

## ABORIGINALS

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### INTRODUCTION

Fundamental non-Aboriginal perceptions about Aborigines have changed dramatically since the 1930s. The study of anthropology and sociology has advanced greatly since then and now plays a significant role in most university faculties. The academic study of Australian pre-history and archaeology has been developed from Sydney University, the University of Melbourne, and the Australian National University in Canberra. These researches have greatly augmented the earlier studies of the State institutions such as the National Museum in Victoria. Since 1972, the Victoria Archaeological Survey has worked on the Victorian archaeological sites and brought to light much new knowledge about Victoria's pre-history.

Changing non-Aboriginal attitudes often result from feelings of guilt for what happened in the past. From 1886 until the 1930s, the Board for the Protection of the Aborigines acted for the protection and welfare of what was regarded as a dying race, and the assimilation of the few remaining Aborigines. Assimilation rather than protection became the main policy emphasis when Aborigines did not die out. By assimilation it was assumed that the Aboriginal "problem" could only be solved one day if all Aborigines became part of the wider white community and conformed to its ethos. This assumption was barely questioned. It was only as the policy brief on it became palpably unworkable, that the deeper human and sociological questions about the underlying assumptions came to be asked. The 1967 Referendum significantly endorsed full equality for Aborigines. The new Commonwealth Government's policies initiated in 1973 resulted in a change from the policy of assimilation to one of self-determination, self-management, and self-reliance.

The other major development in the 1970s was increased community awareness of Aboriginal land rights, their rights as the original inhabitants of the country, and the cultural and spiritual nexus between them and the land on which they lived. These factors raised basic legal questions about the nature of land ownership in most parts of Australia. In Victoria changes were made regarding land tenure at Lake Tyers and Framlingham. Aboriginal persons brought an action in the Supreme Court in connection with sacred sites at Portland. The feelings of Aborigines were brought to the attention of Australian and overseas media audiences during the Commonwealth Games in Brisbane in 1982.

### PROBLEMS OF STATISTICS AND PERCEPTIONS OF ABORIGINALS

A description of Aboriginal persons in Victoria since 1934 has difficulties in coverage and several possibilities of misunderstanding. This is due mainly to two factors. The first concerns statistics.

A Census question relating to each person's race has been included in every Australian Census since Federation. Prior to 1971, persons were asked to state their race (e.g., European, Aboriginal, Chinese, etc.) and, if of more than one race, to indicate the mix of races. One of the reasons for collecting data in this form was to identify Aborigines, who were defined at the time as persons of greater than half Aboriginal descent, to enable the counts of such persons to be excluded from figures of the total population. Such action was required by section 127 of the Constitution which stated that "in reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal natives shall not be counted".

A major difficulty has been how to classify part-Aboriginals, and how they have described themselves in Census returns. The Statisticians' Conference in Perth in 1926 resolved that "for the purpose of statistics of Australian aboriginal population, persons of mixed blood living with aboriginals shall be classed as half-caste aboriginals, whatever be the degree of the white strain" and that "persons of mixed blood not living with aboriginals shall be included as 'half-caste' if the strains are approximately equal, as 'fullblood' if the predominant strain is aboriginal, and not included at all if the predominant strain is white" (Report: 4).

#### 1967 Referendum and subsequent Censuses

The provision in section 127 was repealed after the 1967 Referendum in which the "yes" vote for Australia was 91 per cent and the "yes" vote in Victoria was 95 per cent. In order to meet the statistical requirements of Commonwealth and State authorities responsible for Aboriginal affairs it was decided that the 1971 Census question should attempt to ascertain the race with which persons identified themselves. Persons of more than one race were no longer required to indicate the mix of races but were asked to show the one to which they considered they belonged.

A similar approach has been adopted in subsequent Censuses although some changes were made to the wording of the question in 1981. In the analysis of 1976 data it was found that some 700 persons who were born overseas, and a further 1,500 persons whose parents were born overseas, reported that they were Aboriginal. In addition, approximately 2,000 persons who were born in Europe incorrectly identified themselves as Torres Strait Islanders. Subsequent investigations confirmed that the question caused confusion, particularly about what constituted European origin. Because of this, reference to European origin was deleted from the 1981 Census question which simply asked whether the person was of Aboriginal or Torres Strait Islander origin.

Changes to question wording, even though they appear to be minor, can affect the comparability of data between collections. More importantly, it should be emphasised that the questions are based on self-identification and responses at different points in time can be affected by changes in community attitudes. Apart from some tests of internal consistency, the Australian Bureau of Statistics can do little to verify the accuracy of answers given.

The following table sets out details of Aboriginals of full and partial descent, derived from various sources, for the years 1851 to 1981:

#### ABORIGINALS OF FULL AND PARTIAL DESCENT: VICTORIA, 1851 TO 1981

Year	Number of Aboriginals		Total
	Of full descent	Of partial descent	
1851	n.a.	n.a.	(a) 2,693
1861	n.a.	n.a.	(b) 1,694
1871	n.a.	n.a.	1,330
1877(c)	774	293	1,067
1881	n.a.	n.a.	780
1886(c)	550	256	806
1887(c)	570	233	803
1891	317	248	565
1901	(d) 271	381	652
1911	196	447	643
1921	144	442	583
1927(c)	56	506	562
1933	92	773	865
1944(c)	29	925	954
1947	(e) 208	(e) 1,069	(e) 1,277
1954	(f) 141	(f) 1,254	(f) 1,395
1961	(f) (g) 253	(f) 1,543	(f) (g) 1,796
1966	n.a.	n.a.	(f) 1,790
1971	n.a.	n.a.	(h) 5,656
1976	n.a.	n.a.	(h) 12,415
1981	n.a.	n.a.	(h) 5,283

- (a) Estimated.
- (b) This figure is quoted from the *Victorian Year Book* 1902 and conflicts with the figure quoted in the *Year Book Australia* 1929 which gives a total of 2,384 in settled districts.
- (c) Denotes non-Census years. Figures as enumerated by the Board for the Protection of the Aborigines (1877, 1886, 1887) or Aboriginal Censuses (1927, 1944).
- (d) This figure quoted in the *Victorian Year Book* 1902 includes an estimation of unenumerated Aborigines. *Year Book Australia* 1929 quotes a figure of 250 as enumerated Aborigines of full descent.
- (e) Census totals included enumerated Aborigines, and an estimation of Aborigines living in a "wild state" was furnished by the Protector of Aborigines. (*Year Book Australia* 1957.)
- (f) The *Year Book Australia* 1969 records that there are doubts as to the accuracy of separate figures for Aborigines of full descent and those of partial descent in respect of the Census figures for 1954 and 1961, which together with those for 1966, are enumerated persons only. *Year Book Australia* 1968 notes that Aborigines are persons of fifty per cent or more Aboriginal blood, while *Year Book Australia* 1969 notes that they are persons who stated themselves to be Aboriginal, or of being more than half Aboriginal, or who were half Aboriginal and half European.
- (g) The *Victorian Year Book* 1963 states: "The estimated number of persons with a significant amount of aboriginal blood living in this State on 30 June 1961, was 2,300 of whom eighteen were recorded as fullblood". The figures tabulated are derived from *Year Book Australia* 1963 (fullblood Aborigines), the *Census of the Commonwealth of Australia 1961: Victoria Vol. 2* (Aborigines of partial descent), and *Year Book Australia* 1968.
- (h) Movements in the figures for these Censuses can be affected by a number of factors. The wording of the question was almost the same for 1971 and 1976 but was changed for 1981. Past experience has shown that even relatively minor changes to questions can affect response. Also, it should be emphasised that the question is based on self-identification, that is, persons were asked to identify as Aboriginal if they considered themselves to be such. Responses to questions of this nature at different points in time can be affected by changes in community attitudes and, apart from some tests of internal consistency, the Australian Bureau of Statistics can do little to verify the accuracy of answers given.

The second factor to be borne in mind concerns changes in perception among both Aboriginal and non-Aboriginal persons in Victoria. Since 1934 Aboriginal persons have sought to identify more as Aborigines. This has posed the problem that non-Aboriginal perceptions and objectives could be misunderstood by the Aborigines just as Aboriginal attitudes and feelings could be misunderstood by non-Aboriginal persons. The upshot has been that non-Aboriginal attempts to be helpful have often been categorised as paternalistic, and their absence as negligent.

#### ABORIGINALS IN 1934

The Aborigines in Victoria in 1934 were a socially and economically disadvantaged people. During the previous fifteen years the Lake Condah Mission and the Coranderrk Station near Healesville had been closed. These were the only places which many of them knew as home. By 1926, most Aborigines cared for by the Board for the Protection of Aborigines had to live at Lake Tyers in Gippsland. They numbered only 88 fullblood and 303 part-Aborigines. Small groups also lived at Coranderrk and Framlingham, in children's homes and elsewhere.

The Aboriginal population of Victoria counted in the 1933 Census was 92 Aborigines of full descent and 773 of partial descent. They were considered to be a dying race. This belief is evident from the contemporary comment of Professor F. Wood-Jones in his article in the 1935 *Handbook for Victoria* published by the Australian and New Zealand Association for the Advancement of Science. He stated "only a moribund and degenerate handful remains in 1934. The exact number of fullblooded Victorian aborigines living at the present time (October 1934) is difficult to estimate, but it may be accepted as being very definitely less than 50 ... There are no grounds for believing that more than twenty males, or more than half that number of females of the pure Victorian stock, are now living. And with the passing of these few individuals the Victorian Aborigine will become extinct" (pages 137-8).

Aborigines living at Lake Tyers in 1934 experienced well meaning but paternalistic care from the Board for the Protection of Aborigines. For others living elsewhere — near the former reserves, on the Murray River or on the fringes of country towns — there was none. Their living conditions were squalid and overcrowded. Their general health was bad, child morbidity and mortality being exceptionally high. Unemployment was prevalent. They were the objects of real discrimination. They turned to alcohol in an attempt to find an escape from the continuing trauma of the dispossession of their lands, the compulsory transfer from the former missions and settlements, and from their non-acceptance by the white population. They were virtually ignored by historians, being written off as a dying race. In schools and universities, in newspapers and novels, the exploits of the early explorers and pioneers were extolled, and Aboriginal resistance and retaliation denigrated.

Since 1934, Aborigines of mixed descent have increased in numbers, although within a few years almost all fullblood Aborigines had died, so that in 1983 all Aborigines with Victorian ancestors were of mixed descent. This does not alter the fact that they are

Aboriginal persons. They identify clearly as Aboriginal persons. They have close affinity with each other and with the missions and settlements where they or their ancestors once lived.

### SECOND WORLD WAR

Shortly before the commencement of the Second World War some Aboriginal persons began to drift to Melbourne. Many came from Lake Tyers, Lake Condah, Framlingham, and Coranderrk. Some came from Cumeroongunga and other parts of southern New South Wales.

When the Second World War started more families migrated to Melbourne. They were members of the Lake Tyers, Coranderrk, and Framlingham groups. Aboriginal persons now began congregating in the inner suburbs of Fitzroy and Collingwood. They formed social groups and organised concerts in aid of the war effort. The Bethesda Aboriginal Mission started a Church in Fitzroy and in 1942 Pastor (later Sir) Douglas Nicholls commenced a congregation of the Church of Christ.

In 1939, the Commonwealth Government had proposed a new deal for Aboriginals in the Northern Territory. The new policy was outlined in the McEwen Memorandum, so named after the then Minister for the Interior, the Honourable J. (later Sir John) McEwen. The Memorandum laid down guidelines for a policy of assimilation, whereby Aboriginals would be assimilated into the wider Australian way of life. In formulating this policy McEwen had sought the advice of Professor A. P. Elkin of Sydney University, a leading protagonist for Aboriginal development. In recent times assimilation policies have been regarded as being misinformed. In the 1940s they seemed to be the logical though radical step forward from protection and welfare. Preoccupation with the Second World War delayed the implementation of the Memorandum until the early 1950s. This Commonwealth move towards assimilation, however, had little impact upon Victoria. The Victorian changes came about from local pressure on the Victorian Government from small groups of persons and some Aboriginal leaders.

From a much wider perspective, the experiences of the Second World War and its aftermath resulted in an entirely different attitude to "natives" of the Third World. Within a short space of time countries in Africa and Asia which had been subjugated by western colonial powers for the past three centuries became independent nations. The new nations of the Third World became a significant power block in the United Nations. Colonialism was denounced. The United Nations imposed sanctions on South Africa because of its apartheid policy. Countries having minority groups of native peoples came under close scrutiny. By the 1960s, Aboriginal affairs in Australia became a sensitive issue in the international arena.

### McLEAN REPORT AND ASSIMILATION

One important factor in the Victorian Government's change in Aboriginal policy was the McLean Report of 1957. In December 1955, the Governor in Council appointed Charles McLean "to be a board to enquire into and report upon the operation of the Aborigines Act 1928 ... and any changes or modifications therein or in the existing system of administration which may be considered necessary or desirable in the interests of the aboriginal people ..." McLean was asked *inter alia* to ascertain the Aboriginal population, their capacity to live and maintain themselves, the factors, if any, "which militate against the absorption of people of aboriginal blood into the general community", whether Lake Tyers should be retained, and "what legislative and administrative provisions should be adopted to enable such a system to operate in the best interests of both the public and the aboriginal people".

Regarding the Aboriginal population McLean said that the "records of the Board show only about twenty persons, all adults, in Victoria as of full-blood, and the ancestry of some of these at least open to doubt. Of 186 residents at Lake Tyers at the time of a survey made during this inquiry, 62 were shown as half-caste, 25 with a greater percentage of Aboriginal blood, and 99 with less than half. Of the 1,346 persons of Aboriginal blood in Victoria, there are on average about 131 at Lake Tyers station, and 159 in the metropolitan area. The remainder are scattered in various country districts, the majority

in communities close to towns where seasonal work can be obtained and to a river, on which they depend for their water supply. The largest group is in the Mooroopna-Shepparton area, where there are 253 regarded as permanent, of whom 162 are children”.

McLean stated that Aboriginal living conditions in Victoria were very bad. He spoke of the two settlements at Mooroopna, one on the Shire rubbish tip, and one by the river. He said that the latter was subject to flooding, where 59 adults and 107 children lived “in most squalid conditions”. He found “similar conditions of squalor” existing in the Aboriginal camps in the Orbost district and at Dimboola and Antwerp. He found better conditions for the 60 Aboriginal persons living at Framlingham. He said that about 159 persons of Aboriginal descent were living in the Melbourne metropolitan area, the majority being in Fitzroy.

McLean disclaimed any suggestion that Aboriginals were in any way inferior in mental and physical capacity to non-Aboriginal persons. On the other hand the conditions in which they lived and the circumstances in which children grew up made education for them difficult and social acceptance very unlikely. They themselves considered that they were an under-privileged minority and acted accordingly. McLean claimed that given better living conditions and opportunities for education and employment there was no reason why they could not be absorbed fully into white society. Concerning Lake Tyers he said that conditions there were unsatisfactory. He recommended that the station be retained only for the aged and for the sick, the remaining members of the community being given opportunities to live in nearby towns. With a smaller community the settlement should be reduced to about eighty hectares.

In conclusion McLean advocated a strong and effective policy of assimilation in which housing, education, and employment were the key factors; that the constitution of the Board and general administration should be changed; and that Aboriginals should play some part in that administration.

The McLean Report contained many useful suggestions for improving the material welfare of the Aboriginals of Victoria. However, like Commonwealth attitudes at the time, the stated policy was that of assimilation, which implied that the only ultimate solution to what they saw as the “Aboriginal problem” was their rapid assimilation into the general community.

#### ABORIGINES WELFARE BOARD, 1958 TO 1967

The Victorian Government acted on recommendations of the McLean Report by the *Aborigines Act* 1957. The Central Board for the Protection of Aborigines was abolished. The Aborigines Welfare Board was established and its stated aim was to encourage the speedy assimilation of all Aboriginal persons into the European way of life. The Board’s membership included members nominated by the Ministers of Education, Housing, and Health, two Aboriginals, and an expert in anthropology or sociology.

As Aboriginal housing was seen as fundamental to the new policy of assimilation the Victorian Government passed the *Aborigines (Houses) Act* 1959 by which the Board could contract with the Housing Commission to build houses for Aboriginals. The *Aborigines (Amendment) Act* 1965 modified the Board membership and made the Minister for Housing responsible for Aboriginal affairs.

In 1960 the number of Aboriginals within the meaning of the Act (any person descended from an Aboriginal) was about 2,260, but only a few were fullbloods. During 1958-59, expenditure by the Board totalled \$67,174, a large proportion of this being spent on Lake Tyers and its administration. During 1960-61 the net expenditure on Lake Tyers alone was \$55,548.

During this time attempts were made to house the Aboriginals who had been camping on the Goulburn and Murray Rivers near Mooroopna and Robinvale by means of two transitional housing estates. In 1958 the Rumbalara (Mooroopna) housing estate was constructed by the Housing Commission on Crown land excised from a forestry area. In 1960, the Manatunga (Robinvale) housing estate was established on a temporary reserve. Most of the shanties and humpies on the river were destroyed and some of the people were processed through the transitional estates. They were then given housing in the towns. Although both transitional centres were closed in 1971, Rumbalara was the site of an Aboriginal co-operative in 1982.

The Aborigines Welfare Board was active in developing health, education, and social welfare for Aboriginal persons in Victoria. At the same time the legitimacy of the non-Aboriginal demand for assimilation of Aborigines into European society exercised the minds of many concerned with Aboriginal development at a Commonwealth and State level in the 1960s. Changing attitudes on the part of the Victorian Government were reflected in a statement on Aboriginal policy which the Aborigines Welfare Board of Victoria published on 11 March 1966. The document reaffirmed the Board's statutory obligation "to promote the moral, intellectual and physical welfare of the Aborigines ... with a view to their assimilation into the general community". At the same time the new policy statement went on to say that the Board accepted the definition of assimilation given by the Aboriginal Welfare Conference of Ministers and officials in Adelaide in July 1965, and approved by the responsible Victorian Minister, that the "policy of assimilation seeks that all persons of Aboriginal descent *will choose* to attain a *similar* manner of living to that of other Australians and live as members of a single Australian Community — enjoying the same rights and privileges, accepting the same responsibilities and influenced by the same hopes and loyalties as other Australians ..." (author's emphasis)

This was a radical departure from the earlier definition of assimilation accepted by the McLean Report. The emphasis now shifted from the European demand of conformity to Aboriginal choice in the matter. Moreover the new definition omitted significantly the following emphasised phrases: "enjoying the same rights and privileges, accepting the same responsibilities, *observing the same customs* and influenced by the same *beliefs*, hopes and loyalties as other Australians". (author's emphasis)

Changes were also made regarding land tenure. Lake Hindmarsh (Ebenezer Mission) and Coranderrk were permanent reserves, but that did not stop the reserved land being revoked by Acts of Parliament. There was little real security that Lake Tyers and Framlingham land would be safe so long as it was just reserved. In order to give a greater sense of security to the Aboriginal people, Lake Tyers and Framlingham were made permanent reserves in 1965 and 1967, respectively.

After the 1967 Referendum a Council for Aboriginal Affairs was established as the Commonwealth agency to recommend policies and to work for co-ordination with the States. Although the Council had a progressive influence on the Commonwealth Government, it was not until after 1972 that responsibility for Aboriginal affairs was taken over from some States.

#### VICTORIAN MINISTRY OF ABORIGINAL AFFAIRS, 1968 to 1974

By the *Aboriginal Affairs Act* 1967 which came into effect in January 1968 a Ministry of Aboriginal Affairs was established. The legislation also set up an Aboriginal Affairs Advisory Council to advise the Victorian Government on Aboriginal affairs. During the next seven years the Ministry of Aboriginal Affairs sought to further the welfare of Aborigines. Policies and programmes changed from time to time, but the Ministry provided housing, educational, and welfare services for them.

Because of a growing community awareness of the needs of Aborigines, together with the Victorian Government's commitment to more enlightened policies regarding Aboriginal welfare, the *Aboriginal Lands Act* 1970 was passed. Under this Act the Aboriginal reserves of Framlingham and Lake Tyers were vested in the Framlingham Aboriginal Trust and the Lake Tyers Aboriginal Trust. During the passage of the Bill, the Honourable E. R. Meagher said *inter alia* that "the sole purpose of this Bill is to give freehold title to this land to the Aboriginal residents ... The Government wants to meet them on the basis of carrying out their desires, rather than imposing its wishes and ideas upon them ... This is unique legislation, and I am privileged to be responsible for its introduction".

Under this legislation the Framlingham Aboriginal Trust and the Lake Tyers Aboriginal Trust received unconditional freehold title to 198 hectares and 1,518 hectares, respectively, in July 1971. His Excellency Sir Rohan Delacombe, the then Governor of Victoria, formally handed the title deeds to members of the Lake Tyers Aboriginal Trust on 24 July 1971. On 28 July 1971, the Minister formally handed over the deeds to Mr Percy Clarke at Framlingham.

In defining eligibility for membership of the Trust, the Act stated that an Aboriginal person referred to any descendant of an Aboriginal native of Australia. The ownership of

the two reserve areas, however, was limited to those persons who resided on them. In the case of Framlingham it applied to those Aboriginals who were resident on the reserve from 1 January 1968. In the case of Lake Tyers ownership was extended to those Aboriginals who became residents between 1 January 1968 and 1 January 1970 and, with the approval of the Lake Tyers Aboriginal Council, any children born before 1970 whose mothers were residents of the reserve. Any members of a family who had received a grant for the purchase of a house outside the reserves were not eligible to be included in the Register of Trustees. Each member of the Trust was granted a perpetual licence to occupy, use, and authorise entry on to the former reserve land. Each adult member was entitled to 1,000 shares and each child 500 shares. These shares were personal property and transferable only to the Trust, to another member, to the Crown, or to a relative. Each Trust had a Committee of Management of seven Aboriginals.

In 1970, the Victorian Government also passed the *Land Conservation Act 1970*. This Act established a Land Conservation Council whose functions were to carry out investigations and make recommendations to the Minister for Conservation on the use of public land in the State.

Another important piece of legislation was the *Archaeological and Aboriginal Relics Preservation Act 1972*. The provisions of this Act were not within the jurisdiction of the Ministry for Aboriginal Affairs. This Act established a Protector of Relics (the Director of the National Museum of Victoria), and an Archaeological Advisory Committee of ten members. This Act was amended in 1975 to include two Aboriginal members on the Committee, and the name was changed to the Victoria Archaeological Survey, responsible to the Minister for Conservation.

#### TRANSFER OF ABORIGINAL AFFAIRS TO THE COMMONWEALTH IN 1975

The administration of Aboriginal affairs in Victoria was transferred to the Commonwealth Government in 1975. This move followed the changes which took place following the new Government's assumption of office in December 1972. It introduced sweeping changes in Aboriginal policy. Aboriginals living in the Northern Territory were given the right of self-determination. They were allowed to determine their own future instead of being expected to conform to the lifestyles of the majority in wider Australian society. They were given the right to choose the nature and pace of their future development within the legal, social, and economic constraints of Australian society. The policy of assimilation was abandoned completely in favour of integration, whereby diverse cultures could develop as they wished, but together constitute the Australian community. Land rights, consultation with the Australian Government, bilingual education, and community incorporation were the main ways of effecting the new policy.

The Commonwealth offered to take over the administration of Aboriginal affairs from any State so requesting it. The State of Victoria accepted the Commonwealth offer. Under the *Aboriginal Affairs (Transfer of Functions) Act 1974*, the *Aboriginal Affairs Act 1967* was repealed. The Victorian Ministry of Aboriginal Affairs became defunct. Overall responsibility for Aboriginal affairs in the State was transferred to the Commonwealth Department of Aboriginal Affairs. The transfer became effective on 11 January 1975. The Department of Aboriginal Affairs became responsible for policy, planning, and co-ordination of certain specific Aboriginal matters. It provided direct grants to Aboriginal and non-Aboriginal statutory organisations concerned with education, heritage and culture, recreation, legal aid and justice, health services, employment and training, business development, and welfare. The Victorian Government became responsible for administering Commonwealth funds for housing, health, welfare, and education. The Minister for Housing was nominated the Minister responsible for Aboriginal affairs in Victoria. In 1982, the Premier of Victoria accepted this responsibility.

On 4 April 1975, the non-statutory Victorian Aboriginal Land Council came into being, the first of its type to be formed outside the Northern Territory. It emerged from recommendations of Mr Justice E. A. Woodward who recommended that Councils should be established in each of the States to consider Aboriginal land needs, to record land claims, and to recommend how land claims might be handled. Mr Justice Woodward also stressed present needs as a basis for land claims. He said that he found it hard to believe that "claims based solely on historical association and depending on the availability of

historical evidence are likely to produce as satisfactory and fair results as claims based mainly on present needs".

The Victorian Aboriginal Land Council was an honorary and advisory body, and its all-Aboriginal membership was nominated by the Victorian Minister responsible for Aboriginal affairs. From the outset the Council encountered a number of difficulties. The basic difference arose from the central problem that the Aboriginals had a different perception of the role and function of the Council than that of the Department of Aboriginal Affairs. The Council ceased to function in 1977 without issuing a Report.

#### ABORIGINAL AFFAIRS IN VICTORIA SINCE 1975

Since 1975, the Victorian Government has taken a number of initiatives designed to implement its commitment to Aboriginal welfare, in addition to fulfilling its obligations under the Commonwealth-State arrangement whereby the Commonwealth agreed to meet the costs of approved Aboriginal programmes provided by the State.

In 1979, an inter-departmental committee of senior Victorian Government officers including representation by the Department of Aboriginal Affairs and membership of the State Chairman of the National Aboriginal Conference was established. This committee is concerned with the co-ordination of State programmes funded by the Commonwealth in consultation with Aboriginal communities, advising the Minister responsible for Aboriginal affairs in Victoria, and arranging all consultations, information systems, and research projects necessary to keep the State Minister informed on all matters concerned with Aboriginal affairs in Victoria.

Further initiatives were taken in 1980. In that year the Victorian Government approved the establishment of a nine-member Aboriginal Housing Board to advise on all aspects of Aboriginal housing in Victoria. Also in that year an Aboriginal Adviser was appointed to the Minister for Housing who was responsible for Aboriginal affairs. The Aboriginal Adviser assisted in the development of policy and advised on Aboriginal affairs in the State excluding land rights and archaeological relics which come under the responsibility of the Minister for Conservation. This role was changed in 1982 when the Premier became responsible for Aboriginal affairs.

#### Land Rights

Land Rights are fundamental to Aboriginal well-being and are indispensable for Aboriginal dignity and identity for all Aboriginals throughout Australia. The associations which Victorian Aboriginal persons have with the land may be different from those of traditional Aboriginals in remote areas. For the latter the spiritual links between the land and people and their social organisation are clearly seen through totems and ceremonies. Such links are not so clear for Victorian Aboriginals. Most do not live on their traditional lands. Some are unclear as to the group to which they belong, but they all have very close connections with each other and most recall the missions and settlements where their parents and grandparents grew up. Their first stage in identity is to ensure that these places which were reserved for them in Victoria and New South Wales are preserved. Their second stage is to make claims for such land as they consider belonged specifically to their ancestors.

Land Rights for Victorian Aboriginals concern historical connection with former reserves and where possible, former tribal lands. Land Rights are concerned also with "present needs", to use Mr Justice Woodward's phrase. Present needs may be economic or emotional, and certainly could refer to present usage. Land rights may also involve the provision of land title and compensation which will enable Aboriginals to become economically independent.

Victorian Aboriginals are involved in discussions relating to the proposed Makarrata or treaty. The National Aboriginal Conference has chosen this word to give expression to the wish of Aboriginals for an agreement between them and the Government. The Makarrata would give expression to the Aboriginal view that there is need for a new agreement that goes beyond present legislation as a basis for reconciliation between Aboriginals and the general Australian population.

Victorian Aboriginals have made a number of claims for land to be sold to them in the



last decade. Of the six requests which they made between 1975 and 1977 two have been granted. The first was "Baroona", a 128 hectare property near Echuca purchased for the Echuca Aboriginal Co-operative Society in 1977, and New Norfolk in Gippsland for an alcoholic rehabilitation centre. By 1983, Victorian Aboriginals were able to acquire land through the Aboriginal Development Commission which has authority to buy land for Aboriginal land trusts and corporations.

In 1980, a conference of Aboriginals met in the Northcote Town Hall to re-establish the Victorian Aboriginal Land Council which became defunct in 1977. An interim council of fifteen members was given the responsibility of planning the establishment of the South Eastern Land Council.

### **Lake Tyers and Framlingham**

In the 1970s, the Lake Tyers Aboriginal Trustees endeavoured to make the settlement economically viable through farming and other forms of employment. Initial experiments at self-management of farming were a failure and attracted a lot of criticism from the media and the general public. Failure has been attributed largely to past policies of protection and paternalism, lack of training, and alcohol.

The Framlingham Aboriginal Trustees have made claims for the forest land which was part of the original reserve. The Victorian Government took over this land for State Agricultural colleges and experimental farms in 1908, but never used it. After the First World War the Victorian Government unsuccessfully tried to move the Aboriginals living on the remaining reserve to Lake Tyers and to use the land as a soldier settlement. Attempts to sell the land to the Closer Settlement Board in 1928 also failed.

In 1930, from 10 to 15 farms for Aboriginal persons were measured out in the Framlingham Reserve. Six of these farms were occupied and four-roomed houses were built on them. In 1937, an additional sixteen hectares of the former reserve were added.

In 1966, an area of about 1,092 hectares, which included the old mission and station, became a forest reserve managed by the Forests Commission. About four hectares were set aside for public recreation. This was the site of the old mission houses. The remainder became a State Forest. After consultation and confrontation during the next fifteen years, the Prime Minister met the Framlingham Aboriginals and agreed in a signed statement that the Commonwealth Government would try to help the Gundijtmara people acquire control of the 1,000 hectares of the Framlingham forest. However, the Commonwealth Government has no control over Victorian Crown land. At the end of March 1983 the enabling legislation had still to be passed through the Victorian Parliament.

### **The Portland Case**

The Aboriginal legal action to try to preserve tribal relics at Portland in Western Victoria raised a number of important points in law. In 1981, two members of the Gundijtmara people in the Portland district sought to institute proceedings for injunctive and declaratory relief against Alcoa of Australia Limited on the ground that the Alcoa project for an aluminium smelter involved a threat to tribal relics. They attempted to invoke the *Archaeological and Aboriginal Relics Preservation Act 1972* arguing that since that Act was passed for the benefit of the Aboriginal people as a class, any member of that class could sue to enforce the Act, without any need to show "special damage" or a "special interest". However the argument failed. In the words of Chief Justice Gibbs, the Act was passed "for the benefit of the public at large, with a view to the conservation of relics ... of interest and value not only to Aborigines but also to Archaeologists and Anthropologists and ... Australians generally. It is quite impossible to hold that the Act confers any private rights on Aborigines or any class of them". The High Court on Appeal ruled that they could claim a special interest. At the end of 1982, the issue was unresolved.

### **Victoria Archaeological Survey**

The Victoria Archaeological Survey, originally called the Archaeological and Aboriginal Relics Office, was set up to administer the *Archaeological and Aboriginal Relics Preservation Act 1972* and its subsequent amendment. In the late 1970s, the Survey expanded its scope to deal with historic and maritime archaeology in Victoria.

In regard to Aboriginal relics Victoria Archaeological Survey work falls into the two fields of management: public archaeology and research archaeology. In practice there is considerable overlap between these two areas.

#### **Aboriginal social services**

Since 1975, the Commonwealth and State Governments have funded Aboriginal housing, (through the Aboriginal Development Commission), education, health, welfare services, employment and recreation projects, and legal aid. Some of these services are administered through Aboriginal co-operatives. The two Governments have also encouraged the formation of a number of other Aboriginal organisations for specific purposes to service the Aboriginal population needs throughout the State. There are over thirty such organisations including housing co-operatives, land councils, child care centres, welfare organisations, and recreational committees. The Victorian Aborigines Advancement League and similar bodies have assisted in Aboriginal welfare.

#### **CONCLUSION**

Despite the government attempts at housing, education, welfare, and other services, Victorian Aboriginals, together with others throughout Australia, are still a disadvantaged people. The 1976 Commission of Inquiry into poverty, referring to Australia as a whole, found that "in every conceivable comparison, the Aborigines stand in stark contrast to the general Australian society, and also to other ethnic groups whether defined on the basis of race, nationality, birthplace, language or religion. They probably have the highest growth rate, the highest death rate, the worst health and housing, and the lowest educational, occupational, economic, social and legal status of any identifiable section of the Australian population".

In relation to discrimination against Aboriginals in Victoria, *Community Relations Paper No. 14* of May 1981, issued by the Office of the Commissioner of Community Relations, lists eight main areas — hotels, the media, the police, accommodation, the community, transport, education, and local and State Governments. The Report concludes: "Generally speaking Aboriginal communities in Victoria are oppressed communities. Yet there appears to be a general lack of awareness of the existence of racial discrimination by white residents of country towns which have significant Aboriginal populations ... In the Melbourne metropolitan area Aboriginals have better access to organisations which can offer advice or obtain help for people whose rights and freedoms are denied".