For And Against Indigenous Recognition in the Australian Constitution – A Discussion Paper

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QUADRANT
June 30th 2017

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For and Against the Constitutional Recognition of Indigenous Peoples

Keith Windschuttle,

***Editor of* Quadrant**

Good evening ladies and gentlemen. Welcome to the Quadrant Constitutional Convention. This is an historic occasion. To date, the Turnbull government has staged twelve regional conventions around Australia to discuss the constitutional recognition of indigenous people, with the final national convention beginning at Uluru tonight, as we speak. However, all these conventions have been reserved exclusively for indigenous people. So far, no one in mainstream politics or the media has seen fit to query this exercise in segregation or to call for even one convention to be staged to represent the great majority of the Australian people. To fill this glaring defect in our political debate, *Quadrant* has invited here a genuinely diverse range of speakers—both for and against recognition.

This is not only an ethnically diverse convention—we have speakers of European, Eurasian and Aboriginal descent—but we are also the only one not funded by the government—we've not had a cent from the Commonwealth to put this show on the road. So, even though the great majority of the Australian people will have no formal convention of their own in the lead-up to a possible referendum, you are present tonight at the substitute convention for the one the Commonwealth should have organised itself.

Tonight we have a distinguished range of speakers, headed by our Master of Ceremonies for the evening, Professor David Flint. David reminded me tonight that as well as being a former chair of the Press Council of Australia, the Australian Broadcasting Authority and the Australian Council of Law Deans, as a young academic lawyer he was once a volunteer in the Aboriginal Legal Service—before it was government-funded.

David Flint

National Convenor of Australians for Constitutional Monarchy, author of* The Twilight of the Elites *(2003), co-author of* Give Us Back Our Country *(2013)

I have, I'm afraid, some disappointing news. Unfortunately, we will be unable to have a Welcome to Country. I think it has something to do with global warming. But we do have a Welcome to Convention, which is central to this evening. It was also central to the decision of the Australian people in the nineteenth century, humbly relying on the blessings of Almighty God, to unite in an indissoluble federal Commonwealth under the Crown and under the Constitution.

This sixth great pillar of Australia was a close-run thing. Had it been left to the politicians we would probably today be something like South America—without the constitutional instability, but several countries in one continent. Instead, we are one country in one continent. The problem was with the colonial politicians. In 1891 they appointed a convention. The convention produced a constitution but it failed. It failed partly because it was a nominated convention but also because when the draft constitution went back to the colonial parliaments, they tore it apart and could never agree on the terms. Each parliament had its own view and it was obvious there would be no solution.

The solution appeared in 1893 at Corowa, New South Wales, in a private conference like tonight. During the course of that conference Sir John Quick—a man unknown to most school students today but who ought to be on the currency, and ought to be commemorated because what he did ensured that we became a country—moved a motion that became known as "the Corowa plan". It proposed that, in future, instead of convention delegates being nominated by the politicians, they should be elected by the people. Moreover, when the convention came to a conclusion about a constitution, it should be then sent to the politicians for comment—not to tear apart or decide on, but just for comment—and then it should be sent to the Australian people to vote and make the decision.

It took another four years after Corowa for the politicians to act. In 1897, a convention was mainly elected. Over several sessions, a constitution was drafted and put out for comment by both politicians and people. This took the movement for federation out of the hands of the politicians. After the work of this convention and after two referendums, the constitution was taken to London, passed by the imperial parliament, given Royal Assent and, once the West Australian referendum came in, proclaimed by the Queen. This was all achieved in four years from 1897 to January 1, 1901—without jet planes, without the internet and without all of the technological advantages we have today. That is extraordinary—we can't build a dam in four years; we are going to take fifty years to have a fleet of submarines—four years, and all because of the convention. This is the importance of tonight—it was the convention that Sir John Quick conceived at Corowa without which we might today be several countries.

In 2014, at the fifteenth Annual Conference of Australians for Constitutional Monarchy, I invited Prime Minister Tony Abbott to give the annual Neville Bonner Oration. During the Oration, Tony Abbott said this of constitutional monarchists: "As the constitution's fiercest defenders, our temptation is to dismiss all change as constitutional vandalism." He then

invited ACM to support the constitutional recognition of the indigenous people. That was to make headlines.

My job that night was to give the vote of thanks. I had no notice that he was going to make such a proposal. I had no authority to agree to constitutional recognition. I had to think quickly. While I was listening to him I thought this was an occasion to argue the wider principle of making our institutions and processes more democratic. So what I proposed in the vote of thanks was this: Why not bring the Australian people in at the beginning at a convention? Why leave it to the Australian people at the end to vote on something that all the elites had designed? Why not bring the people in at the beginning through an elected constitutional convention? ACM would support that.

We later proposed to the Joint Select Committee of Parliament on Constitutional Recognition to have an elected convention. We suggested that members of the convention be unpaid and that much of the work be secured by modern methods, using the internet and Skype and so on through committees, with some general meetings in Canberra. When we put this to the committee, the only adverse comment we got was a strong objection to delegates not being paid.

We suggested that this should be done under the Corowa plan, and that the convention not only look at constitutional recognition, but also at the state of the federation, which anybody knows is in a terrible mess—it's got into this mess because of the judges and politicians. It has to be corrected. We also suggested there were other things that could be looked at, for example, the marriage power within the constitution, the accountability of politicians and other questions.

But what I want to say before I introduce the other speakers is that this concept of a convention, which Keith has pushed, was something we proposed. The Joint Select Committee noted what we had said but made no firm recommendation, apart from a general recommendation that there be conventions. The government ignored us. The only conventions it has established are those for indigenous people only. It seems to me extraordinary that a government would do this, that we would have some major changes being made to the Constitution without the Australian people being involved from the beginning.

So I think we should congratulate Keith for his initiative in having the convention tonight, which recalls and is so much in the tradition of the Corowa conference, the conference which ensured we would be, unique in the world, one nation on one continent. So let us now begin our very important work.

Gary Johns

Director of the Australian Institute for Progress, former Special Minister of State in the Keating government, author of* Aboriginal Self-Determination: The White Man's Dream *(2011), editor of* Recognise What? *(2014)

When the Commonwealth government initiated debate on recognition of Aborigines in the Constitution I took them at their word. That is, Aborigines wanted to be recognised. For this reason, and for this reason alone, I have argued for an insertion into a preamble to the Constitution the fact: they were here first.

But there is a second sense of recognition that drives the debate. Noel Pearson and other Aboriginal leaders want a substantial form of recognition. They claim that Aborigines are special and, as a consequence, every relationship between Aborigines and government has to be special.

Well, are Aborigines special?

Because Australian Aborigines were isolated from centres of innovation, they made no progress in 40,000 years. The tyranny of distance was tyranny indeed. Any other people would have failed to progress in the same circumstances.

A measure of progress, indeed of civilisation, is the ability to address wrongdoing, particularly in interpersonal affairs, without recourse to violence. Let me tell you about the day civilisation came to Australia. In 1788, in the first civil suit heard in New South Wales, Henry Kable, a convicted burglar, and transportee in the First Fleet, won damages of £15 against the ship's captain, for failing to prevent the theft of Kable's property while in transit.

This was the rule of law, and the beginning of Australian civilisation. By contrast, this is what it replaced. Watkin Tench observed around Sydney in 1790:

When an Indian [his term for an Aborigine] is provoked by a woman, he either spears her or knocks her down on the spot. On this occasion he always strikes on the head, using indiscriminately a hatchet, a club or any other weapon which may chance to be in his hand.

Walter Roth observed in North Queensland in 1897 the gang rape and tearing episiotomy as part of female "initiation". There is a debate about the "cultural" nature of the practice, but whether rape or initiation, both were a common occurrence in the treatment of Aboriginal women.

David McKnight observed at Mornington Island in 1966:

There were fights practically every day and on some days there were several. It seemed strange to me that there was so much fighting because the people were kind and compassionate with a rich sense of humour … violence would suddenly occur and the very people who seemed kind and compassionate became dangerously aggressive and struck one another so harshly that they frequently had to receive treatment at the Mission hospital.

My point is not that Aboriginal culture remains the same as it was 200, or 100, or fifty years ago, but that resort to violence remains an enduring part of Aboriginal culture. When I ask Aborigines for accounts of contemporary culture the story is no more encouraging. Either they fail to specify anything beyond "family" or they tell me tales of sorrow, tales of bad behaviour resulting from "humbugging", sorcery or nepotism. Aboriginal culture may be special, but it is not a national treasure.

The movement to recognise Aborigines in the Australian Constitution is not uplifting. It is not a survivor's lament. It is a descendant's gambit. A more civil movement would give thanks for life and opportunity in modern Australia. After all, had the First Fleet not arrived, Aborigines would have remained isolated from centres of innovation, living short, brutish lives.

As for any proposals for recognition, our original question, outlined in the book *Recognise What?* still applies. There is still no official proposal on the table. Nevertheless, several are bandied about. These can be described as: "do nothing", "minimalist", "maximalist", "a statement outside the Constitution", "a constitutionally recognised Aboriginal council", and "a treaty".

I will oppose the maximalist position, favoured by the panel of experts, which would, implicitly or explicitly, create special rights for Aborigines.

I will oppose a statement outside the Constitution. While it may be designed to preserve parliamentary sovereignty, it would contain untruths, for example, that Aboriginal culture is special and deserving of recognition.

I will oppose a constitutionally recognised Aboriginal council (whether Pearson or Mundine designed). The council is a racist proposition. If it had the power to deny a law and thus override Parliament, it would be a travesty of democracy. If it did not, but merely privileged some citizens above others, it would do so at the expense of others. In addition, we must remember that there are sixteen Aborigines in parliaments around Australia, so why should Pearson's unelected peers trump them?

I will oppose any treaty. Treaties within a nation are legal delusion.

Aborigines established their own representative bodies—for example, William Cooper's Australian Aborigines League in 1936 and the Federal Council for Aboriginal Advancement in 1958. They barely had a penny, but they had integrity, which stemmed from the freedom of their association. By contrast, the present leaders are, almost to a person, living on the public payroll. The early leaders expressed the desire for equality, for a fair go, not a special go, in the Constitution.

The problems that some Aborigines endure are not because Aborigines lack a race-based national assembly, but because a vocal cadre of leaders misread history, and they cannot look beyond grievance and victimhood. They, like the minority of Aborigines whose lives are blighted by collectivist public policy, seem unwilling to embrace the competitive and technical challenges of the twenty-first century.

Modern leaders fail to recognise that much of Aboriginal culture is fatal to progress. New Zealand has had a treaty (Waitangi) between the Maori and the New Zealand state since

1840, and dedicated Maori seats since 1867. And yet, intergenerational dependence is rife among Maori. Maori women, for example, are far more likely than non-Maori women to be on a benefit and to have children while on a benefit.

Constitutional or, indeed, non-Constitutional recognition does not ensure good policy, but it would make it harder to achieve the abandonment of bad policy. Identity politics is at the heart of bad policy. It makes more difficult the necessity to escape bad culture, and it encourages the tendency to blame others.

If other than the minimalist case is proposed, I will support the No case in a referendum. Indeed, I have shifted ground, minimally, in the last two years. If the proposition to remove the word *race* from the Constitution were offered, then I would insist on removal of the Commonwealth powers to make laws for Aborigines.

For the betterment of Aborigines, it is time to smash the industry.

Anthony Dillon

Institute for Positive Psychology and Education, Australian Catholic University, co-editor of In Black and White (2013) and contributor to Recognise What? *(2014)*

Good evening. I've got twelve minutes. Seven minutes of that was going to be a Welcome to Country but our MC has hit that on the head.

I don't outright oppose constitutional change, nor am I a fan of it. But I do want to give some random thoughts about it. Certainly, I support a simple statement somewhere that acknowledges that Aboriginal people were the first people in this country. I don't have a problem with that. I certainly support a change that would eliminate or prevent racist laws or acts occurring, so I think that's good. When it comes to culture, which I'll talk about a little bit shortly, I think there's a problem there.

Let me just say at the outset there are some Aboriginal people who see constitutional change as an evil monster, and they oppose and slander any of the Recognise group. I oppose those who are so viciously attacking the Recognise campaign. They do not do any favours for the Aboriginal people. Having said that, I'm not a big fan, and I will explain why.

What is Aboriginal culture? It does get a bit grey as to what exactly is Aboriginal culture. Gary has touched on some of the bad bits. A more fundamental question: What is Aboriginal—who is an Aboriginal person? For someone whose great-great-grandfather was Aboriginal, do they count as Aboriginal? So you have those sorts of problems when it comes to culture. Kerryn Pholi in Gary's book gives an excellent example of why culture is a problem. For example, if a couple of a black and white union have a child, and that relationship breaks down, you then have one parent with Aboriginal ancestry getting, on cultural grounds, a whole lot of advantages about rights to that child, and that child must be raised in that culture blah blah, and that sort of thing.

One of my major concerns with constitutional recognition is that there are people out there, an army in fact, who have said we as Aboriginal people cannot move on, or we as a country

cannot move forward together, we cannot address the problems, unless we acknowledge history and acknowledge that we are the first people here. I think that sends a very disempowering message to Aboriginal people. First, there are many thousands of successful Aboriginal people in this country, and they've done what they've done without constitutional recognition. And to achieve their success they've basically followed the same rules that apply to every other citizen of Australia, and I'm going to read those rules out now. The rules for success, and these can happen without fiddling with the Constitution, are:

- • First of all, don't segregate yourself from society.
- • Treat others with respect and see them as equals. You're not special.
- • Pursue an education, whether it be formal or informal.
- • Make valuable contributions to the community in which you live.
- • Be a role model for others to emulate.
- • Don't try to make yourself feel good by making others feel guilty.
- • Make healthy choices and adhere to a personal moral code.

Now I readily acknowledge that those rules are easier to follow in some environments than others. If you're living in a remote ghetto it is very difficult to adopt those rules, but that's another issue for another time.

There are some people who say, "OK, you can have advancement without constitutional recognition, but it's the right thing to do anyway, so for that reason it should be done." I'm reminded of the apology by Prime Minister Kevin Rudd. It was done because it was considered by many to be the "right thing" to do. I think it created more problems than it was meant to solve. I admit that if it is the right thing to do and we do it, and things work out and it creates greater unity in this country and empowers Aboriginal people, I will gladly say it worked, and I was wrong. However, if it doesn't work, and I suspect it won't, I would then like to say, "OK, can we now get on with the business of getting kids into school, adults into jobs, ending the violence and dysfunction, all that sort of thing?" That's got to be a question right at the front of discussions of constitutional recognition. Will it make better, more vibrant communities, and happier, healthier people? I don't see how it will do that.

Now, the people that have gone to Uluru this week, and have had these dozen or so meetings around the place, they have been saying any change has got to be more than symbolic. It's got to be substantive. I agree, so it's good to hear them say that. However, my concern is that whatever change they are talking about, you do not need some sort of constitutional recognition meeting at Uluru or anywhere else to do that, that can happen right now, just under the normal processes and laws of the country. Many successful Aboriginal people have come from privileged backgrounds like myself, some from less privileged backgrounds like my father and his family, and they have succeeded without constitutional recognition. So it's good to be thinking in terms of substantive things, but why tie that to constitutional recognition?

The other issue, which was touched on briefly before, is what would the next step be? Bill Shorten was quoted today saying this would be the next step or the gateway to a treaty. Gary has already spoken about that—that would be a huge problem. It comes back to the question I asked about who is Aboriginal. Who is this treaty going to be between? What would it look like? It'll be a lawyer's picnic. And, again, there are many successful Aboriginal people in this country who have got to where they are without a treaty.

I think one of the driving forces—and this will sound cynical—among the treaty camp and the recognition camp is that a treaty or recognition is just another attempt to validate individuals' Aboriginality. That's what they are wanting, just further evidence that "I am Aboriginal, you're not; I am special, you're not." I think that's what a lot of them are in it for. They've lost sight of the real issues, but the real issues can be dealt with, and have been dealt with in some places, but we need to do a lot more. In a letter I had published in the *Australian* this week I said that if recognition, or a treaty for that matter, does not answer the problems of getting kids into school, adults into jobs, that sort of thing, then it just becomes a distraction from the real work.

To do the real work will mean making unpopular decisions. For example, just off the cuff, how do you help those indigenous people who are living in remote communities in squalor? A treaty or recognition is the perfect distraction from addressing the tough issues which often will ultimately come down to the other R-word, *relocation*—relocation from unsustainable run-down communities.

The lefties and others don't like to talk about issues like relocation. They like to think of Aboriginal people "living on country", on the land.

We should never lose sight of the serious problems facing Aboriginal people. If we get on top of those problems, if we get kids attending quality schools, good attendance, the unemployment rates will go down, and the rates of violence and child abuse will go down. After we get those things fixed, fine, then let's talk about those symbolic things.

Chris Kenny

Associate Editor of* The Australian, *host of* Heads Up *on Sky News, former chief of staff to Foreign Minister Alexander Downer and Opposition Leader Malcolm Turnbull, author of* Women's Business *(1996) and contributor to* The Forgotten People *(2016)

I'm here to argue my case in favour of indigenous recognition so I figure a lot of you will be opposed to my views. So it's kind of like me appearing on *Q&A* arguing in favour of strong border protection or scepticism on climate change—*Q&A* in reverse.

As a rule, I think that symbolism and emotionalism in policy making and legislation are to be avoided. What we need is rational thought and pragmatism. Having said that, I think in the interests of reconciliation in this country—whatever that means to all of us individually—if we concede that there is any sort of a schism, at least of disadvantage, between indigenous and non-indigenous Australians then we ought to look sometimes at emotionalism and symbolism playing some sort of role in allowing Australians to work together, strive together and govern together. There is a role for some emotional input, some hand of friendship across the divide, no matter what over-claiming goes on in this area.

But even if we go back to my first premise of pragmatism and rational thought, we face a situation in this country where both major parties are committed to indigenous recognition. They are not going to stand back from that. Some of you will disagree with the Coalition

going down that path, but none other than John Howard started that process. It was endorsed by Tony Abbott. So the practical situation is that you have major party consensus for some sort of recognition, and I think there's a public expectation that it will occur. There's certainly an indigenous expectation, and I think it's a worthwhile thing to do if it's sensible, if it's final, and if it resolves these issues of recognition. I hear you laugh, but I think it's a proviso, a big proviso, because this needs to be a settlement of the indigenous question in the architecture of our nation. If it's not, then it's not worth pursuing. If it leads to renewed calls for a treaty, for instance, then forget it.

So I suppose the good news for all of you who oppose this proposal is, it isn't going to happen in a hurry. I don't think the gathering at Uluru over the next few days is going to arrive at any sort of consensus position on its own, let alone one that's going to be acceptable to the rest of the country. So I think this debate we're having is going to go on for a while longer. And I think that's a good thing. Some of you will think it's a good thing because it will run into the sand. But if you think it's worthwhile pursuing this end, at least it's going to be thrashed out in detail until there is some sort of sensible outcome.

We've heard tonight about the extremes of debate. You have a minimalist position which a lot of people reject because it might be just a recognition in a preamble. You have also the over-claiming—as I would characterise it—of going for a treaty. I tend to look for some middle ground. I've been attracted to the Noel Pearson idea that Gary has dismissed. It can be reworked. It's an idea that has already been modified to a degree. It was initially opposed by Warren Mundine but he's now put up a kind of a modification that is not a bad option.

When you think about our Constitution, it gives us the architecture of this nation, and it is essentially six colonies getting together. Some were founded in similar ways, others were quite different. As a South Australian, I'm well aware of how different the colony of South Australia was from the rest of the nation. And when they came together, it was essentially six peoples coming together under a constitutional architecture for the common good. I think if we did that today we would include in some shape or form the people who were overlooked at that time, and that is indigenous Australians, who were here before European settlement. I think today's sensibilities would see us include indigenous Australians in some way, recognise them in the Constitution. I think it can be a worthwhile thing to do.

I don't deride where we were at the time of Federation. We too often overlook what were very enlightened procedures, policies and pieces of legislation in their time—the fact that indigenous Australians in South Australia, Victoria, other colonies too I think, had a protector or a protectorate looking after them. We might see this as patronising now but it was at least a recognition of care, responsibility and shared humanity. Crucially, one simple fact that might astound many Australians—we should all know this but I seldom hear people talking about it—but when you think about a place like South Australia that gave women the vote in 1894 it is worth remembering too that indigenous Australians had the vote in South Australia. So indigenous women living in outback South Australia had a franchise that European women would be fighting for decades to achieve. That's quite a remarkable thing, and it's those sorts of positive aspects of our constitutional history that we should embrace.

But with that sort of background and that justification, I think we need to protect the Constitution. I think some constitutional lawyers have suggested a preamble could be open to over-interpretation. I think the claim for a racial non-discrimination clause is a problem because it would embed a very limited and very elite bill of rights into the Constitution—

what about everybody else's rights?—so I am opposed to that. Other little constitutional tidy-ups of redundant and race-based sections are proposed that most people agree with.

You have heard discussion tonight about whether or not indigenous Australians are special. Well, they are special in that they were here first. This is recognised as a fact of law under *Mabo*—they have native title rights—and this is currently regulated under section 51 of the Constitution which details the federal powers. So any constitutional change needs to maintain those powers. I disagree with Gary. I understand his sentiment but I think the federal government needs to maintain those powers if for no other reason than to oversee native title, not to mention the indigenous heritage laws (which have been a problem as we saw at Hindmarsh Island—but I won't go down that path). Still, I think we need to see Canberra maintain that power.

So what Noel Pearson and others have put up is essentially having some document of recognition or statement of national values that recognises indigenous heritage, British institutions and our migrant bounty. It would be one document we can all unite behind, outside of the Constitution. Then, simply, we would ensure the Constitution mandates an advisory body that advises the government on matters that it has the powers to legislate on in indigenous affairs.

Now I see you shaking your heads. At the moment we have an indigenous advisory body. The previous government had one. And the one before that. It's unthinkable in the modern age that a federal government legislating on indigenous affairs would not have an indigenous advisory body. So this is why in many ways Noel Pearson's ideas of mandating such a body is really not radical at all. You can argue all you like about who's appointed to that body, who's elected to that body, who it represents, and that's where you get into the nitty-gritty. But the idea of mandating an advisory body to the parliament on the issues it clearly has the power to legislate on in indigenous affairs is a substantial change, a meaningful change, and leaves the Constitution intact. Those other issues, the symbolism, healing and poetic statements of national intent, can be dealt with outside of the Constitution.

Warren Mundine's proposed modification is just to ensure that local indigenous groups are used to formulate this national advisory body; so that local indigenous groups can put their views to the government rather than one great national body which might sound a bit like ATSIC. So it's a useful idea. We should keep talking about it. Practical reconciliation is much more important than symbolism. But to the extent that a change like this could aid in that process it is worthwhile that people of good faith continue the discussion and debate.

Keith Windschuttle

Author of The Fabrication of Aboriginal History, Vols 1 and 3 (2002, 2009), The White Australia Policy (2004), and The Break-up of Australia (2016)

The Aboriginal urban political class has a clear agenda which, so far, few people want to discuss publicly. When members of this class discuss constitutional recognition among themselves in books, academic papers, and speeches to Aboriginal conferences, they don't say, as Tony Abbott did as Prime Minister, that their aim is to make the Constitution complete or the nation whole. Indeed, ever since their success in gaining native title in 1992,

they have sought to go one big step further. As well as getting their land back they now want to get their country back too. As the title of a recent book by Aboriginal academics Megan Davis and Marcia Langton says, "It's *Our* Country" (their emphasis).

To these activists, recognition of Aborigines in the Constitution would simply be one more step towards their real, long-term objectives: political autonomy, traditional law and values, and sovereignty over their own separate state or nation.

They see themselves as "first peoples" and "first nations" whose ancestral status gives them ownership and jurisdiction over Aboriginal land. They do not regard the existing Australian nation as their true country. They describe the Australian nation as no more than a recently arrived "settler state" whose rule, according to Aboriginal film-maker Rachel Perkins, they have endured with a "burning resentment" ever since 1788.

While the concept of sovereignty has been absent from the mainstream media's reporting of constitutional recognition, it has long been the principal objective of the Aboriginal political class, right across its spectrum—from gradual reformists to radical agitators. They argue that because Aborigines never ceded sovereignty in the colonial era, because they signed no treaties and were never actually conquered, as the first land owners they remain the Australian continent's sovereign people.

They claim that, in restoring land rights in the *Mabo* decision, Australian courts recognised that traditional Aboriginal society was governed by its own laws. The existence of a legal system, they say, logically entails the existence of Aboriginal sovereignty which was supposedly never extinguished by the British Crown's own declaration of sovereignty in 1770.

There is nothing new about the demand for sovereignty. The concept dates back to the 1970s and to the Aboriginal Treaty Committee, a body of white Canberra activists led by former Reserve Bank head Nugget Coombs.

Since then, all major federal bodies of Aboriginal people have supported this objective. In 1982 the National Aboriginal Conference declared: "we assert our basic rights as sovereign Aboriginal nations who are equal in political status with the Commonwealth of Australia in accordance with the principal … that sovereignty has always resided in the Aboriginal people". In 2012 a survey by the National Congress of Australia's First Peoples, the successor to ATSIC, found 88 per cent of its members identified constitutional recognition and sovereignty as the top priority of Aboriginal people.

Over this time, the supporters of sovereignty have included the well-known Aboriginal identities Pat Dodson (now Senator Dodson), Marcia Langton and almost every Aboriginal academic who has written on the subject, including all our professors of indigenous law and indigenous studies, who are now the most radical of the lot.

It also includes the more politically astute Aboriginal identities, Warren Mundine and Noel Pearson, who want separate statehood for their own "first nations", that is, the territory of the clan from which they claim descent, in Mundine's case the Bundjalong nation, in Pearson's, the Bagaarrmuju and Yalanji nations. Rather than one big Aboriginal state, Mundine and Pearson both want constitutional recognition so the Commonwealth can negotiate separate

treaties with each individual "first nation" on its own land, giving each its own internal self-government and its own laws based on their ancient customs and traditions.

So what the Aboriginal political class want to gain from a constitutional amendment is endorsement of a statement recognising their prior occupation of the continent and the survival of their ancestral languages and culture. They believe they would then be able to successfully argue for sovereign status before a friendly High Court.

Australia's conservative political leaders have gone along with constitutional recognition without being aware of its full implications. As Prime Minister Tony Abbott argued: "We have never fully made peace with the first Australians. Until we have acknowledged that we will be an incomplete nation and a torn people." His objective in holding a referendum was not to change the Constitution but to *complete* it, so that we can make our country "whole".

In saying this, Tony Abbott provided the bipartisan support that is essential for any constitutional change in Australia to succeed. This doesn't mean, of course, that it will inevitably succeed, as John Howard found in 1999 when his similar proposal was rejected by the electorate. But it does remove the most formidable potential barrier.

Will the Australian voting public today support this kind of minimalist position? To date, opinion polls suggest that now they will. In May 2015, the government-funded body Reconciliation Australia found in an opinion poll that 75 per cent of all Australians and 87 per cent of Aboriginal and Torres Strait Islander people would vote Yes. Even two-thirds of Coalition supporters would vote Yes.

Of course, with no text of the amendment available at the time, these are only speculations, but they indicate what is possible if Recognition remains unchallenged. The voting public will see a minimalist constitutional amendment, which says the Aborigines got here first and they love their country, as a courteous symbolic gesture with no real consequences.

However, in the minds of the modern High Court it would send quite different signals. The first role of the High Court is to interpret the Constitution and if the people voted to amend the Constitution it would immediately open up the opportunity for the judges to re-examine all the constitutional consequences of the Commonwealth government's power to make laws for the Australian people. In particular, it would sanction adventurism among judges of that inclination. The fact that the amendments were approved by a significant majority of the Australian people would tell them the national mood had changed in favour of amending laws and policies too. This would be so, whether the amendment is made to the Constitution's existing provisions or even just to its preamble.

The amendments' emphasis on original occupation and continuing relationships with land, water, culture, heritage and language would not just entrench existing concepts of land rights. They would also tempt judges to accept the more radical propositions long argued by the Aboriginal political class that they remain the true proprietors of the soil and that those of us descended from the more recent settlers need to re-negotiate our right to be here.

Some judges with a more international perspective could combine these sentiments with directives derived from Australia's obligations under the growing number of United Nations treaties, covenants and, in particular, the UN's declaration of indigenous rights, which was largely written by the Australian activist Mick Dodson, and endorsed by Prime Minister

Kevin Rudd in 2009. Some Aboriginal activists even want the legitimacy of Australia's occupation of the continent to be reconsidered.

In short, if a minimalist constitutional amendment of this kind was passed, the demands of the Aboriginal political class would very likely be met in substance. The High Court could decide that crucial sections of the Constitution should be reinterpreted anew. Even the more cautious members of the court could be emboldened to join this process if they had a constitutional amendment that demonstrates that the values of the Australian people have changed, which is what a successful minimalist amendment would do.

There is a direct international precedent for all this. In 1982 Canada changed its constitution on minimalist grounds, saying merely (i) "the existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed", and (ii) "The Aboriginal people of Canada are defined to include the Indian, Inuit and Metis (mixed race) peoples of Canada." The Canadian political scientist Tom Flanagan points out that this minimalist amendment has effectively transferred the power to make indigenous policy from provincial and federal parliaments to the Canadian Supreme Court, which has given the more than 600 Canadian tribes, now known as "first nations", not only land rights and fishing rights but the legal status of nations in their own right, with their own sovereignty and self-government. It has given the Canadian Inuit people a self-governing state of their own, Nunavut (the former North-West Territories). In 2000, the National Chief of the Assembly of First Nations declared, "I am not a Canadian", and that all of Canada still belongs to the first nations. This is not a precedent that leads to reconciliation or the healing of national divisions. It only makes them much worse.

What the Canadian model also shows is that the more vague and minimalist a constitutional amendment is, the more power it would allow the Australian High Court to make policy. If that occurred, policy would be decided not by democratically-elected representatives or the traditions of the common law but by a High Court influenced by the demands of the Aboriginal political class and the interpretations of our past by left-wing academic historians and anthropologists.

If there was a supportive government in Canberra, like the Keating Labor government in 1993, which legislated the High Court's *Mabo* judgment into effect, or a now-very-likely Shorten government in 2019, then the Australian people would have little say in the establishment of a sovereign Aboriginal state or states, in the internal operation of their governments, in the compensation due to them, or in the precise status of their relationship with the Australian Commonwealth.

So, to conclude: What is to be done about the proposed constitutional referendum? In my view, those of us concerned about the issues I have discussed here, should have a minimalist demand of our own. If the Commonwealth does go ahead with the referendum, it should at least address something that is not yet on the table: it should publicly fund and properly publicise a fully investigated, well-articulated case for voting No.

Senator David Leyonhjelm questions if Aboriginals were first occupants of Australia; says it would be 'bizarre' to put into constitution

By political reporter Louise Yaxley
Thu 25 Jun 2015

Photo: Senator David Leyonhjelm said if there was any doubt about whether Aboriginal people were the first occupants of Australia then it would be "bizarre" to put it into the constitution. (AAP: Lukas Coch)

Liberal Democrat senator David Leyonhjelm says there are doubts about whether Aboriginal people were the first occupants of Australia.

"There are some anthropologists who argue that," he said this morning, when asked his view on a referendum to recognise Aboriginal and Torres Strait Islanders in the constitution.

Senator Leyonhjelm cited the cave art known as the Bradshaws or Gwion Gwion in the Kimberley in Western Australia, although he mistakenly said they were in the Northern Territory.

"There are some anthropologists around who say they are so distinct from more recent Aboriginal cave paintings, that they suggest that there was a previous culture ... to the Aborigines," he said.

"Now I'm not saying that's true or not, I'm not an anthropologist and I don't necessarily accept that, but the fact that there is even a doubt raised about it would suggest to me that it is not necessarily a good thing to put in the constitution."

A joint select committee has today called for a referendum to be held to recognise indigenous people.

Senator Leyonhjelm said there was a serious debate in anthropological circles as to whether or not the Aborigines were the first culture in Australia.

"It's not something on which I'm taking sides, all I'm pointing out is that if there is any doubt at all then you have to say, well, why would you put history into the constitution under those circumstances?"

"It has not been done before — we don't put history about other things into our constitution. Why would you go there?

"Let historians and anthropologists fight it out. In 100 years' time, perhaps there will be more evidence to suggest one was right and one was wrong.

"But if there is any possibility, [if] there is any doubt about it, then it would be bizarre to go putting it into the constitution."

Labor senator and Indigenous woman Nova Peris was deputy chair of the committee that called for the referendum to recognise Aboriginal and Torres Strait Islander people.

"That opinion deserves no recognition," Senator Peris said. "In fact, he should put his head back in the sand.

"We've been here since more than 40,000 years. If he wants to go have a fight with scientists and anthropologists then that's where he needs to take that fight up."

‘Right wrongs, write Yes’: what was the 1967 referendum all about?

May 26, 2017

Author Russell McGregor

Adjunct Professor of History, James Cook University

At a demonstration, Faith Bandler (right) and her daughter Lilon (2R) appeal to national unity as grounds for constitutional amendment. Aboriginal Studies Press

On May 27, 1967, campaigners for Aboriginal rights and status won the most-decisive referendum victory in Australian history.

The referendum attracted more than 90% of voters in favour of deleting the two references to Aborigines in Australia’s Constitution. Campaigners for a “Yes” vote successfully argued those references were discriminatory and debarred Aboriginal people from citizenship.

Ever since, and as we approach the 1967 referendum’s 50th anniversary, it has been popularly remembered as the moment when Aboriginal people won equal rights – even the right to vote. In fact, the referendum did not secure those outcomes.

By 1967, all Aboriginal adults already held the right to vote in federal, state and territory elections. Racial discriminations had been removed from the statute books at the federal level and in all states and territories except Queensland, Western Australia and the Northern Territory. And even those three laggards were moving toward legal equality.

So what was achieved?

Constitutionally, the 1967 referendum secured the amendment of Section 51 (xxvi) and the deletion of Section 127.

The former section specified the federal parliament could make laws with respect to the:

… people of any race, other than the Aboriginal race in any state, for whom it is deemed necessary to make special laws.

The words “other than the Aboriginal race in any state” were deleted.

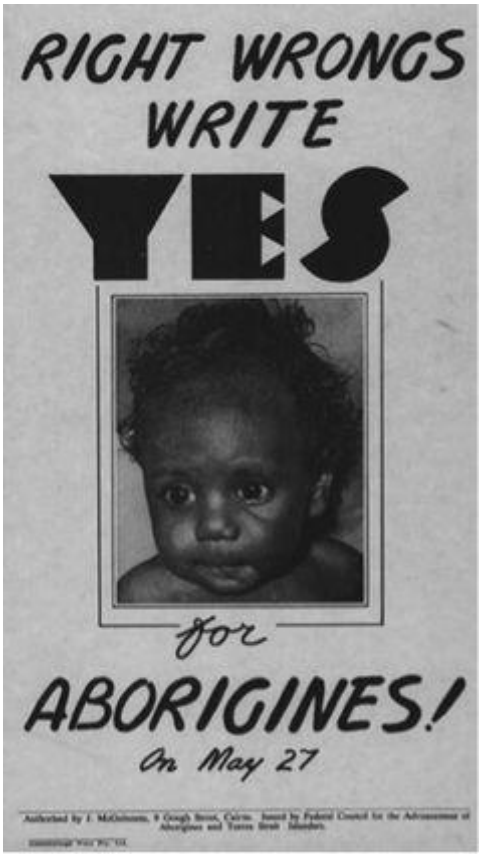
The latter section stipulated that in:

… 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.

Neither section prevented Aboriginal people from exercising the same legal rights as other Australians. The rights of Aborigines were abridged not by the Constitution, but by laws enacted by federal and state parliaments.

Two days before the referendum, the Sydney Morning Herald published this photograph above the caption: 'Racial discrimination – what's that?' Sydney Morning Herald

How was the campaign run?



Campaigners for a "Yes" vote, however, told a different story. They insisted constitutional change was a necessary precondition for Aboriginal equality. Yet the campaigners' ambitions went beyond legal equality. They sought the inclusion of Aboriginal people as respected members of the national community. This had been a principal goal of Aboriginal and pro-Aboriginal activists since the early 20th century.
The 1967 referendum was the culmination of a long struggle for rights and respect, for social esteem as well as equality before the law.
Accordingly, publicity material for the "Yes" campaign did not focus narrowly on the legal implications of constitutional change. More often, it exhorted Australians to welcome Aboriginal people into the fellowship of the nation. As the opening line of a popular campaign song ran:

Vote "Yes" for Aborigines, they want to be Australians too.
Effectively, the proponents of a Yes vote transformed what could have been a dry, legalistic tinkering with the Constitution into a plebiscite on Australian nationhood.
In achieving this transformation, the campaigners held an unusual advantage. Uniquely among Australian referendums, for the 1967 question on Aborigines there was no campaign for a "No" vote. And even the government broke with convention by providing, in the

official advice to voters, only the case for “Yes”. Consequently, campaigners could talk up the importance of the changes they advocated virtually unrestrained.
New South Wales campaign director Faith Bandler told voters:
When you write Yes in the lower square of your ballot paper you are holding out the hand of friendship and wiping out nearly 200 years of injustice and inhumanity.
Hyperbole of this kind is not unusual in political campaigns. What was unusual is that there was no organised opposition to contest the claims of the Yes campaigners, or to counter them with equally extravagant rhetoric for the negative.
Much of the publicity material for a Yes vote was couched in broad terms of rectifying past wrongs. Gordon Bryant Papers/NLA
The lack of a “No” campaign undoubtedly boosted the “Yes” vote. It was equally important in shaping remembrance of the referendum.
Lacking an opposition, the “Yes” campaigners had a virtual monopoly on the narratives about what the referendum meant. Their expansive conception of the referendum as a plebiscite on nationhood prevailed.

A symbolic win
The triumph of the “Yes” vote was primarily a symbolic victory. It did not win rights for Aborigines, and the government of the day did not utilise the extension of Commonwealth powers secured by amendment of Section 51 (xxvi). Nor did Gough Whitlam’s government after it came to power in 1972.
Whitlam did, however, invoke the resounding “Yes” vote of 1967 as a moral mandate for change in Aboriginal affairs.
Symbolic victories are important. Shortly after hearing of the massive “Yes” majority, veteran Aboriginal activist Pastor Doug Nicholls proclaimed it was:
… evidence that Australians recognise Aborigines are part of the nation.
As Nicholls knew from three decades of involvement in Aboriginal politics, recognition of his people as part of the nation was a hard-fought achievement.
Regardless of its slight legal consequences, the 1967 referendum was an important event in Australian history. It was a symbolic affirmation of Aboriginal people’s acceptance into the community of the nation.
Yet the referendum affirmed only the broad principle of national inclusion. On how that principle should be translated into practice – on the terms of inclusion – the referendum was silent.

COMMENTS
Steve Chivers
“… 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.” Wow. Is there any rhyme or reason for this, or was it just blind and blatant racism? It took until 1967 to recognise human beings (oh, sorry… the ‘natives’) in our concensus. When was slavery abolished? Mid 1800s? We like to claim how progressive we are with women’s rights etc, what a load of shit. Even today I know white Australians who still use derogatory terms to refer to the ‘natives’. They must think it unfortunate that the ‘natives’ are still lingering around…

Daryl Adair
Associate Professor of Sport Management, University of Technology Sydney

In reply to Steve Chivers
Hi Steve,
Russell has done a very fine job here, but inevitably 800 words can't cover everything in detail. These resources may be helpful should you wish to explore further:
Ron Sutton, "Myths persist about the 1967 referendum"http://www.sbs.com.au/news/article/2014/03/10/myths-persist-about-1967-referendum
Bain Attwood and Andrew Markus, "The 1967 Referendum and all that"http://www.kooriweb.org/foley/resources/pdfs/61.pdf
National Archives of Australia, "The 1967 referendum – Fact sheet 150"http://www.naa.gov.au/collection/fact-sheets/fs150.aspx
Cheers, Daryl

Warren Mayocchi
In reply to Steve Chivers
You might be thinking of the American civil war for the date of mid-1800s as the end of slavery. Australia made use of "kanakas" and "coolies" in the sugar farming industry, often using blackbirding recruitment well beyond that date. With the White Australia policies of the early 1900s (in particular, the Pacific Island Labourers Act 1901) Australia began to cease the practices. There were arguments it would make the industries unprofitable, but there were also concerns of the "imported" darker skinned people becoming dominant (through breeding or numbers I expect). The White Australia policies were gradually deconstructed up until 1974, so I expect there are people alive today who lived within a substantially different culture to that of current days. Have a look here for some details:
http://www.border.gov.au/about/corporate/information/fact-sheets/08abolition
john kersh
Most of us 'whitefellas' working on remote communities of northern Australia round '67 & thus very aware of the frailties of community members who were mostly one generation out of the desert & not the urbanised people most voters are familiar with ,regarded the granting of equal rights as 'a permit to poison themselves '. Governments nor society saw any need to put in place measures that would protect them from themselves .The core leadership group of the newly established (mid 70's) Mulan community on Lake Gregory was basically my former 'stock camp ' members (Rex Johns, Bruno Gookaman , Ronnie etc) ,yet their desire to declare themselves a "grog free community " was disallowed as it was in breach of the new laws . Some of them maintained their own pledge but regardless ,I am deeply moved when I observe a beautiful photo of that group of fine statured ,healthy young men ,on Christmas day 1967 ,(all of whom were 10 + years younger than myself) are all deceased . Even today there is less to celebrate when one has to endure the outrageous levels of suicide amongst their children & grandchildren. Regards John

Victorian farmer fined $20,000 for harming Aboriginal artefacts

RIAHN SMITH, The Weekly Times
March 29, 2017

IN A landmark court ruling, a Victorian farmer has been fined $20,000 for knowingly harming Aboriginal cultural heritage.

The case has drawn criticism from farm leaders over the high cost of obtaining cultural heritage management plans to protect Aboriginal artefacts.

Victorian Farmers Federation president David Jochinke said the conviction demonstrated the regulation around compliance with the law was prohibitive for farmers.

Wahring farmer Alan James Tweddle, 75, pleaded guilty in the Seymour Magistrates Court last week to causing harm to Aboriginal cultural heritage by extracting sand from a quarry on his mixed operation farm.

It is the first prosecution of this kind since the Aboriginal Heritage Act came into effect in 2006.

The court heard that between December 16, 2010, and November 29, 2011, Mr Tweddle mined 3154 cubic metres of sand, despite knowing he was in breach of the Aboriginal Heritage Act.

Aboriginal Victoria inspectors had visited Mr Tweddle's property in June and September 2009 and found items of Aboriginal cultural heritage, including stone artefacts, at the quarry, which is recognised as an Aboriginal place under the heritage legislation.

On their second visit, Mr Tweddle showed inspectors a plastic box containing several of the stone artefacts he had removed from the quarry.

Mr Tweddle was advised on at least three occasions he needed a cultural heritage management plan to extract sand from his property, but did not obtain one after being quoted $20,000 for the document's preparation.

The court heard there was no record of Mr Tweddle ever being granted permission to extract sand at the site.

An archaeological team that assessed the property in December 2014 reported "the quarrying activity resulted in significant alteration to the natural landscape, with sandy rises being removed or truncated through excavation resulting in flat, benched surfaces in stark contrast to the surrounding area".

The team also found 28 Aboriginal objects had been disturbed from their original place and several broken.

The court heard the damage to the property meant not only that information regarding the age of the landform and the artefacts could not be determined, but that it had also "severely jeopardised the ability of the traditional owners to protect, understand and renew their cultural affinity with the landscape".

Mr Tweddle told inspectors he thought the quote he had received for a cultural heritage management plan was "crazy", and that he had laughed at the cost.

He told them he was a "busy farmer" and that he had been in "big trouble" after the drought and was not going to stop extracting sand "over a little bit of red tape".

Mr Tweddle pleaded guilty after 189 other charges were withdrawn.

Lawyer Brian Birrell told the court his client acknowledged he had caused harm to the site, but argued he was not solely responsible for the damage.

He said Mr Tweddle's father and grandfather had been extracting sand from the site since the family bought the property in 1930.

Before that, he told the court, it had been ploughed, cropped and grazed by the original settler family.
Mr Birrell argued it would have been impossible to determine what extent of the damage his client had caused.
Magistrate Ian Watkins said Mr Tweddle's behaviour reflected a lack of understanding of Aboriginal heritage and culture and said the era of regarding such regulations as a mere inconvenience must stop.
While he acknowledged Mr Tweddle and his family had a strong connection to the property and were motivated by necessity after the drought, he said the community needed to understand such offending would not be dealt with leniently.
Mr Tweddle was fined $20,000 and ordered to pay costs of about $13,300.
Victorian Farmers Federation president David Jochinke said while he did not condone Mr Tweddle's actions, the case demonstrated how tough it was for farmers to comply with the legislation.
"We always encourage people to go through the proper channels, especially when it comes to overlays, but when the costs are that high it's prohibitive, it's a disincentive for people to do the right thing," Mr Jochinke said.
"In this circumstance, he's gone through the drought and the sand is a big part of his income. There's no defence for his attitude, but I can sympathise with the situation.
"We need to work together with the authorities when it comes to overlays — it would be nice to have a more economic pathway to managing them."
Under the Act, the maximum penalty in a magistrates' court for this offence is $77,730. Had the case proceeded to trial and was heard in the County Court; Mr Tweddle could have been hit with a fine of up to $279,828.

Compiler's questions:

Was this JUSTICE or enforced compliance along the lines of a communist state?

189 charges were dropped, WHY?

It appears that Aboriginal Heritage Act zealots inspected the site and then 'threw the book' at the farmer … something **had to stick** to justify their existence!

The fines are not designed to punish but to destroy!

Please note this; "Had the case proceeded to trial and was heard in the County Court; Mr Tweddle could have been hit with a fine of up to $279,828." Was this just the single offence Mr Tweddle pleaded guilty to or the whole 190 charges?

It also highlights the INJUSTICE of plea-bargaining … plead guilty to one charge and we will drop the others!

Which government enacted the legislation and who were the politicians that supported the legislation?

Was the offences part of the Legislation or 'of bureaucratic enabling regulation'?

CRIME AND PUNISHMENT

The law governing the disturbance of Aboriginal artefacts

Under Section 27 of the Aboriginal Cultural Heritage Act 2006 it is an offence to:
- Knowingly harm Aboriginal cultural heritage by an act or omission
Penalty: Up to $279,828 for individuals and up to $1,554,600 for companies
- Be reckless as to whether an act or omission harms Aboriginal cultural heritage
Penalty: Up to $186,552 for individuals and up to $932,760 for companies
- Be negligent as to whether an act or omission harms Aboriginal cultural heritage
Penalty: Up to $93,276 for individuals and up to $466,380 for companies
"Harm", in relation to Aboriginal cultural heritage, includes damage, deface, desecrate, destroy, disturb, injure or interfere with
"Aboriginal cultural heritage" means Aboriginal places, Aboriginal objects and Aboriginal ancestral remains
Source: Victorian Parliament

Do not support Constitutional change.

VOTE NO

Indigenous recognition in the Constitution will add an element of 'racial exclusiveness' which must be avoided.
It will not change the status or well-being of Indigenous People.

VOTE NO

Comments

@rich 3 days ago
What is the point of OWNING land if aborigines can stop you using it as you see fit? The laws re supposed 'artefacts' are ridiculous, as the people who now claim ownership of them probably had no idea where they were.

Neil 10 hours ago
@rich anyone with experience in this topic will know that there are many Aboriginal people with detailed knowledge of where artefacts, including burial sites, are located in the landscape.

Fred 5 days ago
Why should it be so expensive to obtain these cultural heritage plans. If they are so significant you would think that the cost and system to obtain these plans would be either born by the State Government or set at a level that actually encourages landowners to apply. Having just read the terms and conditions on one RAP's booking form $1000 fee if 48 hours written notice is not given to cancel a site day. $495 just to have a meeting with a RAP. One RAP field rep to every archaeologist, labourer or volunteer. On and on it goes. What happens when under the CaLP Act farmers are directed to rip burrows under a compliance notice. It ends up in VCAT! You can use a disk plough to 60cm, but not a ripping tyne or sub-soiler and how much does it cost to get through VCAT process. In this state we now have cultural heritage overlays on every single creek that extend 200meters into properties from either side of a creek. Rabbits just love it. The farmer is left caught between the directions under the CaLP Act and the requirements of the Cultural Heritage Act. Potentially the creek may have been gazetted in the late 1800's so could well be crown land for the first 30.14 meters, so then you need to call in DEWLP. Is there also an Environmental Significance overlay under the planning scheme or native vegetation that needs to be removed to get to pest animal burrows? Just insane no wonder the rabbits survive so successfully, everyone else is busy in meetings trying to comply with every piece of legislation. But woe is the farmer who complains as says it has gone too far. He is then labelled racist.

Scott 5 days ago
How long does "Man or Woman Other than Aboriginal ", have to own or be associated with a piece of land to lay claim to Cultural Heritage??

Jason B 5 days ago
@Scott 236 years of colonisation vs a minimum of 40,000 years..... I'd say you need to wait at least 20,000 years.

Scott 4 days ago
@ Jason B
Weren't they nomadic?

Neil 4 days ago
Nomadic implies wandering aimlessly which is not true for Aboriginal family groups who moved around their clan territory within boundaries recognised by their

neighbours to harvest seasonally abundant foods. In that system of agriculture it doesn't make economic sense to return to the same place every day.

Tim 5 days ago
Ridiculous
The farming family would have much more affinity with the land than these people claiming long lost heritage in the area

Neil 5 days ago
The thing is, if a farmer was forced off his/her family land they'd be wanting some form of justice too.

Fred 4 days ago
@Neil It has happened all over the world. Holding current society to ransom over things that happened over 240 years ago is quite mentally unhealthy. The world does not stand still and it can't be reversed. The cave man also had an affinity for the land as well as a hunter gatherer, and we all descended from him, white, black, brown or yellow. So on that basis that really doesn't suggest that any more entitlement than the rest of society. I don't see the same stranglehold on claims to previous occupation therefore giving anyone group more rights to dictate what can and can't happen in other countries.

Neil 10 hours ago
@Fred @Neil I appreciate what you're trying to say Fred, but I don't see the current laws as "holding society to ransom". What happened 240 years ago didn't finish then; and the continuing poor health, poverty and imprisonment of Indigenous Australians compared to the rest of the community is well known and documented. The current laws provide the First People with opportunity for a legitimate means of income generation.

Do not support Constitutional change.

VOTE NO

Indigenous recognition in the Constitution will add an element of 'racial exclusiveness' which must be avoided.
It will not change the status or well-being of Indigenous People.

VOTE NO

Opinion

Aboriginal cultural heritage: The high costs of preservation

EDITORIAL, The Weekly Times
March 29, 2017

THE decision in a Seymour court last week to impose a hefty fine on a Wahring farmer for knowingly harming Aboriginal cultural heritage is a lesson for all.

Alan James Tweddle was hit with a $20,000 fine for extracting sand from a quarry on his property that had been deemed an Aboriginal site.

This is the first time the Aboriginal Cultural Heritage Act, made law in 2006, has been used to prosecute anyone in Victoria and so acts as a warning to farmers and landowners alike.

The quarry had been mined for sand, which was then sold or given to sporting clubs across Victoria, for three generations — since Mr Tweddle's grandfather bought the land in 1930.

The damage to the landform and nearly 30 stone artefacts of Aboriginal significance means the cultural significance of the property will likely never be determined.

While respecting the Aboriginal heritage of the land is important and *The Weekly Times* does not condone Mr Tweddle's blatant disregard of the law, this case has made clear that the costs required to comply with the law and obtain the necessary permits and management plans are a significant burden on farmers.

An Aboriginal cultural heritage management plan for Mr Tweddle's property would have cost him $20,000 — money he didn't have after struggling through 10 years of drought.

Such costs for farmers, most of whom don't have that sort of money, is a disincentive to do the right thing.

We need to find a way to work together to make the protection of Aboriginal cultural heritage and farmers' rights to manage their own land, affordable for all.

Aboriginal Provisional Government

From Wikipedia, the free encyclopedia

Aboriginal Provisional Government

Aboriginal Provisional Government logo

The **Aboriginal Provisional Government** (APG) is an Indigenous Australian independence movement.

History

Earlier activity

The idea of an Aboriginal government was developed by some Aboriginal delegates of the Federation of Land Councils at its meeting at JaJa in the Northern Territory in 1990. The Federation was a powerful national body but which pretty much limited its involvement to land issues. Some Federation members felt the Aboriginal cause had to move to another level and the name of any new body should reflect a broader horizon while complementing existing Aboriginal groups. The "Provisional" aspect was included for two reasons: first, this Aboriginal body would foster a transition from white government control to an eventual full blown black national government. Second, the APG was not set up to govern Aboriginal people but to be a political vehicle for self-determination aspirations. Bob Weatherall, Josie Crawshaw, Geoff Clark, Clarrie Isaacs, Michael Mansell, Robbie Thorpe, Kathy Craigie and Lyall Munro Jnr were founding members of the APG.

Charles Perkins' early efforts of freedom rides in NSW and his public arguments with politicians (and his boss at Department of Aboriginal Affairs), affected younger APG members. Perkins' later organization of Aboriginal football carnivals led to Geoff Clark and Michael Mansell first meeting. Development of early APG political thought to move away from Australian government dependence took its roots in academic writings of Kevin Gilbert's Treaty 88, Oodgeroo Noonuccal and Jack Davis's poetry and Paul Coe's litigation for Aboriginal sovereignty in Coe v Commonwealth in 1978.

Foundation of the APG

Word quickly spread about the formation of the APG. The first public announcement of formation of the APG took place at Tranby College, Glebe, Sydney in 1990 run by Kevin Cook. In 1992 the APG held a national meeting at Hobart, Tasmania where an Elders Council was established. Queenslander Joe McGuiness, a strong unionist and campaigner for the 1967 referendum, headed up the Elders Council.

The APG issues Aboriginal passports and Aboriginal birth certificates. Passports are a way of declaring national black identity and are often used by young Aboriginals as an identity document. Birth certificates are issued so that Aboriginal children are not forced to be registered at birth with the white nation of Australia. Jack Davis, a well-known Aboriginal poet from WA, gave APG permission to use part of his poem about an Aboriginal nation. The APG letterhead carries Jack's words at the bottom of the page.
The Australian government shunned the APG after the APG declared it would only meet on a government to government basis, not as a lobby group. Members of the APG eventually met with Prime Minister Paul Keating on native title legislation (as part of the 'B' Team). Michael Mansell had been involved earlier in native title deliberations after he was elected to a representative body by a national Aboriginal meeting of 400 people at Eva Valley in the Northern Territory to protect the Mabo High Court gains. However, Mansell later refused to go with his co-Aboriginal delegates to sign off on the final legislation with Keating because Mansell refused to validate invalid grants. Such validation only targeted Aboriginal native title, while leaving white land interests intact. This was a reproduction of Jo Bjelke-Peterson's attempted anti-native title law which was struck down by the High Court in Mabo. Keating and the 'A' team got around the discriminatory move by suspending the operation of the Racial Discrimination Act.
Deputy Chair Geoff Clark, was elected as national head of ATSIC. Clark advocated within ATSIC for a treaty and found widespread support. His Board established a Treaty committee and published 'Let's Treaty Now'. When John Howard was elected Australian Prime Minister, he immediately made it harder for Aborigines to get native title and sacked ATSIC. The treaty proposal lapsed.
The APG has produced 4 volumes of written materials. Vol. 1 Aboriginal Government; Vol. 2 the national conference; Vol. 3 the Australian Constitution and Vol. 4 Mabo.
The APG argues Aborigines were a sovereign people before the white invasion in 1788 and nothing has changed to remove that sovereign status. By virtue of their status as a distinct people, Aborigines (and Torres Strait Islanders) have the right to self-determination which includes the right to choose their own destiny. That choice is not limited to being subordinate to white policy makers for Aborigines are a people able to take their place among the nations of the world as equals, not as mere citizens of the invader.
The APG acknowledges the range of choices of peoples includes assimilation and self-management through to US type domestic Indian nations, a 7th State of Australia or a completely independent Aboriginal government. As the international law constraint of territorial integrity does not apply to emerging nations, Aboriginals are free to be a partnership with Australia or politically independent of it.
The APG encourages Aboriginal groups to take advantage of reconciliation; land rights, native title or government sponsored programs provided people do not lose sight of their greater entitlements beyond welfare. The APG vigorously opposes Aboriginal advisory bodies arguing white politicians should not be deciding the fate of Aborigines no matter who advises them. The Palestinians would never sit on advisory bodies to Israel, and Aboriginal advisory groups should be seen in the same light. The APG rejected the Julia Gillard/expert panel suggested constitutional changes as a sell-out. The suggestions promoted white superiority (English should be official language whereas in Aotearoa/New Zealand Maori is an official language) and failed to mention at all Aboriginal sovereignty. The APG advocates the words; "Aborigines and Torres Strait Islanders have the right to self-determination" should be inserted in the constitution.

Charles Perkins (Aboriginal activist)

From Wikipedia, the free encyclopedia

This article is about the Australian Aboriginal sports figure and activist **Charles Perkins**

Charles Perkins, approx. 1965, first Aboriginal Australian to graduate from the University of Sydney.
Born 16 June 1936
Alice Springs, Northern Territory
Died 19 October 2000 (aged 64)

Charles Nelson Perkins, was an Australian Aboriginal activist, soccer player and administrator.

Early life and family

Charles Perkins was born in Alice Springs, originally from nearby Arltunga, to Hetti Perkins and Martin Connelly, originally from Mount Isa, Queensland. His mother was born to a white father and an Arrernte mother, while his father was born to an Irish father and a Kalkadoon mother. Perkins had one full sibling and nine other half-siblings by his mother, and was also a cousin of artist and soccer player John Moriarty.

Between 1952 and 1957, Perkins worked as an apprentice fitter and turner for the British Tube Mills company in Adelaide. He married Eileen Munchenberg on 23 September 1961 and had two daughters (Hetti and Rachel), and a son (Adam).

Education

He was educated at St Mary's Church School in Alice Springs, St Francis College for Aboriginal Boys in Adelaide, the Metropolitan Business College, Sydney and the University of Sydney from where he graduated in 1966 with a Bachelor of Arts. He was the first Aboriginal man in Australia to graduate from university. While at university, he worked part-time for the City of South Sydney cleaning toilets.

Public life

The Freedom Ride

In 1965 he was one of the key members of the Freedom Ride – a bus tour through New South Wales by activists protesting discrimination against Aboriginal people in small towns in NSW, Australia. This action was inspired by the US Civil Rights Freedom Ride campaign in 1961. The Australian Freedom Ride aimed to expose discrepancies in living, education and health conditions among the Aboriginal population. The tour targeted rural towns such as Walgett, Moree, and Kempsey. They acted to publicise acts of blatant discrimination. This was demonstrated through one of the Freedom Ride activities in Walgett. A local RSL club refused entry to Aborigines, including those who were ex-servicemen who participated in the two World Wars. At one stage during the Rides, the protesters' bus was run off the road. On 20 February 1965, Perkins and his party tried to enter the swimming pool at Moree, where the local council had barred Aboriginal people from swimming since its opening 40 years earlier. In response to this action the riders faced physical opposition from several hundred local white Australians, including community leaders, and were pelted with eggs

and tomatoes. These events were broadcast across Australia, and under pressure from public opinion, the council eventually reversed the ban on Aboriginal swimmers. The Freedom Ride then moved on, but on the way out they were followed by a line of cars, one of which collided with the rear of their bus forcing them to return to Moree where they found that the council had reneged on their previous decision. The Freedom Riders protested again forcing the council to again remove the ban.
On August 6, 1965, Charles Perkins staged a fake "kidnapping" of 5 year old Nancy Prasad from under the nose of immigration officials at the Sydney airport for the purpose of highlighting the injustice her deportation under Australia's "White Australia" immigration policy. His antic had effect. The newspapers headlined the "kidnapping". Even so, 5 year old Nancy Prasad was taken to the airport again, and deported to Fiji on August 7, 1965.

1967 Referendum

See also: Australian referendum, 1967 (Aboriginals)

In 1967 a referendum was held on constitutional amendments to allow inclusion of Aboriginal people in censuses and giving the Parliament of Australia the right to introduce legislation specifically for Aboriginal people. In the lead up to the referendum Perkins was manager of the Foundation for Aboriginal Affairs, an organization that took a key role in advocating a Yes vote. The constitutional amendment passed with a 90.77% majority.

Public service

In 1969 Perkins began his career in public service as a Senior Research Officer with the Office of Aboriginal Affairs. In 1972, as a public servant, he was suspended for alleged improper conduct after he called the Liberal – Country Coalition government in Western Australia 'racist and redneck'.
In 1981 he was appointed Permanent Secretary of the Department of Aboriginal Affairs, the first Aboriginal to become a permanent head of a federal government department. He served as Chairman of the Aboriginal Development Commission between 1981 and 1984. Throughout his career, he was a strident critic of Australian Government policies on indigenous affairs and was renowned for his fiery comments. Prime Minister Bob Hawke once said of Perkins that he "sometimes found it difficult to observe the constraints usually imposed on permanent heads of departments because he had a burning passion for advancing the interests of his people". Perkins served as Secretary until 1988. A year later he became Chairman of the Arrernte Council of Central Australia.
In 1993 Perkins was elected commissioner of the Aboriginal and Torres Strait Islander Commission for an area of the central Northern Territory. In 1994 he was elected Deputy Chairperson of ATSIC.

Public commentary

On 7 April 2000, Perkins suggested that 'Sydney will burn during the [Sydney 2000] Olympics.' The comment sparked outrage from many quarters. In May 2000 Perkins declared that the Australian Football League and the Australian Rugby League were racist, suggesting that the AFL "acts in a racist manner at the highest level."

Soccer career

Perkins began playing in 1950 with Adelaide team Port Thistle. In 1951 he was selected for a South Australia under 18 representative team. He went on to play for a number of teams in Adelaide including International United (1954–55), Budapest (1956–57) and Fiorentina (1957).
In 1957 he was invited to trial with English first division team Liverpool F.C.. Perkins ended up trialling and training with Liverpool's city rival Everton FC. While at Everton Perkins had a

physical confrontation with the Everton reserve grade manager after being called a "kangaroo bastard." After this incident Perkins left Everton FC to move to Wigan where he worked as a coal miner at the Mosley Common Colliery alongside Great Britain rugby league player Terry O'Grady. Perkins played two seasons for leading English amateur team Bishop Auckland F.C. between 1957 and 1959. Perkins in mid-1959 decided to return to Australia after trialling with Manchester United.[4]

On returning to Australia, Perkins was appointed captain/coach of Adelaide Croatia. At Croatia, he played alongside notable Aboriginal figures Gordon Briscoe and John Moriarty. In 1961 when Perkins moved to Sydney to study at university, he played with Pan-Hellenic (later known as Sydney Olympic FC) in the New South Wales State League where he became captain/coach. He later played for Bankstown and retired in 1965.

He later served as president of former National Soccer League team Canberra City. He was appointed Australian Soccer Federation (a forerunner of the Football Federation Australia) vice-president in 1987 and was the chairman of the Australian Indoor Soccer Federation (later known as the Australian Futsal Federation) for ten years until his death in Sydney in 2000.

Awards and honours

Perkins was awarded Jaycees Young Man of the Year in 1966, NAIDOC Aboriginal of the Year in 1993 and an Officer of the Order of Australia in 1987.[2] Perkins was inducted into the Football Federation Australia Football Hall of Fame for services as a player, coach, and administrator in 2000. In 1998, Perkins was awarded an honorary doctorate of letters by the University of Western Sydney. Shortly before his death, he was awarded an honorary doctorate of law by the University of Sydney. Perkins was named by the National Trust of Australia as one of Australia's Living National Treasures.

In 2001, The Dr Charles Perkins AO Memorial Oration and Dr Charles Perkins AO Memorial Prize were established in his honour by the University of Sydney. In 2009, The Charlie Perkins trust instituted two scholarships per year to allow indigenous Australians to study for up to three years at the University of Oxford.

In 2012 The University of Sydney Centre for Obesity, Diabetes and Cardiovascular Disease was renamed the Charles Perkins Centre in his recognition.

Film and documentary

1993: *Freedom Ride* by Rachel Perkins, Ned R Lander – Australia – 55 minutes
2009: *Fire Talker*
2009: *Remembering Charlie Perkins* 56 minutes 38 seconds

Freedom Ride

Freedom Ride is part of a four-episode documentary by Rachel Perkins and Ned Lander. It tells a chapter of Charles Perkins' life. The Freedom Ride was a bus load of concerned white and black people, most of them university students, who visited several towns in rural and outback Australia to elevate public awareness of racial intolerance in Australia.

Fire Talker: The Life and Times of Charlie Perkins

This film by Ivan Sen uses archival footage from early 1960s to 2001 and builds an intimate and honest portrait of Perkins life bound inexorably with the most dramatic political shifts in Australian Indigenous policy.

Remembering Charlie Perkins

2009 Charlie Perkins memorial oration, Gordon Briscoe recalls Perkins' fight for equality and liberty.

Death
Perkins died on 19 October 2000 of renal failure. During the 1970s Perkins had a kidney transplant and at the time of his death was the longest post-transplant survivor in Australia. In the period immediately following his death, he was known as **Kumantjayi Perkins**, Kumantjayi being a name used to refer to a deceased person in Arrernte culture.
Further links:

http://apg.org.au/passports.php

https://quadrant.org.au/opinion/bennelong-papers/2013/05/the-long-bloody-history-of-aboriginal-violence/

https://newmatilda.com/

http://www.australianstogether.org.au/stories/detail/frontier-violence

https://www.britannica.com/event/Black-War

https://en.wikipedia.org/wiki/Stuart_Macintyre

https://en.wikipedia.org/wiki/History_wars#Stolen_Generations_debate

http://www.smh.com.au/comment/black-armband-view-of-history-necessary-for-healing-20150529-ghculq.html

http://www.heraldsun.com.au/news/opinion/rita-panahi/most-australians-reject-the-black-armband-view-of-history/news-story/b9e90a10af0ba8a4c18e2281a7e80bd2

Sunday, July 19, 2015

What's with Welcome to Country?

BY CHRIS GRAHAM, EDITOR-AT-LARGE OF *THE NATIONAL INDIGENOUS TIMES* | MAR 19, 2010

Forget the wars in Iraq and Afghanistan, the floods in Queensland and Northern NSW, the problems with our health system, the Northern Territory intervention, and global warming. A much bigger problem has emerged: some Aboriginal people have apparently been welcoming other people onto their country.

And it doesn't stop there. Apparently, some politicians have been reciprocating by acknowledging Traditional Owners.

I'm not saying we MUST go to war over this people, but we might like to give it some thought. Piers Akerman certainly didn't, in a column in yesterday's *Daily Telegraph:*

"It has now been revealed that the concept of the welcome-to-country ceremony was made up in Perth by entertainers Ernie Dingo and Richard Walley in 1976, after pressure from visiting Pacific Islander dancers who refused to perform at a festival unless they were welcomed with a ceremony, as was traditional in their own region," Akerman opined.

"Dingo and Walley came up with something acceptable to their Islander guests, *The Australian* reported yesterday."

Dingo and Walley (which I'll admit sounds suspiciously like the start of an Australian joke about two guys who walk into a pub), may well have come up with a modern dance or ceremony to perform for Pacific Islanders, but the question should be, 'So what?' Is Akerman suggesting that Aboriginal culture should not evolve? I was part of a large group that visited Central Australia last month. Some elders from the APY Lands created a special dance specifically to welcome us. Should they have phoned Piers first to check it was OK?

Apparently, if a dance or ceremony has been 'invented' after the arrival of the white man, it's not Aboriginal enough for Akerman. Maybe he prefers his Aborigines in a lap-lap standing on one leg with a spear, like they did in the good old days? On that front, he'd be in agreement with most Aboriginal people, who would return to those times in a heartbeat.

Piers even got upset at the spread of the didgeridoo.

"Welcoming ceremonies, like the didgeridoo, which was originally a bamboo instrument played by groups around the Adelaide River area where the giant grass grew, have migrated across Australia in the past 50 years. The didj didn't even reach the Pilbara until the late 1960s or early 1970s, when the people at Jigalong were taught it by a fellow who played an Arnhem Land repertoire he learnt in the Kimberley.

"As tourists know to their cost, it is now heard in shopping malls around the nation, even in Tasmania where it is as traditional as the dodo."

Right. So according to Piers, anything after, say, the 1970s has no tradition. I suspect that's going to upset the grandchildren of Anzacs, who will now presumably no longer be allowed to march at the back of parades wearing their ancestors' medals, given it's a recent innovation.

Or is Piers only insisting that Aboriginal culture not evolve and develop? It's pretty perplexing logic. But fortunately, we don't have to dwell on it too long, because

Akerman happens to be wrong. Best to let him down gently here… Piers, not everything you read in *The Australian* newspaper is true.

The Maccassans, from Indonesia, were routinely welcomed by Aboriginal people in the north of Australia, when they arrived to trade. This occurred hundreds of years ago. The event was often preceded by ceremony (dance) and gifts.

Aboriginal people have for thousands of years formally welcomed people onto their country. When other Aboriginal nations visited to trade, it was accompanied by welcoming ceremonies. There's nothing new in Indigenous culture on this front — the Maori, for example, call you onto their Marae in a formal ceremony.

It also happens informally, and has for thousands of years. Aboriginal people have always wanted to know where you come from (where's your country) and after you tell them they welcome you to theirs. Indeed, I was in Armidale at a meeting this week when the informal practice occurred. Shortly thereafter, I had a chat with an Aboriginal man who was chuckling at the fact he'd recently attended a function with Tony Abbott, and performed the 'Welcome to Country'.

Abbott reciprocated by personally thanking him for the warm greeting. Must have been one of those "appropriate occasions" Abbott mentioned earlier in the week.

A welcome to country — and the reciprocal "Acknowledgement of traditional owners" are nice, pleasant, polite generous traditions. I'm wondering what sort of person opposes it, and why.

Bev Manton — the chair of the NSW Aboriginal Land Council and one of my current employers — responded to the debate by pointing out that the majority of the Elders who perform these acknowledgements are people who've been most affected by past Government policies.

"They're the Aboriginal people who were removed, or had their children removed; the Aboriginal people who were forced off their land and onto missions and reserves, away from their extended families; the Aboriginal people who were prohibited from practicing their cultural ceremonies and speaking their languages," said Manton.

"Yet after all that's happened to them, our Elders are still prepared to stand up in public and say 'Welcome'. They're showing a generosity of spirit from which people like Tony Abbott could learn a great deal."

Manton also pointed out that from an Aboriginal perspective, a Welcome to Country is a way of healing the past.

"They're trying to put a stop to generational trauma, so that their kids and their grandkids are not left to carry the baggage of past atrocities," she said. "It's about letting go of the anger and hurt that they have held for so many years. It's seen by Aboriginal people as a way of forgiving the past, of moving forward together, black and white. It's also about healing, getting on with their lives and not being caught up in this terrible past that was forced on them."

"It's about forgiveness and moving forward together - black and white. It's an act of generosity. Now what sort of person would oppose that?"

Chris Graham is the Editor-at-Large of the National Indigenous Times *and currently media director at the NSW Aboriginal Land Council.*

Welcomes to country are being foisted on us in error

Keith Windschuttle
The Australian
December 01, 2012

Kevin Rudd's parliamentary apology to the Stolen Generations began with a welcome to country. Picture: Ray Strange *Source:* The Australian

WHEREVER Labor governments have gained power in the past decade, they have made it compulsory for every government instrumentality, and many independent organisations they fund, to begin every public meeting with a ceremonial acknowledgement of Aboriginal traditional landowners.

This ritual is now virtually inescapable, from the opening of state and federal parliaments to writers' festivals, art exhibitions, academic conferences, school assemblies - indeed, anywhere where those in the public sector gather. It is now performed far more frequently than the singing of the national anthem or the raising of the Australian flag.

Yet two decades ago the ritual was unknown. It was introduced without any public debate, let alone public support, and its authors have never been named or their purposes justified. Nonetheless, since the passing of the Native Title Act in 1993, it has been foisted on a mystified public as though it had the sanction of deep indigenous tradition.

I first experienced the ritual at a 1996 conference of the Centre for Cross-Cultural Studies of the Australian National University. The conference was held at James Cook University in Cairns, and its organisers roped in two women elders from the local community to receive the acknowledgement at the opening session.

They looked bemused and embarrassed at being the centre of so much attention, and it was no wonder. *This ceremony is not part of any Aboriginal culture. It is an invented tradition, most probably devised by white academics.*

This is true of both versions of the now-obligatory ceremony: acknowledging traditional owners (performed by white people, even if there are no Aborigines present to hear it), and the welcome to country (performed by Aboriginal people for white audiences).

As recently elected Northern Territory MP and traditional Warlpiri woman Bess Price told a reporter from The Australian last month, these ceremonies were not meaningful to traditional people. "We don't do that in communities," she said.
"It's just a recent thing. It's just people who are trying to grapple at something they believe should be traditional."
Moreover, rather than the acknowledgment of traditional owners being a symbol of reconciliation, many of its utterances are, on any objective assessment, disrespectful. *Those who make them rarely take the trouble to discover the actual name of the local clan, but simply acknowledge nameless "elders" or "the traditional owners".*
I have heard this so many times by so many different people that it is probably unfair to single out Maurice Newman, chairman of the ABC during the five years I was on its board. Over this time, at only one of the many public functions where Newman performed this ritual (in Broome) did he ever mention the name of the local clan. Indeed, at one staff function in Brisbane he acknowledged the traditional owners, "whoever they are". To an Aboriginal elder, such an omission might suggest the speaker's sentiments are insincere.
In other cases, the ritual can appear insulting when the speaker gets the name of the local group wrong. From 2001 to 2007, when he presided over graduation ceremonies, the chancellor of the University of Sydney, Kim Santow, routinely acknowledged the Eora people as the traditional owners of the land on which the university stood.
However, the name of the original local clan was not Eora but Cadigal. Moreover, had Santow consulted the writings of Australia's most scholarly linguist on this topic, Arthur Capell (a former anthropologist at his own university); he would have found that "Eora" was not the name of a clan or social unit but the local word for "people". Hence, throughout his tenure, Justice Santow had been welcoming graduands and their parents to the land of the People people. Fortunately, his successor, Marie Bashir, has since 2007 more accurately acknowledged the Cadigal people.
In February 2008, Kevin Rudd opened the 42nd Australian parliament by hosting a welcoming ceremony by the traditional Aboriginal owners, the Ngunnawal people. Over the past decade, I have been to several functions in Canberra that staged welcome to country ceremonies and/or acknowledgments of traditional owners. In all cases where names were given, the Ngunnawal people were credited as the true landowners.
In his 1974 book The Aboriginal Tribes of Australia, the anthropologist Norman Tindale provided a map that showed the southern boundary of the Ngunnawal group contained the land on which Parliament House now stands. At the time, Tindale's book was the most authoritative on tribal boundaries.
But in 2001, Ann Jackson-Nakano wrote The Kamberri: A History of Aboriginal Families in the ACT and Surrounds. It is a scholarly, respectable work, a 200-page monograph published by the journal Aboriginal History, and the fruit of a huge amount of research. Jackson-Nakano argues persuasively that Tindale got it wrong, as did the local sources on which he relied. Jackson-Nakano argues that the traditional owners of the land where Parliament House stands, and indeed most of the ACT, are the Kamberri people, after whom the first white landowner, Joshua John Moore, named his land grant in 1824. If she is right - and her book is the most thorough analysis I have seen on the subject - the Australian parliament is acknowledging the wrong people. Or at the very least using the wrong name for whoever actually qualifies as the descendants of the local Aboriginal people.

The whole issue has been thoroughly complicated by generations of out-marriage by those of Kamberri descent, plus various claims and counter-claims by rival groups in native title tribunals.

Nonetheless, you would have thought that the federal parliament would have had the resources to research the question properly, and that the PM's office would have ensured they did so, before allowing Rudd to go ahead using the wrong name at the opening of his first parliament.

If Australian academics want to continue inventing Aboriginal traditions, they need to lift the quality of their research. In fact, they would be better off giving away the whole tawdry game. *Most of the white dignitaries who speak these rites are merely going through the motions, and genuinely traditional Aborigines don't recognise or treat them seriously.*

This is an edited version of an article published in the December 2012 issue of Quadrant magazine.

'Welcome to Country' scrapped by Victorian Premier

Aunty Joy Murphy-Wandin
Welcome to Country delivery

Maryjane Fenech ABC 774 (Melbourne) May 19, 2011

On the eve of National Reconciliation Week, Premier Ted Baillieu has scrapped the Labor party protocol which acknowledges traditional Aboriginal land owners and their elders past and present at public events. Do you think the acknowledgement is important or perhaps, a tokenistic?

Wurrundjeri elder Aunty Joy Murphy told Sally she was 'disappointed' about the news and that it had broken during the Indigenous round of the AFL, adding she thought the acknowledgement to the traditional Aboriginal land owners was 'common courtesy.'

Shadow Indigenous Affairs minister Richard Wynne agreed with Aunty Joy telling Sally 'it was never compulsory edict from the former Labor government ... it is simply what Labor governments do', but former Premier Jeff Kennett took a different stance saying 'let's not just do it by rote, where people stand up there and mouth words without any feeling any passion.'

- *29 Jan 2016*
- *Shepparton News*

Responsibility is on all of us

EMBRACE FIRST NATIONS PEOPLES AS PART OF SOCIETY

As the Australian flags, thongs and other paraphernalia are put away for next year, it is appropriate we reflect on the different views about Australia Day, what it means to be Australian and whether January 26 is the most appropriate date to unite the country in celebration.

Australia Day celebrations often do not reflect the experience or embrace the identities of Aboriginal and Torres Strait Islander peoples, many of whom commemorate January 26 as a day of mourning, of invasion and of survival.

So how can we forge a national identity that recognises Australia's First Peoples and allows our nation to embrace what Deborah Cheetham describes as ''the persistence, sophistication and success of Aboriginal Australia''?

Our language is powerful. How we speak about the big issues says a lot about how we are going to tackle things. When we speak about the ''Aboriginal problem'' we are speaking in the language of blame and exclusion.

If we embrace First Nations peoples as an integral part of our society, the ''them and us'' becomes just ''us''.

Aboriginal and Torres Strait Islander peoples' custodianship of this country stretches back almost before time and because of this, Australia is home to the longest continuous cultures in the world — this is something of which we can all be proud. It is cause for celebration. But it places a responsibility on all of us— we can only mature as a nation if we value, understand and embrace this ancient culture and recognise the continuing impacts of white settlement on Aboriginal and Torres Strait Islander peoples and the relationships between us today.

Recognising this helps us move towards meaningful engagement and a more unified society.

There are many opportunities in our local community to find out more about the history of this land and cultures of its First Peoples.

Visit The Flats between Shepparton and Mooroopna and learn about the Cummeragunja Walk-off; drop in to Kaiela Gallery, check out the art and chat with the artists; find out what resources our local library has — there is a good collection to explore; venture out to Rumbalara Football Netball Club and see the Cultural Celebration Wall crowded with stories of leadership, resilience and persistence.

We can all take steps towards the maturing of our nation — after all, it's many such steps that take us on the journey to a reconciled nation that celebrates the uniqueness that is Australia.

Indigenous recognition must scrap race powers in constitution: Shorten

October 25, 2015 10.53pm AEDT

Author

1. 
Michelle Grattan
Professorial Fellow, University of Canberra

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Marking the 30th anniversary of the handover of Uluru to its traditional owners, Bill Shorten reiterated the importance of constitutional recognition of Indigenous Australians. AAP/Dan Peled

Opposition leader Bill Shorten has said that Indigenous recognition in the constitution cannot just be “empty poetry” but must lay to rest “the ghosts of the discrimination” haunting the document.

Its “so-called race powers” were crafted for Australia’s past, he said.

In the Northern Territory for the 30th anniversary of the handover of Uluru to its traditional owners, Shorten said the proposed referendum was very important and reiterated that the change must be one of substance.

“We want to make sure the change is not just symbolic. We don’t need more flowery poetry in our constitution – we just need to be straight.”

The race power refers to Section 51 (26) which gives the Commonwealth the power to make laws for people of any race. There is also an anachronistic reference to race in Section 25.

There is as yet no agreement on the wording of a question to be put to a referendum. The issue is now to be discussed at a series of community consultations. The government is about to announce a committee headed by Patrick Dodson and Mark Leibler – who co-chaired the expert panel for a referendum set up by the Gillard government which reported in 2012 – to further consult on wording and seek consensus.

The former Prime Minister Tony Abbott proposed the referendum should be held in 2017.

Abbott and Shorten were united in support of the referendum but while Abbott wanted to keep the change minimalist, Shorten has been looking for something more robust and is ambitious for an anti-discrimination clause. Malcolm Turnbull has yet to speak on it as prime minister. Those in the Indigenous community believe change must be substantive.

Shorten told the Uluru anniversary concert that it was almost impossible to imagine that for so long white Australians feared the continent’s red centre.

“For Aboriginal people, this land sustained life. Yet we looked upon it as alien, hostile and unforgiving. And we dispossessed and marginalised the people who knew, loved and cared for it.”

Slowly, things changed, he said.

“Our eyes were opened – to the beauty of this sacred place. And to the rights of the people whose culture and livelihood lives in every face of this rock.”

But our national journey to understanding, justice and reconciliation was not over – we must go further.

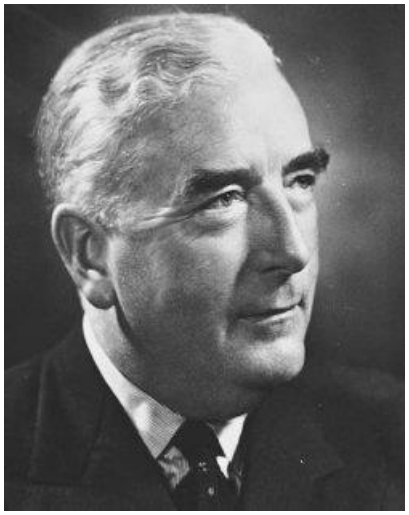
“It is for us, for our generation, to build the connection between equality under the law and equal opportunity in life,” he said.

“Let us aim for a national, unifying moment of recognition as honest as Redfern, as uplifting as the Apology and as real and enduring as this rock.

“And alongside the words of recognition, let us dedicate ourselves to a brighter future for all Aboriginal and Torres Strait Islander peoples”.

The Aboriginal referendum

One of the most misunderstood constitutional changes in Australia has been the 1967 Aboriginal referendum, introduced by the Holt Liberal-Country Party government and supported by all parties, including the Labor Party and the Democratic Labor Party.
I reflected on this on the recent launch of an important new study on housing in the remote Aboriginal communities by a former Keating Government Minister, the Hon. Dr Gary Johns.
It is provocatively called “No Job No House,” and it is in the tradition of a growing critique of federal Aboriginal policy.
That policy was based on the results of the much misinterpreted Aboriginal referendum.
In an opinion piece some years ago in the Sydney Morning Herald a university professor referred to the referendum as giving Aborigines the right to vote and making them citizens.
It was neither. The Aboriginal population always had the same status as British subjects as the rest of the population. When separate Australian citizenship was established in 1948, they were included.
Aborigines had the right to vote in four states at the time of Federation. This was whittled away federally, but restored and made universal well before the 1967 referendum.
The referendum did two things. Most importantly, it granted to the federal Parliament a power to legislate with respect to the Aboriginal race. It also allowed the counting of Aboriginal people for technical purposes not associated with their welfare.
Notwithstanding claims to the contrary, this did not relate to the census. The proscription against counting “Aboriginal natives” had been introduced to limit the size of the population of Western Australia and therefore the number of its seats in the House of Representatives and of its financial grants.
Sir Robert Menzies had proposed a referendum, but only related to the question of counting Aboriginal people. A cabinet member at the time tells me that Sir Robert argued that the Federal government could always help the Aboriginal people through conditional grants to the States.



He warned that if the Federal Parliament had the legislative power the result would be that an enormous bureaucratic monstrosity would be created which would do little to improve the lives of the Aboriginal people.
Sir Robert was one of our greatest Prime Ministers; this anecdote is surely further evidence of this. When Sir Robert retired, his successor proceeded with the referendum. But now it included the power to legislate with respect to the Aboriginal race.