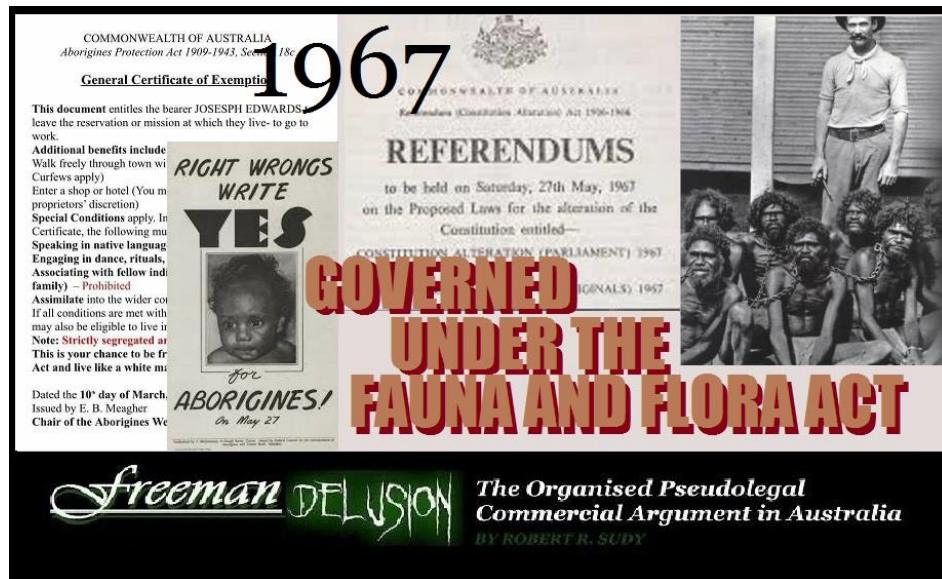
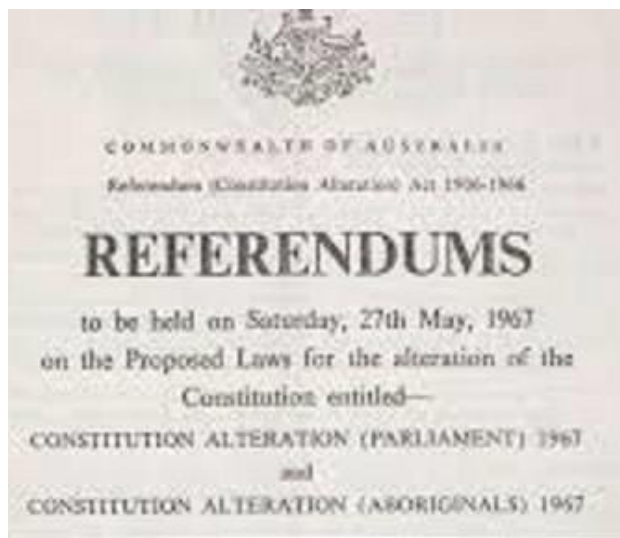


Governed under the Flora and Fauna Act



There are several misunderstandings regarding the effect of the national vote on the *Constitution Alteration (Aboriginal People)* more commonly known today as simply the 1967 referendum. At the time, Australian voters had backed only four of 24 constitutional referendums in all the years since Federation in 1901. This one passed with more than 90 per cent approval from the Australian people. The referendum aimed at addressing two parts of the *Constitution* that had actively discriminated against Indigenous people. It removed Section 127, which said Aboriginal natives shall not be counted in "reckoning the numbers" of people in the Commonwealth, that is, in the population Census. And it amended Section 51, which prohibited the federal government from specifically making laws for the Indigenous people of any state.

Four key misunderstandings persist regarding the 1967 Referendum:



- 1) whether it gave Indigenous people the right to vote in federal elections,
- 2) whether it gave Indigenous people the right to Australian citizenship,
- 3) whether it gave Indigenous people the right to be included in the census, and
- 4) whether, up until the referendum, Indigenous people were classed as fauna.

1) whether it gave Indigenous people the right to vote in federal elections

The Aboriginal right to vote in most Australian states actually dated back legally to the 1850s, long before Federation. Every state but Queensland and Western Australia allowed all male British subjects to vote, including Aboriginal men, and, in 1895, when South Australia gave women the right to vote, Aboriginal women shared that right. Few Aboriginal people knew of their voting rights though, and after Federation, the 1902 *Franchise Act* allowed only those who had already been state voters to vote federally. Even when the Chifley Government passed an Act in 1949 that anyone eligible to vote in state elections could now vote federally, many Aboriginal people still believed they could not. Finally, in 1962, legislation extended the vote in federal elections to all Aboriginal people of voting age, but, even then, it remained voluntary and not well known. That is why, even after Western Australia finally allowed the vote in state elections in 1962 and Queensland followed in 1965, a few years prior to the 1967 referendum.

2) whether it gave Indigenous people the right to Australian citizenship

[The Nationality and Citizenship Act 1948](#) already gave automatic citizenship to all Australians previously deemed British subjects, which included Indigenous people.

3) whether it gave Indigenous people the right to be included in the census

The census issue is a little murkier, since including Aboriginal people in "reckoning the numbers" was an aim of the referendum. Up until 1967, the Commonwealth Bureau of Census and Statistics indeed interpreted Section 127 to mean it could count Aboriginal people but not in the official population. In 1947, Queensland did finally convince the Commonwealth to count Torres Strait Islanders, although they were first classified as Polynesians, then as Pacific Islanders. A race question in the census was used to assess the number of what it termed "full-blood" Aboriginal people-- anybody of over 50 per cent Aboriginal ancestry.

That number was then subtracted from the population count. Only rough estimates of remote Aboriginal populations were done because society viewed Aboriginality as a disadvantage, many people did not reveal theirs. The shortcomings showed starkly after the referendum: from 1966, the year before it, to 1971, the Aboriginal count increased by almost 45 per cent. Over the next five-year period, it increased again by almost 40 per cent.

(4) whether, up until the referendum, Indigenous people were classed as fauna

Not being counted properly in the census all those years has fed into the misunderstanding that Aboriginal people were "classified as fauna" until 1967. Also, in regard to the second amendment to the constitution, many were under an assumption that "the government" had no powers to make laws for aboriginal people, which led to a misunderstanding that aboriginal people were being "governed under the Flora and Fauna Act" prior to the referendum. This is simply not the case.

While it is true the Commonwealth Parliament had no powers to make laws for aboriginal people, the states DID. The question of jurisdiction was actually settled in the 1830's, in the Murrell case, where it was stated on record that aboriginal people possessed the same rights in a court as any other British subject. The effect of the 1967 amendment to section 51 basically turned a "residual" power (solely

possessed by the state) into a “concurrent” power shared by both the states and the Commonwealth. For a start, there is no “*Fauna and Flora Act*” in state or federal legislation.

There was a situation in New South Wales where “aboriginal sites” were protected by National Parks and Wildlife in their provisions, but this didn’t imply that the aboriginal people were “governed” by this legislation, only the sites.

[Fact check: Were Indigenous Australians classified under a flora and fauna act until the 1967 referendum?](#)



The true history of how aboriginal people were governed prior to 1967 is perhaps much darker than even this myth suggests. The responsibility for making laws for the tribes was solely a state matter, and each state passed their own *Aboriginal Protection Act* from 1867 onward. By 1911 every state except Tasmania had a protection Act, giving the Chief Protector or Protection Board extensive power to control Indigenous people. In some states and in the Northern Territory, the Chief Protector was made the legal guardian of all Aboriginal children, displacing the rights of parents.

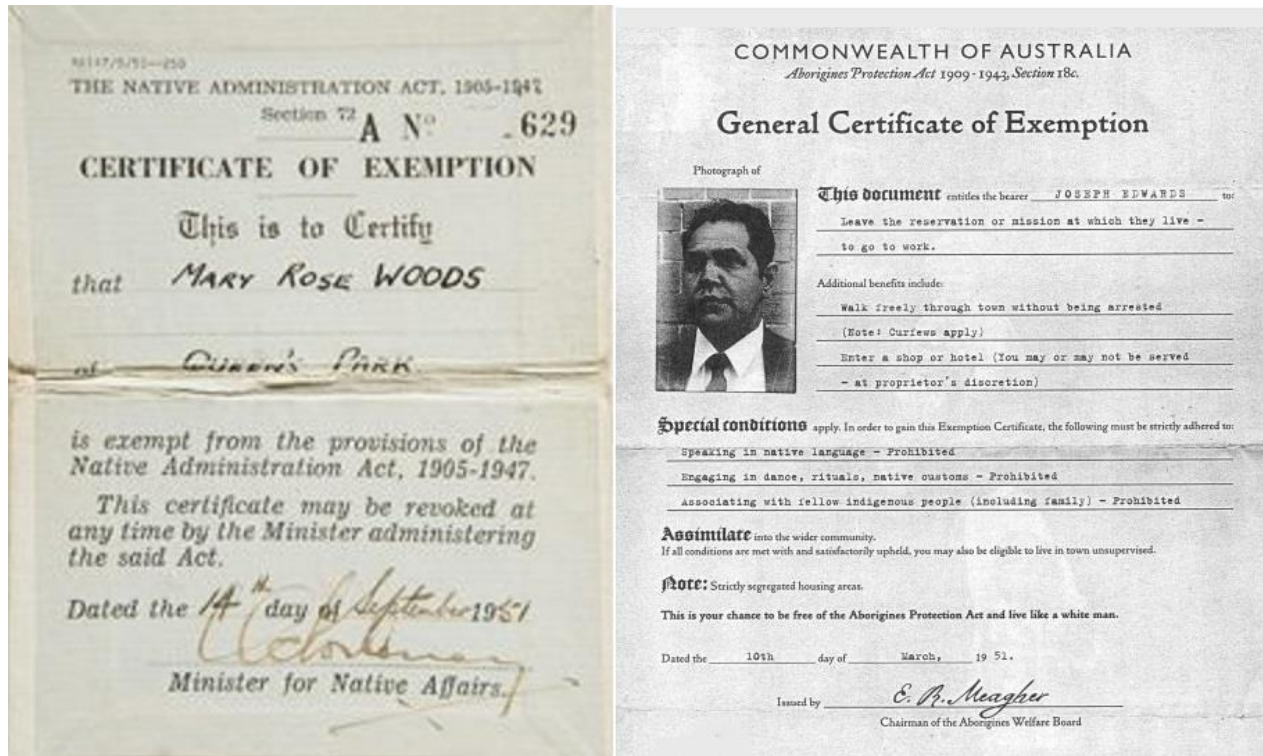
The legislation is commonly referred to as the "*Protection Acts*" because its stated intention was to 'protect' Indigenous people. But these Acts were used, in some cases until the 1980s, as a means of implementing policies of protection, separation, absorption and assimilation of Indigenous populations, depending on the prevailing philosophy of governments at the time.

The Board for the Protection of Aborigines (the NSW Board) was established in 1883. The stated objectives of the NSW Board were to "provide asylum for the aged and sick, who are dependent on others for help and support; but also, and of at least equal importance to train and teach the young, to fit them to take their places amongst the rest of the community". Although not explicit in the stated intention, the Public Interest Advocacy Centre (PIAC) notes the NSW Board "*initially had a policy...of removing Aboriginal children from their communities and families*".

Under the Aborigines Act, Aboriginal people can apply to "cease being Aboriginal" and have access to the same rights as whites. "Exemption Certificates" were introduced in the late 1930's, exempting certain Aboriginal people from restrictive legislation and entitling them to vote, drink alcohol and move freely but prohibiting them from consorting with others who are not exempt. Their children were also allowed

to be admitted to ordinary public schools. Aboriginal people used the derogatory terms "dog tags" or "dog licences" to refer to these certificates. For many Aboriginal people this renunciation of their traditional lifestyle is promoted as the only opportunity to overcome poverty, gain work and access to education and social welfare benefits.

In practice, these [assimilation policies](#) lead to the destruction of Aboriginal identity and culture, justification of dispossession and the removal of Aboriginal children. In 1969 the Aborigines Welfare Board in NSW was abolished. By that year all states had repealed the legislation allowing for the removal of Aboriginal children under the policy of "protection".



Australian society viewed aboriginality as a disadvantage, so many denied their nationality, having to pretend they were something they were not to appease the grundnorm of the time. As I suggested earlier, the truth about how the aboriginal people were treated under the *Protection Acts* is far more shocking than any myth about being governed as "fauna and flora".

[Aboriginal Protection Act 1869](#) (Vic)

<https://freemandelusion.com/wp-content/uploads/2018/07/aboriginal-protection-act-1869-vic.pdf>

[The Aborigines Protection Acts 1886 and 1905](#) (WA)

<https://freemandelusion.com/wp-content/uploads/2018/07/the-aborigines-protection-acts-1886-and-1905-wa.pdf>

[Aboriginals Protection and Restriction of the Sale of Opium Act 1897](#) (Qld)

<https://freemandelusion.com/wp-content/uploads/2018/07/aboriginals-protection-and-restriction-of-the-sale-of-opium-act-1897-qld.pdf>

Aborigines Protection Act 1909 (NSW)

<https://freemandelusion.com/wp-content/uploads/2018/07/aborigines-protection-act-1909-nsw.pdf>

South Australian Aborigines Act 1911

<https://freemandelusion.com/wp-content/uploads/2018/07/south-australian-aborigines-act-1911.pdf>

Northern Territory Aborigines Ordinance 1911

<https://freemandelusion.com/wp-content/uploads/2018/07/northern-territory-aboriginals-ordinance-1911.pdf>

COMMONWEALTH OF AUSTRALIA
Aborigines Protection Act 1909-1943, Section 18c

General Certificate of Exemption

This document entitles the bearer JOSEPH EDWARDS to leave the reservation or mission at which they live- to go to work.

Additional benefits include:

Walk freely through town without being arrested (Note: Curfews apply)

Enter a shop or hotel (You may or may not be served- at proprietors' discretion)

Special Conditions apply. In order to gain this Exemption Certificate, the following must be strictly adhered to:

Speaking in native language – Prohibited

Engaging in dance, rituals, native customs – Prohibited

Associating with fellow indigenous people (including family) – Prohibited

Assimilate into the wider community;

If all conditions are met with and satisfactorily upheld, you may also be eligible to live in town unsupervised.

Note: Strictly segregated areas.

This is your chance to be free of the Aborigines Protection Act and live like a white man.

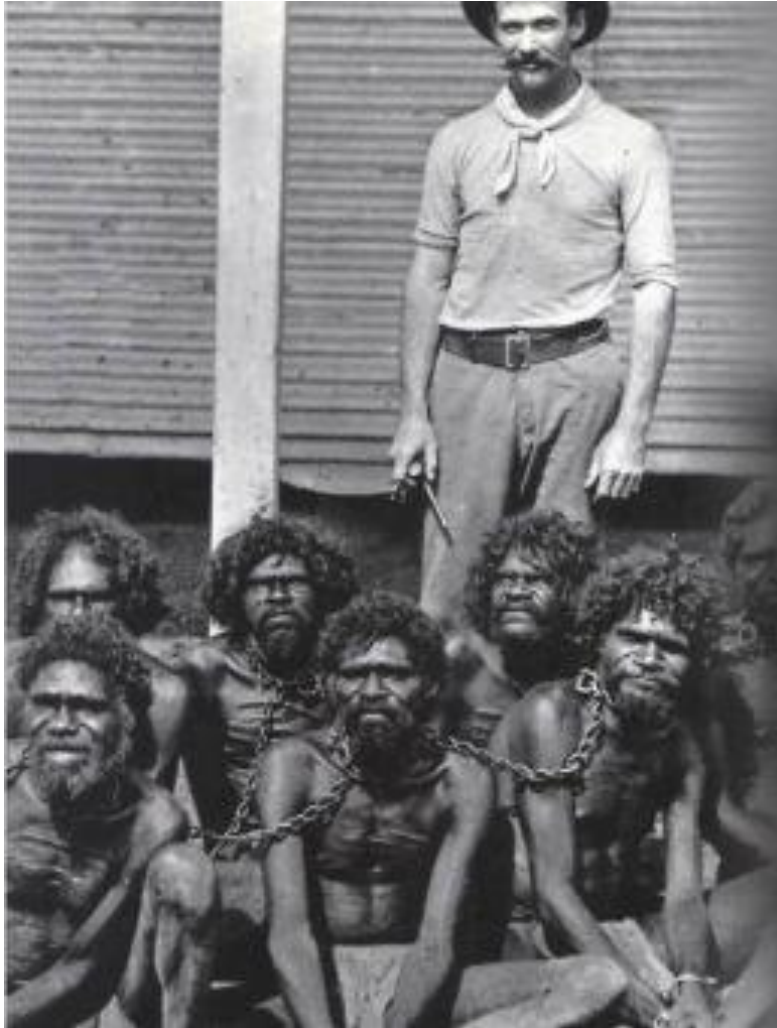
Dated the 10th day of March, 1951.

Issued by E. B. Meagher

Chair of the Aborigines Welfare Board

"Everything that related to a concentration camp was there in [Cherbourg]. You could not move without getting a permit. Cherbourg is built right on Bramble Creek. About 100 metres or so away from the river was the farmer's house. We had to get a permit to go down and fish there. We had to get a permit to go to Murgon, which was four miles away – six kilometres – and it had a time set on it. If you came back five to ten minutes after that time expired, you would be put in jail for, maybe, a weekend. And they brought the curfew in. All lights had to be out at nine o'clock. If you were found out after dark or after the lights had gone out, you were put in jail. They even put searchlights on the vehicles – the police, the superintendent – and chased black fellas everywhere, hither and thither, throughout the night hours.

"During the mid-forties, they took away our corroborees, they took away our culture. Our ancestors were not allowed to teach us our language; most of us know nothing of our language."



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