



## About the 1967 Referendum

### What is the significance of the 1967 Referendum?

On May 27, 1967, Australians voting overwhelmingly to change the Australian Constitution. Provisions which prevented the Federal Government from making laws for Aborigines, and excluded Aborigines from being counted in the census, were removed from the Constitution.

The 'Yes' vote of 90.77% remains a record in the history of Australian referendums. Of the 44 Constitutional proposals put to a vote since Federation, only eight have been passed, and none with such an overwhelming majority.

The 1967 Referendum is extremely significant to Aboriginal Australians. It represented the end of official discrimination and the promise of full and equal citizenship. The overwhelming 'Yes' vote also signalled that white Australians were ready to embrace social and political reform, and expected the Federal Government to take the lead.

### What did the Australian Constitution say about Aborigines?

The Australian Constitution was part of an Act passed by the British Government in 1900 to create a Federation of States: Australia. Until that time, the continent consisted of six separate colonies. These colonies became the States in the new nation.

The Constitution outlines the structure and powers of the Federal Parliament, the Executive Government and the Judiciary.

The Constitution contained two provisions that mentioned Aborigines. Sections 51 (xxvi) and 127:

*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 deemed necessary to make special laws.*

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

As historian John Hirst explains, these provisions reflected attitudes to Aborigines at the time of Federation, when Australia thought of itself as a white society. Section 51 meant that the Commonwealth (as opposed to the States) had no power to make laws for Aborigines. Section 127 excluded Aborigines from being counted in the census. Since each State's population determined how many seats it would hold in the new Parliament, it was felt that counting Aborigines might distort the numbers. There was also a belief that Aborigines were dying out and incapable of voting. To Aborigines, this meant that their citizenship status was equivalent to 'flora and fauna'.

In the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, the civil liberties of Aborigines were increasingly undermined.



*This was when the idea of breeding out the Aboriginal blood and keeping Aborigines separate from the rest of society took hold. Under State law, Aborigines could be told where they were to live; they had to seek permission to marry; and their children could be taken away from them. The managers of Aboriginal reserves became like mini-dictators.*

(John Hirst, *Australia's Democracy: a short history*, page 181)

The Commonwealth Franchise Act passed in 1902 specifically excluded Aborigines from the vote unless they had been on the electoral roll before 1901. Indigenous Australians were also denied social security benefits (such as aged pensions and maternity allowances) that were provided to other Australians by the Commonwealth Government.

### **What's a referendum?**

In Section 128, the Australian Constitution sets out the procedures for amending the words of the Constitution. The process requires that a Bill proposing an alteration must be passed by the Commonwealth Parliament and a referendum (vote) of Australian voters must be conducted. The Constitution can only be changed in the event of a 'double majority' vote.

A 'double majority' means that the proposed change must be approved by:

- A majority of votes in Australia as a whole, AND
- A majority of voters in a majority of States (at least 4 of the 6 States).

Electors show they agree with the proposed change by writing 'Yes' in the appropriate square on the ballot paper.

The Constitutional requirements for successful referendums are difficult to achieve and this difficulty makes the success of the 1967 Referendum even more remarkable.

### **What rights did Aborigines have in the 1950s and 1960s?**

By the 1950s, the policy of Governments in Australia towards Indigenous Australians was assimilation. 'Assimilation' refers to the process by which Aborigines were to be absorbed into the culture and norms of Australian society, leaving behind their own culture and traditions. Assimilation policies regarding Aborigines were formally endorsed by all State Governments from the 1930s to the 1960s.

Assimilation policy was firmly rejected by Aboriginal organisations who pointed out the paradox of expecting Aborigines to become like the rest of the Australian community and at the same time imposing regulations about wages, living conditions and access to social security benefits which meant that Aborigines could never live like other Australians. Writing in *Smoke Signals*, the journal of the Victorian Aborigines Advancement League, Shirley Andrews explains this paradox:

*A great deal of pompous nonsense is talked about the Aborigines being encouraged to "improve" his way of life until he will become completely acceptable to the rest of the community, but at the same time, wage discrimination against Aborigines is continued so that a large section of Aboriginal workers do not receive sufficient wages to maintain anything but a very sub-standard of living.*



(Shirley Andrews, Assimilation – Economy Size, *Smoke Signals*, September 1964, page 11).

Even though assimilation was ‘official’ policy, there were many barriers between Indigenous and non-Indigenous Australians. Many Aborigines were still legally wards of the State, like children who needed care. Many were still on reserves and missions, their lives at every level controlled by those in charge. Aborigines in rural areas were often discriminated against as to where and how they could marry, work, live and mix with others, and their movements were restricted. Although Aboriginal activists had struggled for citizenship rights in the 1930s and 1940s, and there had been some changes, Aborigines generally were still not able to exercise political rights like voting, civil rights like freedom of movement, or social rights to education and a decent standard of living.

However, times were changing. In 1948, the newly formed United Nations adopted the *Declaration of Human Rights*. Written in the wake of Nazism, the document condemned racism and outlined rights that all citizens should have. Australia was one of the first signatories to the Declaration and yet Indigenous Australians were still denied many of these rights. In the 1950s and 1960s, civil rights movements were beginning to occur overseas and Australia’s treatment of Aborigines was beginning to be noticed internationally.

Some changes also occurred in Australia. In 1960, some social benefits (like pensions and maternity allowances) had been extended to include Aborigines. However, such changes were not promoted by the States and payments were often made to indirectly to missions and reserves, as officials argued that Aborigines were not yet ready to manage their own affairs. In 1962, the vote was granted to Aboriginal Australians – but voting was not made compulsory and there was little effort to inform or educate Aborigines, so many remained unaware of the change. By 1967 enrolment numbers were low, even on Government settlements. (Gordon Bryant, The Economic and Political rights of the Australian Aborigine, *Smoke Signals*, Vol. 6, No 2, May 1967)

## **The role of Aboriginal organisations**

### **The Aborigines Advancement League (AAL)**

The forerunner to the Victorian Aborigines Advancement League (VAAL) was the Australian Aborigines League (AAL) founded in 1932 by William Cooper, an ex-resident from Cummeragunja. The AAL was an all-Aboriginal organisation open to Aborigines for the price of one shilling a year. Other foundation members included Shadrach James, Kaleb Morgan, Pastor Doug Nicholls and Eric and William Onus.

In 1932, the AAL prepared what was to have been an Australia-wide petition to be presented to King George V asking for direct representation in the Commonwealth Parliament in order to give them a real link to political power. On the 26<sup>th</sup> of October 1937, the petition containing 1814 signatures was forwarded to Prime Minister Lyons, with the request that it go to the King. The petition was never forwarded, the Prime Minister arguing that the Constitution did not give the Commonwealth government authority to pass legislation for Aborigines.



The League also engaged in more direct action and in 1935 a deputation headed by William Cooper presented Interior Minister Paterson with a list of demands including direct Aboriginal representation in Federal and State parliaments and the establishment of a Federal Department of Native Affairs to co-ordinate the work of the States and eventually to produce a unified Aborigines policy. The deputation had limited success but influenced the calling of a conference of Commonwealth and State officers concerned with the protection of Aborigines held in 1937.

The deputation included Douglas Nicholls who was to become a co-founder of the Victorian Aborigines Advancement League (VAAL) and the Federal Council for the Advancement of Aborigines and Torres Strait Islanders (FCAATSI). Nicholls who was born in Cummeragunja in 1906 was an outstanding athlete, a Christian evangelist and a tireless worker for his people. He became the first Aboriginal to be awarded an MBE, the first Aboriginal knight and the Governor of South Australia. (*Victims or Victors?: the Story of the Victorian Aborigines Advancement League*, pages 32-33).

In 1937, William Cooper called for an Aboriginal Day of Mourning to coincide with the 150<sup>th</sup> Anniversary of the landing of the first fleet, January 26, 1938. William Ferguson, the organising secretary of the New South Wales Aborigines Progressive Association pledged his organisation's assistance. The Day of Mourning, aimed to publicise the plight of Australian Aborigines to the Australian people, and put pressure on the Commonwealth and State governments to consult with Aboriginal people in order to formulate unified policies for Aborigines. The following resolution was passed:

*We, representing the ABORIGINES OF AUSTRALIA, assembled in Conference ... 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.*

(Leaflet produced by the Aborigines Progressive Association on the Day of Mourning and Protest, 26/1/1938. cited in *Discovering Democracy Lower Secondary Units*, page 93)

The AAL issues a manifesto which read:

*You are the new Australians, but we are the old Australians. You have almost exterminated our people, but there are enough of us remaining to expose the humbug of your claims as white Australians to be a civilized, progressive, kindly and humane nation... We do not wish to be regarded with sentimental sympathy or 'preserved' like the koala bear as exhibits, but we do ask for your real sympathy and understanding.*

(*Victims or Victors?* page 35).

William Cooper died in 1941 and it was Douglas Nicholls who continued his legacy. During World War 11, he worked for the improvements in living, health and educational standards for Victorian Aborigines. Other prominent campaigners included Alick Jackimos and the families – the Briggs, Coopers, Atkinsons, Morgans, Clarks, James and Onus.



As an Australian Rules footballer, Nicholls traveled to Western Australia where he saw first-hand the poverty, malnutrition and disease among that state's Aborigines. In 1946, he protested against the impact of the proposed rocket range and the impact it would have on Aborigines in the Warburton Ranges in Western Australia. Concerned citizens formed a Rocket Range Protest Committee which included Doris Blackburn later to become a founding member of the Victorian Aborigines Advancement League and Dr Charles Duguid who became the first president of the Federal Council for Aboriginal Advancement and of course, Douglas Nicholls.

The rocket range went ahead. The Warburton ranges Aborigines were moved onto a crowded reserve and ten years later the reaction of the public to the poverty, malnutrition and poor living conditions resulted in the setting up of a Select Committee. It was Douglas Nicholls who was invited to inspect the area with representatives of the Western Australian government. The films of their inspection with their graphic images of Aboriginal disease and starvation had a strong impact in Melbourne and led to the development of a formal organisation which would have a strong political and social voice and a sound financial base. This was the Victorian Aborigines Advancement League. Gordon Bryant was the first president, Stan Davey was secretary and Doug Nicholls was field officer. (*Victims or Victors?* Page 31)

### **The Victorian Aborigines Advancement League (VAAL) and the Federal Council for Aboriginal Advancement (FCAA)**

From its beginning in 1957, the Victorian Aboriginal Advancement League (VAAL) grew rapidly. Within four years there were 28 active branches of the VAAL. The AAL became the all-Aboriginal branch of the VAAL. The VAAL worked on a diverse range of issues both local and national and its journal *Smoke Signals* kept the public informed of issues concerning Aborigines all over Australia. It organised a legal campaign to support famous Aboriginal artist Albert Namatjira who was sentenced to prison for providing liquor to an Aboriginal ward of the state. It acted to stop Cummagunja being leased to farmers and instead turned over to its traditional owners. (Cummagunja was technically in NSW but part of tribal territory that extended into Victoria). It provided support and finance for education and housing. It waged a campaign to gain land rights for Lake Tyers Aborigines and support for Framlingham. It supported Aborigines in dispute with mining companies and strikes for fair wages. (*Victims of Victors?*, Chapters 3–5)

But one of the first important initiatives to come out of the VAAL was the formation in 1958 of the Federal Council of Aboriginal Advancement (FCAA later to become FCAATSI to include Torres Strait Islanders). The objectives of the FCAA were:

- Equal citizenship rights with other Australians for Aborigines.
- All Aborigines to have a standard of living adequate for health and well-being, including food, clothing and medical care not less than for other Australians.
- All Aborigines to receive equal pay for equal work and the same industrial protection as other Australians.
- Education for detribalised Aborigines to be free and compulsory.
- The absolute retention of all remaining reserves, with native communal or individual ownership

(*Victims or Victors?* page 59)



Gordon Bryant founding president of the VAAL came back from the inaugural meeting of the FCAA in Adelaide with a renewed determination to achieve full citizenship rights for Aborigines and a national and unified Aboriginal policy. To achieve this – Constitutional change to give the Federal government power over Aboriginal affairs was necessary. And so the campaign to hold a referendum began.

### **Leaders**

FCAA and its affiliated organisations included both Aboriginal and non-Aboriginal Australians. While many were active in working for Aboriginal causes in Victoria, those most prominent in this campaign included Pastor Doug Nicholls, Bill Onus, Stan Davey, Gordon Bryant and Shirley Andrews. In other States, Indigenous leaders like Faith Bandler, Kath Walker and Joe McGinness devoted themselves to the campaign. FCAA involved many Aboriginal communities, students, church groups, unions and service clubs in the campaign.

### **The petitions**

The campaign began with a series of petitions calling for a referendum. This had the effect of informing the public about the issues and mobilising support for a change to the Constitution. The campaigners collected over 100,000 signatures, which were presented to the Parliament in 94 separate petitions.

The 1962 FCAA petition leaflet noted inconsistencies regarding Aboriginal rights to vote, marry freely, control their own children, move freely, own property and receive award wages, as well as the general prohibition of alcohol. It noted that the complications caused when an individual moved interstate were absurd, so federal authority over Aboriginal affairs looked much more efficient. The campaigners also stressed the links between the census, the allocation of funds for basic services and the fixing of electoral boundaries in keeping with their new voting rights.

In September 1963, Prime Minister Robert Menzies met a delegation of Aboriginal representatives from all mainland States. He offered them alcoholic drinks and was reportedly amazed to discover that such an act was illegal. Some delegates thought of this meeting as a turning point, but when the Government prepared the first bill it only referred to Aborigines being counted in the census, and reflected the government's assimilation policies.

The campaigners continued to lobby politicians, who were also influenced by the growing public awareness of Aboriginal disadvantage after the Freedom Rides. In 1965, Charles Perkins led a group of university students on Freedom Rides through NSW country towns. The Freedom Rides showed that racial discrimination existed in communities at every level: segregated seating in cinemas, lack of access to swimming pools and even being made to wait in a shop until white people were served first. The Freedom Rides received widespread publicity and made Australians better aware of Aboriginal disadvantage.

When Menzies retired in January 1966, Harold Holt announced that the referendum scheduled for May that year would be postponed. In February 1967, the Cabinet broadened the scope of the vote to include a second change relating to the Federal Government being able to make laws for Aborigines. The Referendum was set for May 1967.



## The 1967 Referendum campaign

The legislation proposing the changes was adopted unanimously in both the House of Representatives and the Senate, so the official ‘Yes’ case was presented by the Government without a ‘No’ case. The ‘Yes’ case stated ‘We have yet to learn of any opposition being voiced ... from any quarter.’ There was a general lack of argument about this Referendum, but there were some cautious voices who suggested that the changes would achieve little and that in some future time the ‘special laws’ could be used against Aborigines.

As well as the official ‘Yes’ case, many leaflets were produced and letterboxed, and there were many newspaper articles, letters and editorials expressing support for the ‘Yes’ vote. The campaigners used radio and television to persuade voters of their cause. Because it was the first big national campaign, it was very important that it be successful.

In arguing for a ‘Yes’ vote, the campaigners emphasised issues of inequality, the anomalies between States, and Australia’s international reputation. The campaigners also argued that being counted in the census would lead to better funding for Aborigines. The campaign also built on the publicity and goodwill generated by the Freedom Rides to encourage national awareness of Aboriginal living conditions and the discrimination they faced. Photographs of lean-to housing with the caption ‘End discrimination – Vote “Yes” on May 27’ in a Victorian Aboriginal Advancement League campaign leaflet illustrated this point.

The campaigners also highlighted the problems of State policies. Implicitly, there was recognition that the States had failed. The campaigners stressed the anomalies existing for individuals who moved from one State to another and were therefore classified differently and subject to different regulations. In 1967, definitions of Aboriginality varied from Victoria’s simple ‘any descendant of an aboriginal native’ to Queensland’s more complex inclusion of ‘person(s) of full-blood’, people with a ‘preponderance’ of Aboriginal blood, ‘part-Aborigine(s)’ living as the spouse of Aborigines, and ‘resident(s) of a reserve who have some Aboriginal blood’.

The Government ‘Yes’ case referred to ‘our international reputation in a world in which racial issues are being highlighted every day’ and the campaigners also frequently referred to Australia’s international image. At times, the *United Nations Declaration of Human Rights* was cited, and the situation here was likened to that in the United States or even South Africa’s Apartheid policy. Newspapers repeatedly referred to the embarrassment the country would suffer internationally if the Referendum was not passed.

## The result

The Referendum was held on 27 May 1967. To the delight of the campaigners, 90.77% of Australians voted ‘Yes’. This was an amazing achievement and represented a high level of community goodwill towards Aboriginal Australians. However, there were significant variations in voting, with Victoria returning the highest ‘Yes’ vote (94.68%, compared to Western Australia’s 80.95%) and the highest ‘No’ votes being recorded in the rural areas with the largest Aboriginal populations. This suggests that, in day-to-day life, attitudes of discrimination were continuing unchanged.



## The aftermath

Immediately afterwards, those who had worked so hard for Constitutional change pressed for practical change as well. The result created a huge mandate for the Federal Government to act – if it chose to. The Government was slow to act but gradually more money was allocated to Aboriginal affairs and the Council for Aboriginal Affairs was set up. However, the achievement of equal citizenship rights took many more years and the quest for equal social and civil rights is ongoing to this day.

Aboriginal people who had participated in the campaign went on to take stronger positions in their struggle for rights, especially land rights. The skills and confidence gained through the campaign were significant, as was the morale boost from its end result. The 1972 Tent Embassy was made possible because of the campaign.

Since the 1970s, many Australians have hailed the 1967 Referendum as a watershed in the Indigenous struggle. It is celebrated as ‘black and white together’, a model for the reconciliation movement of the 1990s, and reflection of strong community goodwill. However, the current inequalities between Indigenous and non-Indigenous Australians remind us how much that goodwill still needs to be translated into real change.

## Time-line

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| <b>1901</b> | The Commonwealth Constitution excludes the Commonwealth Government from Aboriginal affairs (Section 51) and from counting Aborigines in the census (Section 127).  |
| <b>1902</b> | The Commonwealth Franchise Act passed by the new Commonwealth Government takes away the right to vote for most Aboriginal people.  |
| <b>1911</b> | The Commonwealth Government takes control of the Northern Territory, so becoming involved in Aboriginal affairs.   |
| <b>1912</b> | Maternity allowances are introduced.   |
| <b>1914</b> | War pensions are introduced.   |
| <b>1937</b> | First national native welfare conference agrees on assimilation policy.<br>Aborigines’ Progressive Association formed in NSW and, led by Bill Ferguson and Jack Patten, fights for citizenship rights for Aboriginal people.   |
| <b>1938</b> | Day of Mourning (marking 150 years of European settlement).<br>Aboriginal deputation to Prime Minister Lyons presents a ‘Long Range Policy for Aborigines’ which includes a Department of Aboriginal Affairs aimed at granting all Aborigines full citizenship status. |
| <b>1941</b> | Child endowment is introduced.   |
| <b>1944</b> | ‘Powers’ Referendum (concerned with granting the Commonwealth Government additional powers for implementing its post-war reconstruction program, including the power to legislate for Aborigines) is overwhelmingly rejected.  |
| <b>1945</b> | Unemployment and sickness benefits are introduced.   |
| <b>1948</b> | <i>United Nations Declaration of Human Rights</i> is proclaimed. Australia is one of the first signatories.  |
| <b>1949</b> | Nationality and Citizenship Act formally defines the term ‘Australian citizenship’.  |



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|             | Commonwealth Electoral Act extends voting rights to those Indigenous people who had been, or continued to be members, of the Defence Forces.  |
| <b>1951</b> | Second Aboriginal Conference confirms assimilation policy.  |
| <b>1958</b> | Federal Council for the Advancement of Aboriginals (FCAA) is established (later changed to FCAATSI to include Torres Strait Islanders).   |
| <b>1959</b> | Aborigines become eligible for pensions and maternity allowances if not 'nomadic or primitive', but group payments are often made to reserves and missions instead.   |
| <b>1961</b> | Senate Select Committee on Aboriginal Voting Rights established. It investigates and recommends a full extension of voting rights to Aborigines.  |
| <b>1962</b> | Commonwealth franchise extended to all Aborigines but voting not compulsory.  |
| <b>1963</b> | A protest is conducted over mining leases on Yirrkala Aboriginal reserve land.<br>Bark petition is presented to the Prime Minister.   |
| <b>1965</b> | Freedom Rides through NSW country towns.<br>Bill to change Constitution by Referendum is introduced in the House of Representatives.  |
| <b>1966</b> | Commonwealth Conciliation and Arbitration Commission grants equal wages to Aboriginal pastoral workers but with a three-year delay.<br>Gurindji strike and walk off Wave Hill cattle station in the Northern Territory, starting a seven-year fight to obtain title to their land                                   |
| <b>1967</b> | Referendum held to change Sections 51 and 127 of the Constitution, and give the Commonwealth Government power to make laws for Aborigines and include Aborigines in the national census.  |
| <b>1968</b> | Commonwealth Office of Aboriginal Affairs set up, along with a Council of Aboriginal Affairs comprising Ministers from all States and Territories and the Commonwealth, to recommend policies and coordinate programs.  |
| <b>1970</b> | First Aboriginal legal service is established in Redfern, NSW.  |
| <b>1971</b> | Neville Bonner becomes the first Aboriginal Member of Parliament.<br>Aborigines are included in the census for the first time.<br>Northern Territory Supreme Court confirms <i>terra nullius</i> doctrine in Yirrkala land case decision.<br>Queensland Aborigines no longer able to be forced to live on reserves. |
| <b>1972</b> | Prime Minister Billy McMahon rejects the idea of Aboriginal land rights in a speech.<br>Tent Embassy established outside Parliament House, Canberra, lasting from January until July.<br>Labor Government elected in December and sets up a Department of Aboriginal Affairs under Gordon Bryant.                   |
| <b>1975</b> | Commonwealth Racial Discrimination Act prohibits discrimination on the basis of race, colour, descent or ethnic origin.<br>Queensland Aborigines become able to control their own property.   |
| <b>1976</b> | Parliament passes the Aboriginal Land Rights (NT) Act.  |



Teacher Resource

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| <b>1984</b>      | Voting in Commonwealth elections made compulsory for Indigenous Australians.  |
| <b>1987-1991</b> | Muirhead Royal Commission into Aboriginal Deaths in Custody.  |
| <b>1992</b>      | Mabo judgement in High Court rejects concept of <i>terra nullius</i> and recognises native title.   |
| <b>1993</b>      | Native Title Act introduced.  |
| <b>1997</b>      | National Inquiry completed into the Separation of Aboriginal and Torres Strait Islander Children from their families ( <i>Bringing Them Home Report</i> ).<br>Wik judgement acknowledges the possible existence of Native Title rights on land under pastoral leases. |
| <b>1998</b>      | Native Title Amendment Act (following the Wik debate).  |



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