THE AUSTRALIAN ABORIGINES
A SUMMARY OF THEIR SITUATION IN ALL STATES
IN 1962.

Prepared by Shirley Andrews, Campaign Organiser
FEDERAL COUNCIL FOR ABORIGINAL
ADVANCEMENT.

POPULATION FIGURES:

Aborigines are excluded from the Commonwealth Census by
Section 127 of the Constitution, which states "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." Population figures usually quoted are rough estimates
only and are taken from figures compiled by the State Departments
responsible for Aborigines.

The figures quoted here have been taken from "Our Aborigines",
Government Printer, Canberra and from recent reports issued by
the State Aboriginal departments. The basis on which these
figures are compiled varies from state to state. Queensland
figures include a rough estimate of the number of people of
Aboriginal descent not under the jurisdiction of the Aboriginal
department. Figures from South Australia and Western Australia
do not appear to include all of these people. As the only figures
available are so approximate, they have been quoted here only to
the nearest hundred.

LEGISLATION:

Section 51, Clause xxvi of the Commonwealth Constitution
gives the Federal Government power to make laws "with respect
to:-
"the people of any race, other than the aboriginal race, in
any State, for whom it is necessary to make special laws."
As a result of this, each State has its own legislation relating
to Aborigines, most of which include many restrictive and
discriminatory laws. A summary of the main aspects of the
present position is given in this leaflet.

Notes 1. As most of the legislation relating to Aborigines is
extremely complicated, it is impossible to prepare a summary
such as this without omitting some of the details. In particular,
it is impossible to do justice to exceptions to the main laws,
special cases, etc. An attempt has been made to present the
general features of the legislation in each state, particularly
its discriminatory and restrictive features.

2. Queensland has also some 7,300 Torres Strait Islanders
who come under the Torres Strait Islanders Act of 1939. This
is very similar to, but not identical with, the Aboriginal
legislation in that state. It has not been possible in this
summary because of lack of space to include all the details of
this Act as well as those of the Queensland Act covering its
Aboriginal population.

3. Aboriginal legislation in several states including,
Northern Territory, Queensland and South Australia is at
present under review.
ABORIGINAL POPULATION

Full Aborigines: 17,500
Part Aborigines: 2,000

Total: 19,500 Aborigines

Number under provisions of Act:
(torres strait islanders: 7,300)

How are these Aborigines living?
1. Nomadic tribal people
2. On Church Missions
3. On Government settlements and supervised reserves
4. Elsewhere (including cattle stations, "fringe" settlements, country towns and cities)

Definition of those Aborigines under provisions of the Act.

A person declared by the N.T. Administrator to be a "ward" because of his special need of care and assistance. This need decided by such matters as standard of social habit, personal associations, in ability, without assistance, adequately to manage his own affairs.

Is there any provision for exemption from the Act?

Yes. A ward can apply to the Wards Tribunal for the revocation of his declaration as a ward. If granted this can be cancelled at any time.

Number of such exemptions in existence:

Yes. The Director may grant exemptions subject to certain conditions including that all money and property held in trust will continue to be so held for any length of time the Director orders. Section 5(3). Can be revoked.

WHO administers the Act?

The Director of Welfare under the N.T. Administrator.

The Director of Native Affairs.

Aboriginals Protection and Preservation Act of 1939-43.


Aboriginals Protection Act 1965.

ABORIGINALS IN THE NORTHERN TERRITORY.

Full Aborigines: 17,500
Part Aborigines: 2,000

Total: 19,500 Aborigines

Aboriginals Protection and Preservation Act of 1939-43.


Aboriginals Protection Act 1965.

WESTERN AUSTRALIA.

10,000.

2,000

200

8,100.

4,000

13,400

2,500

SOUTH AUSTRALIA.

Aborigines Protection Act 1909-1945.

N.S.W.

V.T.

Approx 8,000 (?).

2,000 (estimated)

small group in Central Reserve

- 

5,500 - 6,000

13,600 (?)

2,500

1. 2,000 (estimated)

2. 5,000 (approx)

3. 200 (in aborig. institutions, no Govt. sett.)

4. 15,700 (approx)

6. 900 (approx)

400-500 in cities.

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<thead>
<tr>
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<tbody>
<tr>
<td>Western Aus.</td>
<td>10,000</td>
<td>2,000</td>
<td>200</td>
</tr>
<tr>
<td>South Aus.</td>
<td>8,100</td>
<td>4,000</td>
<td>13,400</td>
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<td>N.S.W.</td>
<td>Approx 8,000</td>
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<td>13,600 (?), 2,500</td>
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<td>V.T.</td>
<td>1,200 (estimated)</td>
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<td>5,400 (approx)</td>
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<td></td>
<td></td>
<td></td>
<td>200</td>
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<tr>
<td>Lake Tyers</td>
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<td>1,700-2,000</td>
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<td>400-500 in cities.</td>
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Aborigines can apply for full citizenship rights under the provisions of the Native Citizenship Rights Act, 1944.

Yes, under Section 4(a), exemption can be granted by the Board. Initially, it is conditional, they can be revoked, becoming the first 3 yrs, at any time, then become unconditional.

Aborigines Protection Board.

The Commissioner of Native Welfare.

The Aborigines Protection Board.
<table>
<thead>
<tr>
<th>SUBJECT</th>
<th>NORTHERN TERRITORY</th>
<th>QUEENSLAND</th>
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<tr>
<td>Can Aborigines move freely around the state?</td>
<td>No. The Welfare Ordinance gives the Director complete authority to direct where any particular ward shall live, and can move or hold him in any area at any time. (Sections 17-22, etc.)</td>
<td>No. The Director of Native Affairs has the authority to move Aborigines from one district to another. They can be moved on and off reserves on the order of the Director but cannot enter or leave them without permission. (Section 22, etc.)</td>
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<tr>
<td>Can Aborigines handle their own money?</td>
<td>No. The Director of Welfare controls the property of wards. (Sections 25-29, etc.)</td>
<td>No. The Director and protectors have complete control of the property of Aborigines. (Section 16). Even private property such as books, etc. can be arbitrarily seized by a protector.</td>
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<td>Are Aboriginal workers receiving awards wages?</td>
<td>Yes. M.T. Schedule of wages for wards lays down a scale of wages much lower than those paid to other workers in the state. Pastoral workers get £2 a week &amp; keep their change. £3 a week &amp; keep if women, Municipal workers £5.10. a week. Building workers £6 a week.</td>
<td>Not in the pastoral industries nor those employed on Government or Missions. Work is compulsory on settlements &amp; missions. (Reg. 28).</td>
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<td>Are there special wage rates for Aboriginal workers lower than award rates?</td>
<td>Yes, the Director of Native Affairs determines special rates of pay for Aboriginal workers in the pastoral industry. These vary from 60% to 75% of award rates. On settlements &amp; Missions Aborigines can be required to work 22 hours per week for their keep and a few shillings pocket money.</td>
<td>Not in outback areas, cattle stations, etc. Wages paid to pastoral workers in the Kimberley are the lowest in Australia.</td>
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<td>Are Aboriginals receiving social security benefits?</td>
<td>Usually not independently but only in the form of keep and pocket money on settlements, missions etc. Pocket money often 10/- a week although some missions specified £3 for people in institutions. Child endowment money for Aborigines living on reserves is paid to the employers.</td>
<td>No official rates but wages of Aboriginal pastoral workers can be as low as £1 a week &amp; keep for men, or 3/6 a week &amp; keep for women. (See Report of Special Mission on Native Affairs, 1966, H.A. Government Printer, Perth).</td>
</tr>
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<td>WESTERN AUSTRALIA</td>
<td>STH. AUSTRALIA</td>
<td>N.S.W.</td>
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<td>No. Aboriginals from the northern part of the State cannot cross the 20th Parallel without a special permit. (Section 10). Known as the &quot;topper-line&quot; this restriction is supposed to be to prevent the spread of leprosy but has no justification on medical grounds.</td>
<td>Section 35 of the Act gives the Commissioner of Native Welfare and his delegates total power over the property of any Aboriginal. Yes, except the right of ownership of the Aboriginal reserves.</td>
<td>Generally yes, but the Board has the power to order any group owner of reserves to move to another place as ordered by the Board. Yes, except for any group ownership of their reserves.</td>
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<td>Yes, except social security benefits which in many cases are paid to trustees.</td>
<td>Yes, except for most social security benefits which are being handled by Board officers, protectors, or superintendents of settlements &amp; missions.</td>
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<td>Not in outback areas, cattle station, etc. Wages paid to pastoral workers in the Kimberley are the lowest in Australia.</td>
<td>They are in the pastoral industry, and not in the outback nor on missions &amp; settlements.</td>
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<td>Only on Government settlements and Church missions.</td>
<td>Only on Lake Tyers.</td>
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<tr>
<td>Question</td>
<td>Northern Territory</td>
<td>Queensland</td>
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<td>Are Aborigines free to marry?</td>
<td>No.</td>
<td>No.</td>
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<td>Do Aborigines have control of their own children?</td>
<td>No, the Director is the guardian of all wards including children.</td>
<td>No. Section 18 states “The Director shall be the legal guardian of every Aborigine child in the State while such child is under the age of 21 years.”</td>
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<td>Can Aborigines mix freely with non-Aborigines?</td>
<td>Yes. Section 54(3) forbids sexual relations between a male person other than a ward and a woman to whom he is not married.</td>
<td>Yes. Section 54 declares sexual relations between “any male person, other than an Aboriginal” and a female Aborigine to be an offence unless they are married.</td>
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<td>Are there any restrictions relating to sexual relations with non-Aborigines?</td>
<td>No. Cannot make a plea of guilty unless so advised by a Welfare Officer.</td>
<td>No. Aborigines cannot plead guilty nor make confessions unless done in the presence of a Protector. This does not apply in the special Aboriginal courts.</td>
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<td>Do Aborigines have full rights in a court of law including the right to plead?</td>
<td>No special courts. Persons, including both Aborigines and non-Aborigines can be arrested without a warrant if suspected of committing an offence against the Wards Ordinance. Aborigines can be taken into custody any time by the Director. (Sections 81 &amp; 17).</td>
<td>Yes. Special courts can be set up on any settlement or mission by the Director, Superintendent or Protector. The only courts in charge of this court are, in fact, the magistrates. There is no right to a defence lawyer and no appeal. These institutions have their own look-ups or gaols.</td>
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<td>Is there any censorship of mail to Aborigines?</td>
<td>No regulations relating to this.</td>
<td>Regulation 29 authorises the Protector or Superintendent to order mail to or from Aborigines on the reserve under his control to be delivered to him and read by him.</td>
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<td>Are Aborigines allowed alcoholic liquor.</td>
<td>No. Section 141 of the N.T. Liquor Ordinance prohibits the supply of liquor to wards. Regulation 16(2) states that &quot;a ward who is found drunk on a reserve or in an institution is guilty of an offence&quot;. Liquor must not be brought onto or drunk on a reserve.</td>
<td>No. Section 28 of the Act prohibits the supply of liquor to Aborigines. Section 24 makes it an offence for any Aborigine to be in possession of liquor.</td>
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