

**TJURINGA DREAMING**  
**REVOLUTIONARY FLAGS OF THE AUSTRALIAN ABORIGINALS**  
**HERALDS OF CHANGE 1971-1997**

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**Abstract**

Though possessing a rich heritage of sacred symbols evolved over many thousands of years, it was not until 1972 that the Aboriginal peoples of Australia adopted a flag in the form of familiar usage today - a flexible artefact in fabric.

The first part of this essay traces the development of modern Aboriginal flags in cultural and historical context. It provides insight into Aboriginal thinking about sacred signs and symbols of the land now shared with others from across the sea. Previously unpublished evidence from the South Australian Museum is presented.

In the second part, an exercise in comparative vexillology, comparisons are made with similar designs, leaving open the question whether these had any direct influence on the designers of Aboriginal flags in Australia.

The paper also considers whether the Aboriginal sun flag has inspired others. In the world of flags and symbols, as anywhere, there is little the sun has not shone upon before. It concludes with some general principles pertinent to Aboriginal and other flags alike.

**1. Historical context**

When Europeans discovered Australia from the early 1600s, they found an immense island populated, even if sparsely, from end to end. Estimates of Austronesian peoples in occupation vary from 75,000 to 3 million years [1].

Although flags in the form familiar today were unknown, Australian Aborigines possessed a highly developed religious belief system and an intricate array of related symbols. The complex system of symbols that has survived in many areas is positively vexillonomic defined here as:

the collection, (written, or otherwise conserved as points of reference) of rules, conventions, guidelines, or customs by which the beliefs of a community are expressed in graphic form, transferable to flags and flag-like artefacts.

European settlement of Australia came at a heavy price of physical and cultural devastation, similar to the record in other continents invested by Europeans over the last five hundred years.

Dispossessed, and by the 1920s reduced to around 60,000, Aboriginal peoples were however not annihilated, nor totally absorbed. The 1938 sesquicentenary of European settlement also saw the beginning of political, social and cultural resurgence.

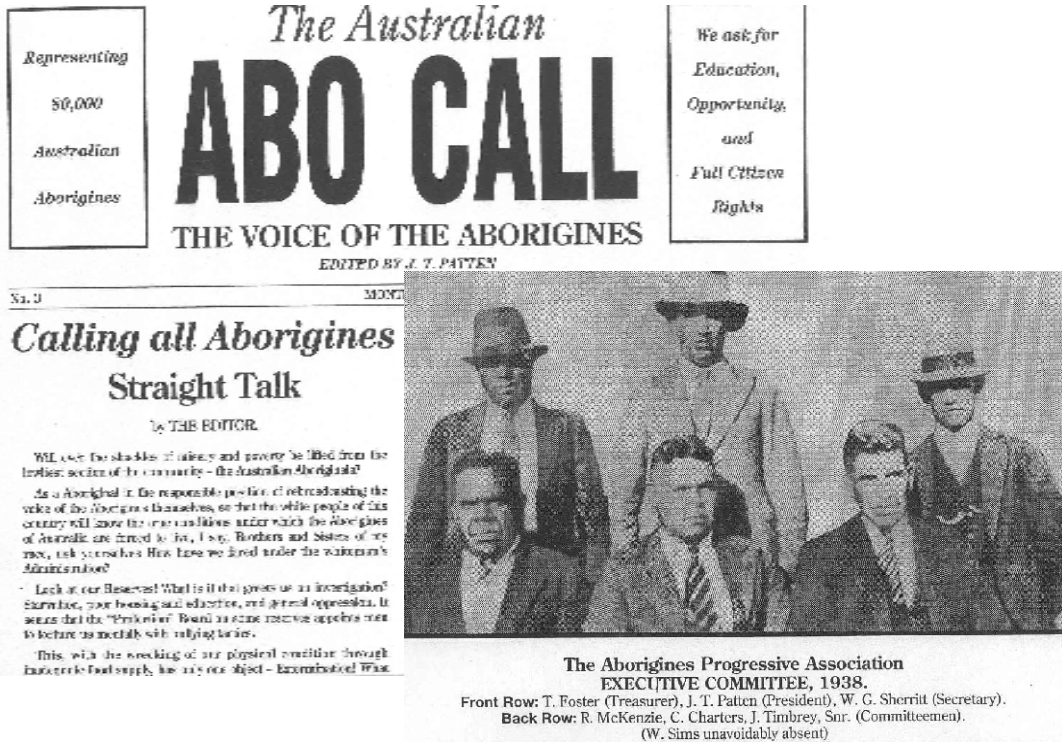
In that year the first Aboriginal newspaper, *The Australian Abo Call*, [Figure 1] published and promoted a 10-Point Plan from the Aboriginal community to the Government with demands to:

- establish a Federal Ministry of Aboriginal Affairs;
- close the paternalist welfare system of isolated missions where native people were in effect kept in detention, out of sight and out of mind;
- accept Aboriginal people as citizens with all citizens' rights, and to that end,
- abolish Sections 51 and 127 of the 1900 Constitution that allowed the interpretation that native people were not counted citizens; [2]
- present a related petition to King Edward VIII seeking a responsible role in government for Aboriginal people.

Aboriginal people played an active role in the armed forces in both World Wars, and were instrumental in the defence of Australia against Japanese incursions [3]. It was only after the war that the political progress and organisation of Aboriginal people consolidated. In the 1960s, Aboriginal stockmen on cattle stations won the right to equal wages with Europeans. The social and political movement culminated in the 1967 Referendum called specifically to reform the constitution and clarify citizenship status of Aboriginal people. The Referendum was carried overwhelmingly, with 91% in favour, and in a majority of states.

The success of the Referendum set the ground for Land Rights agitation and recognition. The 1970s were a time of significant social upheaval, not only in Australia but around the world. The struggle over land rights was only the more public and controversial dimension of that activity. Behind the scenes Aboriginal pioneers were founding their flagship organisations - the Aboriginal Medical and Legal Services, and the first cooperative housing companies. The foundations were laid of an appointed representative Council then known as the National Aboriginal Council, and from 1990 as ATSIC - the Aboriginal and Torres Strait Islander Commission, an elected body.

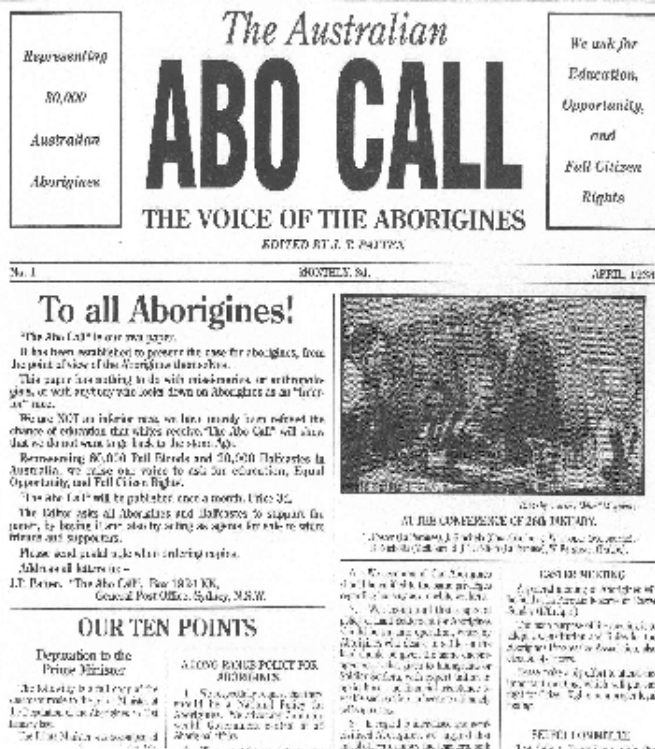
In this climate, Aboriginal flags, in the modern sense, first appeared.



**Figure 1:**  
**The Australian Abo Call**  
the first Aboriginal newspaper - voice of renaissance - but no banner, symbol or flag in 1938



The dinkus on this page and at the end of this paper, is a design by the author. It symbolises the need and desire for dialogue between indigenous people and other Australians under the watchful eye of our common ancestral Spirit.



## 2. The flags

The early use of Aboriginal flags is reported on FOTW by Dylan Crawfoot. He cites a letter of 26 February 1979 from Ambrose Golden-Brown, an Aboriginal educator and a member of the Aboriginal Tent Embassy, attesting to three flags:

- (1) A horizontal tricolor "red/black/green".
- (2) The spearhead "1972 variant" - in fact this is a separate design;
- (3) A red-over-black (sic) bicolour with a yellow disk, described on FOTW by Bernard Booth of Tasmania.

These reports are half-accurate and require correction.

In the hours before dawn on 26 January 1972 - the anniversary of European settlement in 1788 - a small band of young Aboriginals drove the 300km to Canberra, the national capital, from Sydney and on the lawns in front of the Federal Parliament, pitched a large tent as an Aboriginal Embassy.

Its primary purpose was to embarrass the Australian Government internationally and gain publicity for the cause of Aboriginal land and other rights. In this they were remarkably successful. Displeased, the conservative and then drifting government of Prime Minister McMahon dared not dismantle the structure - at least not immediately. It was difficult to controvert who was trespassing on whose land. The Embassy was finally dismantled on 23 July 1972.

The concept of an Embassy in the city of embassies was a clever strategy. Embassies show their country's flag; a collective flag for the Aboriginal nations of Australia was needed. Two flags were improvised immediately, and are illustrated on the July 1972 cover of the Aboriginal magazine *Identity*. [Figure 2]



**Figure 2:**  
The Tent  
Embassy in front  
of Parliament  
Canberra  
26 January to  
23 July 1972

### 3. Black Power

The green, black and red flag was in fact not the ANC flag as is sometimes asserted, but the Garvey flag [Figure 3] of African Americans red on top.

It is also upside down. It is easy to confuse the orientation of plain multi-banded flags: Hungary and Iran, Yugoslavia and Netherlands, Russia and Serbia, Mali and Guinea, Thailand and Costa Rica are cases in point. However, the inversion may have been deliberate. John Newfong, the first Aboriginal journalist and one of those behind the idea of the Embassy and flag, knew about window presentation. There is a visual symmetry in having the darker colours of each flag displayed side by side. He may also have wanted to create some local distinction by changing the orientation of the Garvey flag.

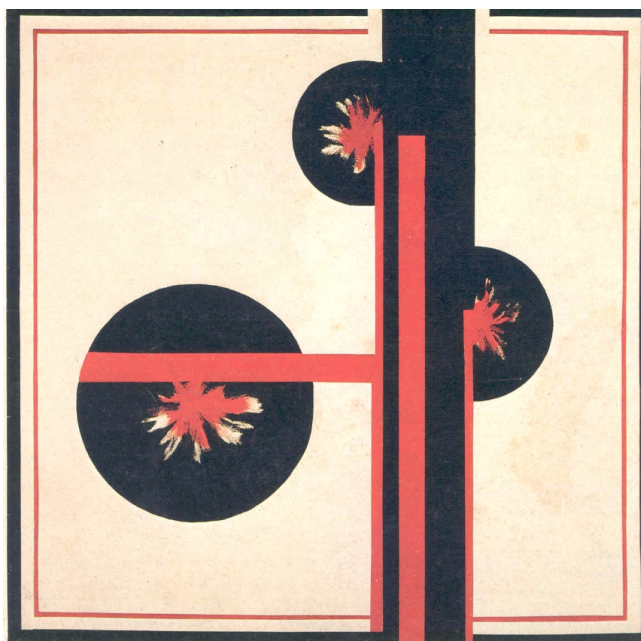
Whatever the aesthetics, the prominent display of this flag - even upside down - and Newfong's later writing in *Identity* magazine [Figures 4-5] removes any doubt that the Aboriginal protest movement in Australia was influenced, if only as a role model, by the black struggle in America for justice and citizens' rights. The American connection with the Aboriginal resistance of the late 1960s is a story in itself.



**Figure 3:**  
Marcus Garvey's  
Afro-American  
flag, the right  
way up.

**Figure 4:**  
*Identity* magazine  
Volume 1, No 6  
November 1972, p1

“The front cover painting symbolises the black power ideology. The black circles represent the Afro hair and the red represents blood and violence. The column is symbolic of black nationalism and the red band across the top of the largest circle is an Australian association of back power. Traditionally used in tribal society as a sign of mourning, the red headband is now used in most demonstrations for black rights in Australia. Although the black power philosophy is founded in the antiquity of negritude, it is an essentially modern, urban ideology. Material used: house paints and white plastic wallpaper”



**Editor's note:** Newfong's painting was done in the “hard edge” style then in vogue. The painting was published in November 1972, 16 months after the Thomas flag was raised in Adelaide, and 6 months after its installation on the Tent Embassy facing Parliament House, Canberra.

#### 4. The Tjuringa Flag

The other flag in prime place (on the right when emerging from the tent) was designed and made in Sydney, the inspiration of Newfong, a Queenslander [4]. This flag **[Figure 5]** is also mentioned in the 1996 Federal Court hearings on the authorship of the Thomas flag [5].

This earliest Embassy flag was properly of Aboriginal provenance. It might also be termed the *tjuringa* flag after the four semicircular devices in its design. In the Central Desert languages, a *tjuringa* is a sacred object, usually of decorated wood or stone, used as a talisman in sacred ceremonies, and guarded by individuals as reminder of their birth song [6].

A land rights campaign button loaned to me by Aboriginal campaign veteran Chicka Dixon features the flag's design, but incorrectly as black and red with devices in yellow. (Crawfoot repeats this error, FOTW 16 June 1999: such buttons and tokens were produced after adoption of the Thomas or Adelaide flag of those colours).

Almost square, the *tjuringa* flag consisted of two segments, black over ochre - not red. Overlapping both panels is a device of a double-barbed spear, white. The four *tjuringas* are also white - the colour of corroboree body paint - not yellow as depicted on campaign buttons. The point of the spear is towards the top hoist, the barb well-down in the centre of the flag, and extends towards the bottom edge, and at an angle, point and base inset slightly from the horizontal edges of the flag.

Adrian Oudeman adds, also on FOTW, [7] though without source as to the interpretation, that *"the barbed spear (which was couped at the base) represented the European invasion of the Australian continent on 26 January 1788. The four surrounding symbols ... represented "Aboriginal elders discussing the invasion"*.

As explained to me at the Tent Embassy, the four *tjuringas* represented, in this case, stylised people seen from above (as in Central Desert painting). They stand for Aboriginal people coming together from all corners of the continent.

The dark blue Australian flag has been called a surprise - "Britain by night" [8]. Aboriginal flags likewise are capable of interpretation beyond the intent of their designers. As Harold Thomas has said: "It is very difficult as an artist to say whether the colours mean this and stick to them at the beginning" [9]. The spear could be taken to represent European intrusion, but to my mind it stands as much for the Aboriginal resistance led by such as Pemulwuy, Windradyne in New South Wales or Yaagan in Western Australia [10].



**Figure 5**  
**John Newfong**,  
Aboriginal journalist and  
activist, motivator of the  
Embassy and designer  
of the first flag - *tjuringa*  
and spear

## 5. The Adelaide or Thomas Flag

The complete story of the third, or "Adelaide" flag, has yet to be told in vexillological circles. It seems appropriate that more of the story be recounted at a Congress such as this, and on a continent where the revolutionary spirit has burned strongly in the past, and the thirst for justice denied so much in the present.

Part of the story has been told in *Crux Australis* [11] based on my interviews with Aboriginal artist Harold Thomas in the ATSIC office, Darwin, and at his home outside Darwin in September 1994. It is further illuminated by the Federal Court judgement in 1996.

As in the eastern states, Aboriginal awareness had been rising also in South Australia in the late 1960s. A reformist government led by the charismatic Premier Don Dunstan did much to shock the complacency of the sleeping city of churches. At the biennial Adelaide Arts Festival in March 1970 an experimental production explored the theme that "the Wandjina are watching", judging how Australia would respond to the plaint of Their people [12].

Unbeknown to the eastern activists in January 1972 (except perhaps Gary Foley, who had been to Adelaide and met Thomas prior to the previous Aboriginal Observance Day, 9 July 1971), a simple flag - a yellow disk on two bands, red and black, had been designed in that city and raised on the day [13]. The event and site are now commemorated by the permanent display of large Aboriginal and State flags of South Australia.

The black-over-red flag with disk that Crawfoot refers to is often wrongly inverted (red on top) as he or his informant, Golden-Brown, do. Even in the early days Aboriginal people did the same - **[Figure 6]**, although as shall be shown later, that description from the day may be accurate.

At first sight vaguely provenant of red and black revolutionary flags elsewhere, the flag is attributed to Harold Thomas **[Figure 7]**, a Luritja man from Central Australia, but fostered as a child through church institutions in Adelaide. Claims that this flag had been submitted in a national competition are contrary to Thomas' own account and Justice Sheppard's assessment [14].

Though a competition is mentioned on FOTW, no details of it have been verified. There may have been informal art projects conducted in Adelaide community centres, as explored in the Federal Court hearings [15], but neither is there evidence of such precise and focused activity as flag design. The Court found on 9 April 1997 that on the balance of probabilities, the Adelaide flag in its basic design was conceived by Thomas and that in consequence, copyright resides with him [16].

Ambrose Golden-Brown describes the disk as representing both the sun and the land, and its colour as "ochre", Thomas's own description also [17]. Ochre is one of the basic pigments in Aboriginal painting, and is used on the Northern Territory flag, but in practice the disk on the Aboriginal flag is a bright chrome yellow. Black represents Aboriginal people. Red is for blood (according to Golden-Brown). More accurately, as the view of the designer, it stands for the red land of Australia - a point Thomas made emphatically in the Court hearings [18].

This writer interviewed another activist associated with the 1972 events, Gordon Briscoe, at the Australian National University in September 1994. Briscoe discussed at length links with US Black-Power activism. The conversation made me wonder if the African-American flag could not have had some subliminal bearing on the designs of both the Newfong and Thomas flags: Garvey's flag raised black consciousness in the United States where people of colour were also heavily repressed; Australian indigenous leaders were in contact with Black Power; its symbols could easily have been borrowed: in many ways the struggle was the same. The other impression I received was that Briscoe's recollections were not as precise as vexillologists and historians prefer. I would also need to talk to many others, if possible, as close or closer to the events of 1970-1975. One of these was Adrian Atkins, who has long researched Newfong's life as an activist.



*Four people who stayed to protest the bombing of Quail Island, December 1973  
Credit: Australian Union of Students.*

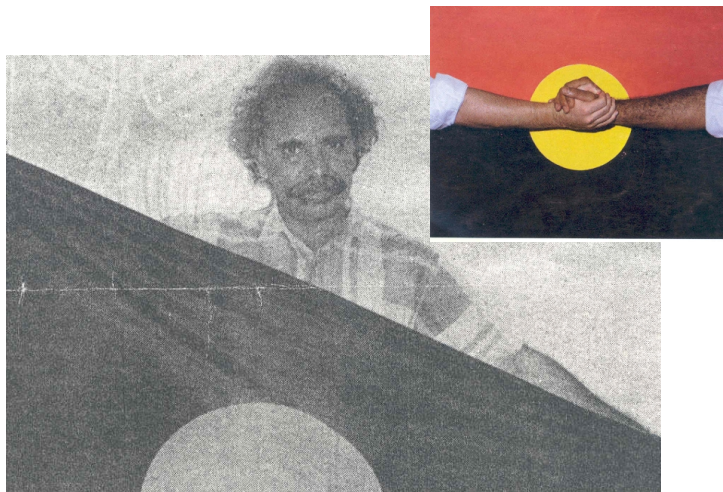
**Figure 6**

**By 1974 red, black and yellow flag from Adelaide was well on the way to universal acceptance among Aboriginal people, though confusion persisted as to its correct orientation.**

Photo: Australian Union of Students in Ward McNally *The Angry Australians* Scope Publications 1974, p 56



**Figure 7**  
**Harold Thomas** with  
 his amended  
 arrangement of the  
 Aboriginal flag -  
 black on top. Even  
 Indigenous  
 presentations  
 got it wrong as  
 shown here from the  
 cover of *Identity*  
 Vol. 1. No 6,  
 November 1972



## 6. Why the Sun?

There is no evidence that Harold Thomas himself was partisan to the US-style black power politicking. It is the sun disk on his flag that differentiates it from black and red flags extant in the 1970s, from liberation fronts in Angola and Nicaragua, from Haiti to Anarchy. The sun emblem provides the Adelaide flag with impact and startling force like no other. Its inclusion is a measure of Thomas' insight as an artist, alive to his Aboriginal heritage.

The addition of the sun is not as exotic as may seem, given its significance in both Aboriginal legend and its emblematic use among the settlers who established the Australian Federation in their own image.

In Aboriginal folklore, the dawn of the first day is significant, as it is in most creation myths. The Aboriginal version has the primordial sky (black) lying upon the red ground: the first day arrives when the Ancestral Spirits lift the sky from the horizon. The parallel with Genesis is remarkable. The light of the sun streams in to quicken the earth and bring forth all its dormant life forms. The sky remains the realm of the spirit world, and the ultimate destination of all that live on the earth. The stars strung across the inky black were considered proof of the continuity of all who have gone before [19].

The rising sun is also a powerful icon in Australian European symbols. Especially at Federation, a radiant sun was a fairly obvious symbol of the new nation, still a member of an empire that girdled the globe, and on which the sun never set.

A cogent image for all black and white.

## 7. The South Australian Connection

The inclusion of the sun on a flag designed in *Adelaide* is also not surprising.

There is some irony in that the colony of South Australia first used as its seal an allegorical representation of Britannia greeting or being given audience by - it is not clear which - an Aboriginal seated beneath a rock engraving of a kangaroo [Figure 8]. The body language might suggest that it is Britannia bringing the gift of civilisation to the benighted savage, yet it is the Aboriginal who is seated, enthroned as it were - a clever concession or admission of sovereignty.

Whatever the semantic interpretation, of interest is that at Federation South Australia was the only former colony to seize the opportunity to simplify its badge and Seal - these were not Arms (they were granted in 1936). Governor Tennyson in 1903 had recommended a design from the Adelaide School of Arts of a magpie perched "splendid" on a gum tree, against a golden sun, symbol of the new Federation and the hopes it brought [20] [Figure 9]. The sun theme was repeated on the Arms eventually bestowed in 1936 [Figure 10].

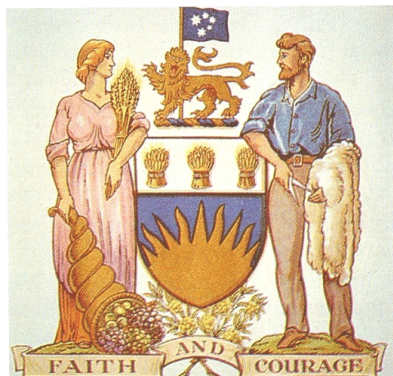
The further irony is that seventy years later, Harold Thomas, a son of South Australia and descendant of that first Aboriginal sovereign, also chose to represent the good life by a plain golden disk - this time less ambiguously than had Governor Tennyson. [Figure 11].



**Figure 8**  
Badge of South Australia 1878-1904  
Two sovereigns, one spear  
ambiguity with intent?



**Figure 9**  
A new Federation  
and a new dawn  
SA soars



**Figure 10**  
State Arms endowed in 1936.  
The British Lion sanctions a flag of  
the Golden South, "with wealth for toil"



**Figure 11:**  
the symbol of Indigenous resurgence  
the Aboriginal flag first raised in Adelaide in 1971

## 8. End Game

Though he never registered the design, the sun disk flag was associated with Thomas from early on. Chiefly through its powerful simplicity, its use spread quickly and it became accepted as the only Aboriginal flag.

Apart from its challenging display on the Tent Embassy outside Federal Parliament, the flag was effectively promoted through *de facto* adoption and dissemination by the Commonwealth Department of Aboriginal Affairs (DAA) after its establishment in 1973 - and from 1990, by ATSIC - an arrogation never approved by Thomas and prompting him to seek formal recognition and recompense from those agencies. As Harold has said [21], and in his discussions with Gary Foley, his intention had always been that the flag was for Aboriginal people and their communities, not bureaucracies that had served his people ill.

Negotiations arrived at the point where the DAA was prepared to consider an *ex-gratia* payment in compensation for its previous and further use of the flag [22]. In 1990 the Department was abolished. Its successor, the elected Aboriginal and Torres Strait Islander Commission (ATSIC) continued to wrestle with the issue of recognition and compensation. ATSIC apparently would like to have settled beyond reasonable doubt that Harold was the absolute author of the design: there had been other claims, though none substantiated. Were assurance forthcoming, ATSIC would be in a position to consider formal recognition of the flag and resolve the issue once for all. A high point was the celebration in July 1991 of the 20th anniversary of the flag's unfurling. ATSIC paid for the party and the posters. Indeed, by that action ATSIC appeared to compromise its previous position of reticence [23].

It was at this very time that a Yaraldi man of the Ngarrindjeri land in South Australia, George Brown, first challenged Thomas' assumed right to be considered the original designer of the flag. Brown wrote to the ATSIC Commissioners, his complaint supported by some connected to other Ngarrindjeri in dispute over a bridge to link the mainland with an ancestral island. That issue embroiled the Federal Aboriginal Affairs Minister, Robert Tickner.

Events affecting the flag then took a dramatic turn, the result of action instigated also by Tickner. On 14 July 1995, the Federal Government gazetted the Adelaide flag, with the Torres Strait Islanders' flag, as official flags of Australia [24] - something that ironically, ATSIC had included in its Social Justice compensation proposals [25]. In effect, the Government gazumped ATSIC and its negotiations with Thomas. The gazettal manoeuvre was in itself problematic. As I wrote somewhat presciently in October 1994, "as the symbol of a recalcitrant people, the flag is a thorn in the side of the establishment. It has special power that might be diluted if the establishment ever tried to appropriate it" [26].

Appropriate it, they did. Superficially, such honouring of the flag appeared to give token of white willingness for reconciliation with Aboriginal people over the past sorry record. However, inclusion of the flag as one of a whole array of official flags governed by the *Flags Act* could be seen to deprive the flag of its confronting and revolutionary power. At the stroke of a pen, the defiant symbol of Indigenous resistance and survival had become respectable, part of the establishment. In the process its fire had been drawn. For most people, flags seem of peripheral importance, and detailed interest in them a kind of carnival indulgence - yet recent events in Lebanon and Ukraine demonstrate their usefulness and power in galvanising a people. In Australia, perhaps the government of the day - and its successor, certainly - appreciated, after all, the incendiary power of

flags and even the lessons of Eureka. Formal recognition of inconvenient symbols is one way of defusing potential conflict.

The official recognition emboldened Thomas' critics. Faced with the double challenge of community complaint, and what he saw as precipitate action by the Federal Government, taken without properly consulting him or heed of the consequences, Harold felt that he had no recourse but to have his claims to authorship adjudicated, especially as the Government had made it clear that it would only recognise his claims to authorship if he could prove it. Justice Sheppard eventually found in Thomas' favour, a Court Judgement the next best thing to absolute proof, even if much detail that historians and vexillological researchers obsess over remains elusive.

Though Debra Jopson recounts Harold's own reservations, expressed on the very day of his triumph, about the longevity of his flag [27], the Thomas flag seems entrenched.

Many lay-people have few qualms for the scholarly niceties. For some time, well-meaning non-Aboriginal sympathisers have urged replacing the Union Jack in the national flag with the Aboriginal flag [Figure 12]. It's a generous idea, but politically gauche, and would replace in symbol one overlordship with another. It is vexillologically clumsy, and heraldically problematic (black on blue). It perpetuates the awkwardness of the current cluttered design of bits here and pieces there - a flag of stars and crosses, as it has been called even by its most enthusiastic supporters. As the accredited designer of a flag he always saw reserved for his people, Thomas is the last person to sanction the idea that a convincing Australian flag simply would replace the Union Jack with the Aboriginal flag. It is a move, on balance, insulting to both descendants of settlers and Aboriginal people.



Figure 12

## 9. An Adelaide Mystery

That Adelaide is a deceptive place where anything could happen beneath the veneer of steeped respectability has been attributed to Salman Rushdie. No need to look for a da Vinci code here, but an element of mystery about the Aboriginal flag only deepens with a visit to the South Australian Museum.

On a tip from Harold that a piece of his flag had been deposited (in 1991 at his request) with the Museum, I contacted the museum's anthropology staff. On 13 March 1995, two days before George Brown's formal affidavit of claim, I interviewed Ms Sandra (Sandy) Hanson, responsible for labelling and preparing artefacts for catalogue and display. Ms Hanson recounted how in the early 1970s Harold, recently graduated from the same School of Arts that had designed the State badge, and who then also worked at the Museum, asked if she would make up a simple flag with materials he had bought.

Fortuitously, Ms Hanson had kept the circular off-cut of red and black material left from her insertion of the yellow fabric. [28]

Until now, it has been assumed that the Adelaide flag was the familiar bicolour evenly divided black over red, and in the centre, a large yellow disk overlapping both in equal parts (though Crawfoot records Ambrose Golden-Brown had it red over black, and Harold himself has said that the sun disk was somewhat smaller) [29]. This regularity is, after all, how the flag has been displayed and promoted since at least the 1980s. Further, colours and proportions as finally envisaged by the designer, are accurately described in *Crux Australis* in December 1994 [30].

From the off-cut, however, it is evident that the yellow disk was not in the centre of the flag - or to put this differently, the horizontal division did not run centre.

The disk cut from the flag is slightly elliptical. As illustrated in the photographs at **Figure 13** and the diagram **Figure 14**, the north/south diameter is 84.5cm. The east/west diameter is 88.5cm. The straight edge of the east/west seam joining black and red is 86.5 cm. From the midpoint of this seam to the apex of the red arc is 50 cm. From the midpoint of the seam to the apex of the black is 34.5 cm - giving the north/south diameter of 84.5 cm mentioned.

Even allowing for foreshortening in two of the photos, the asymmetry is appreciable. The greater part of the disk lies across the red zone. I remarked on this detail with Museum staff in March 1995 and it featured also in the Supreme Court hearings a year later.

On a follow up visit on Friday 14 January 2005, when the photos were taken, I put to Museum Science curator Phillip Manning (shown standing by the artefact), that perhaps in haste Ms Hanson had been inattentive. Mr Manning said this was unlikely; Preparation Staff are trained to be exact.

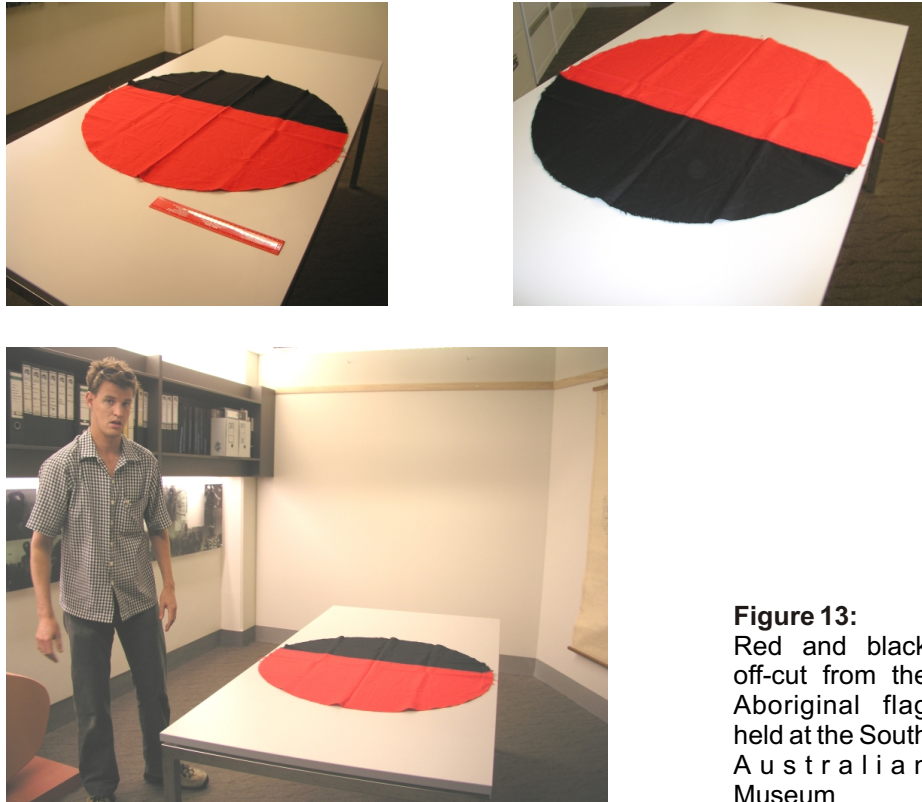
If that assessment is accurate, and not a projection of a professional himself so trained, it can only mean that Ms Hanson followed precisely the instructions or diagrams she was given. That in turn would mean that the flag was visibly different to the flag today - especially if red in fact were over black as Thomas say he first designed it.

The off-cut is the clue to how the first flag actually looked - made up, if not its intended design - bearing in mind Ms Hanson's assertion to me and testimony later to the Court [31], that she had made the flag at short notice. It also suggests that the flag we know today is the result of post-launch tweaking. That happens often with flags - and in some cases of appalling design, should.

The fabric in the SA Museum is a piece of Aboriginal heritage, a curiosity from a flag not appreciably different from the flag we know. What is remarkable is that this artefact received so little attention until used in the Federal Court hearings to support Thomas's claim to be author of the Aboriginal flag, first unveiled in Victoria Square in 1971 when he was employed at the Museum.

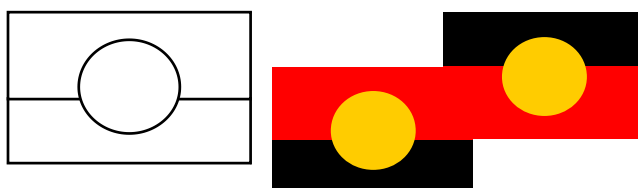
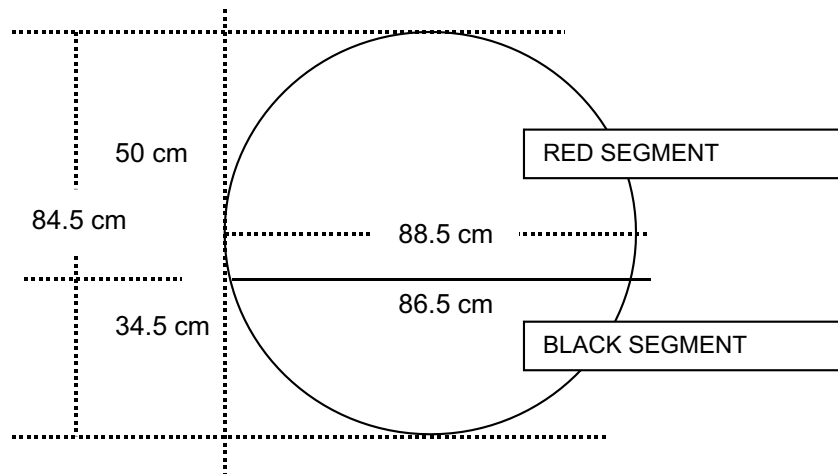
The Adelaide off-cut leaves us also to infer an original flag of startling simplicity - either a disk rising from a black shadow-land into a fiery sky or possibly the reverse, reflecting the Dreamtime version, of a red earth beneath a black sky (but a rather lopsided image to eye of the trained artist) - **Figure 15**.

No other explanation seems better to fit the uneven distribution of black to red. Indeed, landscape or horizon designs feature often since 1985 in proposals for an alternative Australian flag [32] - and it is the immense horizons and brilliant light that strike any visitor.



**Figure 13:**  
Red and black  
off-cut from the  
Aboriginal flag  
held at the South  
Australian  
Museum

**Figure 14:**  
The remnants of the  
Thomas flag in the  
South Australian  
Museum are  
evidence of a flag  
initially made to be  
asymmetric, though  
this does not settle  
whether the black or  
the red band was on  
top.



**Figure 15**

## 10. Creation Ex Nihilo? Ideas of flags

Despite Justice Sheppard's ruling on the balance of probabilities, can anyone say absolutely that the Adelaide flag sprang fully formed from the brow of the designer? The history of flags shows that this is rarely the case, and Harold Thomas' own remarks to me in 1994 and to the Federal Court in 1996 are also testimony [33]. Except for gaucheries imposed by graphic design salons that confuse flag design with logo-gimmickry, there is always a cultural antecedent or substrate. Many flags have inspired imitators to form whole flag families - those of the British Empire, and more recently, of pan-Arabism, or the Garvey emulators of Ethiopia, of the Socialist International - or of Anarchism.

In Darwin in 1994, and as anticipated in an earlier letter of John Edwards, first editor of *Crux Australis* [34], Harold had mentioned to me that he had scanned flag charts in a cursory way to get some idea of their design structure. As a water-colourist and aware of the late 1960s vogue for "hard-edge" in painting, as also in flags, his main focus had been to settle on colours first and then symbols that could speak to Aboriginal people not only of "the bush and outback" but also the "urban mob" [35].

The Aboriginal grapevine is notoriously reliable. It is speculative, but not impossible, that the Adelaide flag unfurled in Victoria Square seven months before could have influenced the design of the Sydney flag posted on the Tent Embassy on Australia Day, 26 January 1972: Gary Foley had visited Adelaide for the July 1971 Aboriginal Day, and Harold discussed a flag at some length, showing Gary several designs inspired by black and red and other colours. [36]

As noted, the startling feature of the Aboriginal flag is the forceful simplicity of its design, the confronting use of a plain roundel, to express a range of powerful emotions, as the most powerful and effective flags always have. It detracts nothing from the insight and artistry of both Harold Thomas and John Newfong to observe that the model of either flag already existed.

And where are these other influences? The temporary appropriation of Garvey's flag by the Aboriginal political movement has already been noted. US popular culture permeates Australia then as now. There was an affinity and aptitude for Aboriginal youth to imitate black American culture, for fairly obvious social reasons beyond colour.

There are however other candidates, beyond the colours of Afro-America and Black Power. Aboriginal activists of the late 1960s and early 1970s may have been influenced by the flags of indigenous movements with whom they were in contact and by those of revolutionary and liberation movements that proliferated

in the decade 1965-75 - from Guinea-Bissau to Mozambique, from Eritrea to Azania - as decolonisation in Africa reached its final stage. In Asia the US war in Vietnam raged into its second decade; Bangladesh tore itself bloodily from Pakistan. Young Aboriginal leaders, the first generation of their people to go to university, like their non-Aboriginal peers, were articulate and knowledgeable about the world around them. There was something in the air - and it was not love, but thirst for revolutionary change.

Above all, 1971 the year of the Aboriginal flag, marked the high point of opposition to the war in Vietnam [Figure 16]. Press reports in 1971 covered the anti-war demonstrations. Aboriginal issues were largely under-reported, and it was not until the end of the year that the Australian Government made a token effort in establishing a small bureau of Aboriginal Affairs.

It is significant that the idea of an Aboriginal flag came to Harold Thomas after his observing from the 1970 Land Rights rally in Adelaide that white sympathisers at the back marched with their assorted flags and banners while there was none of equal impact - indeed, none at all - to lead the Aboriginal people in front. It could be argued that in the anti-war movement lay the kernel of a new and galvanising Aboriginal emblem. Vietnam had been at war since 1942; Aboriginal Australia in sullen defeat since 1788. The Viet Cong flag (a simple bicolour with a central gold device) appeared in anti-war demonstrations. In Australia, the radiant V's used as a badge of the anti-war Moratorium suggested that a new sun and sensibility had arisen for the new generation.

The Viet Cong flag was red and blue. Blue is unknown in traditional Aboriginal art (though Thomas uses it extensively in his water-colour murals). Harold has argued that the concert of colours in his flag was inspired by those of ancestral ochres - heightened by his exposure at the Museum to his own displaced culture. He has acknowledged too that black was a deliberate political choice as a symbol of black power, and less ambiguous than the equally traditional white ochre of the corroboree ring.

To the observer outside Aboriginal culture, but cognisant of the political events of the time, red and black have flag associations that might easily have influenced subliminally young radical blacks in Australia. In Angola, three national liberation factions were locked in a 15-year civil war. In Nicaragua, the Sandinista movement FSLN struggled against the US backed Somoza regime before seizing power at last in 1979. Both used banners of red over black, with its historic links to socialism.

Before these, and even prior to Garvey's flag in America, the most confronting had been the black and red flags of European military and revolutionary extremes - from Bismarck's clever combination of heraldic colours, to Anarchism, brands of socialism espousing anarchist techniques and, most infamous for its bent cross, the flag of reactionary fascism.

Black and red have a long association with protest **[Figure 17]**. One flag that combined powerfully a sense of negritude and revolution is much older - the 1804 flag of Haiti, the first black republic and, long before Garvey and his Ethiopia, the Promethean home of black power. Dessalines' vertical bicolour was also contemporary in the 1970s: it had been reinstated by the Duvalier regime in 1964, and endured as long as Duvalier did - until 1986.

This is not to say that the Aboriginal flag derives directly from the flag of Haiti, or latter day proxy movements such as those in Angola or the grass roots Sandinistas of Nicaragua - only that their flags are confronting, whilst confrontation was in the nature of an effective Aboriginal flag - for Australian complacency had (and has still) much to be confronted about.

Thomas stated to the Federal Court that the idea of making his flag more confronting, by placing black over red, came as an afterthought [37]. As an artist he had been taught to set darker colours beneath lighter ones as the more natural perspective. The original flag may indeed have been red over black.

Today's disaffected generation may find it hard to appreciate the fervour of those times. The catchword to understanding the 1970s as a turbulent decade of atrocious dress and very bad hair is confrontation. 1971 in particular was a year of unceasing protest, in a way the culmination of the youth-quake of 1968 when a whole generation raged, and came of age, across the world. China was convulsed by its Cultural Revolution and Red Guards, France and Germany by riots in May 1968, Czechoslovakia its short-lived Prague Spring. The United States was riven from 1970 as



Nixon bombed Cambodia and the Ohio National Guard shot students at Kent State. In Vietnam villages were destroyed in order to save them.

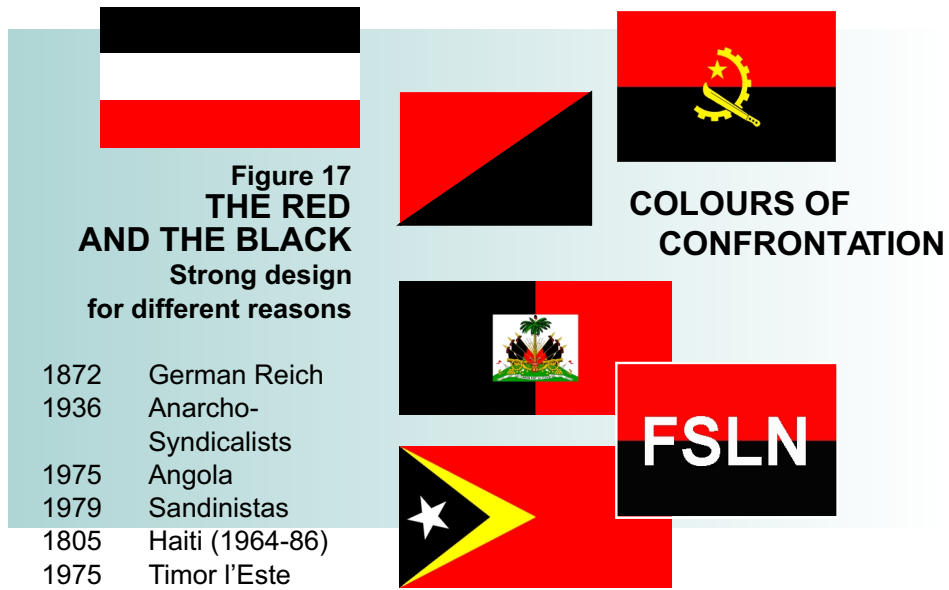
In Australia it was a year of protest against apartheid and its Springbok ambassadors. Overseas the conflict over Palestine escalated, with airliners hijacked and blown up in the Jordanian desert. For one long bloody year the world witnessed the anguished birth of Bangladesh - and with it, the second only national flag to feature a plain disk [Figure 18]. That simple roundel approach to design is not unique among other flags - witness the colonial flags of the British Empire. In 1971 there were nearly a dozen national flags of this model that might have been considered, at least subliminally, by Thomas and other designers. Some, like the West Indies Federation and South Arabia were relatively unknown. One was notorious, having ruined both Germany and Europe.



Poster advertising a rally on 31 July 1971 against the Vietnam War and the National Service Act. Source: Lynn Arnold on behalf of the former Campaign for Peace in Vietnam organisation, State Library of South Australia. [http://dino.slsa.sa.gov.au/saatwar/collection/srg124\\_8\\_7.htm](http://dino.slsa.sa.gov.au/saatwar/collection/srg124_8_7.htm)



**Figure 16**  
The Viet Cong flag especially provided a ready-model for anyone seeking a simple protest flag. The sun-burst badge consisted of an array of “V”s – Viet Nam, Victory.



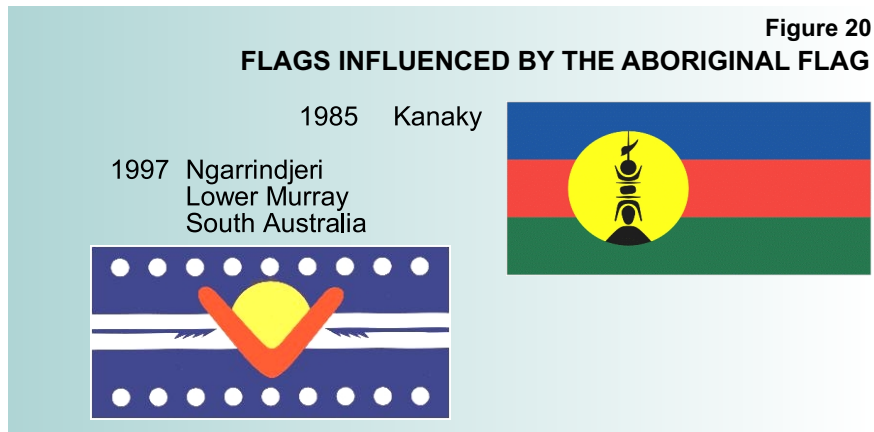
## 11. The Design Legacy of the Aboriginal Flag

Various roundel flags [Figure 19] have appeared since 1971. These may or may not owe some design influence to the Aboriginal flag. As remarked above, in vexillography, the roundel is not of itself an Indigenous device. However, the Thomas flag may have directly influenced the design of the Kanaky independence flag on New Caledonia [Figure 20]. It appeared not long after the Aboriginal flag had become more widely known. Australia's Aboriginal leaders from the outset cultivated very close ties their Maori and Kanak counterparts, in conference and reciprocal visits, and through the World Council of Indigenous Peoples.

Direct influence is obvious in many of the local Aboriginal community or regional flags that have arisen in recent years. Many of these simply deface the central disk with their own device in black - a practice that the designer condones.

Another flag launched - though controversially - in 1997 for the Yaraldi people of the Ngarrindjeri lands along the lower Murray in South Australia [Figure 20] also shows design reference to Thomas' flag, though not its powerful simplicity.





## 12. Conclusions

### About the Aboriginal flag

Compared with other flags well known in 1971 - such as the Japanese, and in that year, the very confronting flags of the Viet Cong and of Bangladesh - the Aboriginal flag is not of itself an original design, though its power, simplicity and minimalist sun device reflect the individual creativity of the water-colour artist, Harold Thomas.

### Possible design influences

It is feasible that the Adelaide flag - and even its predecessor at the Tent Embassy - evolved through a progression of varieties, directly or more likely influenced subliminally by other flags of protest. Thomas has testified to the existence in 1971 of many pieces of coloured paper and designs and some difficulty in making a decision about them [38].

### Political influences

We can deduce that in the design inspiration of the current Aboriginal flag there were links to the black power movement around the world.

In the Aboriginal context however it is important to recognise that "black power" was and is not just that variety demonstrated in Chicago in 1968, or in the national liberation struggles in Angola (or reflected later in the same colours of the 1975 flag of Timor l'Este).

Nor is black power by itself the original idea of Haiti. It is in the end that humanist spirit of Leopold Senghor, the articulate exponent of negritude as a source of pride and dignity within the human family. It was not a particular flag design that mattered, but an exhilarating sense, especially among the young, that drawing on the principles of the revolutions of 1776 and 1789, non-European peoples could also effect their own national liberation.

### The Aboriginal flag is a local, Australian, flag

It may seem to derive some of its power from the appeal of flags of revolutionary fronts elsewhere, but the addition of the sun symbol - powerful both in Aboriginal legend and settler myth - makes it uniquely Australian

The off-cut in the Museum of South Australia shows that the first Aboriginal flag was made differently from that known today, possibly with the black and red panels inverted. Yet it can be argued that it is essentially the same flag - a disk on two bands - differing only in detail, in the way that the blue Australian flag today is different from that gazetted in 1903 in the size, shape and disposition of the stars. The basic design, in each case, has not changed.

### **Implications for Australian vexillology**

Having served its purpose in raising Aboriginal consciousness above apathy to a constructive state of nation, as its designer believes it has [39], does the Aboriginal flag have a future?

Whether the answer is yes or no, for all Australians the other shoe falls. Has the blue flag selected for a nation that sought to find its spirit as an outpost of empire, long since faded, and like exclusive Aboriginal claims, "swept away in the flood of history", not also served its purpose? And if so, then the Aboriginal and settler streams and dreams of Australian life might at last come together to seek and select one national banner that binds us all.

### **Some contradictions**

Venality in public life persists and tempers idealism. Harold Thomas continues successfully to defend his claim to (world) copyright in the design of the Aboriginal flag for as long as its moral writ and his own personal contract should run. Or at least, an opportunist flag manufacturer in Melbourne maintains the fiction that the flag they make and sell under contract with Thomas is the authentic design that came from Harold himself. There is a certain irony that the designer himself testified to the Federal Court in 1996 that his original flag was "squared up" and that "present day flags were too long", yet a Melbourne flag maker exercises monopoly in producing a longer flag. It seems that the designer's legal victory in 1997 is exploited in the pursuit of commercial interests and at the cost of authentic vexillography [40].

### **Points of pure vexillology:**

The Adelaide flag, acknowledged as from Thomas, is now accepted as the supreme flag of Australia's Aboriginal peoples. How much of its design adjustment of peripheral fiddling just mentioned is post-factum rationalising? Flags are subject to reinterpretation. Red land or red blood? Black people or black sky? Or all of the above?

New depth of meaning can be found in symbols even by - and especially by - their creators, who seldom themselves appreciate the depths of the initial divine inspiration or seizure. The gifts of the gods are usually richer than at first we perceive them to be. Subsequent insight is not necessarily fictional or fortuitous embroidery, but the dawning of just that - further insight. Few, for example, might recognise a connection between the three sides of the Gay triangle, itself a reinterpretation or ironic application of the original Nazi patch, and the triangular symbol of Freemasonry and humanist freethinking or any other aspect of the idea and creative tensions of Trinity.

Flag designers - indigenous or otherwise - seeking to profit from their creativity should take great care in determining to what degree opportunism can comfortably compromise the original spark of creativity.

For its part, the flag of the Australian Aboriginal peoples, irrespective of its mooted design provenance, and any influences upon it, is a superb demonstration of the graphic conventions that make a good and effective flag: simplicity, direct and easily grasped symbolism through a concert of colour and economy of line that conveys more when contrivance is less.

In its understatement, the Aboriginal flag comes close to that graphic concept of the void that declares and reveals a presence and in so doing, comes close to expressing the sum of the sacred that lies at the heart of Aboriginal culture.

## Notes

1 *Australia's Living Heritage*, Jennifer Isaacs, 1984 Lansdowne Publishing. Estimates fluctuate as death rates were exponential. For example, smallpox decimated the NSW c o a s t a l populations within 3 years of European settlement. See also Chatwin, B *The Songlines*, Penguin 1987, p12

2 *Constitution of the Commonwealth of Australia*

Section 51. The Parliament shall, subject to this Constitution have power to make laws for the peace, order, and good government of the Commonwealth with respect to:- ...*(xxvi) The people of any race, other than the aboriginal people in any State, for whom it is necessary to make special laws.*

*Section 127. In reckoning the numbers of the people of the Commonwealth, or of a S t a t e o r other part of the Commonwealth, aboriginal natives should not be counted.*

The removal of the words '*... other than the aboriginal people in any State...*' in section 51(xxvi) and the whole of section 127 were considered by many to be representative of the prevailing movement for political change within Indigenous affairs. As a result of the political climate, this referendum saw the highest YES vote ever recorded in a Federal referendum, with 90.77 per cent voting for change. Source: [www.naa.gov.au/publications/fact\\_sheets/fs150.html](http://www.naa.gov.au/publications/fact_sheets/fs150.html)

3 (As a contingency, the Government was prepared to withdraw to what was known as t h e Brisbane Line a retreat into the more densely settled south and eastern sectors of the continent and a small triangle around Perth).

4 John Newfong was in many ways the theoretician and strategy adviser behind the Tent Embassy. In preparing this paper, the author is indebted to Mr Adrian Atkins regarding records, personal reminiscence and mementos of his associate, who died in 1999, and too soon at age 56.

5 *Judgement re SG 62 of 1996 of the Federal Court of Australia: Harold Joseph Thomas v David Brown & James Morrison Tennant [1997]215 FCA(9 April 1997)* - on FOTW website.

6 The designs and symbols used by the Aboriginal people had other, more serious purposes than decoration or aesthetics. In each tribal group, a nominated man held and guarded the tribal designs, painted or carved onto objects of wood or stone and passed them on to his successor. Sometimes called *tjuringas*, (there are variant spellings) these objects were used as prompts to help the man remember the song which told the story of the tribe. This song was central to the tribe's corroboree and initiation ceremonies. To know the song was to be a member of the tribe. The *tjuringa* could also be a message stick, a passport, and the equivalent of a land title deed. This ancient tradition survives to this day in parts of northern and central Australia. See Chatwin, *passim*.

- 7 Adrian J. Oudeman, FOTW Australia Aboriginal Flag, 27 November 1999
- 8 *Seinfeld* cited by Ausflag
- 9 Judgement on SG 62 of 1996 of the Federal Court of Australia - page 8/56.
- 10 Pemulwuy resisted Governor Arthur Philip at Sydney 1788; Windradyne, Governor Brisbane 1822-24; Yagan, around Perth 1829-33.
- 11 Tony Burton *Indigenality and Australian Vexillography*, in *Crux Australis* Volume 10/4 No 44 October-December 1994 pp170-186
- 12 *Sound and Image: The Oldest Continent*, produced by Stan Ostojka-Kotkowski, Adelaide Festival of Arts 1970, Adelaide Festival Trust. The author attended this performance.
- 13 Burton, *Crux Australis* art cit. p180. A flag meeting this description appeared at a s i t - i n , against "Police Brutality", on the steps of the South Australian Police Headquarters in Angas Street, Adelaide, in February 1972. In the Federal court hearings Justice Sheppard seemed to leave open that this might have been the original flag, or that the material in the SA Museum is actually from this banner. See pp44-45 of SG62.
- 14 Burton, *Crux Australis* art cit. p179-180; Federal Court SG 62 1996, *passim*.
- 15 Federal Court of Australia, Adelaide, judgement re SG62 of 1996 - published 9 April 1997. At the end Justice Sheppard quizzed various witnesses and Thomas as to the conduct of Aboriginal art classes in community centres and the presence at them by Thomas and his main challenger, George Brown. Justice Sheppard concluded that whatever Thomas's role, dates claimed for Brown were later than July 1971.
- 16 *Ibid*. Front page the judgement, in three paras.
- 17 Burton, *Crux Australis* art cit. p186 Thomas chose Cadmium Yellow as the closest to his original ochre it is suffused with sulphur, cfr PMS 109 or 116.
- 18 Federal Court of Australia, Adelaide, Judgement re SG62 of 1996 page 8, FOTW transcript.
- 19 Ainslie Roberts, Charles P Mountford, *Legends of the Dreamtime*, Rigby Adelaide 1966, p88-89
- 20 Chris Brice, Adelaide Advertiser 19 August 1989 pp3-4 reprinted as *What Price the Piping Shrike* in *Crux Australis*, Volume 9/1 No 37, Jan-March 1993, pp19-27.
- 21 Burton, *Crux Australis* art cit. p180
- 22 Dept of Aboriginal Affairs file: The Aboriginal Flag corres December 1987
- 23 Burton, *Crux Australis* art cit. p182

24 Torres Strait Islanders are a Melanesian people, indigenous, but not Aboriginals of the mainland. Their blue, green, black and white flag was adopted in May 1992 - their concerns were lumped with the Aboriginal body by the Federal Government presumably because both are "dark". The two flags joined the array of some 20 others - those of the eight states and Territories, their respective Governors, the ensigns of the merchant marine and Armed Forces and the Queen's personal standard.

25 *Koori Mail*, 5 April 1995 cited in Attwood B and Markus A, *The Struggle for Aboriginal Rights: A Documentary History*, Allen and Unwin 1999, pp343-344

26 Burton, art cit. p184.

27 Debra Jopson, *Aboriginal flag has many roles, says designer*, Sydney Morning Herald, 3 September 1994 -Appendix A

28 A standard technique with appliqué flags known as insertion. See John Jukes, *Bunting in the Breeze - Making Flags from the Flagmakers Point of View*, Crux Australis Volume 15/2 No.62 January 2002, pp94-98.

29 Thomas, to Burton, art cit., p179 Federal Court of Australia judgement re SG62 of 1996 - page 6-7, FOTW transcript.

30 Burton art. cit. p186

31 Burton art. cit. p179. Thomas: "It was go all the time". Federal Court SG62 p6/56

32 See Ausflag 1985 (Stokes) and 1998 (Peter Lambert)

33 Crux Australis p180 and Federal Court judgement SG62 of 1996 - pp 8-9 FOTW transcript.

34 A letter from John Edwards to Harold Thomas in 1990 contained some 30 questions of vexillological import, and I raised these with Harold Thomas in 1994, without conclusive outcome.

35 Crux Australis p180 about hard edge.

36 Crux Australis p180

37 Federal Court of Australia judgement SG62 of 1996 page 8-9 FOTW transcript.

38 Crux Australis p179 and Sheppard pp11-12/56 FOTW transcript.

39 Debra Jopson, art cit. 3 September 1994

40 Thomas to Federal Court of Australia (p8/56 FOTW transcript. Letter from Carroll and Richardson to flagmakers and merchants, 2000, repeated 2004, asserting world-wide copyright.



## REFERENCES

**REPORTS** Federal Court of Australia (Adelaide) Harold Joseph Thomas v David Brown & James Morrison Tennant [1997] 215 FCA (9 April 1997) SG62 - available FOTW website

**FILES** Commonwealth Department of Aboriginal Affairs 1974-1990  
Aboriginal and Torres Strait Islander Commission, Canberra

## BOOKS

Jennifer Isaacs Australia's Living Heritage, 1984 Lansdowne Publishing

Bruce Chatwin The Songlines, Penguin 1987

Ward McNally The Angry Australians 1974  
Scope Publishing 12A Alta Street Canterbury Victoria  
Rampart Media Directions Pty Ltd ISBN 086932 003 3  
Library of Congress Card no 74-76891  
Goodbye Dreaming, Nelson 1973

Ainslie Roberts and Charles Mountford  
Legends of the Dreamtime, Rigby Adelaide 1966

## ARTICLES

Chris Brice Adelaide Advertiser 19 August 1989 pp3-4 reprinted as  
*What Price the Piping Shrike* Crux Australis, Volume 9/1 No 37,  
Jan-March 1993, pp19-27.

A Burton *Indigenality and Australian Vexillography*  
Theme Paper delivered to Natflag 6 Melbourne 2 October 1994  
Crux Australis Volume 10/4, No. 44

Debra Jopson *Aboriginal flag has many roles, says designer*  
*Sydney Morning Herald*, 3 September 1994

John Jukes *Bunting in the Breeze - Making Flags from the Flagmaker's Point of View*,  
Crux Australis Volume 15/2 No.62 January 2002, pp94-98.

## INTERVIEWS with thanks to

Harold Thomas 9-11 September 1994 at ATSIIC Darwin  
and Humpty Doo, Northern Territory

Gordon Briscoe at Australian National University, September 1994

Sandra Hanson Museum of South Australia 13 March 1995

Philip Manning Science Dept, South Australian Museum, Adelaide 14 January 2005

Adrian Atkins re John Newfong flag, ATSIIC State Office Sydney 2002-2003; Alexandria, Sydney  
July 2005

**WEBSITES** FOTW Australia Aboriginal Flag

**ARTEFACTS** Land Rights campaign button loaned to Tony Burton by Aboriginal veteran Chicka  
Dixon

Covers of *Identity* magazine July and November 1972

Carroll and Richardson letter to flag merchants 2000



Photo taken by Francisco Gregoric

### About the author

With a keen and native interest in Australian affairs, Tony Burton has worked in government, particularly as a policy adviser to the Aboriginal and Torres Strait Islander Commission, the elected representative Council of Indigenous people abolished by the Australian Government in 2004. A member of the Flag Society of Australia since 1987, and of the Heraldry Society of Australia, and fascinated by flags long before that, Tony is the designer of various flags, some winning place in design competitions for a new Australian flag. He is the designer of the flag of the Australian South Sea Islanders and in 2005 represented vexillology on the ABC television program *The Einstein Factor*. He has written widely on flags, including *Australia's Forgotten Flag* and the *Great Seal of the Commonwealth*, on Balkan flags and those of Iraq, Kurdistan, Ethiopia, Ghana, Georgia and Greece.

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## APPENDIX A ON APPROPRIATION

Aboriginal flag has many roles, says designer

by Debra Jopson

*Sydney Morning Herald, 3 September 1994*

The designer of the Aboriginal flag, Mr Harold Thomas, says it is his intellectual property and he would have to give permission before it could be incorporated in the Australian flag. "They'd have to ask me. It's as simple as that," said Mr Thomas, whose design has been beamed to millions of TV viewers worldwide, courtesy of athlete Cathy Freeman, and is now being mooted to oust the Union Jack in the corner of a new Australian flag.

Would he say yes? "They'd have to give me some time to think about it. I wouldn't reject it out of hand, but I could make a decision to say no. It's not a secondary thing. It stands on its own, not to be placed as an adjunct to any other thing. It shouldn't be treated that way."

Mr Thomas, a Luritja man, originally from Central Australia, who designed the flag in 1971, said he had to consider its sacredness to many Aborigines, including those long-dead who had fought for their own cause. "It's like it has a *tjuringa* - a sacred object - placed in it. They place the flag over the coffin."

But, he said, the flag, which had sprung from his knowledge of ancient Aboriginal art and modern Australian culture, had many roles expressing different things "from the joy of Cathy Freeman to the political struggles in Canberra".

Mr Thomas said he would prefer something completely different for a new Australian flag - such as a rainbow, representing the many cultures that live here. The Arthur Tunstall reprimand? "Personally, if Cathy had my mind I would say I only had one flag." Her critics did not understand "the politics of Australia regarding Aborigines and non-Aborigines".

A trained artist, Mr Thomas replaced the earthy ochres of his original design with the primary red, yellow and black to be eye-catching in land rights protests. "In the marches of the late 1960s and early 1970s, we were outnumbered by non-Aborigines with their own placards and banners. I decided we needed to be more visible and so the flag came up. It made us a distinct group." It first flew in 1971 in Adelaide and Aborigines adopted it nationally after it adorned the Tent Embassy in Canberra in 1972.

Mr Thomas, a watercolour and oils artist who lives at Humpty Doo, just outside Darwin, missed the heat of the Freeman furore because he was "down the track out in the bush, painting - and there's no telephone or TV down there". When he got back from beyond Mataranka, he said, he watched a re-run of Freeman's victory lap<sup>1</sup> on the news and saw his flag, normally associated with land rights, imbued with new, international meaning. "It is my work, but when people take it on like Cathy did, it becomes their flag," he said. "I'm just an onlooker and an observer."

Mr Thomas said he is still pursuing his copyright ownership over the flag. Not knowing the Copyright Act when he designed it, he had failed to register it before 50 articles were produced. Missing out on the royalties was very frustrating, he said. "Unfortunately, now non-Aborigines make it to sell back to Aborigines. It's like the Taiwanese making boomerangs to sell back to Australia," lamented Mr Thomas, adding he had received "no awards, no money, no nothing" for the design.

He said people often asked him to design flags, but the Aboriginal flag had sprung from passionate times and could not be repeated. And what of its role snowballing beyond land rights, beyond Australia? "When they put it on TV, I'm happy. It's my propaganda. It's doing its job."

1 At the Commonwealth Games in Victoria, British Columbia Ed.

## **APPENDIX B**

### **COPYRIGHT IMPLICATIONS**

*The following is a press release sent to all flag merchants by Australian flag manufacturer Carroll and Richardson (trading as Flags2000 and now FlagWorld ) who hold the exclusive licence for the making of Aboriginal flags - a 10-year Australian licence granted by the copyright holder, Harold Thomas in 1998.*

Dear General Manager,

In April 1997 the Federal Court of Australia declared Harold Joseph Thomas to be the author of the artistic work known as "the Aboriginal flag." Mr Thomas, an indigenous artist, designed the flag in 1971 and it has become the symbol of Australia's indigenous people.

Mr Thomas made the decision to award an exclusive licence for the manufacture and marketing of Aboriginal flags, banners and bunting to Carroll and Richardson Flags.

Since 1998, Carroll and Richardson Flags have been advising flag manufacturers not to infringe the Harold Thomas copyright. However some flagmakers have chosen to ignore repeated warnings about infringement and have continued to manufacture and sell Aboriginal flags and banners. Proceedings have been issued against these companies in the Federal Court of Australia, seeking costs and damages.

As a possible purchaser of Aboriginal flags it is important for you to be aware of infringing flags, banners, bunting, and handwaver flags that may be under your control. These items may be in store in your organisation or on a purchasing list with the responsible individuals within your organisation. Aboriginal flag products not manufactured by Carroll and Richardson Flags should be returned to the point of purchase as they could breach Mr Thomas' copyright.

If you wish to purchase Aboriginal flags, banners and bunting for display purposes or for flagpoles, you can do so by contacting Carroll and Richardson Flags direct, or by contacting the Government Info Shop in any capital city within Australia. The addresses of these stores can be found on the website at [www.flags2000.com.au](http://www.flags2000.com.au). In the Quick Navigation Menu, click on Flags of Australia and scroll down to Australian Stockists.

Flags that have a white 'header' at the left side, or flags that do not show the Carroll and Richardson label could be infringing the copyright held by Mr Harold Thomas.

Yours faithfully,

Barry Richardson  
Managing Director, Carroll and Richardson

