had to prove an unbroken sustaining of traditional law and custom over 200 years in order to have title today.

When an adverse possessor under the law of England and the law of Australia, someone who has an adverse possession - that is somebody who sets up the title wrongfully, they're not the owner. An adverse possessor of land, after the statutory period gets full title. They don't have to prove some 200-year-old chain of title to sustain their possession. It is because the law of possession accords them as the occupants. I have great sadness about the grief caused to the Yorta Yorta people by this travesty of justice.

I say one last thing about the Yorta Yorta case. The Yorta Yorta claim, as with all Native Title claims, could never dispossess the non-Yorta Yorta of any right. Had the Yorta Yorta received all that they claimed nobody else would have ever lost a right. It wasn't as if, if they win, we lose. That's not what native title claims are about. If native title is won, nobody loses. Because if you had a valid lease or a valid freehold title, or a valid license, whatever rights you had under the law, they can't be taken away by Native Title. They are validated. They are secure. So the entire claim put forward by the Yorta Yorta was not going to result in anyone losing anything. And this is the great problem with Australia's consideration of this whole question in the wake of Mabo. People would not accept and understand that when native title is recognised, no one is dispossessed of anything. If they had valid titles, those titles remain, they can't be taken away. So I hope that sometime in the future, these questions will be revisited. I hope this community one day as an indigenous and non-Indigenous people with a common history, a history that is troubled, that speaks of good and or bad, and of love and of hate, or pride and of shame. You're going to have to work that out yourselves.

I come from a place called Cooks town. We've got our own challenges. But this community will one day need to grapple with this turmoil. And I hope that when you one day do that, you will recall the fact that there should not have been resistance to this claim. There should not have been resistance to this claim, because nobody was going to lose anything. And the whole matter of the recognition of the Yorta Yorta people, is what recognition is all about.

And I ask all of your forgiveness, all of the people, white and black, of this community, I ask your forgiveness for turning this turmoil. But I could not come here and not tell you my thinking about the incorrectness of Olney’s tragic decision. And the fact that it cannot be accepted as having settled the question. If the law as applied in that case is what it is, then it can't be the last word. The Yorta Yorta exist. They are real. They have always existed. This community has understood that. You have always acknowledged the Yorta Yorta. You've always known them to be indigenous to this place. I believe that at some point this community will have to come together as Australians, as people with what Roger Scruton would call as people with a common sense of oikophilia. The bones of the Yorta Yorta dead are in this

country. And the accumulating bones of those who've been here these past two centuries are being laid down in that same soil. My whole argument in this lecture, according to conservatives, is a real thing. The dead are real. And they are most important to us.

And I thank Paul and the Yorta Yorta elders for the kindness of this opportunity.