

COMMONWEALTH OF AUSTRALIA

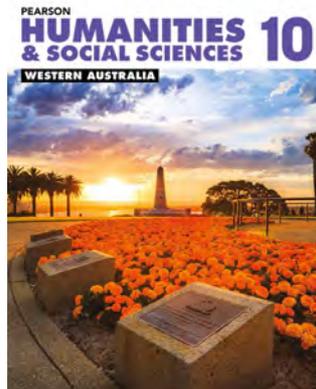
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Bromhead, P., Byrne, P., Cantlon, M., Hamper, D., Kleeman, G., Lendvai, T., ... Smith, V. (2017).
Pearson humanities and social sciences WA 10 (pp. 248-273). Melbourne: Pearson Australia.

Early Aboriginal and Torres Strait Islander activism

The struggle for rights and freedoms up to 1965

Aboriginal and Torres Strait Islander activism was a direct result of federal government policies on the Australian Indigenous way of life. For over 50 000 years, Australian Aboriginal and Torres Strait Islander peoples had lived in communities or language groups based on social, cultural and spiritual laws handed down to them by their ancestors.

Government policies did not take into account these laws and customs, and failed to recognise the deep significance of Indigenous people's connection to the land. Not only were their laws and customs ignored, but severe and devastating conditions were placed on Indigenous people that restricted and governed virtually every aspect of their lives. These included:

- excluding Indigenous children from schools
- making it illegal for children of mixed race to live on Aboriginal reserves
- enforcing a policy of protectionism, where Indigenous people were controlled without rights or responsibilities
- banning Indigenous people from drinking, possessing or supplying alcohol (or methylated spirits)
- banning Indigenous people from carrying firearms
- banning Indigenous people from marrying non-Indigenous people without permission
- paying lower wages to Indigenous labourers, who were paid far less than their white counterparts by law
- controlling reserves and living conditions.

Laws differed across states, making it more complicated and difficult for Aboriginal or Torres Strait Islander people who wanted to move interstate.

Other measures of discrimination included:

- completely disregarding or ignoring Indigenous people's civil rights by not counting them in the Census and not allowing them the right to vote
- denying Indigenous people maternity allowance, old-age pensions and invalid welfare payments.

The Aboriginal Protection Board

By the late 19th century, the ideas of **Social Darwinism** were becoming more influential. It was believed that 'inferior' races would die out and that Indigenous people needed to be 'civilised' in order to survive. The Aborigines Protection Board, a NSW government agency, was established. It was responsible for implementing and administering laws and policies for Aboriginal and Torres Strait Islander peoples from 1883 to 1969. It had notable power and control over most aspects of Aboriginal people's lives, including access to health, education, employment, housing on stations and reserves, and the removal of children from their families. This last practice was to become known in later years as the '**Stolen Generations**'.



Source 11.2.1 Stolen Generation girls at the Cootamundra Domestic Training Home for Aboriginal Girls, New South Wales

Activist organisations

The Australian Aboriginal Progress Association

Known as the first Aboriginal protest movement, the Australian Aboriginal Progress Association (AAPA) was established in 1925 under the direction of its president

Fred Maynard. Maynard had fought to help families rescue their children who had been taken into custody by the board authorities.

The AAPA soon had 11 branches across New South Wales. The main purpose of the AAPA was to fight against the removal of children from their parents and to gain land rights. The AAPA was significant as it forged links between different communities over a wide area and brought attention to the cause. It promoted the status of Indigenous Australians and sought to abolish the New South Wales Aborigines Protection Board (see Source 11.2.2).

Although the organisation grew rapidly in 1925, it began to fade out in 1928 after the failure of its appeals to both the state and federal governments, as well as King George V. Jack Patton later reformed the group in 1937. The AAPA was to prove a significant inspiration for future civil rights **activists**.

.....
... we accept no conditions of inferiority as compared with European people ... the European people by the arts of war destroyed our more ancient civilisation ... [and] by their vices and diseases our people have been decimated ... But neither of these facts are evidence of superiority. Quite contrary is the case ...

Source 11.2.2 From a letter to NSW Premier Jack Lang in 1927, written by Fred Maynard

The Australian Aborigines League

In 1932, the Australian Aborigines League (AAL) was founded by William Cooper together with other Aboriginal people who were to walk off the Cummeragunja Station in 1939. It continued to gain active support from non-Aboriginal individuals and in 1937 the AAL sent the federal government a petition with 2000 signatures, to be forwarded to King George VI. The petition requested that the king intervene in their situation as previous petitions to state governments and to his father King George V had failed. The AAL requested legal recognition and a representative in parliament to advocate Aboriginal interests. These requests were denied and the petition was never passed on to the king.

The Aborigines Progressive Association

The Aborigines Progressive Association (APA) was founded in 1937 by leaders of the Australian Workers Union (AWU) and the Shearer's Union. It was led by a mixture of strong Aboriginal leaders such as William Ferguson, Pearl Gibbs and Jack Patten,

who published the first Aboriginal newspaper. Membership was well publicised and the APA made a significant contribution to Aboriginal rights, including successfully campaigning the NSW Government to inquire into the proceedings of its Aborigines Protection Board.

The 1938 Day of Mourning

The Day of Mourning was a protest organised by Patten and Ferguson from the NSW APA and Cooper, from the AAL of Victoria. Its underlying message was that for 150 years Aboriginal people had been denied basic human rights, enduring 'callous treatment'. Having **boycotted** previous Australia Day celebrations and found themselves ignored by media outlets

AUSTRALIAN ABORIGINES CONFERENCE
Sesqui-Centenary

DAY OF MOURNING & PROTEST

to be held in

THE AUSTRALIAN HALL, SYDNEY
 (No. 148 Elizabeth Street)

on

WEDNESDAY, 26th JANUARY, 1938
 (Australia Day)

from

10 a.m. to 5 p.m.

THE FOLLOWING RESOLUTION WILL BE MOVED:

"WE, representing THE ABORIGINES OF AUSTRALIA, assembled in Conference at the Australian Hall, Sydney, on the 26th day of January, 1938, this being the 150th Anniversary of the whitemen's seizure of our country, HEREBY MAKE PROTEST against the callous treatment of our people by the whitemen during the past 150 years, AND WE APPEAL to the Australian Nation of today to make new laws for the education and care of Aborigines, and we ask for a new policy which will raise our people to FULL CITIZEN STATUS and EQUALITY WITHIN THE COMMUNITY."

Aborigines and Persons of Aboriginal Blood only are invited to attend. Please come if you can!

Signed for and on behalf of

THE ABORIGINES PROGRESSIVE ASSOCIATION
 J. T. Patten, President.
 W. Ferguson, Organising Secretary

Address: c/o Box 1924 KK
 General Post Office, Sydney

Stafford Printery, Levey Street, Chippendale.

Source 11.2.3 J.T. Patten and W. Ferguson, Aborigines Claim Citizen Rights! A Statement of the Case for Aborigines Progressive Association, 1938

and government officials, they believed that a more substantive and proactive event was required. The 1938 Australia Day sesquicentenary (150 years since white settlement in 1788) was chosen as a significant event to rally support and demand change.

The day included a march through the streets of Sydney, a meeting with the Prime Minister Joseph Lyons and a mass rally in Australian Hall. A resolution was moved that protested against the treatment of Aboriginal people and appealed for a new federal policy that included full citizen status and equality within the community.

Did you know?

In 1938, Aboriginal people were brought in to play their parts in the 150 years 'celebration' re-enactments of European settlement. They were threatened with the withholding of food supplies on the reserves if they did not participate.

The event was a significant statement to the white community of Australia and has continued as an annual event.

The Cummeragunja Walk-Off

Cummeragunja, on the NSW side of the Murray River, became famous for being the site of the first-ever mass strike of Aboriginal people in 1939, known as the Cummeragunja Walk-Off. Protesting cruel treatment and exploitation, over 150 residents walked off the Aboriginal Station and crossed over the border into Victoria, contravening the rules of the NSW Aborigines Protection Board.

The significance of this protest lies in the display of strength and organisational skills of the Aboriginal people and their supporters. The Walk-Off frustrated and embarrassed officials, and was supported by the media who carried their stories and exposed the conditions Aboriginal people were being forced to live under. Most importantly, the Cummeragunja Walk-Off brought changes to the Aborigines Act of New South Wales.

Source 11.2.4 Certificate of citizenship, issued on 1 August 1961 to a member of the Badjaling community in Western Australia, held at the State Library of Western Australia

The assimilation policy

The policy of protection was replaced by one of assimilation. By 1937, each state agreed to adopt the policy that required Aboriginal people to **assimilate** into the white community. This required Aboriginal and Torres Strait Islander people 'not of full blood' to give up their customs and way of life, and to adopt the culture and language of British Australians. This was expected even though Aboriginal people did not receive equal citizenship rights. While the policy was enacted from the 1930s, it was not formalised or fully defined until the 1960s.

The right to citizenship

Citizenship was a fundamental right denied to Indigenous people, which limited them to a life subservient to government policies and controls. In 1941–42, some gains were made with Commonwealth benefits of child, aged and invalid payments gradually extended to Aboriginal and Torres Strait Islander peoples.

WESTERN AUSTRALIA
NATIVES (CITIZENSHIP RIGHTS) REGULATIONS
Form 4

Nº 1915

Certificate of Citizenship

Pursuant to the
Natives (Citizenship Rights) Act, 1944 (as amended),
and Regulations
We hereby certify that

THEODORE MICHAEL

(full name)

(whose photographic likeness is affixed hereto) having fulfilled
to our satisfaction the requirements of the Act and Regulations
is hereby granted full rights of Citizenship as provided by the
Act.

Dated at _____ this 1st day
of August 1961

_____ } Board
Members.

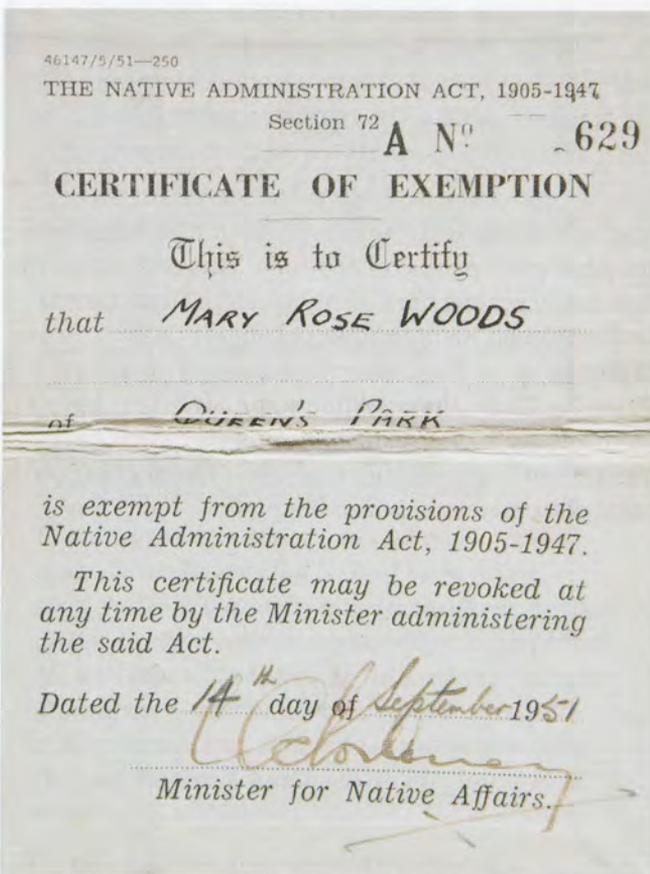
Pursuant to the Act and Regulations WE HEREBY
CERTIFY that the children named in this Certificate, of
whom the abovenamed citizen is the responsible parent, are
included in this Certificate.

Certificates of citizenship could be acquired by Indigenous people, but required the applicant to abandon their communities and kinship groups, and give up traditional cultural practices. They also required the applicant to keep their homes clean, abide by state laws and remain sober. Certificates could be revoked at any time. Many Aboriginal people believed the sacrifice involved in getting a certificate far outweighed the benefits.

Certificates of exemption

Aboriginal and Torres Strait Islander people could also apply to state governments for citizenship certificates, which provided exemption from state protection laws.

These laws, while varying from state to state, greatly restricted the freedoms of Aboriginal and Torres Strait Islander people. Exemption certificates allowed them the right to vote and attend school, but required them to promise to give up their traditional way of life, and not associate with other Indigenous people.



Source 11.2.5 A certificate of exemption was given by the government to allow an Indigenous person citizenship rights they would not otherwise have.

The certificates were not easy to get and had to be carried on their person at all times and produced when requested. Governments also had the right to revoke the exemption certificates, which were often referred to by Indigenous people as 'dog tags' or 'dog licences', indicating how they felt about their treatment.

ACTIVITIES

Remembering and understanding

- 1 What was achieved by those who participated in the Cummeragunja Walk-Off?
- 2 What was the 1938 Day of Mourning and why was it significant?

Applying and analysing

- 3 Conduct further research online and compare 26 January 1938 in two paragraphs for an Indigenous person and a non-Indigenous person. Include reference to events and attitudes on the day.
- 4 Read the list of laws and conditions imposed upon Aboriginal and Torres Strait Islander peoples prior to 1965 (see page 248). In what ways and to what extent do you think these would impact on people's daily lives? Choose three of the laws and conditions and create a short presentation outlining the ways they would affect the Indigenous people they applied to.

Evaluating and creating

- 5 Was the granting of exemption certificates a true restoration of civil rights to Indigenous Australians? Why or why not? Write two or three paragraphs justifying your response.
- 6 Choose two different events or groups discussed in this unit and write a paragraph on each, explaining its significance in the struggle for rights and freedoms of Indigenous Australians.

The Australian Freedom Rides

The Civil Rights movement

The 1960s reflected a time of civil rights activism in many Western countries, as new movements for social and cultural change emerged in response to community injustices. The US Civil Rights movement's push for greater equality and rights for African Americans was highly publicised. Newspaper and television images of mass rallies were viewed across the world, revealing the division and violence associated with racial hatred, segregation and widespread injustice. Australians too witnessed the strategies and gradual successes of civil rights activists in the United States, inspiring campaigners to push for greater rights and freedoms for Indigenous Australians.

Australia inspired by the United States

The media coverage of events and issues in the United States had a significant effect on Australia's anti-discrimination movement. On 6 May 1964, a group of university students protested against the discrimination of African Americans by staging a mock meeting of the Ku Klux Klan outside the American Consulate in Sydney, during which they burned

crosses. The same group later turned its attention to Australian civil rights issues. Calling itself Student Action for Aborigines (SAFA), the student group elected Aboriginal student Charles Perkins as their president.

The SAFA designed a campaign to expose the poverty and racial discrimination of Aboriginal people in NSW regional towns. Like the American Freedom Rides from whom they drew their inspiration, the SAFA aimed to attract media attention and, in doing so, make it a matter of urgent political action, forcing the federal government to develop a national strategy.

Aims and principles

On 18 January 1965, in a letter to the Chairman of the NSW Aborigines Welfare Board, Perkins outlined the principles, aims and methods of SAFA. These included:

- chartering a bus for two weeks around the west and north coast of New South Wales
- developing a comprehensive survey of Aboriginal living conditions in the main towns visited in terms of housing, education, employment, health, and attitudes between European and Aboriginal people
- referring to the tactics demonstrated by Martin Luther King Jr of passive, non-violent action



Source 11.5.1 Students from the University of Sydney preparing to visit towns in New South Wales on their Freedom Rides, 1965

- inspiring both Aboriginal and European townspeople to do something practical about Aboriginal discrimination
- ensuring the integration of community facilities that were segregated, such as theatres, swimming pools, clubs and hotels.

Australian Freedom Rides

On the 12 February 1965, Australia's own Freedom Rides commenced with 33 students on a two-week bus journey. The group included Darce Cassidy, Australian Broadcasting Commission (ABC) reporter, who provided national and international media coverage for both radio and television broadcasters. This attracted extraordinary publicity to an issue that was rarely considered by people in urban areas.

Throughout their journey the students visited seven rural towns, where they conducted surveys and challenged local community attitudes towards Aboriginal people. They picketed Walgett RSL Club, which did not allow membership for Aboriginal ex-servicemen, and protested outside the Moree swimming pool, which allowed Aboriginal children in only at certain hours and after they had showered. The Freedom Riders, with parental permission, transported Aboriginal children from the nearest reserve by bus to the local pool, and refused to leave until the pool had allowed the children entry. Only after the intervention of the town's mayor were children allowed to go into the pool.



Source 11.5.2 A cartoonist's comments on the Freedom Rides, Melbourne *Herald*, 20 February 1965

.....
Sydney university students involved in racial violence at Moree, northern NSW, on Saturday, were left stranded yesterday when their hired bus driver walked out because he said their anti-segregation tour was too dangerous ...

Mr Charles Perkins, the students' leader said: 'We do not blame Mr Pakenham ... He has been intimidated into leaving for fear of danger to the bus and to himself.'

.....

Source 11.5.3 From 'Race tour bus driver walks out', *The Australian*, 22 February 1965

Impact of the Freedom Rides

The entire journey of the Freedom Riders and community reactions were publicised nationally. This raised awareness of the deep-seated racism in rural Australia. It provided the wider public with reason to support the Aboriginal rights movement to bring about an end to inequality and mistreatment.

The Freedom Rides also had an impact on Aboriginal and Torres Strait Islander people by showing that change was possible and that they did not have to put up with discrimination. Perkins and his group had provided significant media attention to the issue and placed Indigenous rights firmly on the political agenda. It also inspired a younger generation of Indigenous Australians to fight for greater rights and freedoms.

ACTIVITIES

Remembering and understanding

- 1 What was the SAFA and what issues was it concerned with?
- 2 What conditions had been imposed on Aboriginal children at the Moree swimming pool?

Applying and analysing

- 3 Create a timeline for Australia's Freedom Rides, including significant destinations and events from the trip.

Creating and evaluating

- 4 Create a short oral presentation outlining the aims and evaluating the impacts the Australian Freedom Riders had regarding the rights of Aboriginal and Torres Strait Islander peoples.

The path to the 1967 referendum

Rights and voting

In January 1901, the Australian Constitution came into existence. It spelled out the authority for all powers, by which laws are made (legislators), how they are implemented (executive government) and how they are upheld (the courts). Central to the document's purpose are the roles and responsibilities of governments and the voting rights of citizens in federal elections and referendums.

Before 1967, the Australian Constitution did not provide the federal government with the power to deal with Aboriginal and Torres Strait Islander peoples. Each state was responsible for Aboriginal affairs. This meant that the rights and experiences of Indigenous people differed significantly from state to state. States governed on matters such as wages, work and marriage.

This was most evident when, in 1962, the federal government amended the electoral voting conditions to allow Aboriginal people the right to vote in federal elections. This was only made available to Aboriginal people who already had the right to vote in state elections, and enrolments were not made compulsory. The only way all Aboriginal people in every state could obtain the right to vote at both a state and federal level was through an amendment to the constitution. Such an amendment is only possible through a referendum, in which people are asked to vote either 'yes' or 'no' to a proposed change.

Did you know?

Indigenous Australian David Unaipon (1872–1967) has been pictured on the \$50 note since 1995. Although he left school at age 13, he revolutionised sheep shearing and conceptualised the helicopter two decades before it became a reality. He regularly appeared in newspaper articles that, while heralding his discoveries, were extremely racist in their remarks. Also a writer, he actively campaigned from the 1920s for Indigenous rights.

Census figures

Another limitation of the Constitution was that the national census did not include the counting of Aboriginal and Torres Strait Islander peoples. Central to a government's ability to make positive change is an accurate knowledge of their country and population. Not having reliable figures to work with prevented the federal government from introducing laws that would improve conditions for Indigenous Australians.

.....
No adult person who has or acquires a right to vote at elections for the more numerous House of the Parliament of a State shall, while the right continues, be prevented by any law of the Commonwealth from voting at elections for either House of the Parliament of the Commonwealth.

.....
Source 11.6.1 Section 41 of the Australian Constitution, 1901

.....
In reckoning the numbers of people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal natives shall not be counted.

.....
Source 11.6.2 Section 127 of the Australian Constitution, 1901

Campaign for constitutional change

The campaign for constitutional change had persisted since the 1920s, despite constant setbacks. In 1929, Archdeacon Lefroy in London argued that Australia owed a 'debt of reparation' and should take national responsibility for the rights of its Indigenous people. William Cooper, during the 1938 Day of Mourning, called for greater federal powers to legislate for Indigenous Australians.

A petition to change the Constitution

In 1962, the Federal Council for the Advancement of Aborigines and Torres Strait Islanders (FCAATSI) presented a petition to the federal government demanding change to the Constitution. While the campaign was not successful in achieving immediate change, it continued the pressure being applied to the federal government and highlighted significant inconsistencies between the states in relation to Aboriginal rights and freedoms.

Public awareness and international covenants

Following the 1962 campaign, public awareness was again heightened by the 1965 NSW Freedom Rides and the 1966 Wave Hill strike. The strike occurred when 200 Aboriginal stockmen, house servants and their families, led by Vincent Lingiari, walked off Wave Hill Station in protest against receiving lower pay than non-Aboriginal employees and their working conditions. Continued international coverage of the US Civil Rights movement and criticism of the South African apartheid system, also stirred a global voice for change.

In 1966, the UN published the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights*. As a signatory of this covenant, Australia's new Prime Minister Harold Holt had little option but to agree to hold a referendum to change the Constitution.

The 1967 Referendum

The 1967 Referendum was an important step towards equality for Aboriginal and Torres Strait Islander peoples. In order to change the Constitution, both Houses of Parliament have to agree to the change, and all Australian citizens had to vote on the amendment through a referendum, with a majority of people in a majority of states voting 'yes'.

A vigorous campaign was held to promote the 'yes' campaign, with strong support by the churches, the trade union movement and the media. Led by FCAATSI, the 'yes' campaign program included street parades, public meetings and rallies, posters and music.



Source 11.6.3 Aboriginal children in a protest rally campaigning for a 'yes' vote, Queensland, 1967

Two Referendums are being held on the same day on two separate proposed laws for the alteration of the Constitution.

At the Referendums each voter should indicate separately his vote in relation to EACH proposed law as follows:

IF HE APPROVES the proposed law—by writing the word **YES** in the space provided on the ballot-paper opposite the question; or

IF HE DOES NOT APPROVE the proposed law—by writing the word **NO** in the space provided on the ballot-paper opposite the question.

The two questions will be set out on the ballot-paper thus:

DO YOU APPROVE the proposed law for the alteration of the Constitution entitled—

" An Act to alter the Constitution so that the Number of Members of the House of Representatives may be increased without necessarily increasing the Number of Senators " ?

DO YOU APPROVE the proposed law for the alteration of the Constitution entitled—

" An Act to alter the Constitution so as to omit certain words relating to the People of the Aboriginal Race in any State and so that Aboriginals are to be counted in reckoning the Population " ?

YOU MUST VOTE IN RESPECT OF EACH PROPOSED

LAW

VOTING IS COMPULSORY

By Authority: A. J. ARTHUR, Commonwealth Government Printer, Canberra

Source 11.6.4 Extract from the 1967 information booklet outlining the proposed changes to the Constitution and presenting a sample referendum ballot paper

Voting in the referendum

On 27 May 1967, Australians were asked to vote on two questions. Question 1 related to Section 127 of the Constitution and asked people whether Aboriginal people should be counted in the national census. Question 2 addressed Section 51 and asked people whether the federal government should have the power to make laws regarding Aboriginal people.

The outcome of the Referendum

The outcome of the Referendum was a 90.77 per cent vote in favour of the changes. The result reflected overwhelming support for the rights of Indigenous Australians, and granted the federal government the opportunity to make positive changes. The Referendum is sometimes confused with the moment Aboriginal people gained citizenship; however, citizenship had already been gained by 1961 and the right to vote granted in 1962.

The Referendum did not, in fact, provide any direct new rights for Aboriginal and Torres Strait Islander peoples. However, it was a very significant symbolic victory that saw the establishment of an Aboriginal Affairs Department in 1968, with new powers to oversee the interests of Indigenous Australians. Most importantly, it showed that ordinary people in 'white' society overwhelmingly supported positive change for Aboriginal and Torres Strait Islander peoples.

1967 Referendum				
State	Yes		No	
	Votes	%	Votes	%
New South Wales	1 949 036	91.46	182 010	8.45
Victoria	1 525 026	94.68	85 611	5.32
Queensland	748 612	89.21	90 587	10.79
South Australia	473 440	86.26	75 383	12.74
Western Australia	319 823	80.95	75 282	19.05
Tasmania	167 176	90.21	18 134	9.79
Total	5 183 113	90.77	527 007	9.23

Source 11.6.5 Results of the 1967 Referendum

ACTIVITIES

Remembering and understanding

- 1 What is the basic purpose of the Australian Constitution?
- 2 Was the 1962 campaign to change the Constitution successful?
- 3 What was the purpose of the 1967 Referendum?

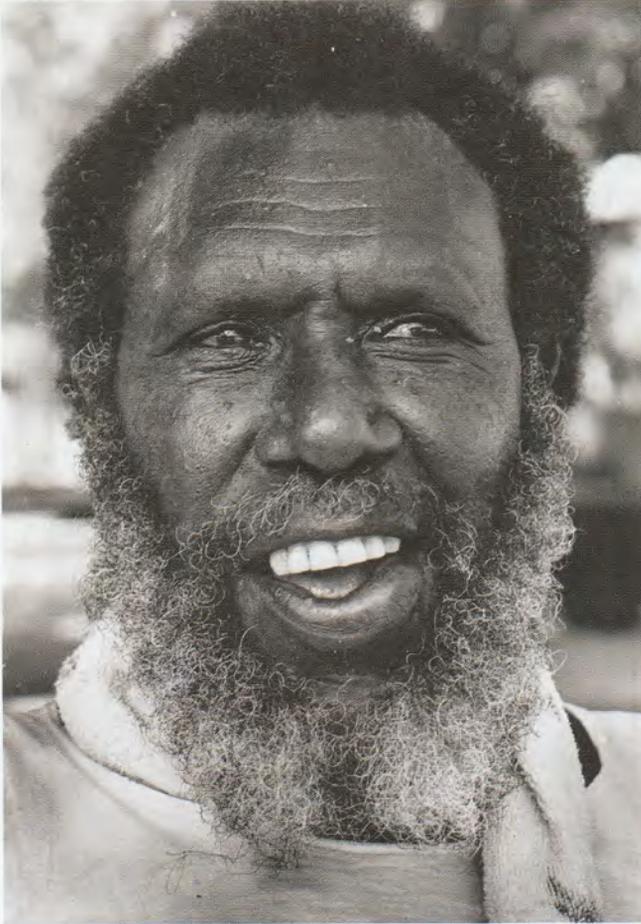
Applying and analysing

- 4 In small groups of two or three, brainstorm the reasons people may have had for voting 'yes' or 'no' to the Referendum. Create a table with your results.
- 5 Imagine it is 1967. Prepare a poster aimed at influencing opinion on the Referendum.

Creating and evaluating

- 6 Write a paragraph outlining the events and pressures that led to the Referendum.

The Mabo decision



Source 11.7.1 Indigenous rights activist Eddie Mabo

A significant individual in the struggle for Indigenous rights

Eddie Koiki Mabo was born in 1937 on Mer Island (Murray Island) in the Torres Strait. His mother died during childbirth and Mabo was raised by his uncle, Benny Mabo and his family. During Mabo's teenage years the Queensland Government strictly regulated the Torres Strait Islands. The Meriam people lived a traditional lifestyle, seeking to maintain their cultural heritage by working the land, fishing and adhering to their cultural laws of inheritance. At the age of 16, Mabo broke a customary island law and was exiled to the mainland where he worked odd jobs, including pearl diving and sugar cane cutting.

In 1959, aged 23, Mabo married Bonita Neehow and they had 10 children. He worked to make a difference to the lives of Indigenous people and became a spokesperson for railway workers and the union and opened the first 'Aboriginal only' school in Townsville. At the age of 31, he became a gardener at James Cook University and, although never enrolled as a student, attended lectures and read widely. This would be a significant time in Mabo's life as he was exposed to intellectual discussion on the issue of Aboriginal rights and 'white' law. It also enabled important conversations with historians Professor Noel Loos and Henry Reynolds in 1974, in which Mabo discovered he did not own his land on Mer Island (see Source 11.7.2). This would be a significant turning point in Mabo's life and the beginning of a long journey in challenging the Queensland Government in the 'white' court system.

.....

We were having lunch one day in Reynolds' office when Koiki was just speaking about his land back on Murray Island. Henry and I realised that in his mind he thought he owned that land, so we sort of glanced at each other, and then had the difficult responsibility of telling him that he didn't, and that it was Crown land. Koiki was surprised, shocked and ... he said and I remember him saying 'No way, it's not theirs, it's ours.'

.....

Source 11.7.2 Professor Noel Loos recalls Eddie Mabo's discussion with him and Henry Reynolds in 1974. Koiki was Mabo's middle name.

Working towards native title

In 1981, Mabo attended a Lands Rights Conference in Townsville, where he delivered a seminar on his understanding of Torres Strait land ownership (see Source 11.7.3). He explained that a system of land ownership existed on Mer that predated white settlement. This traditional system of land ownership meant that male descendants on the island inherited the land of their father.

A lawyer listening to Mabo speak suggested that he take his argument to court as a test case to claim land rights. Firstly, the Queensland Government was challenged and legislated that the establishment of the colony in Queensland in 1859 nullified all previous traditional law and claims to land. Following this, the case was brought to the High Court of Australia in 1982.

Mabo's claim was dismissed on the ruling that he was not actually the son of Benny Mabo. Despite the disappointment Mabo chose to stand aside so that the entire case would not be dismissed and could continue with the other plaintiffs. In January 1992, 10 years after the start of the court case, Mabo died of cancer, aged 56.

.....
In the Torres Strait, land ownership is the same throughout. It is different from Aboriginal land ownership on the mainland. Although we have tribal regions, we go much further into the clan area and then to individual or family holdings. This system existed as long as we could remember. When the first white men arrived in our islands they found people as village dwellers who lived in permanent houses and in well-kept villages. They also discovered that we were expert gardeners and hunters.

Source 11.7.3 From 'Land rights in the Torres Strait', a seminar delivered by Eddie Mabo in Townsville, 28–30 August 1981

The Mabo Judgment

On 3 June 1992, five months after Mabo's death, the High Court handed down its ruling. In it the judges of the High Court recognised the Meriam people as having a native title and entitled to possess and occupy, use and enjoy the Mer Islands. It was a landmark case and highly significant as it overturned the legal premise that Australia was **terra nullius**. This was the principle by which the British had claimed land ownership at the time of white settlement in 1788. It was the view that Australia was 'nobody's land' as no formal system of land ownership existed at the time of settlement.

Main principles of the Mabo Judgment

- 1 While the British Government acquired sovereignty of the continent, it did not acquire full ownership of all of the land.

- 2 Where it is determined that native title still exists then Indigenous people are entitled to continue their traditional laws and customs. This may include hunting, fishing or holding ceremonies.
- 3 If a language group loses connection to their land or cannot prove a connection that predates white settlement, then native title is extinguished.
- 4 Native title can be handed over to the Crown but the rights and privileges of native title are non-transferable.

Australian Human Rights Medal

While Eddie Mabo did not live to see the High Court's decision, his contribution to Australian Indigenous people was profound. In 1992, he was posthumously awarded the Australian Human Rights Medal by the Human Rights and Equal Opportunity Commission. Despite the dedication and courage he showed in his fight for Indigenous rights, he was not appreciated by everyone. Three years after his death, a memorial tombstone was erected in Townsville. The next day it was vandalised and partially destroyed. Mabo was later reburied on Mer Island in a secret place and with a traditional burial service, the first of its kind to be performed in over 80 years.

Native Title Act 1993

After the High Court ruling, which soon became known as the Mabo Judgment, the Keating Government realised that it had to legislate to recognise native title. In 1993, the Native Title Act (Commonwealth) provided a legal means and administration process by which Aboriginal communities could claim native title, or ownership of vacant Crown land. This was land owned by the federal government that was not being leased to miners or **pastoralists**.

The term 'native title' refers to the legal recognition in Australian law that some Indigenous people still hold rights to their land. The *Native Title Act 1993* stated that an Indigenous community could have exclusive rights over a section of land if it could prove that it had an ongoing connection to that land which predated white settlement. This only applied to Crown land, or land owned by the federal government. Aboriginal people had to prove continual occupancy of the land and its use for traditional reasons. More often, there were arrangements for partial access to land to practise customs and laws where an Aboriginal community had native title over a land that a farmer also had a lease over.

The Wik decision

It was not until the Wik decision in 1996 that the High Court formalised the shared relationship between leases and native title (see Source 11.7.4). In the decision, the Wik people were given access to their traditional lands, which were currently under lease to a pastoralist and mining companies. The Wik decision stated that where native title could be proven on leased Crown land, the pastoralist or miner to whom it was being leased did not have exclusive rights to the land. Instead they had to allow its first owners access in order to practise their traditional customs and laws.

Reaction to the Wik decision

The Wik decision caused outrage as many within the media mistakenly believed that Indigenous Australians now had the legal ability to claim people's backyards. This was never a provision of the Native Title Act and private land was not at issue in the Wik case. This fear was, however, seized upon by sections of the media and supporters of farming and mining interests (see Sources 11.7.5 and 11.7.6).

.....
We don't want to keep people off our land. We want to share. We don't want to drive the pastoralists away. They are not our enemies. We helped to build that industry and we need it to be strong for our future too. We just asked the Court to find that we can live alongside pastoral leases on Cape York.

We want the government to recognise that we are the traditional owners of those lands. Our law is first law ...

.....

Source 11.7.4 'What the Wik Decision means to us', Denny Bowenda in *Native Title*, 1998



Source 11.7.5 The Liberal Party's Peter Reith is depicted loading bags of Mabo hysteria into an aerial crop-seeding plane, 1993.

.....
... our [National Farmers' Federation] primary concern has always been certainty for the people who use the land for economic benefit—our farmers—and that means that they simply must have the exclusive occupancy of their land. We've demanded that the Government legislate to overturn the Wik decision, because the concept of coexisting title is simply unworkable ...

... since the Wik decision, many farmers around the country can't [plan for and invest in the future of their farms] because their future ability to manage their [farms] is clouded ...

50 per cent of Victoria is now under native title claim ...

Australia's farmers understand that they are deeply involved in a crucial chapter in our country's history, and they feel a strong obligation to make sure that their decisions are in the best interests of all Australians, wherever they live.

.....
Source 11.7.6 From 'To conserve or farm', by Donald McGauchie, *The Age*, 22 July 1997. McGauchie was president of the National Farmers' Federation.

The Howard Government's 10-point plan

In May 1997, responding to concerns by pastoralists and miners in the wake of the Wik decision, the Howard Government released its 10-point plan. The following year it also introduced amendments to the Native Title Act. The Howard Government sought to further legislate the manner in which native title could be claimed, seeking to assure mining companies and industries concerned about losing control over the land they leased. In many cases, these leases extended for periods of up to 99 years.

The Bill that went through parliament was highly contested as it sought to add a 'sunset clause', providing a period of six years beyond which native title could no longer be claimed. Opponents of the Bill pointed out that Indigenous Australians had been waiting 200 years for this opportunity and six years was not adequate time to prepare the necessary proof of native title. The sunset clause was expunged, but many activists saw this Act as a backwards step in land rights.

ACTIVITIES

Remembering and understanding

- 1 Name three ways in which Eddie Mabo was politically active in his early life.
- 2 Describe the traditional system of land ownership that existed on the islands of Mer.
- 3 Why did the Howard Government release its 10-point plan in response to the Wik decision?
- 4 Read Source 11.7.4. What is the attitude of Denny Bowenda towards pastoralists? What do you think he means when he says, 'We helped to build that industry'?

Applying and analysing

- 5 Make a chronological list or time line of the key events in Eddie Mabo's life. Include significant people and events, and annotate why they are important historically. Use evidence from the text and the sources provided to complete your chronology.
- 6 Compare Sources 11.7.4 and 11.7.6. Account for the different perspectives of the authors of each source.
- 7 Examine Source 11.7.5. Explain the cartoonist's perspective about the government's attitude to the Mabo Judgment. Use evidence from the source to support your explanation.

Creating and evaluating

- 8 Debate whether or not there would have been a different historical outcome if Mabo had never discovered he did not own land on Mer Island? Discuss as a group, using evidence from the sources to support your argument.

The *Bringing Them Home* report and the Apology

Reconciliation

After the significant legal advancements of the 1990s, as well as achieving recognition of land rights through the Mabo and Wik decisions, Aboriginal and civil rights activists have been focused on achieving Reconciliation with non-Indigenous Australians. Prime Minister Bob Hawke introduced the Reconciliation initiative, seeking to improve relationships between Aboriginal and Torres Strait Islander people and the wider Australian community. In 1991, parliament formed the Council for Aboriginal Reconciliation.

Among the main challenges to true Reconciliation would be the changes in government policy towards Indigenous Australians, and the uncertainty caused by the Mabo and Wik decisions. While the Hawke and Keating governments accepted responsibility, the Howard Government that followed did not.



Source 11.8.1 More than 250000 people marched over Sydney Harbour Bridge in support of Reconciliation, 28 May 2000.

The *Bringing Them Home* report

During the 1990s, non-Aboriginal Australians were increasingly made aware of the practice of removing Aboriginal children from their families, later to be known as the 'Stolen Generations'.

In 1995, under increasing public pressure, the Keating Government formed the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families through the Human Rights and Equal Opportunity Commission. The inquiry took evidence and submissions from 56 churches and government organisations, as well as 535 Aboriginal and Torres Strait Islander people and groups. It focused on the forcible removal of Indigenous children from their families and communities.

Findings of the Human Rights and Equal Opportunity Commission

In 1997, the Human Rights and Equal Opportunity Commission presented their findings to parliament in a document titled *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*. In it they identified that many officials believed they were doing the right thing at the time and in many cases children who were removed had a happy life with their adopted parents. However, the report also highlighted the many traumatised children who, as a result of being removed from their parents and community, suffered neglect and abuse, cruelty and anxiety. The report identified a connection between the present issues of poor Aboriginal health and welfare with the long-term systematic removal of children from their families.

Government refusal

When the *Bringing Them Home* report was released, the state governments were quick to respond. Each parliament sought to fulfil certain recommendations of the report, including a formal apology from each premier. The Howard Government, however, expressed 'regret' over the forcible removal of children, but refused to offer a formal apology or provide monetary compensation to victims of forced removal and their families (see Source 11.8.2).

In 1999, Prime Minister John Howard, presented a ‘Motion of Reconciliation’ in federal parliament where he again abstained from a formal apology, rather referring to the maltreatment of Indigenous Australians as a ‘blemish’ in Australia’s national history. The federal government’s continued refusal to provide a formal apology became a matter of public debate in discussions about Aboriginal Reconciliation.

.....
I have never been willing to embrace a formal national apology, because I do not believe the current generation can accept responsibility for the deeds of earlier generations. And there’s always been a fundamental unwillingness to accept, in this debate, the difference between an expression of sorrow and an assumption of responsibility.

Source 11.8.2 John Howard explains his stance on giving a formal apology, 2007.

The Apology

On 13 February 2008, Labor Prime Minister Kevin Rudd delivered the much-awaited ‘**Sorry Speech**’ to a joint sitting of both houses of federal parliament (see Source 11.8.3). The Apology was not accompanied by a promise for monetary compensation, but was still welcomed by many Australians. Attended by members of the Stolen Generations and watched by many more Australians on television and live streaming, the apology was a significant—and for many, an emotional—moment in Australia’s history.

The ‘Sorry Day’ speech finally provided an official recognition of the Stolen Generations, acknowledged blame for the injustices suffered and sought to address present and continuing injustices.

.....
I move:

That today we honour the Indigenous people of this land, the oldest continuing cultures in human history.

We reflect on their past mistreatment.

We reflect in particular on the mistreatment of those who were Stolen Generations—this blemished chapter in our nation’s history ...

We apologise for the laws and policies of successive parliaments and governments that have inflicted profound grief, suffering and loss on these our fellow Australians ...

And for the indignity and degradation thus inflicted on a proud people and a proud culture, we say sorry ...

to remove a great stain from the nation’s soul and, in a true spirit of Reconciliation, to open a new chapter in this history of this great land, Australia ...

There are thousands, tens of thousands of them: stories of forced separation of Aboriginal and Torres Strait Islander children from their mums and dads over the better part of a century ...

we are the bearers of many blessings from our ancestors; therefore we must also be the bearer of their burdens as well ...

We offer this apology to the mothers, the fathers, the brothers, the sisters, the families and the communities whose lives were ripped apart by the actions of successive governments under successive parliaments ...

Source 11.8.3 From Prime Minister Kevin Rudd’s ‘Sorry Speech’, 13 February 2008

ACTIVITIES

Remembering and understanding

- 1 Why was the *Bringing Them Home* report written?
- 2 Why was the speech made by Kevin Rudd on 13 February 2008 so significant?

Applying and analysing

- 3 What do you think the image in Source 11.8.1 will tell future generations who are evaluating

and analysing the perspective of the people shown? What might they be able to tell about the historical significance of ‘Sorry Day’?

Creating and evaluating

- 4 Determine how Source 11.8.3 links the event of the Stolen Generations to issues within Indigenous communities today? Write a 250–300-word report explaining these links. Use information from the text and sources to support your statements.

Achieving change

Methods to achieve change

The road to change for Aboriginal and Torres Strait Islander peoples was built on multiple efforts by many courageous individuals and groups. Prior to 1967, most activists believed that Indigenous people would only achieve equal rights if the Commonwealth took responsibility for Aboriginal affairs. As a result, a national campaign became the focus of activists' efforts. They adopted methods used by civil rights and freedom fighters throughout the world. These included using peaceful methods of protest such as those used by Gandhi in India and Martin Luther King Jr in the United States.

Methods used by activists included:

- petition campaigns—over 100 000 signatures in 94 petitions were gathered
- Freedom Rides—places where overt discrimination was being practised were visited, which gave Charles Perkins, SAFA and the other protesters the opportunity to agitate for change at both a local and national level
- media campaign—use of newspaper, radio and television to raise awareness was most notable during the Freedom Rides when an ABC news crew accompanied the university students and provided daily updates on the events that took place
- legal campaigns over land rights—for example, the Mabo Judgment in 1992.

Possibly the most controversial and notable method used by activists was the construction of the Aboriginal Tent Embassy in Canberra.



Source 11.9.1 Michael Anderson, Billy Craigie, Bert Williams and Tony Coorey on Australia Day, January 1972

- 1 *Control of the Northern Territory as a State within the Commonwealth of Australia; the parliament in the NT to be predominantly Aboriginal with title and mining rights to all land within the Territory.*
- 2 *Legal title and mining rights to all other presently existing reserve lands and settlements throughout Australia.*
- 3 *The preservation of all sacred sites throughout Australia.*
- 4 *Legal title and mining rights to areas in and around all Australian capital cities.*
- 5 *Compensation monies for lands not returnable to take the form of a down payment of six billion dollars and an annual percentage of the gross national income.*

Source 11.9.2 The Aboriginal Embassy's five-point plan for land rights, presented to Parliament in February 1972

The Aboriginal Tent Embassy

On Australia Day in 1972, four Indigenous activists, Michael Anderson, Billy Craigie, Bertie Williams and Tony Coorey, erected a beach umbrella on the lawns of Parliament House (now Old Parliament House) with a sign saying 'Aboriginal Embassy'. Their actions inspired other activists, who responded by setting up more tents, with numbers swelling to 2000 people.

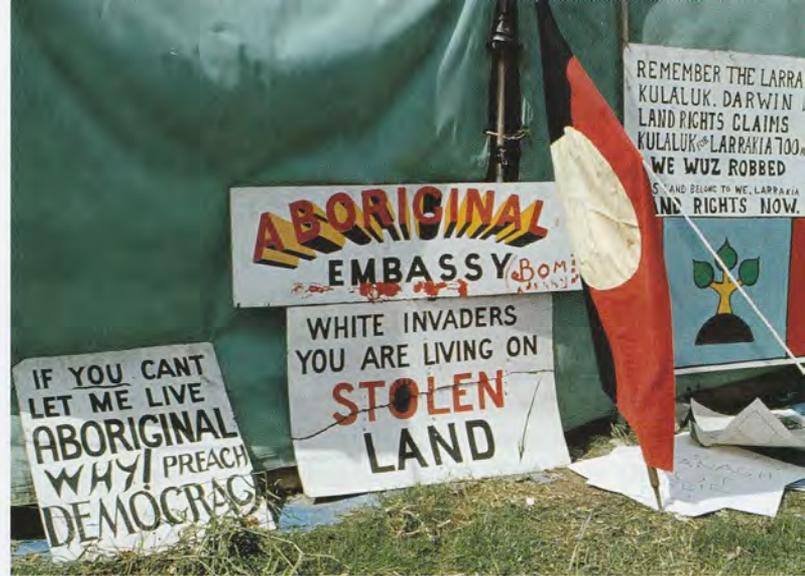
The federal government did not respond positively to this, with the Minister for the Environment, Aborigines and the Arts, Peter Howson, labelling the embassy as an 'illegal act of trespass' and the protestors as 'unrepresentative militants'. The Tent Embassy was right by the entrance to Parliament, where it could be seen by visiting dignitaries, so it was highly visible, and considered to be an embarrassing unsightly affront. Minister for the Interior, Ralph Hunt, made changes to existing laws to enable the forcible removal of the Aboriginal Embassy.

As the government became more hostile in their actions, public support and sympathy grew. Parliament was divided over the issue, with 26 Labor Members of Parliament announcing that they would physically obstruct action taken to remove the embassy.

On 20 July, a 150-strong police force dismantled the embassy, leading to a series of clashes between police and activists. Supporters linked arms and sang songs while police made arrests and television cameras watched on, capturing the violent interaction. The following week the activists erected their tents again, resulting in further confrontation as a 360-strong police force pulled the embassy down a second time. Hundreds of supporters wrote to Prime Minister Billy McMahon in protest at the government's actions. Further activist action continued, including the tents being erected again in 1974 until 1976, when Charles Perkins negotiated their removal in exchange for Aboriginal Land Rights legislation.

A remaining civil rights protest site

The lawns of Old Parliament House have remained a site for ongoing protests against the federal government's treatment of Aboriginal and Torres Strait Islander peoples. Today, it stands as a constant visual reminder of the difficulties faced by Aboriginal and Torres Strait Islander peoples in relation to



Source 11.9.3 The Aboriginal Tent Embassy outside Parliament House, Canberra, 1974

healthcare, education and life expectancy. The choice to name this protest site as an embassy is a powerful statement, highlighting Indigenous people's lack of representation and suggesting the need to use an embassy medium to achieve representation in their own country. It also demonstrates the problems caused by their dispossession of the land, and the government's responsibility to address these issues.

ACTIVITIES

Remembering and understanding

- 1 The methods of peaceful protest used by Indigenous activists were based on those of which two important global figures?
- 2 What was the Aboriginal Tent Embassy?
- 3 Why do you think that the Aboriginal Tent Embassy was controversial in 1972?

Applying and analysing

- 4 Why was the name chosen for this site (the 'Aboriginal Tent Embassy') significant? What does a 'Tent Embassy' symbolise?
- 5 Using Source 11.9.3 and your own knowledge, what has been the ongoing legacy of the Aboriginal Tent Embassy?

Creating and evaluating

- 6 Create a slideshow about the methods used by Indigenous activists for achieving change. In your slideshow, outline the method of change, providing examples and considering the effectiveness and outcomes of each.