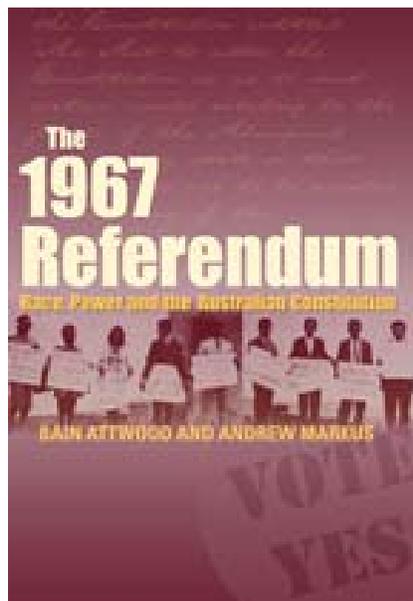


# Teachers' Notes: The 1967 Referendum

Aboriginal Studies Press



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## **Key Curriculum Links: SOSE, HSIE, History, Australian Studies**

### **Learning Outcomes**

These notes aim to support teachers in enabling students to achieve the following outcomes:

- An understanding of the historical processes and events leading to the 1967 Referendum.
- An appreciation of the complex issues and diverse agendas involved in presenting the 'Yes' campaign.
- An awareness of the limited changes brought about by the passing of the Referendum.
- A considered evaluation of the significance of the 1967 Referendum.

The passing of the 1967 Referendum is generally regarded as a highly significant event in Australian history. In that referendum over 90% of electors voted 'YES' to alter two clauses in the Australian Constitution in reference to Aboriginal people. However, the changes brought about by the passing of the referendum itself, were limited and their direct impact is widely misunderstood.

**THE PURPOSE of this investigation is to explore exactly WHY this referendum was considered to be so important by reformers working to improve Aboriginal rights, and the extent to which their hopes for the future have been realised since its passage.**

### **The Constitution prior to 1967**

When the Constitution of the Commonwealth of Australia was drawn up, Aboriginal people had no political power and most of the leaders of the colonial delegations who met to debate the terms of the document considered them to be 'a dying race'. Consequently, the only two specific references made to Aboriginal people in the Constitution were in a clause of section 51, relating to a power granted to the Commonwealth to enact special laws with regard to racial minorities:

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 race in any State, for whom it is deemed necessary to make special laws.

and, section 127:

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.

## ACTIVITY 1

Students try to rewrite these two clauses in their own words and then compare their understandings with another person.

Chapter 1 'The Constitution and the Power of Race' provides further understandings of the context of these clauses.

In their rewriting, students could consider the following questions:

- Is section 51 discriminatory? Towards which races? Does it seem to discriminate against Aboriginal people?
- Why might the Commonwealth feel it was necessary to make 'special laws'?
- Why would the Commonwealth want to know the number of people resident in the country?
- What does the exclusion of 'aboriginal natives' suggest about their status within the Commonwealth at that time?

### What is Racial Discrimination?

Racial discrimination happens when someone is treated less fairly because of their race, colour, descent, national origin or ethnic origin than someone of a different 'race' would be treated in a similar situation.

#### Example:

*It would be discrimination if a real estate agent would not rent you a house because you are an Indigenous person.*

Racial discrimination can also happen when a policy or rule that treats everyone in the same way has an unfair effect on more people of a particular race, colour, descent, or national or ethnic origin than others.

Human Rights and Equal Opportunity Commission

## What rights did Aboriginal people enjoy by the time of the 1967 Referendum?

### ACTIVITY 2

Students should examine the table below (p.27) drawn up by the Federal Council for Aboriginal Advancement in 1962.

	NSW	VIC	SA	WA	NT	QLD
State voting rights	Y	Y	Y	N	Y	N
Marry freely	Y	Y	Y	N	N	N

Control own children	Y	Y	N	N	N	N
Move freely	Y	N	N	N	N	N
Own property freely	Y	N	N	N	N	N
Receive Award wages	Y	N	N	N	N	N
Alcohol allowed	N	N	N	N	N	N

- Discuss each category of rights, considering the implications for individuals of not having access to these rights.
- Why were Aboriginal peoples' rights particularly limited in Western Australia, the Northern Territory, Queensland, and to a lesser extent, in South Australia?
- How were these rights addressed in the Constitution – especially sections 51 and 127(above)?

To understand how the link between a demand for a greater Commonwealth role in Aboriginal affairs and the call for citizenship rights for Aborigines it is necessary to examine some of the events leading up to the 1967 Referendum.

### **1920s, 1930s and 1940s**

In the first half of the twentieth century the legal rights of Aboriginal people were limited by racially discriminatory Commonwealth and State legislation that had been enacted over several decades.

**ACTIVITY 3**

Students should examine the listed documents and complete the following table.

Document 2 Archdeacon CEC Lefroy (pp.90–1)

Document 6 William Cooper (pp.93–4)

Document 10 Ruth Swann (pp.95–6)

Document 11 Professor AP Elkin (pp.96–7)

Document 12 The Welfare of Native Races (1944 Referendum) (p. 98)

Document 14 Henry Wardlaw (pp99–100)

Date	Document author and position held	Addressee	Main arguments proposed
	C.E.C. Lefroy, Commission on the Constitution		
		Prime Minister, Joseph Lyons	
			Urged Commonwealth government to amend the Constitution in order to take responsibility for Aboriginal affairs
1944			
			Arguments for voting YES at the 1944 Referendum to amend the Constitution to enable the care and welfare of Aborigines to become a national responsibility
	Henry Wardlaw, Council for Aboriginal Rights		

In 1948, the Nationality and Citizenship Act conferred the status of citizen on all people born in Australia. However the Act did not bestow any rights on these citizens. In 1949, the Commonwealth amended the Electoral Act in order to make it comply with the original provisions of section 41 of the Constitution, that is, it allowed the vote to Aboriginal people if they were allowed the vote in the various States.

#### ACTIVITY 4

Refer back to the table in **Activity 2** and the information above and ask students to explain the legal rights of an Aboriginal person growing up in Western Australia in the 1950s.

#### 1950s, 1960s

In the years leading up to the 1967 Referendum, it came to be assumed by many reformers that amendment of the Australian Constitution leading to federal control of Aboriginal affairs was necessary in order to bring about the repeal of discriminatory laws and to secure citizenship rights for Aboriginal people.

#### ACTIVITY 5

Students should carefully study documents 22 and 23(pp.104–6) and extract the reasons given by the Rt Hon. Kim Beazley snr and the Federal Council for Aboriginal Advancement in support of amendment of the Constitution.

- Why were the two sections (51 and 127) considered to be discriminatory?
- How did section 51 limit rights of Aboriginal people according to these documents?
- What were the “moral and practical reasons” advanced for removing section 127 from the Constitution?
- Explain why these two clauses of the Constitution caused international embarrassment for the Federal government.

Students could draw up their own petition document requesting the Commonwealth Government to hold a referendum to remove section 127 and the discriminatory words in section 51 from the Constitution. (The petition of the Federal Council for Aboriginal Advancement appears on page 31). They should consider a title for the petition and the main arguments which could be briefly listed at the top of the petition to convince people to sign.

The 1962 Electoral Act gave Aboriginal people the right to enrol and vote as electors of the Commonwealth. By 1965-66 most racist legislation, at both state and federal levels, had been removed. Western Australia had given Aboriginal people the vote in 1962 and Queensland in 1965. The Commonwealth finally removed discrimination from federal legislation in 1966 when entitlement to pensions, unemployment and maternity allowances was extended to all citizens, including nomadic Aborigines.

#### The 1967 Referendum

By 1966, most racially discriminatory legislation had been repealed and most Aboriginal people had been granted the legal rights associated with citizenship. However, when the Federal Council for the Advancement of Aborigines and Torres Strait Islanders and its supporters campaigned for a ‘Yes’ vote for the Aboriginal question in the referendum of 27

May 1967, it equated the constitutional changes with the overthrow of discriminatory laws and the winning of rights or citizenship for Aborigines.

## ACTIVITY 6

Why did the Federal Council and its allies take this view?

- Students should examine the posters, photographs and cartoons on pp.47, 50, 57, 117 and 122 and try to explain the arguments being used in these sources to win support for a 'Yes' vote. Why were these images chosen? What does the text of the posters suggest?
- Ask students to design their own posters aimed at winning support for a 'Yes' vote.
- Examine the words of Gary Shearson's song 'Vote Yes for Freedom' (Document 34) and explain its message.
- Students could also examine arguments for a "Yes" vote put forward in the popular press, such as the Sydney Morning Herald (Document 38) and the Australian Women's Weekly (Document 39).
- Explain the significance of the vote for Aboriginal leaders and campaigners by reading for arguments presented by Bill Onus in Documents 36 and 37 and Chicka Dixon in Document 46.

Many of the arguments raised to support the passing of the two amendments to the Constitution in the referendum rested on the assumption that the Commonwealth Government would set an example to the states in the treatment of Aborigines, once it held the power to legislate for Aboriginal people.

The wording of the Referendum question put to the Australian people on 27 May 1967 read:

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 Aborigines are to be counted in reckoning the Population'?

The result of the referendum was a decisive 'Yes'. All States voted in favour of the proposed changes and of the formal votes 90.77 % were 'Yes' and only 9.23 were 'No'.

State	% voting "No"
Western Australia	19.05
South Australia	13.74
Queensland	10.79
Tasmania	9.79
New South Wales	8.54

Victoria	5.32
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## ACTIVITY 7

- Students should examine the wording of the Referendum and relate it to sections 51 and 127 of the Constitution. Why was the question put to voters stated in these general terms?
- How can the higher 'No' vote in some States be explained?
- How can the massive 'Yes' vote be explained? Students could review the arguments put forward by supporters of the Aboriginal Referendum and consider how they personally would have voted and the reasons for their vote.

### The consequences of the 1967 Referendum

The Referendum had come to represent the beginning of a new deal for the Aboriginal people. The hopes of those who campaigned for the Referendum were that the Commonwealth government would now assume control of Aboriginal affairs, sweep away racial discrimination, grant citizenship rights to Aborigines, and oversee equality for Aboriginal people. However in the weeks and months after 27 May, the Coalition government continued to leave the administration of Aboriginal affairs to the various States (See Documents 54 and 55). The promise of the referendum was only taken up when the Labor Party came to power in November 1972. Labor interpreted the referendum as a moral mandate for the Commonwealth to assume responsibility for Aboriginal affairs.

### ACTIVITY 8

- Using the Documents 72–93, allocate personal testimonies to different students. Ask each student to outline the reactions of their character to the 1967 Referendum. What changes, if any, did it make to the life experiences of each character? Students could argue for and against the significance of the Referendum using the arguments in the various testimonies.
- The growing historical significance of the Referendum for Aboriginal people can be traced through the years following 1967, particularly through examining how the event was commemorated. Students could locate sources relating to the 10<sup>th</sup>, 20<sup>th</sup>, 25<sup>th</sup> and 30<sup>th</sup> anniversaries of the passing of the Referendum.
- Read through Lowitja O’Donoghue’s speech marking the 25<sup>th</sup> anniversary of the Aboriginal Referendum in 1992 (Document 58) listing the gains and the disappointments for Aboriginal people since the passing of the Referendum.

Although the 1967 Referendum did not bring about the massive changes to Aboriginal welfare hoped for by many of its supporters, it did have the effect of challenging the status quo and its symbolic recognition of Aboriginal citizenship rights provided a context for campaigners for Aboriginal rights to begin to demand indigenous rights.

#### What are Indigenous rights?

Indigenous rights are the rights of a people who are ‘the people of the land’ or the first peoples of the land. Indigenous rights included demands for rights to land and to compensation for land from which they had been dispossessed – land rights - and also the right for Aboriginal people to sustain their own culture and identity and manage their own affairs – ‘the right of self determination’.

Commonwealth governments were willing to champion Aboriginality as an integral part of Australia’s fabric but were reluctant to meet the demands for Indigenous rights or to acknowledge Aboriginal people’s status as a sovereign group. In the 1990s the Hawke Labor government proposed a process of reconciliation between Aborigines and other Australians.

### ACTIVITY 9

Read through Pat Dodson’s speech (Document 61).

- What link does he make between the drafting of the Constitution in 1901 and the concept of ‘terra nullius’?

- Why was the question of a possible re-drafting of the Constitution being again considered in 1993?
- Explain why Dodson and other Aboriginal leaders argued so strongly that Constitutional reform was central to the work of Aboriginal reconciliation.

In the last ten to fifteen years matters of race and nationhood have again become more prominent in national politics and there are fears that the powers given to the Commonwealth by the amendment of Section 51 of the Constitution could be used not to enact special laws for the benefit of Aboriginal people but to diminish or take away indigenous rights. The historical context of the passing of the 1967 Referendum is being questioned by the Federal Coalition Government. In these circumstances, Aboriginal leaders have called for greater protection of indigenous rights by legally entrenching them in the Constitution as part of a Bill of Rights. In 1998, Patrick Dodson stated in a letter to the *Australian*: "... we should not be playthings of our community any longer. Australia will be diminished as a nation until indigenous rights are entrenched in our political and legal system, and guaranteed forevermore".

### **ACTIVITY 10**

May 2007 is the 40<sup>th</sup> anniversary of the passing of the Aboriginal Referendum. Students could review the information presented in this text and the accompanying documents, together with that provided by exhibitions and web links, set up to commemorate the anniversary, in order to draw their own conclusions about the significance of the 1967 Referendum. The views of people such as Larissa Behrendt, Kenny Laughton, Rob Randall and Mick Dodson (in Part 111) will provide contemporary Aboriginal perspectives on the question of the Referendum's significance.