

Epilogue: ‘The Ghost of Edward Curr’

Following the High Court decision in the *Yorta Yorta* case, a group of the claimants proclaimed that ‘the Ghost of Edward Curr’ had come back to haunt them.¹ An Indigenous playwright, Andrea James, subsequently developed this idea in a play titled *Yanagai! Yanagai!* – a theatrical exploration of her people’s struggle for land justice.² James dramatised a memorable passage from Curr’s *Recollections of Squatting in Victoria*, in which Curr recalled his first encounter with a Wongatpan fishing party in 1842.³ In *Yanagai! Yanagai!* an ancestral spirit, Munarra, pursues the ‘Ghost of Curr’ and confronts him about his invasion of Yorta Yorta lands. Her conversations with Curr’s ghost are juxtaposed with scenes from the native title case, where an insensitive barrister prevents Yorta Yorta people from explaining their cultural heritage during cross-examination. The implication is that Curr’s invasion of Yorta Yorta lands and the decision of the High Court 160 years later are two parts of the same process of dispossession.

A ghost by definition transcends death. If Edward M. Curr achieved such a feat it was through his writing. When Russel Ward wrote a review of *Recollections of Squatting in Victoria* in 1966 he argued:

Curr’s name ... will be honoured by posterity more than those of his fellow pastoralists or even public service chiefs and politicians. He was more interested in life and people than in money or success, and he left us several books which are among the best of their kind written about important aspects of colonial life in the past century.⁴

Notwithstanding Ward’s specious conclusion that Curr was indifferent to ‘money or success’, he correctly identified Curr’s status in Australian historiography. He undeniably left a significant literary legacy. The empirical value of *Recollections of Squatting in Victoria* is severely undermined, however, if the social, cultural, political and philosophical views of its author are not adequately understood. Importantly, just as a ghost is disembodied from its terrestrial predecessor, Curr’s book has developed a life of its own, apparently distinct from the man who wrote it. In legal historiography in particular, a tendency to consider the meaning of written documents as self-evident, without any consideration of context, has had profound implications on dominant understandings of Australia’s past. This was illustrated very clearly by the role of Curr’s writings in the *Yorta Yorta* case.

1 Fergus Shiel, ‘Claim sunk by pen of a swordsman’, *Age*, 13 December 2002.

2 James 2003.

3 Curr 1883: 176–179. See also Chapter 4 of this publication.

4 Russel Ward, ‘An early study of Black and White’, *Sydney Morning Herald*, 15 January 1966.



Figure 28: Edward M. Curr (c.1880).

Photograph courtesy of Ian G. Curr.

Curr regularly employed the trump card of bush experience to assert his authority in Aboriginal administration, in ethnology, and as a chronicler of the early history of the Port Phillip District. His pastoral experiences are, of course, a key reason why his work is so valuable to historians; but they also point to a major deficiency in his account, particularly as it concerns Aboriginal custom. Curr was integrally involved in the first phase of settler colonial endeavour, which involved the dispossession of Aboriginal people. His account of past events unsurprisingly affirms the righteousness of the colonial project and his own involvement in it. Curr's ethnographic account of the Yorta Yorta ancestors is deeply problematic because of his role as an invader of their lands.

In his New Zealand letters of 1855–56, Curr expressed quite clearly his attitude to colonial land acquisition.⁵ He adhered to a Lockean view of private property, which immediately dismissed the legitimacy of Aboriginal land ownership. Curr enthusiastically entered into a colonial argument about productive land use, during which Indigenous land rights did not even feature; for Curr, such considerations were self-evidently irrelevant. It is not surprising that his only brief mention of Bangerang land tenure in *Recollections of Squatting in Victoria* involves his ironic 'purchase' of a part of his squatting run for a stick of tobacco.⁶

Recollections of Squatting in Victoria is shaped in a variety of ways by Curr's life experiences. For example, his nostalgia for the 1840s makes considerable sense when the overall trajectory of his life is understood. The wealth and social status of the Curr family reached a peak in 1850, when Edward Curr senior was proclaimed the 'Father of Separation' in the newly independent Colony of Victoria. Following the death of their father, Edward M. Curr and his brothers inherited a vast squatting empire comprising 300 square miles of prime pastoral land, but as Curr related in his private family memoir, his own personal wealth was all but lost by 1861. Despite his subsequent and successful public service career, it hardly seems surprising that Curr would look back favourably on the profitable 1840s. Importantly, in *Recollections of Squatting in Victoria* Curr was able to emphasise his pastoral successes, rather than his dismal failure on the Lachlan River when all his cattle died during a drought.

Curr's memoir evinces a form of imperialist nostalgia, whereby the path of settler colonialism is marked as inexorable. His own complicity in the decimation of Indigenous society is deflected in the many passages where he expresses regret at the passing of his 'sable companions'. Passages of this type have often prompted historians to argue that Curr was atypically sympathetic to Aborigines, but such an argument does not pay adequate attention to the wider context of his life. The official record of Curr's involvement in Aboriginal administration exposes

⁵ Curr 1856; see also Chapter 5 of this publication.

⁶ Curr 1883: 243–244.

the ideological preoccupations that shaped his descriptions of Aboriginal people. He was stubbornly committed to a policy of long-term incarceration for surviving Aborigines, whom he argued should be treated like 'children' or 'lunatics'. Advocating supreme authority for the Board for the Protection of the Aborigines, he rejected the emerging view of the 1880s that the Aboriginal race might be assimilated into the white population.

While Curr's biases must be considered and his authority on many topics questioned, it does not follow that *Recollections of Squatting in Victoria* should be discarded by historians. In so many ways, Curr's book offers an insight into early colonial Australia that is crucial to historical study: his detailed descriptions of landscape, his engaging anecdotes, and his humorous characterisation of the social world of the frontier are all of immense worth. Even his descriptions of Indigenous people remain valuable if used intelligently. Deborah Bird Rose, in her criticism of the *Yorta Yorta* judgement, suggested that it is possible to read between the lines of Curr's writings:

One can set aside his evaluative tropes, examine his observations for probable truth value, and provide an ethnographic account of what he saw that takes into account the culture and social organisation of the people involved.⁷

Curr's books clearly need to be critiqued with care. Contextualisation of written sources is the essence of the historian's craft, but has not adequately been integrated into native title jurisprudence.

Curr's great skill as a writer elevated his status as an historical observer, while his engaging prose discouraged critical analysis of his writings. His influence on Australian historiography and native title illustrates clearly the unbridled power of written language in Western epistemology, a power captured neatly in 2002 by the *Age* headline: 'Claim sunk by pen of a swordsman'. The headline provided an appropriately figurative concluding remark for a native title case seemingly defined by metaphor. The story of Edward M. Curr, his life and legacy, is a compelling demonstration of how Western cultural knowledge and systems of law are embedded in a written discourse that disadvantages Indigenous peoples.

Encouragingly, the potential for written accounts to grow disproportionately in authority was recognised by Chief Justice Black in his dissenting judgement in the first *Yorta Yorta* appeal:

⁷ Rose 2002: 44.

The dangers inherent in giving particular authority to the written word, and more authority when it is repeated, need to be borne constantly in mind as well. The phenomenon of repetition strengthening authority is, of course, a familiar one, to be found in other areas of scholarship.⁸

Chief Justice Black's unique judgement provided hope that Australian native title law might, in the future, consider historical practice in a more nuanced way and recognise that written sources are not unproblematic. Only then might native title achieve something approaching its potential for redemptive justice within the Australian settler colonial state.

Edward M. Curr concluded *Recollections of Squatting in Victoria* with a quote from Lord Byron's epic poem *Lara*.⁹ It seems appropriate to end this book with a passage from the same poem, which eloquently expresses the power of the written word to shape dominant understandings of the past. Byron describes the return of his brooding hero to his kingdom after a long exile. As Lara enters his ancestral halls, he views the superficially plausible signs and relics of the past:

He turn'd within his solitary hall,
And his high shadow shot along the wall;
There were the painted forms of other times,
'Twas all they left of virtues or of crimes,
Save vague tradition; and the gloomy vaults
That hid their dust, their foibles, and their faults;
And half a column of the pompous page,
That speeds the specious tale from age to age:
When history's pen its praise or blame supplies,
And lies like truth, and still most truly lies.

Lord Byron, *Lara*, Canto I, Part XI.

⁸ *Yorta Yorta v Victoria* (2001), Black CJ, [58].

⁹ 'Kaled, Lara, Ezzelin are gone', see Curr 1883: 452. See also Chapter 7 of this publication.