

Hobart, 9 July, 1959.

Dear Mr. Bryant,

I feel myself at liberty to answer your enquiry of 24 June and now gladly do so.

You are quite right to think that aborigines born in Australia are Australian citizens by virtue of the Nationality and Citizenship Act 1948-55. This citizenship is the only national status which people have in relation to Australia though by dint of our relationship to the Queen and to the British Commonwealth of Nations Australian citizens are also British subjects.

The rights and disabilities of Australian citizens, that which they may and that which they may not do within Australia, are not to be found in the Nationality and Citizenship Act; . Those rights and disabilities are to be found in the general law of Australia which is made up of the common law and Federal and State statutory laws. Thus people born in Australia are subject to many disabilities by reason of the general law. Many examples will no doubt come to your mind - disabilities which range over a fairly wide area. Further, these rights and disabilities are not necessarily the same throughout Australia because of the element of State Statutory law.

But these disabilities and the variation in rights do not in any sense derogate from citizenship in the sense of status as Australian citizens. Indeed, no State law could derogate from the Federal statute on that subject. Thus, whilst the Western Australian Parliament has an Act in connection with citizenship which contains provisions with respect to Western Australia that Act cannot and does not derogate from the status of Australian citizens conferred by the Nationality and the Citizenship Act itself. The word "citizenship" in the Western Australian use does not refer to the same quality or attribute as does the Nationality and Citizenship Act.

Perhaps the best way I can express this for you is to say that the status of the aborigine in relation to nationality and citizenship is determined by the Federal Statute. Being born in Australia, and not being within any of the groups which the Act excepts, the aborigine is an Australian citizen. But to ascertain what rights Australian citizens, including aborigines, have and to what disabilities they are subject, it is necessary to look to the general law.

If my explanation proves inadequate for your purpose you might write to me again.

Yours sincerely,

G. E. Barwick.