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I think this is significant and relevant generally to contemporary Australia.

Mitigation for both Tuckiar and the three Aboriginals found guilty of the Japanese murders was presented in the main by Dr Cecil Cooke the NT Protector of Aboriginals. He forcefully pleaded all four men's causes with no little passion and in Tuckiar's case to no avail. However, Dr Cooke will not go down in Australian history for his role in the Tuckiar case. Dr Cooke will go down in Australian history as a very important player in the formulation of the philosophy and practise of child removal by Australian Governments. That policy developed by state and territory Governments since the end of the nineteenth century and continued right up to the 60s was a way of dealing with the then perceived "problem" of the "half-caste". Associated with the prevailing thought of these times that the full blood Aboriginal would inevitably drift into extinction was the opposite demographic "problem" that the "half-caste" numbers were increasing. In those days "half-castes" were seen as a "pathetic sinister race" and a "danger". Dr Cooke was a big player in all of what occurred. His solution, based on the then available intellectual view was to breed the Aboriginal out of the "half-caste" and his method was the Stolen Generation: Take the "half-caste", bring it up then inter-breed it with whites and to quote Dr Cooke: "Generally by the fifth and invariably by the sixth generation, all native characteristics of the Australian Aboriginal are eradicated. *The problem of our half-castes will quickly be eliminated by the complete disappearance of the black race, and the swift submergence of their progeny in the white.*" (writer's emphasis)

And so this was Australia in the 30s: Depression, Bodyline, the opening of the Sydney Harbour Bridge, the White Australia Policy and the racism and attendant policies, including stealing "half-caste" Aboriginal children from their families and country.

Contemporary Australians don't mind talking about Bodyline. And we lawyers don't mind talking about the great story of Tuckiar. We don't seem to like talking so much about the racism that pervaded

in those times. The racism that influenced so much of our history. Surely Tuckiar's trial and Mr Fitzgerald's conduct cannot be properly viewed without that backdrop of racism.

The attitudes and consequential policies of Dr Cooke which lasted 70 years and affected at least tens of thousands of Aboriginal children and their families are a fact. For reasons only known to the Australian community and the Australian Federal Government, upon which it was voted in and reciprocally relies, this nation does not seem able to take on board that part of its history. I was born and brought up overseas. Like, I'm sure, many Australians it baffles and frustrates me how this country just cannot look over its shoulder and acknowledge in its entirety, without fudging, the dreadful dreadful things that were done to Aboriginal people. Things done, based on what racism is based on, ignorance.

Our local legal profession can analyse and present a case based on counsel's duties with a view to exposing and displaying various things; perhaps the fact that little directly went to the racist backdrop seems to corroborate why our national Government insists on refusing to apologise for what was described by Sir Ronald Wilson's report on the Stolen Generation as "the forcible removal of children....for the purpose of raising them separately from and in ignorance of their culture and people, could properly be labelled 'genocide'".

POSTSCRIPT

The history of Tuckiar's appeal is interesting. The Communist Party, who followed his case and were highly critical of the treatment of the accused, indicated after Tuckiar's death sentence was pronounced that they would provide Counsel to prosecute his appeal. It was only when the "establishment" learnt of this that they then moved, including, guess who, Mr Fitzgerald, to prosecute his appeal. And so it was Mr Fitzgerald and team who prosecuted the appeal. This was clearly done to cut the Communists off at the pass and avoid the greater political damage an appeal run by them could create.

ANIMATED VIDEO EXPLAINS TERRITORY SENTENCING

An animated video explaining mandatory sentencing in Warlpiri, Arrernte and Luritja Aboriginal languages has been distributed throughout the Territory by Mr Blair McFarland.

The video targets all ages and uses a simple story telling format to show what happens to some people who get caught for committing crimes.

"I wrote the script in collaboration with representatives from the Law Society to ensure the story was legally correct. It is a factual, non-judgement piece which doesn't push any political line," the coordinator of the project Mr Blair McFarland told *Balance*.

"I usually do one-off illustrations and had mixed feelings about doing the complicated animation process. The drawings took ages and I had to learn a whole lot of new skills. The feedback I have had from the communities and people who have watched it has been a buzz and I feel really pleased with the outcome."

Mr Bill Munro from Correctional Services has taken the video with him to Aboriginal communities in his role as Diversionary Programs Coordinator.

"I have found that once people watch the video, lots of questions come from it. It's really simple to understand, it's clever and has got humour in it," said Mr Munro.

"I took the English and Warlpiri version with me to Lajamanu and it really seems to have provoked some debate there. Aboriginal people understand the video very well."

Copyright of the video has been waived to ensure wide distribution throughout the Territory. Already it has been played on the local television BRACS system in some communities. The video was produced with funding from the Law Society Public Purposes Trust.