

The 1967 Referendum

Important Facts and Interesting Pieces of Information



- **The Government**

At the time of the referendum in 1967, Harold Holt was the Prime Minister and a Liberal Country Party Coalition Government was in power. The Constitutional review process was commenced by Robert Menzies who retired in January 1966. The original question (as proposed by Menzies) only included changes to **s127**. Holt decided to delay the referendum until after the Federal election in November 1966 and added the **s51** change to the question.¹

- **'The Aboriginal Question'**

The referendum did *not*

- give Indigenous people the **right to vote**
- give Indigenous people **citizenship rights**
- give Indigenous people the **right to be counted in the census.**

The real purpose of the referendum was to make two changes to the Australian Constitution. These changes enabled the Commonwealth Government to:

- a) **make laws for all of the Australian people** by amending **s51** of the Constitution, (previously people of 'the Aboriginal race in any State' were excluded), and;
- b) **take account of Aboriginal people in determining the population of Australia** by repealing **s127** of the Constitution (formerly, Indigenous people had been haphazardly included in the census but not counted for the purposes of Commonwealth funding grants to the states or territories. From 1967, Indigenous people were counted in the census and included in base figures for Commonwealth funding granted to the states and territories on a per capita basis).²

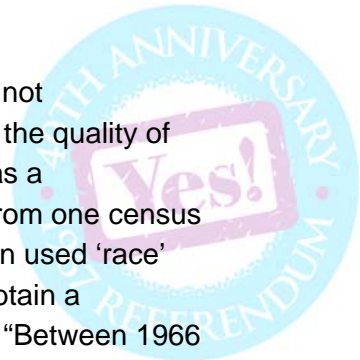
- **The effect of the referendum on the national census**

Prior to 1967, there was a race question included in the census to establish the number of 'full-blood' Aborigines. The term 'full-blood' referred to people with an Aboriginal blood quantum of over 50%. This number was then subtracted from the national population

¹ MacKerras, M. 'One of our most important days ever', produced as part of Reconciliation Australia's program to mark the 40th anniversary of the referendum, available 20/02/07 at <http://www.reconciliationaustralia.org/i-cms.jsp?page=386>

² RA's 1967 Fact Sheet Final sourced from the Australian Bureau of Statistics, *Informing a Nation: The Evolution of the Australian Bureau of Statistics 1905-2005*. 2005.

count. Remote rural areas that were uninhabited by non-Aborigines were not enumerated although rough estimates were often made. This means that the quality of the early Aboriginal counts is questionable. Society viewed Aboriginality as a disadvantage and many people did not report their origins or changed it from one census to the next. After the 1967 referendum, the wording of the census question used 'race' but did not ask for blood fractions of race. There were greater efforts to obtain a complete coverage of the Indigenous population, including remote areas. "Between 1966 and 1971 the count increased by 44.6% and between 1971 and 1976 it increased by 38.8%." All censuses since 1981 have used the same question to determine Indigenous status: 'Is the person of Aboriginal or Torres Strait Islander origin?'³



- **The Result**

What was the result, federally and in each of the states?

New South Wales	91.5%
Victoria	94.7%
Queensland	89.2%
South Australia	86.3%
Western Australia	80.9%
Tasmania	90.2%
National	90.8% ⁴

- **The other Question**

In the same referendum, voters were asked to consider another amendment to the constitution. The amendment was to **s24** of the Constitution which stipulates that the House of Representatives must always be twice the size of the senate. The **voters rejected the proposal** and the motion received just **40% of the vote nationally**.⁵

- **What have been the results of other referenda?**

Including the 'Aboriginal question' of 1967, only **eight of forty-four separate proposed Constitutional amendments have been successfully carried by referendum**.

Constitutional referendums have been held on nineteen separate occasions with one or more proposals at a time.⁶ For the results of the successful referenda please refer to Appendix 1.

³ Australia Bureau of Statistics, *Population Issues, Indigenous Australians*, Occasional Paper, 4708.0, 1996.

⁴ Parliament of Australia, '1967 referendum results', *Parliamentary Handbook of the Commonwealth of Australia*, available 7/2/07 at <http://www.aph.gov.au/library/handbook/referendums/r1967.htm>

⁵ Ibid.

⁶ Parliament of Australia, 'Referendums and Plebiscites', *Parliamentary Handbook of the Commonwealth of Australia*, available 7/2/07 at <http://www.aph.gov.au/library/handbook/referendums/index.htm>

- **What was the practical effect of the 1967 referendum?**


The Commonwealth Government had been involved in Indigenous Affairs in the Northern Territory since 1911, and prior to 1967 had the ability to affect Indigenous affairs by exercising its power under s 96 of the Constitution to make special purpose grants subject to specific conditions to the States. However, the 1967 referendum gave the Federal Government specific power to make laws regarding Indigenous affairs. The referendum did not grant the Commonwealth exclusive responsibility for Indigenous Affairs, or even any explicit responsibility in the area, it simply **opened the door to Commonwealth involvement. For the first five years after the referendum the Commonwealth government did not exercise its power in any significant way.**

The first major exercise of the Indigenous affairs power occurred when the Commonwealth Government moved to establish the **Office of Aboriginal Affairs**, an advisory body that was given funds to ascertain the most urgent needs of the Aboriginal community. The first **Minister for Aboriginal Affairs, WC Wentworth**, was appointed in February 1968, though the minister had no department under his control at this time.

The 1967 Constitutional changes cleared the way for several significant developments:

1. The introduction of '**positive discrimination**'. Despite resistance from parts of the Government, Mr Wentworth was able to initiate several Federal programs specifically aimed at satisfying desperate Aboriginal needs.
2. The enactment of the following important Acts: the ***Aboriginal Land Fund Act 1974***, the ***Aboriginal Loans Commission Act 1974***, the ***Aboriginal and Torres Strait Islanders (Queensland Discriminatory Laws) Act 1975***, the ***Aboriginal Councils and Associations Act 1976***, the ***Aboriginal Land Rights (Northern Territory) Act 1976***, the ***Aboriginal and Torres Strait Islanders (Queensland Reserves and Communities Self-Management) Act 1978***, the ***Aboriginal Development Commission Act 1980***, the ***Aboriginal and Torres Strait Islander Heritage (Interim Protection) Act 1984***, the ***Aboriginal and Torres Strait Islanders Commission Act 1989***, the ***Council for Aboriginal Reconciliation Act 1991***, and, in response to the land rights cases of the 1990s, the ***Native Title Act 1993*** and the ***Land Fund and Indigenous Land Corporation (ATSIC Amendment) Act 1995***.
3. A new administrative and practical definition of 'Aboriginality' was gradually developed by the Commonwealth Government. It was based on community and self-identification, not the blood-quantum classifications of the past.⁷

⁷ Though colonial legislation initially grouped Aboriginal people by reference to their place of habitation (e.g. 'aboriginal natives [sic] of New South Wales and New Holland'), "blood" quantum classifications entered the legislation of New South Wales in 1839, South Australia in 1844, Victoria in 1864, Queensland in 1865, Western Australia in 1874 and Tasmania in 1912." John Gardiner-Garden, 'The definition of Aboriginality', *Australia Parliament Publications*, available 20/02/07 at <http://www.aph.gov.au/LIBRARY/pubs/rn/2000-01/01RN18.htm>



Throughout the 1970s a lot of Commonwealth legislation defined an 'Aboriginal' as 'a **person who is a member of the Aboriginal race of Australia.**' In the 1980s a new definition was proposed in the Constitutional Section of the Department of Aboriginal Affairs' Report on a review of the administration of the working definition of Aboriginal and Torres Strait Islanders (Canberra, 1981). The section offered the following definition: '**An Aboriginal or Torres Strait Islander is a person of Aboriginal or Torres Strait Islander descent who identifies as an Aboriginal or Torres Strait Islander and is accepted as such by the community in which he (she) lives.**'

This three-part definition (descent, self-identification and community recognition) was soon adopted by Federal Government departments as their '**working definition**' for determining eligibility to some services and benefits. The definition found its way into State legislation (e.g. in the NSW Aboriginal Land Rights Act 1983 and was accepted by the High Court as giving meaning to the expression 'Aboriginal race' within s. 51 (xxvi) of the Constitution (Justice Deane in *Commonwealth v. Tasmania* 1983).⁸

The 1967 referendum received support from both sides of politics, even if this support was not always whole-hearted. Despite this, however, the 1967 referendum did not result in the ending of legal discrimination or in the provision of equal wages for Indigenous people.⁹

- **What were the first pieces of legislation passed after the 1967 referendum?**

Aboriginal Enterprises (Assistance) Act 1968 (Cth)

- Established a fund for Aboriginal business enterprise.

State Grants (Aboriginal Advancement) Act 1968 (Cth)

- Payments made to the States.

- **An Indigenous Right to Vote**

When Victoria, New South Wales, Tasmania and South Australia framed their constitutions in the 1850s, they gave voting rights to all male British subjects over 21, which included Aboriginal men. In 1895 when South Australia gave women the right to vote and sit in Parliament; Aboriginal women shared this right. **Only Queensland and Western Australia barred Aborigines from voting in State Elections.** Aborigines who

⁸ "It was also used by the Federal Court in a first instance decision in the Royal Commission into Aboriginal Deaths in Custody. The three part administrative definition, though failing to plant itself in Federal legislation continued to give meaning to a 'person of the Aboriginal race' and a version of it was included in Justice Brennan's *Mabo* (No. 2) judgement. It also sits well with the definition used by the UN Working Group on Indigenous Populations in 1986." Parliament of Australia, John Gardiner-Garden, 'The definition of Aboriginality', Australia Parliament Publications, available 20/02/07 at <http://www.aph.gov.au/LIBRARY/pubs/rn/2000-01/01RN18.htm> ; For more information on the definition please see Australian Bureau of Statistics, *Population Issues, Indigenous Australians*, Occasional Paper, 4708.0, 1996.

⁹ The practical effect information has been drawn from Dr John Gardiner-Garden, *Background Paper 11 1996-97: The Origin of Commonwealth Involvement in Indigenous Affairs and the 1967 Referendum*, available online through The Parliamentary Library on 7/2/07 at <http://www.aph.gov.au/Library/Pubs/bp/1996-97/97bp11.htm>

were allowed to vote in State Elections were also eligible to vote in Federal Elections. In 1962 the Commonwealth gave Aborigines in the remaining states (Queensland and Western Australia) the right to vote in Federal Elections. **Western Australia** gave them the right to vote in State elections in the same year. **Queensland followed in 1965.**¹⁰



- **Important people**

The Federal Council for the Advancement of Aborigines and Torres Strait Islanders (**FCAATSI**) was a group of Indigenous and non-Indigenous people who headed the campaign for Constitutional change in the years leading up to 1967. Please refer to **Appendix 2** for the names and position titles of these leaders.

The Council for Aboriginal Reconciliation (**CAR**) was a group of appointed Australians drawn from the Aboriginal, Torres Strait Islander and wider communities, who brought a comprehensive range of views and approaches to the reconciliation process.¹¹ Please refer to **Appendix 3** for the names and position titles of the members from 1991 – 2000.

¹⁰ “In 1971 the Liberal Party nominated **Neville Bonner** to fill a vacant seat in the Senate. He was the first Aborigine to sit in any Australian Parliament.” Stretton, P. *Aborigines and the vote*, Australian Electoral Commission, 2006, available 8/2/07 at http://www.aec.gov.au/content/when/history/ab_vote.htm

¹¹ For more information on CAR please refer to: <http://beta.austlii.edu.au/au/other/IndigLRes/car>

Appendix 1

The successful referenda were:¹²

- **Senate Elections** (12 December 1906): made minor alterations concerning Senate elections and terms of Senators. Obtained majority in all six States and an overall majority of 611 541 votes. (82.7%)
- **State Debts** (13 April 1910): allowed the Commonwealth takeover of State debts. Obtained majority in five States and an overall majority of 128 782 votes. (54.9%)
- **State Debts** (17 November 1928): formalised the position of the Loan Council. Obtained majority in all six States and an overall majority of 1 463 539 votes. (74.3%)
- **Social Services** (28 September 1946): gave the Commonwealth power to provide certain social services. (54.4%) Obtained majority in all six States and an overall majority of 370 786 votes.
- **Casual Vacancies** (21 May 1977): aimed at ensuring that a replacement Senator should be from the same party as the departing Senator. Obtained majority in all six States and an overall majority of 3 484 808 votes. (73.3%)
- **Territory Votes** (21 May 1977): gave residents of the Australian Capital Territory and the Northern Territory the right to vote in constitutional referendums. Obtained majority in all six States and an overall majority of 4 141 513 votes. (77.7%)
- **Retirement of Judges** (21 May 1977): provided for a retirement age of 70 for all federal judges. Obtained majority in all six States and an overall majority of 4 494 820 votes. (80.1%)

In Australia referendums on questions that do not affect the Constitution are usually called **plebiscites** and have no legal force.¹³ Three national plebiscites have been held: two on the conscription of troops during World War I (neither of them carried) and one on a national song in 1977.¹⁴

¹² Parliament of Australia, 'Referendums and Plebiscites', *Parliamentary Handbook of the Commonwealth of Australia*, available 7/2/07 at <http://www.aph.gov.au/library/handbook/referendums/index.htm>

¹³ Ibid.

¹⁴ Ibid.

