

Timeline reproduced and developed from Indigenous Law Centre Constitutional Reform and Indigenous Peoples Research Brief No 2, 2010.

TIMELINE CONSTITUTIONAL REFORM

1891–1898 Convention Debates for a federal constitution take place; Indigenous people are not involved and are barely mentioned in the Debates.

1901 Federation; the *Australian Constitution* comes into effect; 'aboriginal natives' in the States are excluded from the power to make 'special laws' on the basis of race (s 51(xxvi)) and from the reckoning of the population (s 127).

1929 Royal Commission on the Constitution recommends against amending s 51(xxvi) to empower the Commonwealth to make special laws concerning Indigenous people in the States, because 'on the whole the States are better equipped for controlling aborigines than the Commonwealth'.¹

1938 Australian Aborigines Conference. Aboriginal people ask for a new policy which will raise Aboriginal people to full citizen status and equality within the community.²

1944 Referendum proposes to insert 14 new Commonwealth powers for a five-year post-war reconstruction period, including a power to make laws concerning 'the people of the aboriginal race'; the referendum is defeated.³

1967 Following a long campaign by Indigenous and non-Indigenous activists, a referendum is held to delete s 127 and to give the Commonwealth power to make special laws concerning Indigenous people in the States; the referendum succeeds with over 90 per cent of voters approving the changes.⁴

1974 Referendum puts four separate questions to Australian voters, one of which includes the deletion of s 25; all four questions fail.

1983 Senate Standing Committee on Constitutional and Legal Affairs recommends that the Constitution be amended to facilitate the implementation of a treaty between Indigenous peoples and the Australian state; no action is taken by the Hawke Government.⁵

1988 The Barunga Statement, an assertion of national Aboriginal political objectives written on bark, is issued to Prime Minister Hawke. The statement called for Aboriginal self-management, a national system of land rights, compensation for loss of lands, respect for Aboriginal identity, an end to discrimination and the granting of full civil, economic, social and cultural rights. The Prime Minister responded by saying that he wished to conclude a treaty by 1990, but his wish was not fulfilled.⁶

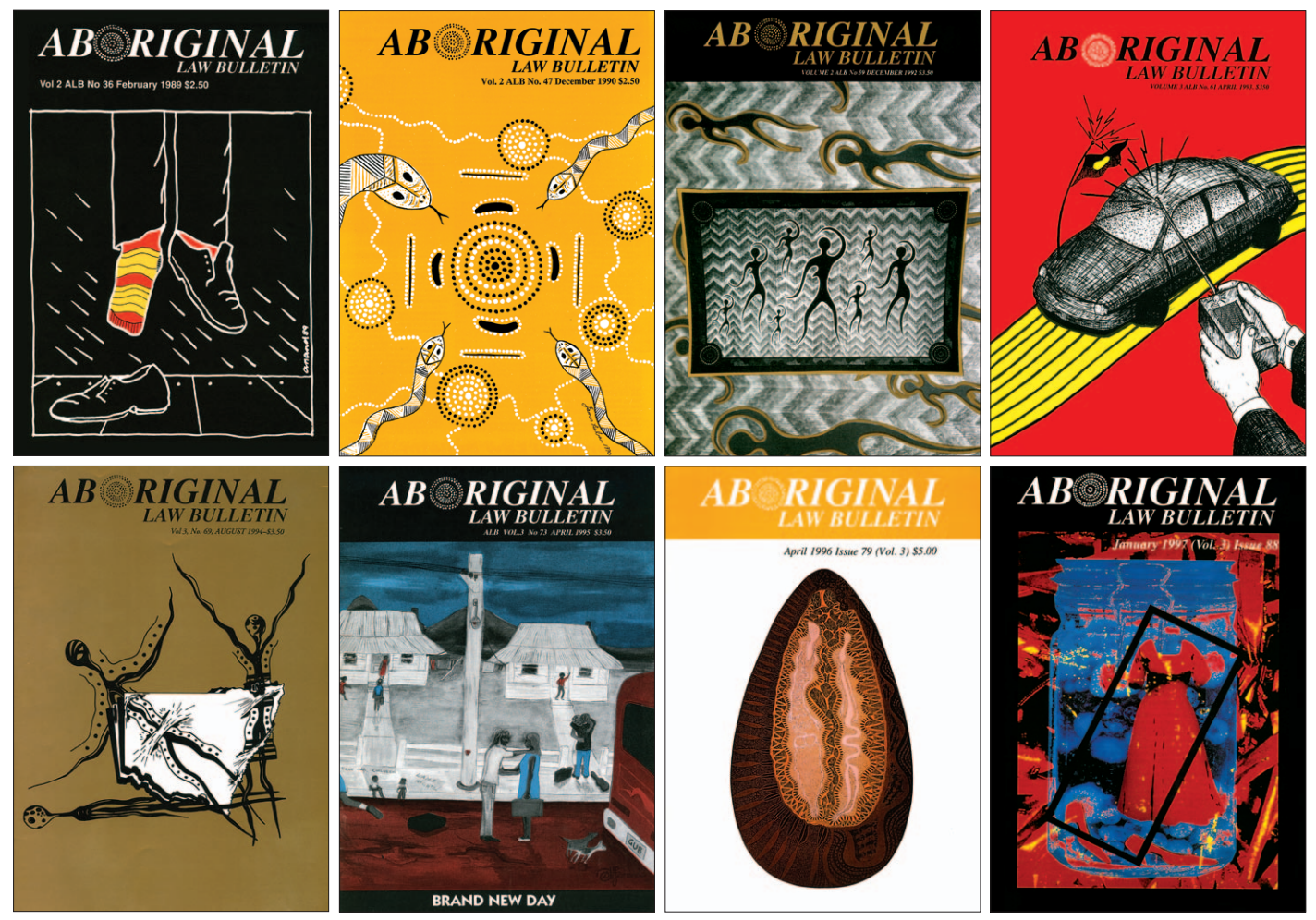
Constitution Commission's Report. The Individual and Democratic Rights Advisory Committee advised that 'the Preamble should acknowledge the historical truth of the settlement of Australia by Europeans in 1788. It is appropriate to recognise in the Preamble that prior to the arrival of European settlers Australia was owned by the Aboriginal people. Such recognition in the Constitution would be an act of good faith and symbolic importance in furthering reconciliation between Aboriginal and non-Aboriginal Australians'.⁷

1992 High Court hands down its decision in *Mabo v Queensland (No 2)*, holding that native title survived the acquisition of sovereignty by the British.

1992–1995 In response to the *Mabo* judgment, the Keating Government proposes to implement, amongst other things, a 'Social Justice Package'; Indigenous groups and organisations propose the package should include a range of constitutional reforms; the Keating Government loses office before the package can be implemented.⁸

1999 Referendum proposes to make Australia a republic and to insert a preamble recognising Indigenous people; both referendum questions are defeated.

2000 Council for Aboriginal Reconciliation recommends several constitutional reforms, including the insertion of a preamble recognising Indigenous people, the deletion of s 25, the insertion of a section making it unlawful to discriminate on racial grounds, and the amendment of s 51(xxvi) so that it only permits the making of 'beneficial' race-based laws; the recommendations are not adopted by Parliament.



2003 The Senate Legal and Constitutional Affairs Committee recommends the insertion of a preamble recognising Indigenous peoples, the deletion of s 25, and the amendment of s 51(xxvi) so that it only permits race-based laws for the benefit of any particular race; despite receiving partial support from government Senators on the Committee, the recommendations are not acted upon.

2004 A new section is inserted into the *Victorian Constitution Act 1975* giving recognition to Victoria's Aboriginal people.

2007 In the lead-up to the 2007 election, Prime Minister John Howard commits to achieving constitutional recognition of Indigenous people if re-elected. This recognition is limited to preambular recognition.

2008 Prime Minister Kevin Rudd commits to constitutional recognition of Indigenous people in the national apology and later after a petition by Yolngu and Bininj elders.

The 2020 Summit recommends constitutional reform concerning Indigenous peoples, elements of which are endorsed by the Labor Government.⁹

2009 In its National Platform, the Labor Party commits to inserting a constitutional preamble recognising Indigenous people and to removing or amending ss 25 and 51(xxvi) so that they cannot be used to discriminate against Indigenous people.

2010 Queensland Parliament provides preambular recognition of Aboriginal and Torres Strait Islander peoples in the *Constitution of Queensland 2001*. The recognition includes a clause saying that the changes do not create any legal right or give rise to any civil cause of action.

New South Wales Government proposes to insert a new section into the *Constitution Act 1902* recognising Aboriginal people.

New South Wales Government introduces a bill to amend the *New South Wales Constitution* so that it acknowledges and honours Aboriginal people as the traditional custodians of the land. It also includes a clause saying the changes do not give rise to compensation claims.¹⁰

The Australian Government appoints an Expert Panel to lead the process of consulting and engaging with Australians on the proposal to recognise Indigenous people in the Australian Constitution.

- 1 Report of the Royal Commission on the Constitution, Parliamentary Papers, 1929, 270.
- 2 W Ferguson and JT Patten, 'Aborigines Claim Citizen Rights! A Statement of the Case for the Aborigines' Progressive Association', The Publicist, Sydney, 1938.
- 3 Constitution Alteration *Post-war Reconstruction and Democratic Rights Referendum*, 1944.
- 4 National Archives of Australia, 'Fact Sheet 150 – The 1967 Referendum' <<http://www.naa.gov.au/about-us/publications/fact-sheets/fs150.aspx>>.
- 5 Senate Standing Committee on Constitutional and Legal Affairs, Parliament of Australia, *Two Hundred Years Later ... Report on the Feasibility of a Compact or 'Makarata' between the Commonwealth and Aboriginal People* (1983).
- 6 Australian Government Culture Portal, Bark petitions: Indigenous art and reform for the rights of Indigenous Australians, <<http://www.cultureandrecreation.gov.au/articles/indigenous/barkpetitions/>>.
- 7 Advisory Committee on Individual and Democratic Rights under the Constitution, *Report on Individual and Democratic Rights Under the Constitution* (1987) 30.
- 8 Aboriginal and Torres Strait Islander Commission, *Recognition, Rights and Reform: A Report to Government on Native Title Social Justice Measures* (1995); Council for Aboriginal Reconciliation, *Going Forward: Social Justice for the First Australians* (1995).
- 9 *Australia 2020 Summit: Final Report* (2008).
- 10 Constitution Amendment (Recognition of Aboriginal People) Bill 2010.



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