CONTESTED GROUND


Through time he's been travelling to look for a planet to settle down as he makes the sky, the trees, the land and each different group of people—like the Chinese, the English, the Europeans and the Aborigines. Everybody has their own piece of land to live in. Then when he found his resting place he went into a very, very deep sleep. As he slept he started to dream into the future. It showed his people were very very happy living in peace, killing only what they need to live for their food.

As they go along they start to use fire, to cook, to cut shapes out of trees, to carry their water and other objects. Then some of the men started to cut out big parts out of the trees to make boats to go and hunt and they were so in peace until the white people came out here. Destroying the land itself cause their land was over populated. So they sent a lot of the convicts out here to work, so they can start to build the land up, put buildings in, farming and stuff. Then they started to destroy the native people of this land.

Then the Rainbow Serpent started to go into a type of nightmare dream. He sees in his dream how they destroyed a lot of animals we will never see again. As it gets closer to the 19th century they start to turn out cities—they called it the great country, the land of opportunity, for the whites, but not for the dark people of this land. We were thought of as the lowest class in this land of 'theirs'.

As the spirit was still dreaming his nightmare he sees a lot of things that are going to happen soon, like drugs, alcohol, deaths in custody. He likes to see all different personalities living together as one, white going out with dark people, dark people living with whites in harmony and no racism. But the Rainbow Serpent can see this is not going to be because a lot of the people today are still destroying us in devious ways. When the spirit shall have woken you shall have a lot to answer for what you have done to us. Then you had better watch out because he is your judge and he will destroy you all in a very evil way.

HJ Wedge
12 February 1993
CONTESTED GROUND

Australian Aborigines under the British Crown

Edited by Ann McGrath
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Acknowledgements

I wish to thank the contributing historians Heather Goodall, Richard Broome, Henry Reynolds, Dawn May, Peggy Brock, Peter Read, Sandy Toussaint and Vicki Matson-Green; they are an outstanding team. All have been wonderfully committed, conscientious and mostly patient throughout the long ordeal. I am extremely grateful for their encouragement to get this book off the ground in its early stages, and their later friendship, support and advice, across the length and breadth of Australia. I hope they are pleased with the final product housing their efforts.

My original publisher, Mark Tredinnick, has been exceptionally encouraging. He has regularly offered a ready ear and plenty of useful advice. I especially appreciate his generous support and legal insights during the protracted copyright negotiations which often drove me crazy. I thank Bernadette Foley and Jo Jarrah for their sympathetic editorial work.

For their friendly and careful efforts in preparing the maps I thank Arthur Fisk and Saha Chaudhury of the University of New South Wales (UNSW) Technical Drawing Office of the Faculty of Materials Science. The School of History, UNSW, has contributed terrific support in many ways, but especially via its Research and Publications Fund, initiated by Martyn Lyons. The Aboriginal Resource Centre, UNSW, has been a great asset, so I thank the generous staff there, especially Paul Behrendt and
Barbara Nicholson. The Australian Research Council has also assisted via its Large Grants scheme, especially with research for Chapter 10.

A number of libraries, galleries and government agencies have kindly co-operated with our requests for photographic and art reproduction. We thank the Mitchell Library, especially Jennifer Broomhead; the Battye Library of Western Australian History; the Office of Aboriginal Affairs, NSW, especially Millie Ingram; the LaTrobe Library, Melbourne; Queen Victoria Museum and Art Gallery, Tasmania; the Australian War Memorial; the National Library of Australia; John Fairfax Pty Ltd; the Courier Mail, Queensland; the Art Gallery of South Australia; the State Department of Aboriginal Affairs, South Australia; the Mortlock Library; and the University of New South Wales Publications Unit, especially Tony Potter. Every effort has been made to contact owners of copyright, and if any oversights have been made, we would be grateful if such people would contact us. I hope that none of the photos pose problems to Aboriginal people because of recent deaths or other reasons; please notify me or the publishers if this is the case.

The History Project of the Royal Commission into Aboriginal Deaths in Custody, where this project started, was supported by outstandingly energetic and incisive people like the Commissioners Elliott Johnston, Pat Dodson, Hal Wootten, D. O'Dea and L. Wyvill. Geoff Eames not only got things moving, but provided rock-solid advice and incisive critique and support throughout. Marcia Langton, Mick Dodson and many others from the regionally based Aboriginal Issues Units and Underlying Issues Units offered some useful suggestions which helped shape the project. Errol West, who joined the History Project and greatly assisted the Commissioner, is absent from this book because he did not write a formal paper, but his input was greatly appreciated.

I appreciate finally being granted permission to reproduce work originating from papers prepared for the Royal Commission into Aboriginal Deaths in Custody, including revised versions and ideas contained in E. Johnston, Royal Commission into Aboriginal Deaths in Custody. National Report into Underlying Issues, AGPS, Canberra, 1991; P. Dodson, Royal Commission into Aboriginal...
ACKNOWLEDGEMENTS


For permission to reproduce extracts from poems, I am grateful to Jack Davis and Jimmy Everett; full citations of their work are included in the relevant endnotes.

It has been very important for me to know that colleagues supported my scholarship in various ways. Those who have offered various kinds of assistance, including advice, research tidbits and criticism over the years include Ann Curthoys, Bain Attwood, Julia Horne, Patricia Grimshaw, Graeme Davison, Beverley Kingston, Donna Reeman, Lucy Taksa, Alison Holland, Inara Waldren, Kay Saunders, Jackie Huggins, Marian Quartly, David Walker, John Hirst, Marilyn Lake, Lyndall Ryan, Henry Reynolds, Stephen Garton and Mark Finnane. All those other people who are not named but helped in a number of areas, I thank you too.

My parents Betty and Brian, brothers Paul, John and sister Mary, always support me in a number of ways. Everyone seems to thank the spouse and kids last and I won’t deviate here. I hate to think what sort of creature I’d be without my husband Milton and little daughters Venetia and Naomi being there for me.

Ann McGrath
Peggy Brock lectures at Edith Cowan University in Aboriginal and Intercultural Studies. In the 1980s she worked as Historian for the Aboriginal Heritage Unit of the Department of Environment and Planning in South Australia, researching Aboriginal community histories. Dr Brock has written several books and articles on Aboriginal history, including _Outback Ghettos: A history of Aboriginal institutionalisation and survival_ (1993), and _Women, Rites and Sites: Aboriginal women’s cultural knowledge_ (editor) (1989).

Richard Broome has researched and taught Aboriginal history at La Trobe University since 1977, with a stint of six years as a commissioned historian during this time. He has published articles on Aboriginal boxers, written commissioned dictionary entries and pamphlets on Aborigines, and _Aboriginal Australians_ (1982) reprinted ten times (second edition 1994). His commissioned works _Arriving_ (1984) and _Coburg Between Two Creeks_ (1987) contained significant Aboriginal material.

Heather Goodall lectures at the University of Technology, Sydney, where she teaches public history and heritage. Her historical publications focus on issues including memory, law and ethics and she also writes on current political issues and media representations. She was joint winner of the John Barrett Prize for Australian Studies. She is working on a history of Aborigines
and land in New South Wales, has advised various Land Councils and was a consultant to the Maralinga Royal Commission into Atomic Testing.

**Ann McGrath** is Associate Professor of History at the University of New South Wales. She wrote *Born in the Cattle*: Aborigines in Cattle Country, the inaugural Hancock Prize-winner, and a number of articles on Australian cultural history and Aboriginal–white relations, including an essay on citizenship which jointly won the John Barrett Prize. She worked on several land claims in the Northern Territory, led the History Project of the Royal Commission into Aboriginal Deaths in Custody and advised on issues relating to the Native Title Act 1993. *Creating a Nation*, which she co-authored with three feminist historians, won the Human Rights Award for non-fiction, 1994.

**Dawn May** is a Senior Lecturer at the Cairns Campus of James Cook University where she teaches Australian History and Politics. Her research interests have focused on Aboriginal labour in the Queensland cattle industry with a number of books and journal articles being published on the topic.

**Maykutenner** (English name: Vicki Matson-Green) is married to Chris and has a son, Jason, and a daughter, Tarni. She grew up on Flinders Island as a member of the Pallawah community. Vicki has worked for her people for fifteen years. She has served on local Pallawah, State and Federal committees dealing with various Aboriginal political and social issues. During the last five years Vicki has been undertaking a Bachelor of Arts Degree at the University of Tasmania. She hopes to become a lecturer in Aboriginal Studies in the future. Vicki hopes, in her lifetime, to witness the recognition of Aboriginal and Torres Strait Islander sovereignty by the international and Australian communities and the granting of national land rights.

**Peter Read** is an Australian Research Fellow, and a Visiting Fellow, Department of History, at the Australian National University. He has published several books on Aboriginal history, including, with J.M. Read, *Long Time Olden Time: Aboriginal Accounts of Northern Territory History*. (CD-Rom, Firmware, 1993).
He is a co-founder of Link-up (NSW) Aboriginal Corporation, and is currently the Chair of the journal *Aboriginal History*.

**Henry Reynolds** has taught for many years at James Cook University and is currently an Australian Research Council Senior Fellow. He is one of Australia’s foremost scholars of Aboriginal history with numerous books and articles to his credit. The highly acclaimed *The Other Side of the Frontier* won the Ernest Scott Prize for history and his *The Law of the Land* anticipated many of the findings of the Mabo High Court judgement. He has had considerable input in the public debate over Mabo.

**Sandy Toussaint** is an Associate Lecturer in Anthropology at the University of Western Australia and was formerly a Senior Research Officer on the Royal Commission into Aboriginal Deaths in Custody. She has worked with Aboriginal people in many settings in Western Australia (for example, the Aboriginal Land Inquiry, the Kimberley Language Resource Centre, the Marra Worr Worr Aboriginal Corporation, the Aboriginal Legal Service, Aboriginal Education). Publications include articles in *Aboriginal History, Alternative Law Journal, Arena, Australian Journal of Social Issues and Social Analysis*. 
Until quite recently almost everything written about the Aborigines of this country was written by non-Aboriginal Australians. With this in mind, and considering the fact that most contributors are not Aboriginal, it would not be surprising if many indigenous Australians initially viewed this book not so much with a sense of *deja vu*, but more an emphatic ‘Here we go again’. This would be grossly unfair on several counts.

First, unlike some self-proclaimed ‘experts’ of other disciplines, whose self-interest was (and in some cases still is) served by projecting Aborigines as a dependent people who require someone to speak on their behalf, most historians of my acquaintance recognise the necessity for Aboriginal people to repossess their own history. In this volume’s introduction, Ann McGrath states specifically that most of the contributions were written by non-Aboriginal authors and these do not claim to be ‘Aboriginal History’.

Second, the non-Aboriginal authors in this volume played vital roles in propelling the history of Aboriginal Australia to the forefront of national debate. Henry Reynolds’ trilogy—*The Other Side of the Frontier, Frontier and Dispossession*—dilacerated the myth that this country was peacefully settled; Ann McGrath’s *Born in the Cattle*, a poignant account of interaction between Aboriginal women and European society, is now indelibly written into the
country’s history; while Peter Read and Heather Goodall did much to publicly expose the inhumane policies and actions of the Aborigines Protection Board of New South Wales. Read, in particular, has shown an assiduous commitment to Aboriginal Australians. As well as his non-intrusive oral history transcriptions such as *Down with me on the Old Cowra Mission* and *Lost Children*, in 1982 he, in association with Coral Edwards, established ‘Link-Up’, an organisation that reunites families whose members were separated under the provision of the ‘removal’ policies of the Aborigines Protection Board.

Third, accounts such as these are a vital part of the history of the relationship between Aboriginal and non-Aboriginal Australians. By understanding the environment and atmosphere within which this relationship was established, we can make better sense of its legacies. Both indigenous and non-indigenous Australians have a lot to learn about each other before reconciliation between the two peoples can be realised. This book will go a long way towards achieving that end.

Paul Behrendt
Director
Aboriginal Research and Resource Centre
University of New South Wales

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Following page: Australia showing some significant sites of Aboriginal history. BASED ON INFORMATION CONTAINED IN DAVID HORTON (ED.), THE ENCYCLOPAEDIA OF ABORIGINAL AUSTRALIA, ABORIGINAL STUDIES PRESS, CANBERRA, 1994
Introduction

In 1980 I had a home in Darwin with a delightful, though sometimes pea-green, swimming pool. The property was a steal because it was right next door to an Aboriginal community. On my first real estate inspection, all the beige curtains along that side of the house were drawn closed, although it was still daytime. On my second visit, the vendor demonstrated how, if the dogs barked too much, I could simply fire a few rifle shots into the 'reserve'.

Unlike all the other houses in my street, Bagot's large Aboriginal population had no pool and no telephone, so the new non-hostile neighbours came in handy. After growing up in Brisbane (where the Aboriginal family across the road was one of the few I knew) and having also lived in Melbourne, I was gratified to see so many Aboriginal survivors all around me, and relieved they walked that ground with such dignity. Their speech, singing, the occasional bouts of all-night chanting, the campfire cooking smells, the goannas and bush turkeys who used my backyard as a safe haven; it was all fascinating. But I got annoyed

Preceding page: Australia showing the Aboriginal population in 1991. BASED UPON INFORMATION CONTAINED IN DAVID HORTON (ED.), THE ENCYCLOPAEDIA OF ABORIGINAL AUSTRALIA, ABORIGINAL STUDIES PRESS, CANBERRA, 1994

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when I woke to see little faces peering out from inside my mango tree or came home to find shiny kids jumping out of the pool. More disturbing were the number of emergency calls required for police and ambulance.

With a sense of high purpose, I went to a special neighbourhood meeting to argue for more facilities on Bagot. It was attended by a local Member of Parliament, a man who had grown up alongside Aboriginal people. Many Bagot residents viewed him as family but I had seen him ignore them when they waved. At this meeting, the MP proclaimed 'border tensions' in a style evoking cowboy films. One Aboriginal man sat at the back of the group but did not speak. My suggestion that Aborigines should have a swimming pool received raucous laughter; similarly public phones, everyone agreed, would only be vandalised. Neighbours suggesting the construction of a higher fence and the closure of all gates which allowed pedestrian access to the 'white' streets gained enthusiastic support. Angry and sickened, I continued with my swimming pool campaign elsewhere, until politely told by a Bagot community Councillor that they didn't want one in case somebody drowned. Exactly my problem but additionally, they feared payback against the swimming-pool supporters.

Around the same time, Shiela, a Malak Malak woman from Daly River, told me a story about the visit of some young Tasmanians. 'They said they were blackfellers but they weren't black!' she remembered.

They had white skin, red hair, they talked like white people. We couldn't believe them at first. But then they told us what had happened to their people, how they had lost their land, language, business. They had come a long, long way to see how us mob lived. We came to understand them a little bit. We felt really sad for them people, they were good young people and they were Aboriginal.

Boundaries, property rights, skin colour: Australia's history, like the land itself, remains contested ground. The fuller, Australia-wide story is new to both Aborigines and non-Aborigines. It is that story which this book is about. Contested Ground argues that after British colonialism took hold in Australia, the people now known as the Aborigines began to share a common past. But they also had many different pasts. As well as differing clan traditions,
they were subject to particular conditions in the different colonies and states.

‘Australians’ and ‘Aborigines’ are not mutually exclusive categories. All Australians, black and white, are bound together by a collective past as well as a present; this past lives on today, moulding and reinforcing national life. Australia’s history helps explain the deep sense of injustice and the strong sense of common historical experience shared by Aboriginal people. It helps explain the economic, social and residential status of Aboriginal people and their attitudes to white Australians and the nation. Aboriginal Australians do not forget their past; the story of their dispossession lives within them and the memories are handed on to future generations.

Irrespective of where their ancestors were born, all Australians enjoy the spoils and suffer the consequences of the British invasion. Yet as Pat Dodson, Chair of the Aboriginal Council for Reconciliation, has stated: ‘So much of the injustice and inequity is related to the lack of knowledge non-Aboriginal people have about our history . . .’¹ More white Australians are finding an increasingly urgent desire to study that past. Perhaps in doing so, they will relinquish some of their fear and denial. To date Aboriginal dispossession has led the colonising class to adopt various stances, to develop a distinctive series of national mythologies. Aboriginal people too, have developed interpretations of the past, of colonial takeover. The peoples have long compared and depicted themselves, favourably and unfavourably, against the other. The history of Australia has thus involved not only two centuries of conflict and collaboration but also a prolonged period of invention, of legend-making, on the part of both Aboriginal and non-Aboriginal Australians.

This book provides a general history of Aboriginal–white relations in Australian history. The national history chapter offers a broad overview which stresses selected themes, especially Aborigines and the State, colonial authority, surveillance, crime and punishment. A series of separate general histories then cover each state and the Northern Territory. We start with New South Wales as the place of the first British occupation, followed by its early offshoots, which became Victoria and Queensland. Western Aus-
tralia, South Australia and the Northern Territory follow. All had larger areas of undeveloped Crown land which have now become, or have the potential to be returned as, Aboriginal territory. South Australia and the Northern Territory have been placed consecutively because of their close association. Tasmania, which receives two chapters, has been placed last because of its unusual legacy of denying Aboriginal existence.

The presence of two Tasmanian chapters came about because the Pallawah author, Vicki Matson-Green, originally down to write the Tasmanian chapter, had to withdraw from the project unexpectedly. When eventually sent my substitute chapter for comments, Vicki objected to its white authorship and tone and was then in a position to write her chapter, so the deadline was extended. Matson-Green’s chapter, chapter 9, emphasises the twentieth century while chapter 8 focuses on the nineteenth. Matson-Green’s chapter is placed at the end of the state histories because it represents and serves as a fitting conclusion. It demonstrates how, for Aboriginal Australians, regaining pride of identity has been closely tied up with reclaiming the past as well as the present. Matson-Green’s chapter highlights the distinctive vision and insights Aboriginal people bring to writing their own history and the inclusion of two different versions of one state’s history also exemplifies the contested nature of all writing about Aboriginal–white relations.

The final chapter, chapter 10, presents a survey of history writing about Aboriginal topics, expanding on the controversies of its politics and practice. It also contextualises the historical background to the study of Aboriginal history from which these chapters emerge. Readers interested in gaining more insight into historiography, bibliographical clues or the editor’s scholarly and political perspective might find this the best place to start reading.

Contested Ground is the first colony by colony, state by state history of white–Aboriginal relations. Given the fact that Aboriginal matters were in the hands of the colonies and later states, and still remain so to an extent, this approach would seem not only practical but appropriate. The various authors have drawn out some of the differences and similarities between the states but this book highlights the need for further comparative analysis.
Indeed, many authors were reluctant to make sweeping comparisons between their focus state and others. This was partly due to lack of existing studies along these lines but also due to a belief that other regional factors were equally significant. This being a general history, however, it was essential that authors gave special prominence to the common threads, the shared experiences.

Important variables affecting Aboriginal communities nonetheless deserve attention. These include the date of first contact, speed and intensity of settlement or invasion, the population of intruders, type of land use, (for example: mining, pastoralism, agriculture, urban) weapons and transport technology used, government policy, mission policy, contemporary frontier outlook, including racial ideology, demand for labour or converts, demand for sexual services of Aboriginal women. On the Aboriginal side, factors included the ruggedness and extent of their land area, its inaccessibility to horses, the existing Aboriginal ecology and level of vital resource depletion, population density and mobility, ability to hide out, impact of or immunity to diseases, gender imbalances in their populations, clan philosophy, prior intelligence of invaders, resistance strategies, including weaponry and guerilla resistance, desire to fight or co-operate, whether they had enemy clans collaborating with white police and settlers. Such factors, and many more, led to myriad regional variations.

Over and above these, however, each colony, barring Tasmania, had its own legislation governing Aboriginal inhabitants. On Federation, each state continued to enact specific policies for these people, over whom the Commonwealth had no powers until the late 1960s. All Aboriginal people in the respective states and the Northern Territory thus shared a common experience of being under 'the Ordinance' or 'the Act'. While there were many different histories around Australia, there were also many commonalities.

A number of Aboriginal authors were approached to write general state histories for the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) from which this book emanates. These included Jackie Huggins, Noel Pearson, Marcia Langton and Errol West. Regrettably, with the exception of West, they were unable to join the Commission's History Project, though
most contributed significantly in other ways. Nonetheless, I am pleased that this is the first national history to reflect significant consultation with Aboriginal people. All chapters are written by leading historians in their fields, originating as reports written for the Royal Commission. But they have been substantially rewritten to inform a wider readership. In order of appearance, the chapter authors are myself, Heather Goodall, Richard Broome, Henry Reynolds and Dawn May, Peggy Brock, Peter Read, Sandy Toussaint and Maykutenner (Vicki Matson-Green). As well as expertise in their respective regions, the historians were selected because they had past records of engagement in Aboriginal political issues and of working with Aboriginal communities and organisations. They and myself as editor (previously as National Co-ordinator of the History Project of the RCIADIC) were required to liaise with the Aboriginal Issues Units in each regional office of the Royal Commission. Consequently, the contents of the papers were discussed with numerous representatives of regional Aboriginal communities. Aboriginal leaders also advised during the History Project, especially Pat Dodson, the first Aboriginal Royal Commissioner, Marcia Langton, who headed the Northern Territory Aboriginal Issues Unit, lawyer and now Social Justice Commissioner, Mick Dodson and Errol West, then a lecturer at the Riawunna Aboriginal Centre at the University of Tasmania.

Although we generally attempted to use a common terminology, there remain many difficulties in choosing the correct words. The question of whether Australia was invaded or settled, which is, after all, the fundamental premise of the nation's establishment, remains controversial and for many, an extremely disturbing issue. 'Invasion' and 'settlement' have become powerful signifiers for political understandings and agendas. There are many different ways of approaching the problem. Some historians argue that it is a question of perspective; if you are Aboriginal, then it was invasion but if you are white, it was settlement. But can it be totally relative like this; is it only a question of what was going on in people's minds? Furthermore, are we more interested in past participants' mentalities or today's minds reflecting upon history? If we are concerned with contemporary understandings,
we would find that amongst the British in the early nineteenth century, opinions differed sharply, with humanitarians concerned about the usurpation of land from Aborigines. By the same token, few of the British—convicts or officers—saw themselves as permanent settlers, let alone nation builders. Those men who first ventured onto frontiers all over Australia were often prisoners, military men with temporary postings, or travelling miners or pastoral speculators looking for quick money. Aboriginal reactions were also mixed and they did not always conceive of the strangers as enemies; they had particular local words and concepts to explain what we now know to be the beginnings of Australia’s ‘colonisation’. It would seem, therefore, that rather than being interested in describing the ‘authentic historical moment’, it is more imperative to find words to explain the long-term and ongoing process and its impact.

A growing number of people believe a clear question of justice is at stake, and that because Aboriginal people were killed and lands stolen, it must have been invasion. With the High Court Mabo case of 1992, the law was called upon to adjudicate the premises of British takeover. The law can be rather complicated in its interpretation of legal principle. Yet a complex reading is probably more accurate than a simple dichotomy. And after all, why is it always posited as invasion or settlement? Why not invasion and settlement? Or settlement and invasion? In trying desperately to achieve ‘political correctness’, there is a danger that some aspects might be exaggerated at the expense of others.

This book therefore adopts a range of terms where they seem most appropriate but it always stresses the intrinsically colonial nature of power relations. The paradigm of race relations provides an inadequate tool to explain the peculiar tensions between indigeces and colonisers. Colonialism has wider explanatory potential, for the conflict between Aboriginal and non-Aboriginal people was not premised only on ‘race’ notions but upon the wider power relations implicit in a colonial past. In this light, the relationship of Aborigines to the nation also requires close exam-

ination. Important questions which all Australians must address include the extent to which Aborigines were seen as outside the white nation, by what means this was enforced and reinforced,
INTRODUCTION

and indeed why they were excluded so long from Australian citizenship. The term ‘post-colonial’ is favoured by some but I do not think it altogether appropriate; Aborigines have not gained full independence. Since the British invasion, and even after Federation, Australia’s history is still ‘colonial’ not only because Aborigines continue to be colonised but because the country is still subservient to an imperial power and at the time of writing does not have its own head of state. Aborigines and non-Aborigines alike remain subjects of the British Crown.

Today the term ‘Aboriginal’ is another topic of intense debate among indigenous people and academics. Previously, it was state legislation which defined who fitted the category ‘Aboriginal’, according to skin colour, ‘caste’ and lifestyle, whereas today, identity depends upon self-definition or community acceptance. In this book the authors have most often used ‘Aboriginal people’ or ‘Aborigines’ for people of Aboriginal descent. ‘Aboriginal’ means people of the soil or indigenes but in Australia it identifies a particular people. Many Aborigines, however, still have land associations which provide a strong sense of belonging and a specific identity. The terms Kooris or Murris are becoming common currency in south-eastern Australia, as is Pallawah in parts of Tasmania. For many other people their nationality, their allegiances, are defined by their Aboriginality. A sense of a common history is primary to that definition but so is a common present, and something of an essential way of experiencing and thinking about the world or ‘thinking black’. But this is complicated by the inevitable cultural fusion which has taken place due to exposure to the broader community and government assimilationist policies. Some people are now claiming a dual identity, for example ‘Aboriginal–Irish’. But generally, identity is a prime example of the intersection of the personal, the political and the history of both; it sometimes includes a process of self-discovery and a public declaration, often symbolised by an empowering switch of voice to that of the colonised. (See chapter 10 for more on this issue.)

Hence non-Aborigines are distinguished as ‘whites’ or ‘Whites’ and sometimes, where it seems appropriate, as ‘British’ or ‘Europeans’, terms denoting either cultural or ‘racial’ origins.
The term ‘white’ is not so much a description of skin colour as a label given by others; no one is really coloured white, red or black. In New Zealand, the categories Maori and Pakeha are in popular usage. In the Australian case, the hundreds of Aboriginal dialects make a common term problematic. In the Kimberleys it is ‘gadia’. In Arnhem Land the whites are called ‘balanda’, a Dutch derived word adopted from the Macassarese.

Most of the history contained in this book is not claiming to be ‘Aboriginal history’, that is, to tell the story from an Aboriginal perspective. It is predominantly written by members of the colonising class and it is about the relations between two peoples entwined in the process of colonialism. Any study of Australian colonialism is inevitably a product of the very subject it seeks to write about. Acknowledging that most of the authors are inevitably implicated, we nonetheless share a strong concern for justice. Our work as historians attempts to fight ignorance and hopefully will contribute towards redressing some of the wrongs of the past. But we are still influenced, enriched and entrapped, by culture-bound and often insensitive traditions such as humanitarianism, liberal philosophy, New-Left scholarship and feminism. We believe, however, that greater knowledge brings greater understanding and hopefully this will bring change.

The Mabo debate led Australians, with or without mango trees, to fear the symbolic sanctity of their backyards. *Contested Ground* tells a story which is essential to Australia’s history, one which is much more than just a struggle for real estate. As the Aboriginal leader Galarrwuy Yunupingu stated, ‘when you take away someone’s land, you take away part of their insides’. The contested nature of Australian history and of its soil and sea has flavoured the questioning of our national identity; of what we should celebrate, of who can celebrate. It has raised many questions relating to symbols like the flag, the anthem and more fundamentally, the monarchy and our Constitution. In considering what we hope to achieve for the centenary of Federation in 2001, the issue of Aboriginal reconciliation has become the most important issue of all.

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NOTES

2 A. Markus considers a framework for these in 'Through the Past Darkly', Aboriginal History, vol.1, no.1, which informs the proceeding discussion.
3 Personal communication to author, 1986.
**1**

**A national story**

TERRA nullius, or unoccupied land, was the legally endorsed premise of the British occupation of Australia. This convenient imperial fantasy has long shaped Australia’s past, and history writing and teaching has provided it longevity in both law and the popular imagination. Dissenting voices were heard; humanitarians and experts in jurisprudence worried that the Australian colonies were out of step with other ‘new world’ countries such as North America and neighbouring New Zealand. Nonetheless, terra nullius remained firm, being only one of many hypocrisies implicit in colonialism. In Australia a collective consciousness of denial emerged. Unlike the ‘dark continent’ of Africa, full of its ‘conquered’ peoples, twentieth century Australia became the ‘empty continent’. Its history books attempted to fill Australia’s vast spaces with stories of male discovery, exploration and above all, with ‘settlement’, which became, in the Australian context, a euphemistic term for conquering by force and outnumbering the indigenous population.

Australian history can be summarised as the story of how Aboriginal peoples lost a continent and how the invaders gained one. While opponents of Aboriginal rights argue that land rights or native title will divide the nation, any study of the past reveals that from the earliest times, the British set about creating boundaries and social divisions; the land and its riches were divided up in increasingly uneven portions between the newcomers and the Aboriginal people.
CONTESTED GROUND

It is deceptive to assume that ‘colonial Australia’ ended with the coming of the twentieth century, or that successful British settlement meant the end of ‘colonial’ relations between Aborigines and non-Aborigines. For the first three decades after Federation, the conflict over land, river and sea was still proceeding. Forced relocation and dispossession continued during the decades which followed. Since the British invasion, colonial relations were entrenched not only by land takeover but also by a wide variety of ideas and beliefs, and by the economic, legal, political and social structures which institutionalised and perpetuated them.2

Some areas have been more effectively colonised than others, and it is in the less populated regions such as the Kimberley, the Pilbara and Kakadu where Aboriginal traditional ties with the land are strongest. The success of colonialism therefore became a direct gauge of Aboriginal dislocation. First meetings between old and new residents were coloured by the forces and languages of imperialism and colonialism, although these encounters were sometimes the most open-hearted and hopeful moments of all: times of potential diplomacy before the use of capture or force.

In the short and long term, colonialism drastically jeopardised the personal liberty of Aborigines. They immediately lost choices over movement and residence, which was especially devastating for a people for whom travel was a necessity. Their lifestyle was frequently dictated by governments and Christian missionaries who wanted them to become sedentary, or remain under control on their ‘settlements’. Aboriginal families also suffered the extreme trauma of having their children taken away to dormitories or distant towns. Association with their own Aboriginal parents and kin was said to be degrading or subjecting them to neglect. Girls and boys were segregated and taught to conform to sex roles approved by an outside culture.

The carve-up of Australia was thus not only about land and property. It separated Aboriginal families, and broke the hearts and minds of individuals—variously Aboriginal children, men and women. Kidnappings of both adults and children were frequent. Crippling changes to Aboriginal lifestyle and land-use patterns were imposed. Individual colonisers were horrifyingly brutal, but
blame cannot rest solely on their shoulders, for Australia's colonisation originated in and was implemented by the State with popular endorsement.

It is a truism that colonial intrusions initially polarised those in Australia into two camps: the coloniser and the colonised. Yet paradoxically, the two camps could not remain totally divided physically or mentally; it was the very nature of colonialism that coloniser and colonised came together. In many such meetings, murder, rape, pillage, deceit occurred, but there was also co-operation, affection, generosity, loyalty, even love.

As well as a history of conflict and domination, there was also a history of negotiation, compromise and exchange between Aboriginal people and colonisers. Alliances were formed. Aboriginal midwives delivered white women's babies and Aboriginal women nurtured, even suckled, these children. Lonely white men relied upon Aboriginal women as lovers and de facto wives. Aboriginal women had children by white men. Bodies, words, culture, art, aesthetics, ideas, images became entwined in a complex physical and mental dialogue which continues today, and is most evident in human reproduction and cultural exchange. Children of mixed Aboriginal and European descent were born and grew up in varied contexts, but amidst the environment of Australian colonialism which generally defined them as illegitimate, partially or fully excluding them from the nation and full citizenship.

As well as creative exchanges and possibilities of cultural convergence, colonialism was delimiting. All Australians inevitably become prisoners of such forces. Aboriginal people recognise this, portraying their people, in literature and art, as prisoners in their own country. Their high imprisonment rates make this more than a metaphor, yet the image is particularly appropriate for a nation which commenced as a prison colony. When the imported convicts were freed, the indigenous people became their captives. The history of colonial and State authority over Aborigines—of institutionalisation, law enforcement, detention, imprisonment, and the role of police—have been fundamental in shaping their lives. Aboriginal individuals and communities interacted with these systems of policing and control, co-operating with and
resisting them according to their respective goals. Yet the confining power of government policies and practices often made it difficult for Aboriginal people to escape.

The overarching power relations of colonialism meant that the colonisers would win over the colonised. Yet, like all colonisers, there remained a nagging doubt about the tenure of their victory. Many Australians still feel an emotional need to protect their spoils, refusing to share the country with Aborigines. Others listen to pangs of conscience and yearn for a fairer country. The Mabo decision of the High Court in 1992 overruled the legality of terra nullius, but it has not yet erased its legacy from the present. Nor has it overturned non-Aboriginal understandings of Australian history, and these in turn shape present public opinion. As is discussed more fully in chapter 10, from Federation in 1901 until the 1970s, Aborigines hardly appeared in national history books except as a backward people easily ‘pushed aside’ by virile colonisers. The act of history writing has always been political, and Australian historians had and still have a special role in nation building.

Australia’s past cannot be truly understood unless it is analysed as a colonial history, and as the founding premise of Australian colonialism, terra nullius shaped the way this history unfolded. It dictated the basis of property ownership, and influenced the structures of fundamental Australian institutions, including its government. Following British takeover of their land, Aboriginal peoples lost their sovereignty, or their dominion and authority over the land. Consequently, Australian colonialism made Aborigines foreigners in their own land, intruders in their own dwellings. To exemplify this, early governors such as Macquarie in New South Wales required Aborigines to carry passports in order to travel in their own lands. Otherwise they would be treated as enemy aliens. Significantly, these passports were conditional upon Aborigines agreeing to give up their hunting implements, their bush economy and to stop associating with their families. Governor Arthur had the same idea for Tasmanian Aborigines; he planned to capture Aborigines living near the settled districts, and compliant ‘chiefs’ were to be issued with ‘a general passport’ signed and sealed by the governor.
In the next century, with national Federation, white Australians remained deeply insecure about their hold on the large continent, by then based not only upon *terra nullius* but upon a belief in racial superiority and an understanding that the land be fully colonised and developed. One of the first Bills passed became known as the ‘White Australia Policy’ and one of the earliest Royal Commissions which followed was into the white birthrate. Racial exclusion became central not just to the takeover of the land but to the self-image of the new nation. Although Aborigines were excluded from citizenship in this nation, white Australians saw fit to appropriate Aboriginal words, bushcraft skills and local knowledge and later their traditional art and symbolism. But the Aboriginal people were excluded from an active role in culture-making. Aborigines were literally a ‘captive audience’ forced to look on as white Australians narcissistically admired themselves, constructing and defining the nation as a young country, as superior, as blessed.

When the new nation celebrated its unblemished whiteness amidst Asian seas, Aborigines became an annoying anomaly. In the nineteenth century it had been thought that Aborigines would eventually go away. Either they would follow Tasmania’s lead and virtually disappear or they would eventually be ‘bred out’ through intermarriage. Whites and colonial governments often helped the process along. Against the tide of colonialism, Aborigines, defined as ‘primitive’, were the doomed race. In some areas, programmes were attempted to ‘civilise’ the women so they would be eligible for ‘nice white men’, eventually breeding out ‘the colour’. In the 1950s, assimilation promised to destroy Aboriginality by enforcing social conformity. But Aborigines refused to go away. Indeed, there was virtually nowhere for them to go, and like many other indigenous people, they faced a long struggle for their rights.

*Terra nullius* provided a powerful rationale and became part of Australian nationalism. The all-white Australian Natives Association adopted the term ‘natives’ for themselves and from the 1880s wanted to define the non-Aboriginal Australian-born as Australia’s only ‘aborigines’. Even the bushman legend, with its image of the ‘typical Australian man’ grew out of such denial. Features of
Aboriginality were borrowed so that white men could feel or prove themselves better Aborigines than the Aborigines themselves. The essence of Australian manhood, according to the working man's legend, was to be 'a rolling stone', a traveller, practical, laconic, collectivist, matey, the very image of 'the Aboriginal other' as perceived by white Australians. This white primitive, superior to Aborigines in the ever-threatening bush, was the Tarzan-like 'noble savage' recently metamorphised as Crocodile Dundee.8

In line with such national ideals, Aboriginal mothers were excluded from the maternity bonus and their elderly from the pension. The well-being of the Aboriginal people, considered a dying race anyway, was thus best kept low on the national agenda, if not forgotten altogether. The states, rather than the nation, were given responsibility for Aboriginal policy, and Aboriginal people were not even counted in the National Census. Until 1967 Aborigines were excluded from Australian egalitarianism and from democracy; it was only with the referendum of that year that all Aborigines were officially enumerated and learnt of their right to vote in Commonwealth elections.9 Wage and other struggles followed.

Government policies frequently separated Aborigines from the wider community, and forced them to live on islands or reserves. Many of these were run like internment camps, quarantine stations or prisons. Like foreigners, Aboriginal school children fortunate enough to get into public schools were constantly asked 'where do you come from?' In the 1950s and 60s, some Aborigines were required to carry official documents which classified the owner according to 'caste'. Called 'certificates of exemption' because they exempted the holder from Aboriginal legal status, they had to be carried at all times. These passports to White Australia entitled the holder to enter public places like hotels and to receive other entitlements such as pensions or mainstream education for their children. Like the earlier passport, rights were conditional upon holders giving up an 'Aboriginal lifestyle' and relinquishing contacts with Aboriginal kin and friends. If noticed disobeying these strictures, certificates could be confiscated by police. Like enemy aliens, Aborigines were often singled out and detained by police. Their
disproportionate representation in gaols suggests they were, and perhaps still are, being punished for their ethnicity and their colonised status rather than merely for their crime.

The various colonial and later State and Commonwealth governments introduced numerous Aboriginal policies which led to intrusions into most aspects of Aborigines' everyday lives. These included inspections of camp sites and other residences, and limitations upon their mode of living, work, financial and leisure activities. Institutionalisation became a dominant theme in Aboriginal lives. Non-Aboriginal people discriminated against Aborigines in many ways, which affected their education, housing, employment, income and, worst of all, their self-esteem.

White Australia's era of nationhood has been a confusing and destructive time for Aborigines. Many Aborigines are bitter and
angry—totally fed up with the impositions of white society. They consider it has robbed and cheated them, not just of land, resources, and fair wages, but also of their Aboriginal families, love and identity. Along with the positive struggles come attempts to smother Aboriginal identity, anger and aggression expressed in domestic or other violence, and the self-destructive resistance of alcohol abuse. It is mistaken to say that no Aborigines have given up.

While successive governments attempted to curb distinctive Aboriginal behaviour through policies of ‘civilisation’ and ‘assimilation’, many Aborigines resisted total domination by continuing to maintain culturally distinct goals. Against a backdrop of racism and Eurocentrism, Aborigines struggled for land and residential rights, and recognition as equal human beings. From the 1960s, Aborigines and supporters conducted struggles for land rights, civil rights and equal wages. They had many successes,
though Aboriginal activists are still struggling for national land rights, compensation and greater control of their own affairs. Since the 1970s, a large number of Aborigines have let go of the shame they were taught and have spoken out more openly about what it means to be Aboriginal. A cultural renaissance has occurred throughout Australia as Aborigines previously denied access to their past culture have sought to gain as much knowledge as they can. Across the country much sharing and exchange have followed, accompanied by an increasing pride in Aboriginal and Torres Strait Islander identity.

Pan-Aboriginal pride was epitomised by the huge gathering at the anti-Bicentennial march in Sydney in 1988. While many other Australians celebrated national ‘beginnings’, Aborigines from throughout Australia and their supporters drew attention to tens of thousands of years of occupation and, since colonialism, to great injustice. Above all they celebrated their survival as a people.

AN ABORIGINAL WORLD

Aboriginal people have an ancient history of owning the land we now call Australia. It is only since the 1992 Mabo decision that this seemingly obvious fact was acknowledged in an Australian court of law. In the 1980s, attempts to officially recognise prior Aboriginal occupation or ownership in state legislation met nervous reactions. Even at the time of writing, it is not recognised in the national Constitution. Yet Aboriginal history proceeded autonomously from Europeans for longer than we can imagine.

The Australian continent’s little-known history of Aboriginal civilisation dates back somewhere between 50 000 and 100 000 years. Archaeological investigations and improved dating techniques promise further breakthroughs. Regional dating variations are not particularly significant, because they reflect the limited nature of archaeological research. Aboriginal people had to adapt to dramatic climatic changes, which affected not only food resources but the very divisions between land and ocean. Aboriginal people share and continue to share important historical knowledge through Dreaming stories, clan sagas, song cycles, dance and art. For them, history is written in the landscape itself;
the land is not just a text book for history, it is history and history is the foundation of their present-day lives.

Aboriginal people may have occupied the same area for longer than any other people in world history. They cannot be cast as another minority ethnic group as an immigration which occurred so long ago cannot be compared with one which commenced little more than 200 years ago. While migration is undeniably a central part of white Australian experience, it is not a significant part of Aboriginal history or consciousness. Indeed, Aboriginal art of an extremely sophisticated kind predates the earliest examples of European art.\textsuperscript{11}

Many Australians have mistakenly imagined there were few Aboriginal people and that they only lived in the middle of the desert. They have no idea that Aboriginal people once lived in what are now their backyards. Population figures in 1788 are estimated at 750,000, with the densest populations in New South Wales and Victoria, along the coast and rich water courses.\textsuperscript{12} The diversity of Aboriginal land-use patterns, food sources, technology, clothing, and shelter is not widely known. For example, Aboriginal people in western Victoria wore fur cloaks and lived in relatively permanent villages with stone housing. In warmer resource-rich areas, Aboriginal people stayed for months at a time. Careful land management techniques were applied to harvest food resources and sensitive and skilful methods were used to hunt game. Hunting and gathering required great physical agility, dexterity and a detailed knowledge of animals and land. Aboriginal people enjoyed a balanced diet and good health, having been naturally quarantined from many of the diseases which affected Europeans.

The social and economic organisation of Aboriginal groups varied greatly throughout Australia, but some general observations can be made.\textsuperscript{13} Torres Strait Islanders had a distinctive culture, with close links to Melanesian peoples. They had a more village-oriented lifestyle with market gardens and different traditions of dance, art and belief. Mainland and Tasmanian Aboriginal people had a relatively egalitarian social structure where age, gender and totemic and land affiliations were important demarcations. Women usually provided the staple food supply, owned and had
special responsibilities towards sites in the landscape, associated song cycles and what became known in English as 'Dreaming stories'. Women exclusively controlled the secret ceremonies of reproduction, and their maternal function as child-rearers was highly valued. Men also played an important role in nurturing and teaching children, and a wide network of kin had special responsibilities towards each child. When a baby was born, she or he immediately had a niche in a complex cosmology defined by Dreaming songs and stories. Identity was secure, and the child had a variety of land relationships via its conception Dreaming, and via inheritance through father and mother. The child would gradually be introduced to responsibilities towards land and kin and the strict marriage rules. Values taught included sharing, respecting the wisdom of age, protecting the young, gentle treatment and close observation of plants and animals, respect for the dangerous spirits, avoidance of prohibited sacred places and the fulfilment of kinship obligations.

Families and clans travelled the land during the year, harvesting resources when the opportunity was available, and looking after special sites to which they had responsibility. Men and women separately facilitated the reproduction of resources through ritual nurturing. They also spent much time working or negotiating business in the company of their own gender. Decision-making and law enforcement were divided between men and women, and ultimate power was often accorded on the basis of custodial obligations towards relevant land or kin. As with history, the tablet of the law was the landscape itself, explained through Dreaming stories as people travelled. Dancing and singing, storytelling, drawing, painting and sculpture took place all year round, and were an entertaining means of education.

While women were in charge of their own business, sacred and secular, men's power was generally more highly valued in matters of law and punishment concerning the larger group. In some areas, however, women's law was extremely powerful and older women held high status. Large gatherings of many clans took place from time to time to conduct marriage, funerals and religious business, including the male initiation ceremonies. Ritual confrontations were also staged to avenge wrongdoing, and other
transgressions could be punished by death, spearings or sorcery. For various reasons, usually to protect them from a lingering death or a poor quality of life, babies were sometimes killed at birth. As untimely deaths and transgressions against the laws of the land had to be punished, revenge killing and terrifying sorcery were fairly common.

DISPOSSESSION

Aboriginal groups encountered other outsiders before the British arrived. In the Northern Territory and parts of northern Queensland, Macassan trepang gatherers had been interacting with Aboriginal people off the coast since at least 1700. Relatively harmonious relations existed, with trading and employment of local Aboriginal men and women. Such items as glass were incorporated into Aboriginal tool-making, and Macassan words became part of their language. Some intermixing occurred, and the all-male crews engaged in sexual associations with the local women, but they were temporary visitors and not interested in land take-over.

The history of Aboriginal dispossession is central to understanding contemporary white-black relations. Colonial takeover was premised on the assumption that European culture was superior to all others and that its bearers could define the world in their terms. According to European conventions, a colony could be established:

- by persuading the indigenous inhabitants to submit themselves to its overlordship;
- by purchasing from those inhabitants the right to settle part or parts of it;
- by unilateral possession, on the basis of first discovery and effective occupation.15

British possession of Australia was declared according to the third option; and the land was thus defined as *terra nullius*. In 1770 Captain James Cook and Joseph Banks considered there were few 'natives' along the coast. They deduced that Aborigines had no property rights because they had not laboured to 'subdue' the
land by agricultural cultivation. Their observations were later proven incorrect, with the governors of the first settlements soon finding that Aboriginal people lived inland, and had special territories and associations with land on the basis of inheritance and spiritual affiliations. Nonetheless, the terms of British occupation were not amended.

In the first hundred years of settlement there was not consensus about the basis of British sovereignty. Governor King commented in 1807 that Aboriginal people were the 'real Proprietors of the Soil', and lively debate over the issue continued from the 1820s to the 1850s. The justice of the British takeover was far from clear, for what happened in the Australian colonies was out of step with international trends. At the same time, however, the nature of Aboriginal land-use did not fit western definitions of ownership or occupation. In response to Nabalco mining plans, the Yirrkala people of the Northern Territory presented a bark Petition to the Federal Parliament in 1963; after a Supreme Court Hearing, Justice Blackburn stated in his 1971 judgement that all rights to the land were extinguished after 1788, and that because native title had not been legislated by the British, it was not part of the Australian law. This was overruled by the Mabo judgement of the High Court of 1992. The majority rejected the legality of terra nullius, arguing that native title existed to traditional lands 'where it has not been extinguished'.

The absence of a treaty was regretted by Governor Arthur after his Van Diemen's Land (later Tasmania) experience. In a letter to the Select Committee on Aborigines which reported to the British House of Commons in 1837 he wrote: 'On the first occupation of the colony it was a great oversight that a treaty was not, at that time, made with the natives, and such compensation given to the chiefs as would have deemed a fair equivalent for what they surrendered.' Had this happened, he considered 'that feeling of injustice which I am persuaded they have always entertained, would have no existence'. His advice may have influenced the signing of the Treaty of Waitangi.

Earlier misinterpretations of Aboriginal population, land-use and style of occupation have ramifications today in popular assumptions and in Australian law. Past Aboriginal negotiations,
for example, have been largely omitted from our history, with Aboriginal people portrayed as powerless victims. Even where diplomacy occurred, it is dismissed in a derogatory fashion. Some pastoralists said Aboriginal people ‘gave away’ their land in return for flour and sugar, or they ‘gave away’ their children. They failed to acknowledge that loaning children was one of the only ways the Aboriginal people could obtain the right to camp on traditional lands. Rather than being seen as diplomatic efforts, successful adaptations by Aboriginal people have been trivialised as confirming the attractions of civilisation.

The Batman-Kulin treaty of 1835 (discussed further in chapter 3 on Victoria) is significant as it was perhaps the only formal treaty negotiated with a group of Australian Aborigines. The Kulin were active agents who negotiated and permitted temporary access to their land in exchange for reciprocal rights to European resources. Batman’s treaty was declared invalid by Governor Bourke, not because it was deemed Aboriginal people were not entitled to it but because it was carried out by a private citizen rather than the Crown. George Augustus Robinson, who was employed to conduct a conciliatory process with Tasmanian Aboriginal people, negotiated an unwritten treaty in the 1830s, resulting in their move to Flinders Island. The Tasmanian Aboriginal people demanded special conditions, including regular trips back to their traditional land and the right to pursue their own culture, but these promises were broken. Throughout Australia, Aboriginal people attempted to negotiate with those who first occupied their respective lands and although mutual compromises were sometimes reached, these had no legal standing.

Influenced by the 1830s peak of the British humanitarian movement, the South Australian Colonisation Commission included a preamble in its Act that South Australia was classed as ‘waste and unoccupied lands’, the Colonial Office was concerned that this conflicted with their policy. They introduced amendments which allowed for a Protector to ensure ‘occupation and enjoyment of the natives’, requiring their agreement or voluntary sale of land before occupation. The Commissioners ignored these clauses in the Letters Patent by conveniently claiming that Aboriginal people did not ‘occupy’ the land. Such lobbying, however,
did achieve acknowledgement of the Aboriginal people's right to travel over, to hunt, gather and reside upon pastoral leases.

Racial ideas went hand in hand with British imperialism, from the Christian notion of 'the chain of being' where blacks were ranked as inferior and white Christians at the summit, to the rise of anthropology, which turned such ideas into a sustaining 'science'. Their findings were later applied in Africa, Australia and other colonial contexts, providing justification and information to facilitate the implementation of colonialism. Theories like Social Darwinism, popularised by Herbert Spencer in the 1870s and beyond, predicted that the extinction of 'inferior races' in the wake of 'colonial progress' was inevitable. The disease and ill-health Australian Aboriginal people faced in the late nineteenth and early twentieth century only reinforced belief in their inevitable disappearance. Despite the efforts of missionaries like J.B. Gribble in Western Australia and humanitarians in other colonies, the general public was relatively complacent about Aboriginal suffering, and subsequent government policies took on a short-term palliative nature.

Government policies and racial theories were intertwined, but anomalies and conflicts occurred between theory and practice. As suggested in the introduction, approaches taken within various colonies and states also reflected the peculiar demographic and other circumstances in each. Such factors as the impact of the military, the convict population, free settler agriculturalists and pastoralists, miners, the density of the settlement, the time at which it was settled, the state of British and other western technology, especially weaponry were influential.

FRONTIERS

The physical dispossession of Aboriginal people from their land was quite a different phenomenon to their legal dispossession. In the face to face contact, the process of colonial takeover featured both conflict and co-operation. Many Australian colonisers, especially its men, personally implemented the usurpation of land. The story often became violent as Aboriginal people and whites battled for land and other resources.
The Royal Commission into Aboriginal Deaths in Custody, which reported in 1991, was in part prompted by a belief that foul play or murder was responsible for those recent deaths. Aboriginal people's suspicions can be explained by their historical experiences, as well as by police behaviour after the deaths. Passed down through the generations, frontier violence created a distinctive 'popular memory' or historical consciousness. A certain patterning in these stories, a logic of events, explains the predicament of the individual and the group. Past lessons create a basis upon which to assess the present, and contemporary events reinforce them. That Aboriginal people and others often believe that police or gaolers have killed those who died is a serious indictment of Australia's colonial past, as well as proof that the present society has in no way reassured them that that past is over.

Aboriginal elders still ponder the injustices of colonial warfare as they narrate stories of past generations. The late Phillip Pepper, a Kurnai man of eastern Victoria, wrote: 'The white come here and took it by force with a lotta blood bein' shed by the Aborigines, they really died for their own country and got nothin' in return.'

Amy Laurie, a Gurindji woman, spoke of how her grandchildren could not understand why the past generations had not fought back harder when attacked. The elders explained:

'You know why we bin let 'em shoot we. Why? We frightened? No, we never gotim rifle.' And we didn't care, they reckon, 'We can die in our own country.'

Aboriginal perceptions of threat by various forces in white society have been perpetuated by a long heritage of control with often harsh means of enforcement. The theft of their land has made them sceptical of white justice. Frontier periods throughout Australia were the shaping times of colonial authority. Early violence against Aboriginal people was an expected 'price' of colonial expansion. What was not bargained for was that the cost to the indigenous people would be so difficult to redress, and that they would not only survive as a people but refuse to give up their struggle for forms of compensation.
Amidst the peaceful sounding 'settling' we read about in earlier history books, a lot of 'conquering' of the original landowners took place. In order to make way for British rule and its law to take effect, flagrant disregard of this same law was generally accepted. There were also implicit contradictions in imposing such rule in a 'new' land, for British justice had not been designed to cater equally for people of other cultures, let alone those in the relationship of the colonised. Edicts on paper which required humane treatment of Aboriginal people were not carried out by frontiersmen. Often they were window-dressing to appease the powerful British anti-slavery movement. Furthermore, British statements that Aboriginal people came under the 'protection of the Crown' were inappropriate when they had not chosen to be invaded and taken over as 'subjects'.

The frontier period thus set the tone of 'law and order' to be imposed on Aboriginal people. Tragically, force or its threat became the key means of establishing British justice. Australia has many unrecorded battlefields, and the number of Aboriginal people killed by the newcomers during the frontier era probably exceeds 20,000.31 Forcibly dispossessed of their land and traditional livelihood, retreat, starvation and migrations to the fringes of white occupied areas or reserves became inevitable. Through its legacy of fear, violence had a lasting impact on Aboriginal people, as was intended. Once they had come within such influence, they would be more likely to obey not just British laws but any instructions given to them by any white person.

Many white frontiersmen literally took the law into their own hands; as colonisers they felt empowered to 'do their job' by participating in conquest. Ordinary citizens thus remained closely involved in 'keeping the blacks in their place'. Community acceptance of violence was so widespread that those who objected were branded fanatics.32 The legal authorities seldom intervened, providing tacit approval of such actions.

Different styles of violence and techniques of subduing Aboriginal people were employed. This applied even in the earliest, more conciliatory contacts. In 1788, the Eora people who met the first British arrivals at Botany Bay were given displays of musket fire in order to instil a sense of fear of British weaponry.33
The British wanted to be respected and to dominate; to leave no doubt as to who was in charge. A series of kidnapings was another strategy used to command authority, the most famous being of Bennelong, forcibly kept in British custody with chains, bolts and guards. Hostage-taking was practised to acquire intelligence of the original occupants and to force the establishment of diplomatic ties. After Bennelong was returned his freedom, some promising co-operation and co-existence eventuated at Port Jackson and northwards. Conflict intensified, however, as pastoral settlement expanded on the Hawkesbury in the 1790s, then later on the Bathurst plains and along the Hunter in the 1820s. It grew worse during the 1830s and early 1840s along the Macintyre, Gwydir and Namoi, with the famous Myall Creek massacre of 28 Aboriginal men, women and children in 1838. Aboriginal spokespeople repeatedly appealed to have their best hunting areas protected from intruders, but to no avail.

Western Australia was invaded by the British in 1829 and competition for land and resources led to violent struggles. Overt cruelty is remembered in many Aboriginal oral histories, and in 1835 Governor Stirling led a punitive raid in Pinjarra where an estimated eleven Aboriginal people were killed. In 1833 an Aboriginal man from the south-west, Yagan, was shot and killed, and his smoked head placed on public exhibition in Britain.

From the 1840s in Queensland, frontier violence was used to ruthlessly dispossess Aboriginal people. The later occupation of the state, especially in the north, brought advanced rifle and revolver technology, plus the accumulated experience of past conflict in the southern colonies. The strong humanitarian lobby of Sydney and Melbourne was absent and the Native Police Force were brutally effective. The graziers' parliamentary power enabled them to clear and 'settle' the land unimpeded, which meant quelling all Aboriginal opposition. Queensland's vastness and the isolation of many pastoral and mining outposts caused a more protracted frontier struggle than in south-eastern Australia. By the 1880s and 1890s, the era of frontier violence was largely over and colonial 'order' had been imposed.

Queensland frontiersmen, like others, consistently carried guns
in case they encountered 'hostile' Aboriginal people; they were in 'enemy territory'. Deaths of Europeans met calls for vengeance. It was indeed doubtful Aboriginal people were being 'protected as subjects of British law'.36 In Queensland possibly 10 000 Aboriginal people and at least 1000 Europeans died as a result of frontier conflict. The chronic anxiety induced by this situation affected both sides. As the Chief Protector of North Queensland, Archibald Meston stated, Aboriginal people had lived for years 'in a state of absolute terror' and consequently behaved 'like hunted wild beasts'.37 Such a fearful people were likely to put up less resistance when rounded up onto reserves.

In the Northern Territory the Aboriginal people's first encounter with outsiders was often with Macassarese trepangers or Chinese goldminers. It was the last area to be continuously occupied by the British, though with limited economic success. The British soon abandoned outposts such as Fort Dundas (1826), Raffles Bay (1828)38 and Port Essington (1838), leaving a legacy of disease,39 violence and introduced animals. For decades afterwards, the non-Aboriginal population remained very low until the building of the Overland Telegraph Line in the 1870s. As elsewhere, pastoral expansion was accompanied by heightened conflicts, the massacres continuing up to the 1920s and 1930s in Central, north and Western Australia.

Atrocities against the indigenes were often hidden from the public records. The British knew well the implications of committing deeds to paper which, although publicly condoned, did not conform to the 'letter of the law'. The frontiersmen clothed violence in euphemisms such as 'dispersing', 'breaking up', 'shaking up', 'giving a fright' and 'teaching them a lesson'. While frontier warfare was considered men's business, white women sometimes participated.40

The violence was certainly not one-sided; Aboriginal people often used force against the strangers, posing a serious danger. Australia-wide, at least 3000 Europeans were killed and another 3000 wounded by Aboriginal people attempting to impose their law on Europeans.41 Their opposition to the newcomers has often been portrayed as a pan-Aboriginal desire to rid the country of whites, but this is a misinterpretation of Aboriginal culture.42
Individual Aboriginal people fought for a variety of reasons. They were generally carrying out their own law, and defending their land from intruders. The British had come uninvited; they had not followed the required protocol of introductions by elders to the land’s spirits and contemporary custodians.

Disease also left a shocking legacy of death and fear. Introduced diseases such as smallpox, and malaria in the north, had devastating effects on many Aboriginal groups, even before they came into actual physical contact with Europeans. Populations were halved or virtually obliterated; the severe depopulation caused personal suffering and community crises, placing survivors in a weakened position. Noel Butlin labelled disease as ‘our original aggression’ 43, and although there is no strong evidence that it was intentionally used in Australia as a means of subduing Aboriginal people, closing off access to land and food resources and poor medical assistance constituted neglect if not malice. By the late nineteenth century and until the 1950s, white health experts were largely motivated by the perceived threat of contagious diseases to their own people. 44

While in many areas, disease proved to be the main factor responsible for Aboriginal deaths, susceptibility was enhanced by the trauma of dispossession, unavailability of traditional food and water supplies, bans on traditional weapons, the unhygienic results of being required to wear European-style clothing, and the lack of immunity to introduced diseases. Alcohol and tobacco also played destructive roles.

Colonies differed in their scale of depopulation. The southeastern peoples were badly hit by smallpox whilst the northerners’ contact with Asia gave them greater immunity. 45 A speedy decline was suffered by the Eora of New South Wales, the Port Phillip peoples and the Tasmanian Aboriginal people, several of their clans being rapidly destroyed. The intruders, principally made up of convicts shipped out against their will, stole food, weapons, and raped Aboriginal women. The desperation of the hungry whites to establish self-supporting industries, especially sheep-grazing, led to a push for land and disregard for the original inhabitants. Van Diemen’s Land settlers and the ex-convict population was little interested in humanitarian concerns. The death
toll of Aboriginal people from violence and disease was shocking, and continued to worsen after they were exiled to smaller islands. Of the three or four thousand inhabitants in Van Diemen’s Land prior to the 1790s, only a couple of hundred people survived the 1830s. However, the islanders of Bass Strait, who had formed a community with men of the sealing industry, managed to survive as a distinct and defiant people.

Where there was less competition for resources and land, Aboriginal people had more chance to pursue their traditional economies. Furthermore, the hotter, northern and desert regions and areas without ports or reliable water supplies were less desirable to the newcomers, giving indigenes more time to develop survival strategies. There were fewer intruders, and maritime industries such as trepanging, pearling and fishing often relied upon Aboriginal labour and even company. A proportionally higher non-Aboriginal population also led to greater inter-mixing and mergence of the peoples. Generally the less successful the enterprises, and the less land-intensive the industries, the greater the chances for Aboriginal survival and relative independence.

LAND AND LABOUR

Aboriginal people as a whole have been especially vulnerable to fluctuations in the labour market. While some were attracted by the lure of tobacco, tea and rations, many lost their traditional economy and were subsequently forced into exploitative labour arrangements. A large proportion of Aboriginal people continued to support themselves independently in the late nineteenth and early twentieth century, but government policies often curbed Aboriginal entrepreneurism, such as bartering, selling fish and skins.

The desire of the British to establish their own economic security led to the dismantling of Aboriginal self-sufficiency. Foraging was considered an inferior pursuit, and more significantly, it clashed with British land-use requirements. Although Governor Macquarie, like Phillip, respected individual Aboriginal people, good intentions were outweighed by other colonial
imperatives. Macquarie was aware of the many Aboriginal protests from the Daruk regarding the takeover of too much of their choice riverbank land. He broke promises of no further expansion, and classified violent Aboriginal protests and crop destruction as unruly behaviour. Macquarie’s desire to change the Eora and other groups became especially pronounced after continuing violence on the Hawkesbury and interior. In 1816, he issued a proclamation prohibiting Aboriginal people from practising their hunting and customary law; they could not carry traditional weapons near town or conduct ritual fights. Gatherings of more than six people near a farm would result in ‘enemy’ status. Macquarie’s ‘passport system’ offered protection only for those who surrendered. In reward for ‘disarming’ and presumably giving up hunting with spears, they would be provided with land to ‘obtain an honest and Comfortable Subsistence by their own Labour and Industry’. Also supplied were six months’ food, a hut, tools, wheat, maize, potatoes, clothes, and ‘one Colonial Blanket’. They were thus exhorted to ‘relinquish their wandering idle predatory Habits of Life’. Any truce was to be conditional upon Aboriginal acceptance of British rules, including adoption of British cultural mores, and the rejection of Aboriginal political, legal, work and family structures.

From the earliest decades of white settlement at Port Jackson, Aboriginal people were encouraged to become farmers. Some Eora took up land at Elizabeth Bay and Blacktown, with male elders selecting areas near traditional estates. Aboriginal people may have hoped to prevent the land’s destruction by outsiders, but a convict was appointed to establish a market garden and British aesthetics were also imposed, with convicts building a ‘romantic road’. Before long the Aboriginal people deserted the farms.

Later they saw farming as a means to family independence and established successful farms in Victoria, New South Wales, South Australia and Western Australia. The Cumeragunja people’s fight for their farms is narrated in the film Lousy Little Sixpence. The Lake Tyers people of Victoria also mounted a protracted struggle to retain their own land. South Australian Aborigines’ demands for farming land were supported by a superintendent of the Aboriginal mission at Point Pearce. F. Garnet believed that the
granting of land for farms was a means of keeping them from becoming 'outcasts of society' who ended up in gaols. Nevertheless, governments remained insensitive to Aboriginal needs and successes at self-sufficiency, favouring the white farmers who demanded that good land be handed over to them. All types of land allocated for Aboriginal use was frequently resumed. Insecurity of Aboriginal tenure reflected that key tenet of colonialism, to 'colonise' with their own people, to take over Aboriginal land. If Aborigines occupied land, it must by definition be wasted or wasteland. Throughout Australia, Aborigines thus suffered not one, but many dispossessions.

Strong demand for Aboriginal labour sometimes led employers to accommodate Aboriginal cultural priorities. This was especially true in the more remote areas where insufficient white or imported coloured labour was available, and Aboriginal people became indispensable. In inland New South Wales, Queensland, Western Australia, the Northern Territory and parts of South Australia, skilled Aborigines could shape the terms of their employment. Oversupply of Aboriginal labour, however, often lowered financial rewards.

Nonetheless, labour market demand probably influenced levels of anti-Aboriginal violence and it also dictated the location of Aboriginal reserves. Many stories are told of northern pastoral employers hiding suspected murderers from the police because they were good stockmen. Here economic interests, and perhaps also mutual respect, had primacy over white solidarity. When not required for employment, there was not the same need to keep workers healthy, in the habit of employment, and out of gaol. During the Great Depression of the 1930s, Aborigines were not entitled to the same welfare as other Australians. Later rural recessions similarly hit Aborigines hard, and, it seems in some New South Wales towns in the 1970s their imprisonment rates simultaneously rose. (See chapter 2 on New South Wales.)

World War I and II provided Aborigines with an opportunity to enlist as soldiers and be paid and treated on a more equal footing. Elsewhere Aboriginal labour was greatly underpaid, and only in the 1940s and 1960s did the struggles for equal wages receive support from the wider community. Prior to the 1960s,
in the Northern Territory and Western Australia, Aboriginal people were often only paid in rations and some work clothing, with no proper housing provided. In Queensland, a cash wage was required from the 1900s, but a proportion of this was held in trust by the State. The government wanted to subvert the Aboriginal people’s sharing ethic and encourage thrift and savings, which the Aborigines saw as shameful greed. Although a small cash wage was introduced after the 1940s, many Aboriginal people in Queensland, the Northern Territory, New South Wales and Western Australia were never paid their due wages and their lifetime earnings were returned to consolidated revenue. In the 1930s the Northern Territory (excluding Central Australia) account was balanced at 3000 pounds but little attempt was made to distribute it to its rightful owners. Northern Aborigines were forbidden from purchasing cars or other prestigious items as these were considered too good or too frivolous for an Aborigine. In 1934 the Western Australian Aborigines Department held 2400 pounds in trust and Queensland trust money totalled a startling 293 549 pounds. The Northern Territory Chief Protector had set up the Aboriginal Medical Benefits Fund to urge employers to take responsibility for work accidents and employees’ health. The Federal Government confiscated most of this money for consolidated revenue and would not even permit its expenditure on ‘Christmas cheer’ for the children in the ‘half-caste home’. Aboriginal people were thus deprived not only of fair wages, but workers’ compensation, medical treatment and the right to freely spend their money.

Wage discrimination meant Aboriginal people lacked ‘the family wage’ available to other Australians, and bank loans were out of reach. In many states Aboriginal people were prohibited from buying land. They were not entitled to the maternity bonus introduced in 1912, to the dole, to various forms of welfare, including old-age pensions, to the same health or educational facilities as Europeans. Their camps rarely had the basic facilities of running water, power or sewerage.

Little money was spent on providing facilities for Aboriginal education. Public education was designed for white children who spoke English as their first language. Aboriginal knowledge and
learning styles were ignored. Mission teachers were often untrained, and inferior facilities for state teachers in Aboriginal schools also ensured sub-standard education. Hoping to maintain their cheap labour force, pastoralists were generally opposed to schooling resident Aborigines. During the 1930s some unions such as the IWW (Industrial Workers of the World) attempted to educate Aboriginal people about their rights, though others protested against their employment, seeing Aboriginal labour as a threat to their conditions. Eventually some Aboriginal labourers found union allies who supported their mobilisation for better conditions, as in the 1946 Pilbara strike and the Wave Hill walkoffs in 1966 and in the Victoria River district 1972-73.

Although Aboriginal people showed outstanding ability at prestigious occupations such as exploration, detective work, stockwork, and army work during the wars, state training schemes invariably placed them at the bottom rung of the labour hierarchy. From Macquarie’s time through to the 1960s, any training schemes for Aboriginal girls stressed domestic service, a job disliked in a society with egalitarian aspirations, while the boys were to be trained as ‘rural apprentices’. Aboriginal girls and boys taken from their parents were required to perform the most menial and poorly paid occupations and had no choice about employers. If they left employment, they were punished, sometimes in homes for juveniles, while their exploitation as cheap labour was justified as ‘uplift’ and ‘civilisation’. In reality it meant no education other than domestic training, and a lonely life as virtual orphans. Many lost all contact with their real families. During their service in other people’s homes, girls who became pregnant were sent to unmarried mothers’ institutions, where they were given little choice but to consent to their babies’ adoption by white families.

Aboriginal people were expected to fit in with a western-style labour system but they were not entitled to its privileges. Although excluded from many types of work, they excelled and were highly sought after at rural work such as horse breaking, mustering, fruit planting and picking. Outdoor and seasonal work appealed, as they often enabled greater flexibility and travel to visit distant kin. In many cases they allowed people to be based
near or on their traditional land and range area. Aboriginal people often demanded more flexible work arrangements where they could leave jobs to visit people or places, or conduct ceremonies. In many places this included continuing their traditional bush economy.

In rural towns, where so many Aboriginal people still reside, employment networks are family-based and often totally exclude Aboriginal people. The same applied to urban centres. As Mum Shirl, who grew up in Sydney’s inner suburbs, stated in her biography, she had little to do with whites ‘except that we
shopped at their shops, and always had to go to them for jobs and work, but mostly we seemed to be with each other".59

**THE LAW**

Since colonisation, Aboriginal people experienced an anomalous position in relation to British and Australian law. Prior to and after contact, Aboriginal communities had their legal system, with its internal logic and rationale emanating from the holistic philosophy of the Dreaming. Rather than abstract principles of justice, their laws were evoked more directly and on a more personal basis to maintain or regain community harmony.60 Theoretically, Australian courts have held that British laws applied to Aboriginal people and whites alike "except to the extent that the legislature had seen fit to make differences or to allow exceptions".61 Tribal law was to an extent accommodated by the Western Australian Native Courts between 1936 and 1954. Yet whereas 'tribal custom' was taken into account in mitigation of a sentence, it could not be a complete defence.62

Usually Aboriginal people were subject to British and later Australian law, and additionally to a range of special laws which prohibited and restricted Aboriginal movements and associations. While theoretically they were to be treated as British subjects, they suffered 'severe disabilities in the courts'.63 They were not given equality of legal status, yet were perceived as law-breakers. In many colonies, legislation entitled police and justices of the peace to extraordinary powers over Aboriginal people. Pastoralists, miners and other employers of Aboriginal labour were often appointed as justices of the peace and magistrates. They tried cases relating to their own or their neighbours' employees, and sent out their station's employees to assist in police efforts to quell Aboriginal actions.64 In Western Australia, for example, Aboriginal Protectors had special duties to 'minimise the annoyance caused by the Aboriginal people' which included their nudity and begging. In 1849, Aboriginal people could be tried summarily for criminal offences (excluding murder, arson, rape) by two or more justices of the peace and sentenced with up to six months imprisonment plus corporal punishment for male offenders.65
This court room scene depicts a trial of Aborigines for murder at Franklin Harbour in December 1855. Three men were subsequently hanged in January 1856. The man standing near the seated witness is a native interpreter. Admittedly the artist has trouble with faces, but the Aboriginal figures look less than human.

MITCHELL LIBRARY, STATE LIBRARY OF NEW SOUTH WALES

Many legal impediments affected Aboriginal people. In some colonies they could not press charges, were held corporately guilty for the crimes of others, and were not permitted to give evidence because they were pagans. But even the lifting of restrictions on giving evidence meant little. The justice system was especially alienating for people who were not familiar with western culture. Aboriginal people often understood little English, and thought they were to provide required answers rather than the ‘objective truth’. Juries were almost exclusively white, and rarely sympathised with the Aboriginal defendant or believed Aboriginal witnesses. Even if a white man had provoked the attack, the lesson had to be taught that Aboriginal retaliation was unacceptable. In the 1920s and 30s, numerous cases which Charles Rowley described as ‘spectacular injustice’ occurred through the courts. These highlighted the conflicts between traditional Aboriginal and British style law. But even more, they drew attention to the fact
that Aboriginal people were not receiving justice under the Australian system. Race had long been a crucial factor in administering justice, as demonstrated by studies of the 1888 rape case of a Victorian Aboriginal woman and of rape cases concerning Aboriginal men.\textsuperscript{68} Except in the most blatant cases, it was a tradition for whites to be acquitted for the murders of Aboriginal people. In a survey of the North Queensland circuit court between 1882–94, only a quarter of Europeans charged with violent offences against Aboriginal people were found guilty, and none were to be executed, despite the high proportion of murder cases.\textsuperscript{69}

In Northern Territory murder trials from 1884 to 1911 all nine Aboriginal people charged with murder of whites were found guilty, and three were executed. In the cases where whites were charged, they were very rarely found guilty, and the murderer was released after a short term. In 1913 Judge Bevan wrote to the Administrator:

\begin{quote}
Juries will not convict a white man for an offence against a black, certainly if the evidence is that of blacks, whereas on black evidence there is no difficulty in the way of securing a conviction against a black . . . The jury system may have worked well where the population is all one colour, but the introduction of racial antipathies goes far to undermine the principles of trial by Jury.\textsuperscript{70}
\end{quote}

Some of the scandals which occurred in the 1920s and 1930s in the far north related to police actions against Aboriginal people (for example, the Coniston and Forrest River massacres\textsuperscript{71}). Others involved suspicious deaths in police custody, such as that of Dolly of the Borroloola district. Constable G. Stott was charged with her assault but acquitted. The Supreme Court Judge stated that all the Aboriginal witnesses were ‘liars’. Aboriginal witnesses had their images tarnished by being treated as criminals; in frontier areas, they were often chained and imprisoned until the hearing. In 1934 an Aboriginal man, Tuckiar, was charged with the murder of Constable McColl, and Judge Wells found him guilty, despite corroborated evidence of provocation. Aborigines alleged that McColl engaged in intercourse with Tuckiar’s wife and refused to compensate the husband. The High Court overruled
Wells’ decision, unanimously ruling that Tuckiar should be released into the custody of the Chief Protector. However, Tuckiar mysteriously disappeared the next day without trace. Another man, Willaberta Jack, who was charged with the shooting murder of a white pastoralist (1929), was found dead soon after his acquittal—officially due to ‘influenza’. Humanitarians agitated for the establishment of Native Courts as in the Mandated Territory of Papua New Guinea, but their calls were largely unsuccessful.

DETENTION PATTERNS

Aboriginal detention rates have not always been as high as they are today; indeed their escalation is a relatively recent phenomenon. In the nineteenth century, Aboriginal ‘crime’ was more likely to be punished by frontiersmen than police. For most of the twentieth century, missionaries, government reserve superintendents and employers exercised discipline over Aboriginal people. The greatest increase in official Aboriginal detention has occurred since the 1950s, when increasing numbers of Aboriginal people moved into towns, and the government encouraged their incorporation into the wider community.

Prior to the Assimilation Policy, a separate system of justice operated for Aboriginal people living on reserves. In Queensland and Western Australia, reserves had their own courts, prisons and punishments. Aboriginal people charged and held in their lockups do not appear in state or Territory police or prison records. Segregation policies therefore meant not only separate living places but special sets of regulations and an insular, subjective judicial system. In a survey of courts presided over by Queensland reserve superintendents from 1959 to 1962, Colin Tatz found that almost every defendant pleaded guilty, and virtually all were found guilty. He pointed out how trivial behaviours from ‘untidiness’ to ‘immoral conduct’ were punishable with incarceration and argued that the judicial system contravened key principles of natural justice. The superintendent or missionary knew the personalities involved, there was no court of appeal, no legal
assistance offered, and the accused could be banished for an unlimited time.73

Greater association with police meant not only greater surveillance but a tendency for Aborigines to be perceived as law-breakers and undesirables.74 Special state legislation placed Aboriginal people under a set of discriminatory prohibitions between 1900 and 1960. Furthermore, Aboriginal people's loss of land and lifestyle factors made them especially susceptible to charges of loitering, vagrancy and petty theft.75 The charge of 'vagrancy' assumes 'respectability' is linked to a fixed residence, and the carrying of a certain amount of cash or savings. These notions were inimical to an Aboriginal travelling lifestyle with reciprocal sharing principles.

Cattle spearing was one of the most common crimes in pastoral districts until the 1930s. Aboriginal people felt justified in taking animals for food off their traditional lands but this conflicted with western property principles. Europeans had freely taken Aboriginal foodstuffs, killing their game foods, and even abducting women and children. Absence of native title made Aboriginal use of open space trespass. In the 1990s, Aboriginal cultural factors relating to use of 'public space' and white perceptions of their residential areas as public similarly led to disproportionate arrest rates.76

Discriminatory legislation banned alcohol to people classed as Aborigines until the 1960s or thereabouts. Legalisation of alcohol consumption for Aboriginal people is often cited as the chief cause of increased detention rates. Available figures show, however, that the trend towards higher rates of incarceration had commenced some years before the legalisation of alcohol consumption. Increased rates of incarceration in police cells and prisons coincided with the time that other types of Aboriginal institutionalisation were phased out. The Assimilation Policy of the 1950s led more Aboriginal people to move into towns, resulting in greater visibility than when 'locked' away on reserves and missions. In the 1960s and 70s, greater mechanisation, rural recession, and to a lesser extent, the introduction of equal wages in the pastoral industry, led to higher unemployment rates. Less employer control and the disbandment (sometimes enforced by
employers) of supervised work-related camps had a similar effect to shifting Aborigines off the reserves.

Only scattered historical statistics exist on Aboriginal detention rates and incarceration, as separate records for Aboriginal people were rarely kept, but the South Australian statistics provide a spiralling example. The rates of South Australian Aboriginal people in the prison population during the nineteenth century were fairly low—varying between 2 and 7 per cent. From 1905–30 'black and coloured' represented 2.4 per cent admissions, or less than 1 per cent of the Aboriginal population of South Australia. In the years 1956–69, the proportion of admissions steadily rose to 25 per cent of the total. Until the late 1940s, Queensland's Aboriginal people represented only a small though not insignificant percentage of the prison population. Reflecting the tightening reign on reserve dwellers, from 1901 numbers held in prisons decreased, with 6.7 per cent of the prison population in 1902 and 1.4 per cent in 1931. In Western Australia during the 1950–58 period, the rates of convictions for Aboriginal people were climbing steadily, with a more rapid jump between 1955 and 1960. By 1965, Aboriginal people in Western Australia represented 30 per cent of the prison population, compared with an estimated 2–3 per cent of the overall population.

Of Aboriginal people who were charged, most offences were relatively minor, against 'good order'. Drunkenness and obscene language were amongst the most common charges. In her study of Aboriginal people charged in Western Australia, Eggleston found that sentences discriminated against Aboriginal people, with prison sentences much more likely for Aboriginal offenders. Minor convictions soon led to long criminal records. C.D. Rowley's 1965 survey of Victoria, New South Wales and South Australia found that Aboriginal people were subjected to disproportionately high charge rates. In common with wider patterns, very few women were charged. Men were thought to require this type of discipline and had a greater interest in alcohol.

Poverty cannot be overlooked as a factor which precipitates crime. In biographies by now 'respectable' Aboriginal people, they reminisce with some amusement about theft as a necessary means to acquire things other people took for granted. Ruby Langford
A NATIONAL STORY

Ginibi thus appreciated the stolen money she was given for groceries when all her children were hungry, or the thoughtful present of turf for her backyard from a prison renegade. On her wedding day Mum Shirl's complete bridal outfit was 'hot'.

No sense of wrongdoing emerges in recalling these events, but rather a recognition of occasional theft as a worthwhile survival strategy. The hard work required to survive as an Aborigine—tough, often tragic lives combined with police harassment—led Langford to consider it unsurprising and not particularly 'serious' that one of her sons would have more than one conviction for firing guns at police cars.

The police, legal institutions and the media have often conceptualised Aboriginal groups as criminal classes, leading to increased detentions. Relations are seen as consorting with 'criminals' and despite the minor nature of their offences, the reputations of others are tarnished accordingly. The criminalisation experience is sometimes passed down through generations, to become a seemingly 'normal' way of life. Incarcerations in the family thus become a common experience for many Aboriginal families.

The wide array of other institutions to control Aboriginal people involved high degrees of confinement and isolation. Children's institutions were not only rigidly disciplined but punitive. At Carrolup Settlement in Western Australia, young children were confined in a lock-up known as the 'Boob'. The case of a girl punished for over 60 days because she tried to return to her family was not uncommon. Reserve managers in Western Australia exerted control over marriage, diet, child-rearing, employment, and greatly restricted movement off reserves. Queensland reserves had similar policies: Aboriginal people who rocked the boat by requesting their own earnings, which were held in trust funds, could be banished to Palm Island. New South Wales reserve dwellers who complained about unfair withholding of rations were punished by their own or their children's banishment. Exile on another reserve far from kin and community was a way of keeping Aboriginal people subservient to the wishes of the Board and deterring political activism. Aboriginal people had virtually no recourse to appeal such decisions.

Once Aboriginal people moved nearer to centres of white
settlement, any non-conforming behaviour became more visible and likely to meet opposition. Rising tensions between Aboriginal people and local communities were fuelled by many factors, and during the 1970s and 80s some local councils in New South Wales colluded with police and other authorities to improve their ‘tidy town’ image. Arrest rates rose rapidly, and media reports of ‘race riots’ further exaggerated the tensions.

The rhetoric and rationales for earlier protectionist policies were premised on paternalistic notions which defined Aboriginal people as a ‘child race’ requiring the sort of ‘supervision’ (the word ‘surveillance’ was thus not used), the ‘gentle hand to guide’ that children required. They were therefore to be controlled and punished in a different way to other adults. Assumed too mentally immature for responsibility for their actions, the prison system was not necessarily seen as the logical place for them, or at least not the first point of recourse. But after the 1950s, international opinion pushed Australia closer towards granting equal rights to Aboriginal people. A process of ‘exemptions’ in various states gave Aborigines the right to drink alcohol, though to gain a certificate, one had to reject links with Aboriginal lifestyle and kin. Without ‘good behaviour’, most certificates could be cancelled. In many towns, Aborigines were still excluded from public areas such as swimming pools and shops, prompting Charles Perkins to organise the Freedom Rides of 1965.

If Aborigines did not conform to the cultural strictures of the colonisers’ society or fulfil their expectations as amenable servile workers, they were categorised as ‘bad types’ who needed policing. Incarceration through the gaol system was the updated method of control, exclusion, and discipline. That prison could become a key normative institution to teach ‘civilisation’ to the indigenous people is one of the implicit contradictions of colonialism.

PUNISHMENT AND SURVEILLANCE

Aboriginal people as a group have been the target of various forms of discipline and surveillance—starting often through the barrel of a gun during the ‘frontier’ eras, then changing into the
restrictions affecting mobility and personal liberty policed by mission and reserve authorities.

Changing attitudes to crime and punishment accompanied the social sciences of psychology, psychiatry, criminal anthropology and criminology. In the nineteenth century, alcohol and the vices of civilisation were considered factors which led Aboriginal people to gaol. In an 1887 report on the management of Queensland prisons, imprisonment was considered to have no meaning for Aboriginal people and no deterrent effect. Recommended instead was solitary confinement, of which Aboriginal people were terrified. Although they were to receive the same diet as white prisoners, they were segregated from them. After the experience of Van Diemen's Land, and imprisonment elsewhere, it was found that Aboriginal people did not survive when confined. This was noted in a medical report on Aboriginal people detained for mental health reasons. Imprisonment on an island was considered preferable to 'close confinement' which was 'prejudicial to their health' 'though tempered by many unaccustomed comforts' it was 'the great factor in shortening life'.

Physical punishment of Aboriginal people continued, despite its rejection as brutal in nineteenth century Europe. In frontier regions, physical punishment was even more common. Settler folklore included the belief that Aboriginal people had especially thick skulls and it was almost impossible to strike hard enough to kill them. In Western Australia, justices of the peace could legally lash male offenders 24 times in a row. Native Police were flogged, and troopers, missionaries, employers and reserve managers all considered this an acceptable means of punishing Aboriginal people. One New South Wales reserve manager carried around a rifle, firing occasionally for effect, while another belted people with a baton. Reverend James Watson of Milingimbi admitted in 1925 to using the stockwhip on Aboriginal men, allegedly to punish them for assaulting their wives. Judge Wells of the Supreme Court of the Northern Territory stated in 1938 that 'the only punishment aboriginals appreciate, is a flogging. This has been suggested as the proper punishment for aboriginals by many who know them.' For more serious
Men being brought into a police station in neck chains, c 1920. Dozens of photographs of Aborigines in chains provide evocative evidence of the style of white justice against Aborigines. Battye Library, Library Board of Western Australia, 68174P

Offences, he recommended execution, and was angered when the government commuted death sentences to life imprisonment.93

Neck and leg chains were used on arrested Aboriginal prisoners in the Centre, north and parts of Western Australia until the 1930s, even though the nearest police lock-up was miles away. Aboriginal chain gangs also conducted road works. H.D. Moseley, who headed a 1934 Royal Commission to consider the ‘Aboriginal problem’, determined that neck chains were humane.94 On the one hand, the need for chains implied great success as escapists, but the symbolism of such entrapment and the discomfort it brought was a powerful demonstration of colonial authority.

A continuing Australian tradition of differential treatment in enforcing ‘justice’ reflects the deeper conflicts ensuing between coloniser and colonised. Vengeance policies were commonplace and remained so into the twentieth century. In the 1930s, when Aboriginal people murdered a white man or Japanese men, as in the Caledon Bay murders, the government sent out police-led ‘punitive expeditions’. A Board of Enquiry was set up in 1935 to investigate cases of ‘ill-treatment’ by Constable McKinnon and
others in Central Australia. It was revealed that police whipped and thrashed station Aboriginal people. The Board recommended that the managers report any cases of ill-treatment of Aboriginal people, but it is doubtful this was put into practice. In response to humanitarian pressure from the south, the Superintendent of Police, A.V. Stretton, advised police the following year that they should be 'carefully guarded' in their actions towards Aboriginal prisoners. Stretton advised 'discretion with firearms and recommended the use of lighter chains; he banned punitive patrols and the use of violence in interrogations'.

As traditional forms of Aboriginal justice and punishment were not recognised, Aboriginal people were sometimes charged and/or punished for enforcing their laws. Punishment might entail a spearing in the leg or an execution. An 1887 Report on Queensland prisons lamented the injustice of Aboriginal people being punished twice 'by the law of the race which has dispossessed him of his hunting grounds and taught him the vices of civilisation'. In many cases, however, unless they concerned a non-Aboriginal person or were carried out in the eyes of the law, government authorities ignored intra-Aboriginal violence.

When the 'civilisers', especially missionaries, wanted to curb the violent traditional punishment they commonly did so by using violence themselves. Aboriginal people's supposed closeness to brutes was justification for corporal punishment. Physical suffering was imposed to make Aboriginal people less of a threat to whites. For good colonising motives other contemporary values could be suspended. Yet it is a strange paradox that such punishment, then considered uncivilised in western societies, was condoned as a means of 'civilising' the Aboriginal people.

While the aim of a gaol punishment for non-Aboriginal people was to deprive the offender of individual liberty, this was not considered enough to bring home any message to Aboriginal people. Colonial conquest had already deprived Aboriginal people of their past liberty, including the sites at which they could drink water, hunt, camp and meet their kin. They were denied citizenship rights and the reserve system did not permit them to make decisions about their own lives; its rigid social order was supposed to be a crash course in civilisation but it meant Aborig-
inal people were often cut off from the outside world and were not allowed to manage their own affairs.  

Thousands of Aboriginal families were thus kept in a form of custody on segregated reserves. Custody has been defined as 'safe keeping, protection, charge, care, guardianship' as well as the more judicial 'the keeping of an officer of justice; confinement, imprisonment, durance'. Supervised missions and reserves were highly regimented. While the Northern Territory had more of a laissez faire policy than the states, from the 1930s, systematic records listed data relating to names, tribe, spouse, offspring, medical history, employment record, and police convictions. In 1932, the Chief Protector of Aborigines ordered each Aborigine in the Darwin district to be issued with a bronze numbered disk after a medical inspection and taking of fingerprints. Aborigines were supposed to wear the disks around their necks on red tape provided, but they refused to do so, labelling them 'dog tags' after another recently introduced government initiative. Aboriginal people of mixed-descent were subject to greater scrutiny, taken from their parents at a young age and forced to live in sub-standard accommodation which was both overcrowded and a fire hazard.

The New South Wales managers of government reserves were ill-trained and unpredictable. Backgrounds in management or experience with Aboriginal people were not required, but rather 'firmness', and a head for paperwork and figures. Former policemen, colonial administrators, regimental sergeant-majors and prison warders were welcome. A manager's duties included teaching children and maintaining school records, writing daily, weekly, monthly and annual reports, inspecting and repairing the houses and equipment, entertaining official visitors, collecting rent, supervising work gangs, distributing rations, and enforcing an array of mostly petty regulations. Some managers were decent but there were no real curbs on managerial conduct, and with co-operative police and magistrates, the place could become a 'concentration camp'. Aboriginal people recall tyrannical managers constantly calling in the police to remove people from the mission—as Les Coe explained, they 'treated you like bloody mongrel dogs'. While prisons might be seen as the most extreme example of
institutionalisation, their structure and motives were not entirely
dissimilar to Aboriginal reserves; as such they were part of a cultural
continuum of discipline and socialisation.

Aborigines, however, did not, and today do not, see imprison-
ment as shameful. The mother of one young man who was found
hanged in gaol stated that he was not afraid of prison, as though
this was proof of masculinity or personal strength. It was certainly
something well within the realms of personal or family experience.
Past institutionalisation of self or parents on a regimented mission
or reserve could even make it seem like 'home'. These formative
experiences were probably interpreted as punishment or discipline
anyway although children could be detained in delinquents homes
on the basis of their colour alone. Although Aboriginal people at
first feared gaol it later become a challenge, a test of one's ability
to cope with this white controlled environment. Fear of possible
death could add a further edge to this 'trial by ordeal'.

The elderly Gurindji woman, Amy Laurie described her life-
style during the 1960s and early 70s:

> When I was a drunken woman the police got me for
drunk-an'-run-around, and that's why I left the grog. I used to
end up in gaol all the time—three months. They didn't think
about me, an old woman, but I spent three months down
Broome. Five times I went there. Oh, I used to have a good
ride too—down and back! I reckon gaol is alright. They feed
you really well, and pay you, so you come back with your own
money when you work around. They used to ask me, 'How
come you come back in gaol again?' 'Why? Because you have
everything here.' Oh, I don't like it now.103

Amy had alternative explanations of why she gave up drinking.
Gaol may have had an element of travel and adventure, and
although the living conditions were comfortable compared with
what she was used to, she hinted at the loneliness and isolation.
Aboriginal attitudes to gaol highlight the material inequalities in
Australian society and even the ludicrousness of punishing people
whose ordinary lives would be considered punishment by those
belonging to most other groups.

But material ease is not everything. Socially, gaols were of
course lonely and threatening, and it was difficult to get away
from the tensions associated with white people and strange Abor-
ignes. There is also evidence, however, of Aboriginal solidarity
in gaols, exchanges of song cycles and ritual business between
clans. 104 Then there are the possibilities of an evolving Aboriginal
‘gaol culture’. Unfortunately suicide by hanging has become an
option within this cultural framework.

Aboriginal spokespersons have stated that membership of the
colonised class makes them feel confined and imprisoned, and so
to be actually locked up in a gaol is the last straw. This is a
telling reflection of Aboriginal consciousness about their position
in Australian society. Aboriginal perceptions of and reactions to
custody are closely linked with the intricacies of colonial power
relations. Aboriginal people are perceived and perceive themselves
as ‘losers’ in a conflict where white Australians were victorious,
having celebrated this for many years in works of history and
nationalistic ceremonies such as Australia Day. Colonialism did
not start and end on a specific date. If we accept that it is the
story of one group’s attempt to gain and maintain hegemony over
another group, then it never ends because domination can never
be total. The exception is when the group subject to colonialism
is totally obliterated.

RESISTANCE TO COLONIALISM

Aboriginal people have occupied an ambiguous place in the
Australian nation. After 1942, under Japanese attack, Australia
faced its greatest outside threat. Thousands of Aborigines rallied
to defend the land against the enemy but others revealed their
understanding to be quite different. The Australian Government
was nervous about their loyalty, fearing a fifth column amongst
their ranks, especially in remote areas. Waddi Boyoi wanted to
negotiate peace in the north-west without anyone getting killed;
he reasoned, why not let the whites have one bit of his land and
the Japanese the other bit; the local Aborigines would have some
left too and they could all share his traditional land. 105 Many
Aborigines thus continued to see themselves as the real landown-
ers, and indeed in the north, they had only recently been usurped
by what became White Australia.
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The tragic heritage of colonialism poses a huge problem for Australian society. Until recently even 'sympathetic' and well-informed white Australians described the situation of Aboriginal people as the 'Aboriginal problem'. Popular conceptions continue to frame the issue this way, asking 'What is the solution?' as though it will be 'solved' by non-Aboriginal people. Earlier administrators such as C.E. Cook, Chief Protector of Aboriginal people in the Northern Territory in the 1920s, perceived 'the Aboriginal problem' as a 'half-caste problem' because the 'full-bloods' would die out. Aboriginal survival was therefore the 'problem', as it made things rather messy. Only in Tasmania did colonists believe the colonising process was complete. The quest for 'real Aborigines' still appeals to many Europeans today as a means of excluding less physically identifiable people of Aboriginal descent. Lowering the numbers is one way of lessening the 'problem'. This extinction myth, perhaps convenient for white residents, is repeatedly challenged by Tasmania's Aboriginal population. It is no coincidence that a spokesperson like Michael Mansell reacts to past non-recognition by making himself and his people's survival so visible.

As we have seen, the surveillance of personal lives, sexual relations, hygiene, child-rearing and general housekeeping became very intrusive in the 'welfare' era. Aboriginal women and men were not given the chance of self-policing but had to put up with inspectors and police with great powers over their financial security and family life. Heavy surveillance of Aboriginal families led to greater institutionalisation and police and prison detention rates. As an easily identifiable and disadvantaged social group, they continue to be greatly over-represented in charge and detention rates. Western Australia has the worst record of 29 times the rates for non-Aborigines. In a depressing irony, the State thus ensured that many of the Aboriginal people have become a type of convict class in contemporary society.

Aborigines' relationship to the nation has remained ambiguous, leading many to argue that they now wish to be recognised as an indigenous nation, or nations within the nation. Aboriginal people have long suffered a protracted campaign of exclusion from the public sphere; until the late 1960s and early 1970s they could
Government policies emphasised health issues and targeted Aboriginal parenting practices. Mothers such as these Delissaville women were told to care for their babies in the 1950s fashion of regimented routines and western hygiene products. Yet basic infrastructure such as running water was often unavailable to complement the lessons. The official caption to this photograph reads: 'The Baby Clinic and Mothercraft Centre is a greatly valued amenity enjoyed by the residents of the Delissaville government settlement, in the Northern Territory. Aboriginal mothers have taken to the system with enthusiasm; and with great benefit to themselves and their families.' AUSTRALIAN NEWS AND INFORMATION BUREAU, PHOTOGRAPH BY J. TANNER, L25349

be officially excluded from main streets, parks, public swimming pools, public bars, the census and the vote. Exclusions now continue surreptitiously and police are sometimes used to implement them. It is hardly surprising then, that Aboriginal resistance to white authority is often specifically directed against the police.

As earlier discussed, the history of Aboriginal groups has varied a great deal regionally, with some clans suffering devastating
depopulation. Others retained more autonomy, language, cultural knowledge, and land associations. In the case of the Torres Strait Islands, a relatively independent employment history, geographic separation and cultural differences also set them apart. In northern Australia, a later frontier, a history of economic failures and a small non-Aboriginal population enabled Aboriginal people to maintain a certain autonomy over their lives and to a relatively large extent, maintain traditional land associations and spiritual lives. The Northern Territory Land Rights Act 1976 helped lead to cultural revitalisation and provided a power base as well as many side benefits such as negotiation, legal and employment experience. Sometimes reserves or pastoral stations formed a basis for community organisation. The largest reserves were in Queensland, Western Australia and the Northern Territory. Earlier State education on the Queensland reserves has had spin-offs in Aboriginal people who are better educated than those in many other regions. Smaller reserves, such as Lake Tyers in Victoria, have also enabled Aboriginal communities to use these bases for mobilisation. But the more repressive the regime, the more likely it was that those who left the reserves would rebel and angrily assert their rights.

The reserves system has, however, also created a legacy of helplessness and inadequacy. While a strong sense of shared identity emerged from such institutionalisation, 'inmates', as they were often called, were deprived of decision-making powers over their lives and that of their families. They were denied management of many aspects of their own affairs, including their bank accounts, their children's schooling, whether they exercised their democratic rights. During the 1980s, governments in these states persistently blocked or limited land rights and have not encouraged Aboriginal studies education.

Racism and colonialism were far more powerful forces than sexism in the lives of Aboriginal people, however, Aboriginal men's historical experiences certainly differed from women's. In the colonial context, women were expected to centre their lives on the family, which in the twentieth century came to mean the nuclear family in a suburban house, while the male was expected to be the breadwinner. The gender-power relations of colonialism
A group of boys wearing Boys Brigade uniform, Ooldea, salute the British flag. Here the potent symbols of uniforms, flag and militaristic regimentation suggest that 'civilisation' was being taught to Aboriginal boys amidst desert dunes and spinifex. SOUTH AUSTRALIAN ABORIGINAL HERITAGE PHOTOGRAPHIC COLLECTION, DEPARTMENT OF STATE ABORIGINAL AFFAIRS

meant that Aboriginal women were in demand by colonial men but relationships between Aboriginal men and white women were taboo.

Both men and women suffered conflicting pressures from their own communities and white authorities. They often resisted European pressures, preferring extended family arrangements even though they might break housing rules, and more flexible working arrangements which left them more vulnerable in the labour market. But the loss of independent means of production, virtually no land or chance to accumulate capital, and their confined lives on reserves severely curbed opportunities. Whenever the job market shrank, Aboriginal men found themselves unemployed and they were also excluded from white male focal points. While they were not permitted into public bars in many states until the 1960s, alcohol, obtained illegally, offered an escape from humiliation, and,
as in many countries, it continues to be more popular amongst men than women. In some communities there are few other means by which men can prove their manliness and worth. The old rituals have gone and new initiations are sought. Puberty, a desire to prove manliness, drinking and gaol are not uncommonly linked amongst Aboriginal men. Girls and women suffer drug abuse, alcohol-related domestic violence and high rates of early death. The sorts of pressures they face are little understood.

Earlier Aboriginal heroes like Pemulwuy in New South Wales, Nemarluk in the Northern Territory and Pigeon or Jandamarra of Western Australia, made amazing escapes from police and prison confinement. Similarly Aboriginal bushrangers or warriors such as Rebel, Mosquito and Murdering Tommy were admired for their defiance of the white military and police. That Aboriginal people are not ashamed of having been in gaol also expresses their defiance towards the white legal system. Aboriginal people continue to daringly escape today, though the long periods of imprisonment that result make it a rather tragic form of resistance.

Throughout Australia, Aboriginal individuals and families were engaged in more positive struggles. To maintain as much independence and family unity as possible has been difficult but for those who succeeded, worthwhile. Many battled to stay off reserves, while others just kept to themselves, avoiding police or other authorities and bureaucratic control. Less is known about these people than those who were under constant surveillance. Amongst those who came under rigorous control were many who struggled to retain personal space. Some did so through the forbidden pleasures of gambling, petty theft, swearing or drinking.

The political struggles of Aboriginal people had a profound impact. Spokespersons like William Cooper waged patient and ingenious battles through lobbying politicians for human rights and political representation, while the Cumerangunja people staged strikes to protest against infringement of their rights and attracted union and community support. Struggling for decent living conditions and pay, Aboriginal pastoral workers went on strike in the Pilbara in the 1940s, and in the Northern Territory in the 1960s and 70s. Land rights were also fundamental to their protests. The people of Noonkanbah and Mapoon staged lengthy campaigns to
protect their land and community from desecration and displacement by mining. The Day of Mourning staged on Australia Day, 1938, was a national meeting of Aborigines which demanded citizenship and human rights. The persistent lobbying by the Federal Council for Aboriginal and Torres Strait Islander Advancement (FCAATSII) and the footwork of activists like Kath Walker (later Oodgeroo Noonuccal) that achieved the successful result of the 1967 Referendum. Henceforth Aborigines would be counted in the national Census for the first time and the Commonwealth could override state powers in regard to Aborigines. More recently, Aboriginal leaders like Pat Dodson have done outstanding work towards national reconciliation, while highly skilled advocates and negotiators such as Noel Pearson, Mick Dodson, Marcia Langton and Lois O’Donaghue helped achieve the historic victory of national land rights under the Native Title Act 1993.

Throughout Australia, Aboriginal people have resisted the total domination of the newcomers over their land, bodies and minds. But they have also lent their trust to the newcomers, and openly shared these things with them. The history of negotiation, interaction and co-operation between Aboriginal people and Europeans still needs to be told. Aboriginal people worked for the white people, they married and cohabited with them, especially the women, and raised families. Aboriginal people shared their knowledge of the landscape and their bush expertise, as well as their Dreaming stories, their art, their ritual songs and dances. Aboriginal people have often reached out with hope and trust to forge a better future for themselves and for white people in this country. The only way a better future can happen is if both sides are willing to cross that colonising divide and talk about making amends for the past. Land rights are a priority but this must also happen in regard to education, health, employment, in changing attitudes, and above all in Australians opening themselves to the stories of the tragedies as well as the stories of healing, of co-operation, of negotiation and reconciliation.

The case reports of deaths in custody are revealing examples of how the history of colonialism and especially State intrusion have tragically affected Aboriginal families and individuals. Biographies and autobiographies of people like Margaret Tucker,
Charles Perkins, Grant Ngabidj, Jack Sullivan, Ruby Langford Ginibi and Ida West tell stories of struggle and survival, often humourously, and often with much hope for the future. It is important that all Australians take urgent heed of both the tragedies and the stories with happier endings. As the acclaimed writer and artist Sally Morgan eloquently wrote:

In the telling we assert the validity of our own experiences and we call the silence of two hundred years a lie. And it is important for you, the listener, because like it or not, we are part of you. We have to find a way of living together in this country, and that will only come when our hearts, minds and wills are set towards reconciliation. It will only come when thousands of stories have been spoken and listened to with understanding.111

NOTES

2 For a more detailed study of various periods of Aboriginal–white relations, with a special emphasis on the gender relations, see A. McGrath, Chapters 1, 6 and 12 in P. Grimshaw, M. Lake, A. McGrath, M. Quartly, Creating a Nation, McPhee Gribble/Penguin, Ringwood, 1994.

3 For more on these themes, see ibid, pp.87, 91; H. Reynolds, With the White People, Penguin, Ringwood, 1990 and in my other forthcoming work on gender, Aborigines and colonialism.


5 See chapter 8.

6 While this was a New South Wales Royal Commission it was concerned with national issues.

7 M. Quartly, unpublished paper delivered at Symposium in Honour of Catherine Hall, LaTrobe University, Sept. 1993; also M. Quartly, ‘Mothers and Fathers and Brothers and Sisters: The AWA and the ANA and Gendered Citizenship’, in R. Howe (ed), Women and the State, Latrobe University, Bundoora, 1993.


9 See A. McGrath, ‘‘Beneath the Skin’ Australian Citizenship, Rights and Aboriginal Women’ in R. Howe (ed).


12 J. White and D.J. Mulvaney, ‘How Many People?’, in D.J. Mulvaney and J. White (eds), p.117.


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19 Select Committee on Aborigines, 1837, *British Parliamentary Papers* (*BPP*), p.17. Before we applaud him as a far-sighted humanitarian, we should note that he was not concerned about its being an exploitative arrangement, believing 'a mere trifle' would be satisfactory. The British obviously regarded treaties expeditiously.
20 H. Reynolds at AHA Conference, 1990. Reynolds developed the above theme in more detail in his unpublished paper on 'Did Robinson negotiate a treaty with the Tasmanian Aborigines?'
22 See chapter 3.
30 A. Laurie and A. McGrath, 'I was a drover once myself' in I. White, D. Barwick, B. Meehan (eds), *Fighters and Singers*, George Allen & Unwin, Sydney, 1985, p.89.
31 Reynolds, *Frontier*, p.53.
33 *Historical Records of NSW*, 2.
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35 See P. Dodson report on Western Australia, RCIADIC, p.12 and Historical Chronology. For further information see B. Reece and T. Stannage (eds), *European-Aboriginal Relations in Western Australian History*, University of Western Australia, Perth, 1984.

36 *Moreton Bay Courier*, 6 Nov. 1861. See also chapter 4.


39 Malaria and bronchial disease spread rapidly and killed many.


45 N.G. Butlin ‘Macassans and Aboriginal smallpox: the 1789 and 1829 epidemics’ and J. Campbell, ‘Smallpox in Aboriginal Australia, the early 1830s’, *Historical Studies*, vol.21, no.84, April 1985.

46 L. Ryan, pp.124, 160.

47 *Historical Records of Australia* (hereafter *HRA*) 2, pp.142–43.

48 *HRA*, 144, 8 June 1816.

49 See chapter 5.


52 See Markus, *Governing Savages*. 

50
53 See for example, Grant Njabidj, My Country of the Pelican Dreaming: The life of an Australian Aborigine of the Gadjerong, Grant Njabidj, C. 1904–1977 as told to Bruce Shaw, AIAS, Canberra, 1981, passim.

54 See for example Haebich, pp.213–15.

55 L.H Giles memo for Government Resident, 7 March 1927, AA (Australian Archives) CRS A659 45/1/1544; C. Cook to Administrator, 11 Nov. 1931, AA, CRS A659, item 45/1/1544; G. Easey to Secretary NT Pastoral Lessees’ Association, 30 Nov. 1936, NTPLA records, Aborigines file.

56 Haebich, p.251.


58 Interview by A. McGrath with C.E. Cook, Darwin, 1982, and various letters, 1936, NTPLA files.


62 E. Eggleston, Fear, Favour or Affection, ANU, Canberra, 1976, chapter 9.


65 Biskup, p.9.


67 Herald (Melbourne), 11 May 1934.

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Criminal Law in Early Port Phillip, 1841–51', *Historical Studies*, vol.22 no.88, April 1987, pp.313–16.

69 G. Highland, 'Race, Justice and the Law in Colonial North Queensland', paper given to History 90 Conference, Brisbane.

70 Cited in A. Markus, p.110.


72 Markus, pp.117–19.


74 A. Haebich, pp.92–93.


77 Eggleston, pp.176–77.


79 Langford, chapter 21.

80 Haebich, p.182.

81 Markus, p.178.

82 See NSW chapter in this volume.

83 For more detail on exemptions and citizenship rights see '“Beneath the Skin”, Australian Citizenship, Rights and Aboriginal Women’ in R. Howe (ed.).

84 For further discussion of this topic, see A. McGrath, ‘Colonialism, Crime, Civilisation’, in *Australian Cultural History*, 12, 1993. Some of the material herein, originating in RCIADIC papers, was earlier published in modified form in this article.


87 *Transactions of Intercolonial Medical Congress of Australasia*, second
session, Melbourne, Jan. 1889, p.860. An Act to constitute the island of Rottnest a legal prison 1841, WA.

88 It should be stated that convicts received corporal punishment, though not as often as was previously held, and that this system was being phased out by the 1820s in Australia. This was before the beginning of most Australian frontiers.


90 Biskup, p.9.

91 Markus, p.178.


94 Rowley, p.300.

95 Board of inquiry into alleged ill-treatment of Aborigines by Constable McKinnon and others, and recommendations, 1935 in AA, CRS A1. 35/1613, also Treatment and handling of Aboriginal prisoners, A.V. Strettton, AA, CRSA1, 36/4477; also McGrath, Born in the Cattle, p.120.

96 See Shaw, My Country of the Pelican Dreaming.


100 P. Read, A Hundred Years War, ANU, Canberra, 1988, p.89.

101 Read, p.89.

102 Les Coe, cited in Read, p.91.

103 Amy Laurie and Ann McGrath, ‘I was a drover once myself’ in White, Barwick, Meehan (eds).

104 N.T. personal communication to A. McGrath.


106 For example, see Biskup, 1973.

107 For example, Queensland’s Annual Report on Aborigines for 1926 included the statement that ‘The conduct of the inmates on each settlement has, on the whole, been satisfactory, only three serious cases arising which needed Police Court proceedings.’ p.8, 1926, 1. See also Haebich.

108 For a study of gender and Aboriginal relations see P. Grimshaw,

The author intends to analyse this in a larger work on gender, Aborigines and colonialism, a project which has been generously supported by the Australian Research Council.

See B. Sykes Black majority, Hudson, Melbourne, 1989.

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6 ibid, pp. 10, 11, 22.


9 Described by Ann McGrath in *Creating a Nation*, pp. 7–9.

10 Butlin, pp. 11–41.


20 Colonial Secretary’s In-Letters (CSIL) Special Bundle: Aboriginal Reserves, 1849, (SA 4/1141.2).
21 See CSIL Special Bundle: Aboriginal Reserves, 1849, for individual recommendations, then, for decision, see Chief Commissioner of Crown Lands, Circular, 16 Feb. 1850, (CCL Gwydir, Letters Received, 1843 on, SA 2/7627); A.W. Mullen, Surveyor, Report on Brewarrina Fisheries, 8 Sept. 1906, (SA).

22 Earl Grey to Governor Fitzroy, 11 Feb. 1848; and Fitzroy’s instructions to Crown Law officials, 18 July 1848. CSIL, Special Bundle: Aboriginal Reserves, 1849.

23 Surveyor General to Colonial Secretary, 27/11/1848, CSIL Special Bundle: Aboriginal Reserves, 1849; CCL Bligh to Chief Commissioner, 24/1/53, Governor’s Despatches, vol.74, Mitchell Library, Microfilm CY1949.


29 H. Goodall, ‘Land in our own Country’, p.5.

30 Goodall, ‘Land in our own Country’, p.22.


32 Goodall, ‘A History of Aboriginal Communities in NSW’.


34 Goodall, ‘Land in our own Country’; Morris, Domesticating Resistance.

36 Goodall, 'A History of Aboriginal Communities in NSW'.


38 Goodall, 'A History of Aboriginal Communities in NSW'.

39 Goodall, ‘Cryin’ Out For Land Rights’, in Burgmann and Lee (eds), Staining the Wattle, Penguin/McPhee Gribble, Ringwood, 1988; Goodall, ‘Land in our own Country’.

40 Morris, Domesticating Resistance.

41 Goodall, ‘“Saving the Children”: Gender and the Colonisation of Aboriginal Children’, p.7.


44 Coral Edwards, ‘Is the Ward Clean?’, in B. Gammage and A. Markus (eds), All That Dirt, Research School of Social Sciences, Australian National University, Canberra, 1982; Edwards and Read.


46 Moree Council recorded its decisions and actions in detail in its Minute Books, 1923 to 1933, and its strategies are confirmed in the APB, Child Welfare and Education Department archives. The long campaign against the town’s Murris was recorded from the other side in the letters of the local missionary to his organisations’ journal, Our Aim, see Goodall, ‘A History of Aboriginal Communities in NSW’, pp.204–15.
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48 ibid, pp.186–215.
49 ibid, pp.216–52.
50 ibid, chapter 6 for a more detailed discussion of these Depression processes of exclusion.
51 ibid, pp.408–409.
52 Many of Cooper's later letters to the Commonwealth Government have been published in Andrew Markus' edited collection, *Blood from a Stone*, Allen & Unwin, Sydney, 1988. The letters to the NSW Premier and some copies of those to the NSW Protection Board are found in the NSW State Archives.
54 *Australian Abo Call*, 4 July 1938.
55 Goodall, 'A History of Aboriginal Communities in NSW'; Tucker, *If Everyone Cared*; Horner, *Vote Ferguson*.
56 *AWB Annual Report*, 1948 and throughout the period.
57 *AWB Annual Reports*, 1941, 1943, 1945: 3 and 8.
63 Read, *A Hundred Years War*.
64 Morris, *Domesticating Resistance*.
68 *AWB Annual Report* 1951: 4, and most later reports for similar statements, eg 1963: 5.


70 Tom Evans, 'A Family History of Murrin Bridge Reserve', 1992, manuscript in author's possession, based on correspondence between the Lake Cargelligo Progress Association and the AWB, recorded in *AWB Minute Books*, 8/2949, 18458, held NSW State Archives.

71 *AWB Annual Reports* for these years.


75 J.J.Fletcher, 'Collarenebri: An Attempt to Integrate Aboriginal Children', *Leader*, vol.6, no.1, 1975.


78 *AWB Reports*, 1961, p.5; 1962.

79 *AWB Annual Reports*, 1956, p.5; 1960, p.9; 1956, p.5.


81 Bandler and Fox, p.76.


86 Bandler and Fox, pp.117,133,167; *Sun*, 3 May 1956.


88 Bandler and Fox, p.61.

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90 Goodall, 'A History of Aboriginal Communities in NSW': Aboriginal recollections.
92 Faith Bandler, Turning the Tide, Aboriginal Studies Press, Canberra, 1989, p.35; Bandler and Fox.
93 NSW Govt Gazettes; AWB Annual Reports for these years.
96 Bandler, Turning the Tide, pp.35, 51.
97 Bandler and Fox, pp.81–92.
99 AWB Annual Reports, 1964 to 1968.
100 Phil Ayers, Vocational Officer, Brewarrina, 1971 to 1977: Personal Communication.
101 See SMH, 26 Dec. 1964.
102 See also Ann McGrath, 'Beneath the Skin: Australian Citizenship, Rights and Aboriginal Women' in R. Howe (ed.), Women and the State, La Trobe University, Bundoora, 1993, a special edition of the Journal of Australian Studies.
103 Sources are scattered, including figures for conviction rates from 1945 in M.Reay, 'A Half-Caste Aboriginal Community'; from 1964 Brewarrina Police Charge Books, reviewed by Cunneen and Robb, in Criminal Justice in North-West New South Wales, Bureau of Criminal Statistics and Research (BCSR), Sydney, 1987; 1965 figures from a survey conducted by C.D.Rowley, in Outcasts in White Australia, Penguin, Ringwood, 1971; 1969 figures from an ABSCHOL survey in Walgett, reportd in Peter Tobin, 'Aborigines and the Political System' in F.Stevens (ed.), Racism and the Australian Experience, vol.2, Australian and New Zealand Book Company, Sydney, 1972; 1974 figures from Peter Tobin, Quarterly Report to the Aboriginal Legal Service (typescript in author's possession) and from M.Parsons, Report to the Aboriginal Medical Service, 1974 (typescript, author's possession); NSW BCSR, 1973, Minor Offences: City and Country, Statistical Report 18; NSW BCSR, 1974, Court Statistics, Statistical Report 6, Series 2; and


107 See the review of the Bourke *Western Herald* over these years by C.Cunneen and T.Robb, *Criminal Justice in North West NSW*. First ‘law and order’ calls were in 1971, and they intensified during 1974 and 1975 and thereafter.


NOTES

1 I will follow contemporary nomenclature and use ‘Koori’ for Aboriginal Victorians only when discussing the 1960s onwards, for the reasons set out in R. Broome, ‘Should We Call a Koori a “Koori”?’, *Australian Historical Association Bulletin*, 68, Sept. 1991, pp.43–46.


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13 Morgan (ed.).

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17 Thomas, 'Brief Account', pp. 434-35.


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29 Critchett.


36 Quoted in *HRV*, vol. 2A, p. 62.

37 Quoted in *HRV*, vol. 2A, pp. 69–70.


42 D. Wilson letters, 12 March and 6 April 1839, 26 June 1840, La Trobe Library, MS 9825.


45 ‘Report from the Select Committee on the Aborigines and Protectorate’, NSWLC, 1849, pp. 1–2.

50 Argus, 5 March 1859.
53 Christie, chapter 7.
57 For an account of Maloga see N.Cato, Mr Maloga: Daniel Matthews and his mission, Murray River, 1864–1902, University of Queensland Press, St Lucia, 1976.
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63 Attwood, chapter 4.

64 The Aborigines Act 1886, 50 Vic. no. 912, is accurately reprinted in Pepper and De Araugo, The Kumai of Gippsland, pp.275–76.

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75 Pepper, You Are What You Make Yourself To Be, chapters 10–13; Pepper and De Araugo, The Kumai of Gippsland, chapters 36–41.


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79 *Star*, 28 Dec. 1933, 1 Jan., 30 May 1934.

80 *Herald*, May 1934 (exact date indistinguishable in *Herald* clippings fiche series ‘Aborigines–General’, Borchardt Library, La Trobe University, ML 88-174).


82 Quoted in Jackomos and Fowell (eds), p.20.

83 Pepper, chapters 8, 11.

84 *Herald*, 18 May 1929.

85 Letter R.Glenn to A.Vroland, 29 Oct. 1936, La Trobe Library MS 9212.


91 *Herald*, 29 June 1929.


93 Clark, chapter 11.


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99 Jackomos and Fowell (eds), pp. 70–71.

100 Jackomos and Fowell (eds), pp. 102–105.


103 The Age, 10 June 1968.

104 Victorian Aboriginal Child Care Agency Co-op Ltd. Statement of aims and principles, roneoed, nd.


109 Barwick, A Little More Than Kin’, chapters 1, 4.


111 Pepper, p. 262.

112 Barwick, A Little More Than Kin’, chapter 2; Barwick, ‘The Aboriginal Family in south-eastern Australia’.


114 Sun, 20 July 1971.


116 R. Broome, Arriving, pp. 244–45.


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1 See D.J. Mulvaney and J.Peter White (eds), *Australians to 1788*, Fairfax, Syme and Weldon, Sydney, 1987.


3 George Leslie to his parents, 10 Dec. 1839, 24 June 1841; Walter

4 G.S.Lang, The Aborigines of Australia, Melbourne, 1865, p.77.


7 There is much debate currently about the original Aboriginal population. See for instance 'How Many People?' in J.P.White and D.J.Mulvaney (eds), pp.115–17.


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21 H.Reynolds, 'The Unrecorded Battlefields of Queensland',
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22 19 April 1876.


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27 Anti-Slavery Papers, S22/697, Rhodes House, Oxford.


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33 Brisbane Courier, 25 March 1865.


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41 Port Denison Times, 12 June 1869.
42 Queenslander, 12 Jan. 1884.
43 ibid, 5 June 1880.
44 On the Aborigines West of the Warrego, June 1890, Queensland State Archives, COL/144.
45 Brisbane Courier, 29 Jan. 1863.
47 Report on the flogging by Constable Kind of an Aborigine, Queensland Colonial Secretary Files, CSP/A2894 of 1876.
48 N.A.Loos, p.433.
51 Meston clearly subscribed to the notion of survival of the fittest. See above p.15.
52 The Native Labourers’ Protection Act was passed in 1884 but this related specifically to those employed in the fishing and pearling industries.
54 Meston had an ambivalent attitude to Aborigines. He felt that those who were foolish enough to trust blacks were likely to pay the penalty with their life. Yet in the same report he noted that ‘Every white man murdered by blacks is represented by at least 50 blacks murdered by white men. The white man has, beyond all question been the most unscrupulous and deliberate murderer of the two.’ A.Meston, ‘Bellenden-Ker Range (Wooroonooran) North Queensland’, Queensland V & P, 1889, 4, p.1213.
56 A.Meston, Queensland Aboriginals: Proposed System for their Improvement and Preservation, Brisbane, 1895, p.28.
57 Queensland Parliamentary Debates, 78, 1897, p.1541.
58 Queensland Government Gazette, 2 April 1904.
61 McG.Watson to Police Commissioner, 10 Aug. 1898, POL/J16, Queensland State Archives.
62 Quain to Galbraith, 27 Dec. 1902, A/44679, Queensland State Archives.
74 24/9082, Home Secretary's Register 1924, HOM/B64, Queensland State Archives.
75 Chief Protector to Under Secretary, Dept. of Health and Home Affairs, 17 Nov. 1937, TR1227/107, Queensland State Archives.
76 Bob Hegarty interviewed by Dawn May in Cooktown, 4 May 1984.
78 Burketown Protector to Chief Protector, 5 Oct. 1937, TR1227/5, Queensland State Archives.
Soon after drafting the letter, Bowman was killed by blacks when he attempted to disperse them from his property. Bowman's letter was sent to the local member who read it out in Parliament during the debate on supply. (Queensland Parliamentary Debates 1910, 107, p.2186–87.)


Chief Protector of Aboriginals, 16 Aug. 1933, TR1227/3, Queensland State Archives.


Annual Report of the Northern Protector of Aboriginals for 1902, QPP, 1903, 2, p.452,


Queensland Parliamentary Debates, 1945–46, 186.


Queensland Government Gazette, 6 June 1919, Section 1 (1) para (4).


Circular 22/7, CPA to All Protectors, June 1922, Papers and Circulars relating to Aborigines, 1914–25, Clerk of Petty Sessions, Cardwell, CPS 12J/W8, Queensland State Archives.

Queensland Parliamentary Debates, 1933, 163, p.920.

12/654 HOM/J83, Queensland State Archives.
98 Leandro Illin to Queensland Country Womens Assoc., Upper Stone branch, 4 Aug. 1933, 33/10018, A/3667, Queensland State Archives.

99 Smith, p.138.

100 Chief Protector of Aboriginals to Deputy Chief Protector of Aboriginals, 11 Jan. 1935, 35/2737, TR1227/4, Queensland State Archives.


102 Julian to Chief Protector of Aboriginals, 30 June 1937, 33/480, TR1227/107, Queensland State Archives.

103 The office of Chief Protector of Aboriginals was retitled the Director of Native Affairs under the Aboriginals Preservation and Protection Act of 1939.

104 Report of Director of Native Affairs 1939, QPP, 1940, 1, p.1077.

105 Aboriginals Preservation and Protection Act 1939, Section 12.


107 Annual Report, Director of Native Affairs 1962, p.2.


109 Cited Rosser, p.129.


112 North Queensland Guardian, 17 July 1937. A lock hospital was erected on Fantome Island in 1926 to deal with the numerous cases of venereal disease and by the early 1930s all people being transferred to Palm Island had to pass through Fantome Island first.

113 Report of R.Cilento, Director-General of Health and Medical Services on Palm Island Feb.–March 1937, TR1227/236, Queensland State Archives.

114 Under the provisions of the 1901 Amendment it had been only necessary to obtain permission in writing if an Aboriginal woman wanted to marry a non-Aboriginal.

115 History Leading to the Introduction of the Torres Strait Islanders Bill 1939, TR1227/150, Queensland State Archives.

bourne, 1979; Information received by the TLC TR1227/260; Report by Director of Native Affairs to Under Sec., Dept of Health and Home Affairs, 12 July 1957, 57/4883, TR1227/260, Queensland State Archives.


119 By 1951 all Australian governments claimed to have adopted a policy of assimilation but it was to be another decade before a common definition of the term was adopted.

120 Cherbourg, Hope Vale, Palm Island, Lockhart River, Yarrabah, Edward River, Woorabinda, Mitchell River, Weipa, Mornington Island, Cowal Creek, Doomadgee, Umagico (Bamaga), Aurukun, New Mapoon, Bloomfield River.


122 F.Brennan, *Land Rights Queensland Style*, University of Queensland Press, St Lucia, 1992, p.64.
NOTES

1 Unless otherwise indicated this biographical sketch is based on a number of interviews by the author with Rufus Wilton in 1985–86.

2 Royal Commission on the Aborigines, South Australia, South Australian Government Printer, Adelaide, 1916, p.16.


4 Graham Jenkins, Conquest of the Ngarrindjeri, Rigby, Adelaide, 1979, p.29.

5 Fay Gale, A Study of Assimilation: part Aborigines in South Australia,
6 Philip Clarke in his article, ‘Adelaide as an Aboriginal landscape’ Aboriginal History vol.15, no.1, 1991, p.69 suggests that the label Kaurna has been loosely used in the past and includes many peoples from other districts.
7 Although there are some violent incidents recorded between the Kaurna and the British colonisers, the major factors contributing to the high death rate appear to be associated with the trauma of being dispossessed, losing their traditional food and water supplies, having their religious and cultural life undermined and being forced to wear clothes which became wet and dirty instead of traditional fur cloaks. These changes were all imposed within a few months of first contact without any time to adjust. Another major factor was exposure to diseases for which they had no immunity.

There are no accurate estimates of the number of Kaurna and other peoples in the region in 1836 but there is evidence that their numbers rapidly diminished after contact. See Report of the Select Committee of the Legislative Council upon the Aborigines, South Australian Parliamentary Papers (SAPP), no.165, 1860, p.5.
9 Matthew Moorhouse to Colonial Secretary, 13 Sept. 1841, quoted in Christobel Mattingly, ibid, p.40.
11 ibid, p.3.
14 ibid, p.23.
16 The doggers collected a government bounty on each scalp, an attempt to eradicate the pest from pastoral land.
17 Noel Loos, Invasion and Resistance: Aboriginal–European relations on
the North Queensland frontier 1861–1897, ANU Press, Canberra, 1982. Loos actually includes a fourth frontier, the rainforest frontier, but this refers not to resource development as do the other three, but to natural vegetation. While logging was undertaken in the forests, pastoralism and mining also seem to have had an early impact on the region.

18 A possible exception to this generalisation might be the Leigh Creek coalfields which began operating in the 1940s.


20 ibid, p.103.

21 ibid, p.107.

22 ibid, p.110.

23 For instance, the Protector accompanied a police expedition to the Rufus River area on the Murray River, where Aborigines had been reported to be attacking overlanders bringing stock into South Australia. He approved the police action which resulted in the deaths of large numbers of Aborigines.

24 *APP*, 1860, no.165, p.4.

25 ibid.


27 ibid, p.70.

28 Poonindie was the only mission to survive from the early period of Aboriginal administration. It was established by the Anglican Church, but with government financial support which was withdrawn in 1860.

29 Protector of Aborigines Report, South Australia, 30 June 1909, p.3.

30 Point Pearce and Point McLeay became government stations, Killalpannina closed and Koonibba remained a Lutheran mission until 1963.

31 Echoes of the policies implemented in New South Wales and Victoria.


33 South Australian Public Record Office GRG/52/1/1946/9 reproduced as in the original.

34 ibid.
35 M.S. Brock, 'Africans and Aborigines: a comparative study of government policies in South Africa and Australia', 1969, p.44.
37 South Australian Public Record Office GRG 52/1/1944/10; GRG 52/1/1948/28, 1948/58, 1951/33.
38 Mattingly and Hampton (eds), p.47.
39 South Australian Public Record Office, GRG 52/1/1959/147.
40 Report of the Select Committee of the Legislative Council of South Australia, 1860, p.87.
41 Statistical Register for South Australia, *SAPP*, 1860–1900. The majority were in gaols outside Adelaide.
42 These and the following figures are based on the Annual Reports on Gaols and Prisons, *SAPP* for the years 1905–30.
44 ibid, pp.246–47.
45 ibid, p.30.
48 At the time of writing the Trust legislation was under review and is likely to be revised.
49 In 1967 a referendum gave the Federal Government power to legislate for and administer Aboriginal affairs and it subsequently took over primary responsibility for Aboriginal affairs from the states.
NOTES

1 R.M. Berndt, ‘Traditional Aboriginal life in Western Australia as it was and is’, in R.M. and C.H. Berndt (eds), Aborigines of the West: Their Past and Their Present, University of WA Press, Nedlands, 1980, p.7.


3 Typescript of Anne Whatley’s diary held in Battye State Library, Perth. See also B.T. Haynes et al, W.A. Aborigines 1622–1972, History Association of Western Australia, 1972, pp.4–5.


9 S. Hallam, Fire and Hearth: A Study of Aboriginal Usurpation in the south-west of Australia, AIAS, Canberra, 1975, p.76.
18 P.L. Dodson, Final Report of the Royal Commission into underlying issues into Aboriginal Deaths in Custody in Western Australia, AGPS, 1991, pp.853–62 provides a historical chronology which contains reference to the establishment of various missions in Western Australia.
23 H. Pederson, 'Pigeon: An Australian Rebel', in R. Reece and C.T. Stannage (eds), European–Aboriginal relations in WA history, 1984, pp.7–14, Studies in Western Australian History, History Department, University of Western Australia.
24 E. Eggleston, Fear, Favour or Affection, ANU Press, Canberra, 1976, makes available relevant material concerning the 'dual role' played by Protectors in Western Australia.
29 Haebich, 1988, p.113.
30 It is revealing to note that between 17 and 21 of the 32 Aboriginal people whose life and death were investigated by the Royal Commission into Aboriginal Deaths in Custody in Western Australia had been removed from their families and placed in missions and government institutions as a result of such polices; Dodson, 1991, and E. Johnston, Royal Commission into Aboriginal Deaths in Custody. National Report, vol.1, AGPS, Canberra, 1991, p.44 provide details. See also D. McCotter, Children in Limbo, Dept of Community Welfare, Perth, 1981 for discussion of the removal and placement of Aboriginal children under the auspices of the state's Community Welfare Department (previously known as the Department of Native Welfare).
31 Statutes of Western Australia, vol.11, 1883–1892, pp.384–85; see also Seaman, P., 1984, pp.245–47.
32 Haebich, 1988, p.11.
34 ibid, pp.324–56.
36 Haebich, 1988, p.89.
39 ibid, p.54.
40 Haynes et al, 1972; see also Canning’s Report dated 1911.
41 P. Jacobs, Mr Neville, University of WA Press, Nedlands, 1990.
44 Dodson, 1991, p.28.
52 Lawford quoted in Marshall, 1988, p.15.
54 Australian Inland Mission, Hospital Administrator’s report 1969.
Typescript held at Department of Community Services, Fitzroy Crossing.

55 Britten quoted in Ross and Bray, 1987, p.20.
64 Dodson, 1991, p.2.
NOTES


2 Editor’s note: This chapter refers to non-Aborigines as White people. This terminology has not been adopted throughout the book but it is included here to demonstrate the problems of naming colonial actors and the diverse solutions chosen. Peter Read has a point: ‘White people’ is just as valid a categorisation as ‘Aboriginal people’.

3 Personal communication, Little Mick Yanuwinma and Daly Pulkara to P. Read, Aug. 1977


6 *Milirrpum vs. Nabalco Pty Ltd* (1971). The Court held that the Aboriginal clan and land did not amount to proprietorship as understood in White Australian law, and that no doctrine of common law required recognition of land rights under Aboriginal
CONTESTED GROUND


8 For details of the probable duration of Macassan visits to Australia, see C.C. Macknight, *The Voyage to Marege*, MUP, Carlton, 1976, ch.1.

9 For a description of the effects in Central Australia see B. Spencer, *Wanderings in Wild Australia*, Macmillan, London, 1928, (I), pp.382–86, ‘Even in 1909 the condition of the Arunta [Arrente] tribe was very different from what it was six years earlier, and the “rush” to the Arltunga goldfield, in 1902, practically completed its demoralisation.’


12 For example, failure to prosecute pastoral lessees who defaulted on rent payments.

13 Among the several official reports to note the fact was J.W. Bleakley, who observed (1929, pp.7, 12) that neither the pastoral industry nor Darwin family life would be able to continue without Aboriginal labour. For a discussion of Aboriginal award wages, see below.

14 For an example of persuasion and the reliance of bush people on station food see evidence of Powder (Brunette Downs), in Read and Read, 1992, pp.76–78.


16 For an unsympathetic official South Australian view of the work of the missions, see ‘Report of a visit of a Deputation to the South Australian Minister of Education’, *Adelaide Advertiser*, Feb. 1889; J.W. Bleakley, ‘The Aboriginals and Half-Castes of Central


18 W. Baldwin Spencer, ‘Preliminary Report on the Aboriginals of the Northern Territory’, Melbourne, 1913, p.24; further large reserves were set aside following Bleakley’s 1929 recommendation.

19 Spencer, 1913, p.20.

20 Spencer, 1913, pp.23–24; see also Northern Territory of Australia, Regulations Under the Aboriginal Ordinance, 1918–33, No.40 of 1933, Nos. 29–31; ibid, 1918–37, No. 57 of 1938, Nos.1, 2.

21 Bleakley, p.6. Typical accommodation, where provided at all, was a small galvanized iron hut without light or ventilation.

22 Bleakley, pp.6, 7, 9, 33.


25 M.P. Durack, quoted by Patsy Durack, Kings in Grass Castles, pp.331–32.

26 Bleakley, p.21.

27 Strehlow to Chief Protector, 18 March 1927, Australian Archives NT, CA 1070, Administrator NT, CRS: F 126, item 37, p.1.

28 Strehlow to Chief Protector, 11 Nov. 1937, p.1; Australian Archives, ibid.

29 Northern Territory of Australia, The Aboriginals Ordinance 1918–33, (No. 9 of 1918, as Amended) ss.11, 13, 15, 17, 45, parts V, VI.

30 Bleakley, pp.14,17; 1935 figure, Head Teacher to Deputy Administrator, 27 Feb. 1935, Commonwealth Archives 1070 F1 37/30; E. Hill, Sydney Sun, Commonwealth Archives F1, 214/33.

31 Acting Director of Native Affairs to Administrator, 3 Feb. 1954, p.1, Australian Archives, CA 1070, F 1, 52/250.


33 The Aboriginals Ordinance 1918–33, s3: an Aborigine was defined as ‘an aboriginal native of Australia or any of the islands adjacent or belonging thereto’; other ‘Aborigines’ included ‘half-castes’ who lived with an Aboriginal de facto spouse, associated with
Aborigines, was a child under 21 years, a female living unmarried to a person substantially of European descent, or a person over 21 years apparently incapable of managing his own affairs. Like the definitions employed in some of the southern states, the authorities had decided that the most useful were those which could be manipulated for administrative convenience.

34 Extract from *Annual Report of the Chief Protector*, quoted by Director of Native Affairs to Secretary, Department of Territories, 28 Feb. 1952, ‘Removal of partly coloured children from Aboriginal camps’, p.1.


38 For instance, recollections of Tim Japangardi, Tommy Tracker, Read and Read, 1992, pp.125, 128.

39 Tim Japangardi, in Read and Read, 1992, p.133.

40 Inspector of Native Personnel, Administration of Native Affairs Section, ‘Care and Guidance of Native Race by Army’, HQ NT Force, 23 April 1945.


42 *Regulations under the Aboriginals Ordinance* 1918-33, No. 14a.

43 V.C. Carrington to Administrator, 10 Oct. 1945, Report contained in Bovril Australian Estates, 1941-55, ANU Archives of Business and Labour, 42/14/1.

44 For example of allegations concerning north-western Western Australia, see *The World*, 14 Jan., 7 July 1932; in the Northern Territory, see letter by Mathew Thomas to *Northern Standard*, 20 Aug. 1937.

45 ‘Conference held in Alice Springs, 8, 9 June 1947, transcript; Bovril Australian Estates papers, ibid.

46 W. Wilson, ‘Dietary survey of Aborigines in the Northern Territory’ [1951], Commonwealth of Australia, Department of Health, p.101; ‘E’ was the worst grade possible, while ‘A’ represented a nutritionally adequate diet. The deficiencies were in Vitamins A and C, and calcium.

48 Tatz, p.12.


50 An Ordinance to Provide for the Care and Assistance of Certain Persons, No. 16 of 1953, III (1) (14); ss. 25, 26, part V.

51 For example, ss 25,16, part V, ibid; for discussion see Tatz, 20ff.


54 ‘Handbook of Instruction for the Guidance of Settlement Supervisors and Staff under the Control’, Dept of Territories, nd, c 1953; quoted by Tatz, p.12.

55 F. Lancaster Jones, A Demographic Survey of the Aboriginal Population of the Northern Territory, with Special Reference to Bathurst Island Mission, Australian Institute for Aboriginal Studies, Canberra, 1963, p.96.


57 Tatz, p.258.


60 For example, while many Australian patrol officers in Papua and New Guinea attended the Australian School of Pacific Administration in Sydney, no Aborigine, and very few Northern Territory Welfare officers, are believed to have done so.

61 Incident reported in Northern Territory Times, 3 March 1927.

62 Tatz, p.244.


64 Aboriginal founding members of FCAA included Doug Nicholls and Bert Groves.

65 Two organisers of the walk-off were Lupgna Giari (Captain Major) and Dexter Daniels.
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66 Ewan Morris, 'Like the bends in an old tree', BA Honours thesis, Department of History, ANU, 1990, quoting Director of Native Affairs Branch to Administrator, NT, 10 Sept. 1947, Australian Archives (Canberra), A 431 46/450; other Whites and Aborigines carrying spears joined the argument but the incident was defused.

67 Commonwealth Conciliation and Arbitration Commission, No.830 of 1965; for summary of the arguments see Stevens, chapter 10.


69 Correspondence and Memoranda, Chairman, Council for Aboriginal Affairs to Secretary, Department of Interior, 11 Aug. 1970, Dexter Papers.

70 The NTCAR (1961) led by Jacob Roberts and Davis Daniels, based its campaigns for justice for all Aborigines on the Universal Declaration of Human Rights.

71 For further discussion see R. Broome, Aboriginal Australians, Sydney, Allen & Unwin, 1982, pp.189-93.


73 ibid, p.28; the DAA estimate was rather higher than this.


76 Charles Perkins, personal communication; for other examples from the same 'noticeboard' see S. Harris, Its Coming Yet, Aboriginal Treaty Committee, Canberra, 1979, p.75.

77 The Mangarayi community at Elsey Station was prevented from returning to the station after the whole community attended the Mataranka races in the early 1970s: see Jessie Roberts Garlanganjag, 'Talking History' in Land Rights News, 2/12 (Jan. 1989), pp.30-31.


79 Summary Offences Act, 1983, s45D; for discussion of the operation
of the 'two-kilometre' rule in Tennant Creek see Brady, p.13 pass.

80 Personal communication, Dr Ian Green.


82 According to figures provided in M. Clifford, *Aboriginal Criminological Research: Report of a Workshop Held 3–4 March 1981*, p.29, the Aboriginal arrest rate was 446.5 per 100 000 and for non-Aborigines, 113 per 100 000. The proportion between the rates was less than in other states because the arrest rate of non-Aborigines is greater in the Northern Territory than elsewhere; see also J. Walker, 'Prison cells with Revolving Doors: a Judicial or Structural Problem', in K. Hazlehurst, *Ivory Scales*, UNSW Press/Australian Institute of Criminology, Kensington, pp.106–107.

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6 Ryan, p.17, 20.
9 Bonwick, pp.18–19. The French observers, like the early English visitors, were influenced by romanticism, enlightenment principles and the notion of the noble savage. For comparisons, see A. McGrath, 'The White Man's Looking Glass: Aboriginal Colonial Gender Relations at Port Jackson', Australian Historical Studies, April 1991.
10 Bonwick, pp.20–21.
11 Ryan, p.66.
13 Robinson in Plomley, p.82.
14 Robinson in Plomley, p.39, 418.
15 Ryan, pp.66–69.
16 Robinson in Plomley, p.80, 625.
18 Bonwick, p.386. Of nine women at Oyster Cove, only two ever had a child. Truganini had no children.
19 Arthur to Murray, 19 Mar. 1830, BPP, vol.4, p.60.
22 Select Committee on Aborigines, 1837. See Bonwick, pp.58–59.
23 Bonwick, pp.65–66, 60 [facsimile, 1969].
26 Robinson in Plomley, p.87.
29 Robinson in Plomley, pp.472–74.
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30 Robinson in Plomley, p.296.
31 Bonwick, p.59.
32 Bonwick, pp.78–83. BPP, 1831, vol.19, no.259, Correspondence between Lieut. Governor Arthur and His Majesty’s Secretary of State for Colonies; see also Ryan, pp.4–7, 24, 97.
33 Bonwick, p.84.
34 Copies of all correspondence between Lieutenant Governor Arthur and His Majesty’s Secretary of State for the Colonies, BPP, 1831, vol.19, no.259, p.10, cited in Ryan, p.99.
35 Cited Bonwick, p.64.
36 Ryan, chapter 6, map of military operations, p.111. Bonwick, ch.5.
37 Select Committee on Aborigines, 1837, p.17.
39 Cited Bonwick, p.70.
40 Ryan, pp.122, 174. Reynolds, p.3.
41 BPP, vol.6, Nov. 1830.
45 Ellis, p.32.
46 See map, Ellis, p.40.
47 Robinson, pp.472–74.
48 Ellis, pp.48–49.
49 Lyndall Ryan to author, 21 July 1993, letter in author’s possession.
50 Ryan, p.218.
53 Ryan, chapter 16.
54 Ryan, pp.235–37; Montgomery Papers, cited in Ryan, p.236.
56 Examiner, 19 Sept. 1936 and B. Mollison and C. Everitt, A

57 M. Mansell, 'A Short history' in Racism in Tasmania, p.4.
59 Ryan, p.249.
60 Cited Reeman, p.16.
63 I. West, Pride against Prejudice, AIAS Canberra, 1984, p.86; Reeman, p.57.
64 Many Aborigines agreed to work for pitiful wages as Europeans took over the muttonbird industry; they also wrought serious ecological damage.
65 West, p.62.
66 West, p.62, passim.
68 Reeman, p.62.
70 West.
71 Reeman, p.96.
73 Clyde Mansell in Racism in Tasmania, University of Melbourne Students Union, Carlton, 1978.
74 Wootten, pp.280, 310.
76 Wootten, pp.310, 312.
77 West, p.87.
NOTES

1 Pallawah is the spiritual name adopted by some Aborigines in Tasmania. Pallawah was the name of the first black man in the Spiritual Creations. The word ‘Aboriginal’ is an English term used to describe all ‘indigenous peoples’ throughout the world, taking away the unique identity of the people whose ancestors originated in this land known as Tasmania. The author of this chapter is a Pallawah and as such this term will be used to replace the words Tasmanian Aborigine/Aboriginal.


4 ibid, p.109.


6 ibid, p.55.


9 ibid, p.24.

10 ibid, p.24.

11 H. Reynolds, Frontier, p.43.

12 ibid, p.43.


14 Errol West, Aboriginal identity: the question or the answer, Masters thesis, Faculty of Education and the Arts, University of Tasmania, Launceston, 1989, p.1.


16 ibid, pp.84–86.


18 B. Attwood, p.32.


20 Auntie Ida West in S. Thomas, (Director) Black Man’s Houses, Open Channel, Victoria, 1992.

21 White, p.69.
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22 Attwood, p.57.
23 West, p.1.
25 E. West, p.1.
26 M. Green (dec), Flinders Island, Family oral histories. All oral histories or personal remarks from individuals are as related to the author unless otherwise stated.
28 West, p.1.
29 Murray-Smith, p.184.
30 ibid, pp.169–92.
32 Murray-Smith, pp.169–92.
33 M. Green (dec), Family oral histories, Flinders Island.
35 J. Everett, *Observance of information*, University of Tasmania, April 23, 1992.
36 West, p.47.
38 Ken Everett, Pallawah oral histories, Flinders Island.
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interest are P. Spearritt’s 'Celebration of a nation: The Triumph of Spectacle' and C. Bulbeck's, ‘Aborigines, memorials and the history of the frontier'.


6 J. Bonwick, First Twenty Years in Australia, Low, Marston, London, 1882, p.178.


9 W.K. Hancock, Australia, Ernest Benn, London, 1930.


WHAT IS ABORIGINAL HISTORY?

21 A. McGrath, ‘Born in the Cattle’: *Aborigines in Cattle Country*, Allen & Unwin, Sydney, 1987. The amount of space given to the editor’s own work is disproportionate, but it was requested to provide readers with an idea of my historiographical approach, which happened to highlight several relevant debates.
24 Rowe, ‘Tolerance, Fortitude and Patience’.
25 See Rowe, ‘Tolerance, Fortitude and Patience’.
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34 J. Kociumbas, *Possessions*, Oxford University Press, Melbourne, 1992. Kociumbas has stridently objected to the emphasis on agency in recent texts, implying on one occasion that such authors are apologists for colonialism. See pp.101–102.


WHAT IS ABORIGINAL HISTORY?

38 Matthews.


41 Marcia Langton, currently at the Cape York Land Council, has held numerous influential positions: Director of the Australian Institute of Aboriginal Studies; Central Land Council; the Royal Commission into Aboriginal Deaths in Custody; the Queensland Ministry for Aboriginal Affairs; and the Anthropology Department, Macquarie University. Gordon Briscoe completed a postgraduate degree on the Royal Commission into Nuclear Testing at Maralinga and is currently working for the Commonwealth Government. Noel Pearson completed a BA Honours in history at the University of Sydney, studied law and is Director of the Cape York Land Council, which has been protesting against a proposed space station being built there. Jackie Huggins studied history and women's studies at the University of Queensland; she wrote *Auntie Rita*, Aboriginal Studies Press, Canberra, 1994, and her publications include 'Response' in S. Janson and S. Macintyre (eds), *Through White Eyes*, Allen & Unwin, Sydney, 1990, and (with Thom Blake) 'Protection or Persecution? Gender Relations in the era of Racial Segregation' and (with Heather Goodall) 'Aboriginal Women are everywhere: Contemporary Struggles' in K. Saunders and R. Evans (eds), *Gender Relations in Australia*, Harcourt Brace Jovanovitch, Marrickville, 1992.


44 C. Edwards and P. Read (eds), *The Lost Children*.

45 For fuller discussion of these themes, see introduction, chapter 1


49 This is a summary of the proceedings of a special seminar on Aborigines and History at the Australian Historians Association Conference, 1984. One of the key speakers was Phyllis Daylight, then heading an enquiry into Aboriginal Women. See also J. Huggins and K. Saunders, ‘Defying the Ethnographic Ventriloquists’, *Lilith*, no.8, 1993.


52 Michael Williams’ Doctoral research concerns his home community, and Noel Pearson was reluctant to write a general history of Aborigines in Queensland for the Royal Commission into Aboriginal Deaths in Custody partly due to this factor.

53 See J. Lee and V. Burgmann, the three-volume *People’s History of Australia*, McPhee/Gribble, Ringwood, 1988; K. Saunders and R. Evans (eds), *Gender Relations in Australia*, specifically co-authored articles by J. Huggins.

54 Marcia Langton during RCIADIC discussions, May 1990.


WHAT IS ABORIGINAL HISTORY?

58 Henry Reynolds' *Law of the Land* won a peace prize in 1988, and Reynolds' *Frontier* and McGrath's *Born in the Cattle* were nominated for A. A. Phillips Prize for Australian Studies in the Victorian Premier's Literary Awards for 1988 and 1990. *Born in the Cattle* won the Hancock Award for Young Historians, 1988 and *The Making of the Aborigines* was co-winner of this Award for 1990. Co-winners of the John Barrett Prize in Australian Studies, 1992-93 were Heather Goodall, '“The Whole Truth and Nothing But”: Some Interactions of Western Law, Aboriginal History and Community Memory', in B. Attwood and J. Arnold (eds), *Power, Knowledge and Aborigines*, LaTrobe University, Bundoora, 1992, and A. McGrath, ‘Beneath the Skin’, in R. Howe (ed.), *Women and the State*, LaTrobe University, Bundoora, 1993. Out of the wide interdisciplinary field known as 'Australian studies' it is interesting to observe that both related to Aboriginal history.


61 The Australian Institute of Aboriginal Studies has trained numerous women in oral history techniques, as have various government projects. Others have gained expertise through experience.


66 B. Attwood, ‘Introduction’ to ibid, pp i-xvi.

67 The author has received a substantial grant from the Australian Research Council for a project, Gender and Colonialism, to explore state attitudes and Aboriginal responses to black/white sexual and family relations and childrearing.

68 For further discussion of this theme, see A. McGrath, ‘“Stories for Country”: Oral History and Aboriginal Land Claims', *Journal of the Oral History Association of Australia*, 1988.
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The individual case reports should also be consulted, though they are too voluminous to list here.

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