A new beginning for Memento

The National Archives holds the nation’s memory. With many of millions of items, it is more than a record of government decisions. It is an archive about people, from the ordinary to the famous, who together tell the story of our nation.

It is my story.
It is your story.
It is our history.

Memento, the National Archives’ flagship publication, is undergoing important changes. From January 2011, Memento will be available to subscribers only as an online magazine. Some print copies will be available from state offices.

The new online Memento will be easy to read and published more frequently. It will continue to deliver the high quality stories readers expect and provide new ways of engaging with the stories and the Archives’ collection.

This Constitution Day issue is available online so readers can get a preview. We’d like to know what you think. Go to our website, naa.gov.au, and click on the Memento link to take a look, leave your comments and subscribe to this free magazine.

Everyone who subscribes between July and December will have the chance to win one of two prizes to the value of $100.

You can continue to view past issues of Memento on our website, where they will remain as a valuable resource about the Archives and our collection.

To our thousands of readers and many contributors, thank you for making Memento such a success over the years. Please join us as we begin this exciting journey.

Ross Gibbs,
Director-General of the National Archives
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Front cover: ‘Young Australia’, 1921, from the National Archives’ copyright collection.
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Back cover: Silver skippet from the Royal Commission of Assent. When Queen Victoria signed this document on 9 July 1900 the Bill providing for the creation of the Commonwealth of Australia became law.
NAA: A5137

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When Queen Victoria gave royal assent to our Constitution on 9 July 1900, the nation of Australia was created. Each year, the National Archives celebrates 9 July as Constitution Day.

A window onto our constitutional history

Professor Helen Irving takes a closer look at the colourful history behind the Constitution.

Constitution Day gives Australians an opportunity to learn more about, and reflect on, the processes that led to the creation of the Australian Commonwealth through the union of six self-governing colonies in 1901. Australia’s enduring history of democracy is the product of those processes; the institutions of self-government under which we live today are inscribed in the Constitution’s provisions. Its preamble refers to the agreement of the people of the colonies “to unite in one indissoluble federal Commonwealth.”

These words are significant. They reflect the history and the aspirations of those who made and voted for the Constitution. The Constitution creates a national ‘Commonwealth’, a parliamentary democracy, for the benefit of all the people. The Constitution is also “federal”. It protects the continued existence and operation of the States. The national character of the Commonwealth is embodied in the House of Representatives; the federal character in the Senate.
It was not without controversy that these parts of the Constitution were brought together. Many views were exchanged during the Constitution’s framing and the referendums on the Constitution Bill in the late 1890s about the desirability and the workability of an arrangement which would give (almost) co-equal powers to both Houses, merging parliamentary democracy with federalism. In fact, this ‘marriage’ (for which many constitutional provisions were needed) has functioned remarkably well.

But there is a colourful history behind it, if you know where to look! It is a history that, unknown to many Australians, drew on the story of the American Civil War, and spilled over eventually into the grievances of one particular State.

**Dragging the federation chain**

On 31 July 1900 – 110 years ago – the eligible men and (newly-enfranchised) women of Western Australia voted in favour of joining the Commonwealth of Australia. They were the last to do so, but their vote was not equivocal. An unusually high number turned out to vote and many more than half were favourable. Western Australia, however, had dragged the federation chain. Special constitutional enticements had been offered to it (allowing the phasing out of its tariffs over a five-year period, whereas the others had to give theirs up almost immediately). The other colonies had been waiting for Western Australia to make its mind up; they now decided to go ahead. On 9 July, the Constitution Bill received the royal assent as an Act of the Imperial Parliament. The preamble records this sequence: ‘Whereas the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania … have agreed to unite…’; it begins, Western Australia is missing. But the hope that it would join is expressed in a clause that follows: if within a year, the people of Western Australia agreed, their colony would join the Commonwealth as an ‘original state.’ The Western Australian referendum – or so it was thought – sealed the deal. People rejoiced that the six colonies would now be equal partners in the ‘indissoluble Commonwealth.’

Many today who read the preamble may not notice the word ‘indissoluble’, or realise its significance. But, like a tiny window onto a broad landscape, it is the key to a significant history. The word was added only at the last moment, in the final session of the Federal Convention, in early 1898. Why was it chosen? In designing a federal Constitution, giving equal representation to each state in...
the Senate, the Australians had followed the United States example. They had rejected the other relevant federal model – Canada’s Constitution of 1867 – as too top-heavy and centralist, conferring excessive powers on the federal government and insufficient powers on the provinces. They wanted a constitutional system which protected the rights of the states, while creating a national government to represent and maximise their common interests. The American Constitution of 1787 served these dual imperatives well. There was, however, one fly in the ointment – the Civil War.

An Australian civil war?

The majority of the Australian framers were in their forties and fifties at the time of the second Federal Convention (1897–98), at which the words of the preamble were finalised. Most had young adult or teenage memories going back 30 years. Like other Australians, they had followed the progress of the United States, and they remembered the great constitutional tragedy suffered by that country in the 1860s. The Civil War had seen the American union torn apart following the attempted secession of the southern slave-owning states. These states maintained that the Constitution was merely a contract, from which they could break, if its terms became adverse. They claimed a sovereign right to secession. Hundreds of thousands of men were to die over this claim.

Despite the Union victory in 1865, and a United States Supreme Court judgment of 1869 which declared the United States to be ‘perpetual’, ‘indestructible’ and ‘indissoluble’, some of the framers of the Australian Constitution, as well as members of the public, became anxious. If Australia was copying the American federal model, what was to stop a discontented state from seceding? Might an Australian civil war be possible?

The Civil War featured in many debates about the design of the Australian Constitution. Although the framers reassured themselves from time to time that the war had been fought over slavery alone, and that Australia therefore had nothing to fear, there were other views to contend with. Some argued that equal representation in the United States Senate and its substantial constitutional powers were the real cause. The southern states were encouraged to have an exaggerated sense of their rights. Some thought that the growing representation of non-slave states in the Senate was the issue. Victorian delegate (and future High Court Justice) Henry Higgins, who led the campaign against equal powers for the Australian Senate, told the Convention that as soon as the slave states found ‘they were no longer to have a majority in [the] Senate ... [they] put into practice the doctrine they had long been preaching of the absolute right of any state to secede.’ He felt ‘chagrined’, he said, to think that instead of trying to write an improved Constitution for Australia, ‘we are going back to the first form of federation which was suggested.’ Others noted the absence of words in the United States Constitution confirming ‘indissolubility’ or prohibiting secession. The Australian Constitution, as it stood until the final Convention session, was no different.

At last, the debate concluded with the inclusion of the word ‘indissoluble.’ As the great contemporary commentators on the Constitution, John Quick and Robert Garran, wrote, the word was added because of a perception that it was the ‘omission from the Constitution of the United States of an express declaration of the permanence and indestructibility of the Union [that] led to the … disastrous doctrines of nullification and secession, which were not finally exploded until the Civil War … forever terminated the controversy.’
An indissoluble union

The story did not finish here, however. Western Australia, last to join, quickly wanted to leave. Only five years after Federation, its Legislative Assembly passed a motion declaring that: ‘The Union of Western Australia with the other States has proved detrimental to the best interests of the State, and that the time has arrived for placing before the people the question of withdrawal from the union.’ In response, in a pamphlet entitled ‘Is Secession Possible?’; (now Sir) John Quick reminded Western Australia that it had ‘freely and voluntarily joined the Commonwealth in the full knowledge that it is not a mere ... partnership, dissolvable at will ... but an indissoluble Federal Commonwealth.’

Still, the discontent did not subside. By the 1930s, it had reached crisis point. In 1933, under intense popular pressure, the Western Australian Government held a referendum on the question of secession. It was overwhelmingly approved. Ninety-one per cent of the voters turned out, and 68 per cent voted ‘yes’. The following year, representatives of the Western Australian Government went to London, carrying with them a massive petition in a purpose-built box carved from Western Australian wood. They asked the British Parliament to alter the Australian Constitution, to release them from the Commonwealth. Faced with an anti-secession campaign simultaneously waged by representatives of the Commonwealth, the British Parliament took the diplomatic option: it set up a committee to decide whether it could receive the petition. At last, in 1935, it reached a conclusion: the United Kingdom could only respond to a request from a national government, ‘speaking with the voice which represents it as a whole and not merely at the request of a minority.’ Western Australia, in joining the Commonwealth, had surrendered its powers to request legislation from the United Kingdom. The Western Australians were downcast. There were calls to ‘fight on’, even appeals for a Fremantle ‘sugar party’ and a volunteer army to stop the Commonwealth collection of customs duties in Fremantle. But the reality was that the state would continue to be a valued member of the Commonwealth. While, from time to time, the question of secession is still raised in the west, the history of the Civil War – which the Constitution’s framers captured in the word ‘indissoluble’ – still stands as a reminder of the greater blessings of union.

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Australia’s Constitution – have your say

The Australian Constitution is a living document. It took some 10 years to write and involved heated arguments, compromise and much redrafting. Throughout its 110 years, it has continued to be discussed, debated, referred to the people of Australia 44 times for vote on amendments, and changed eight times.

In keeping with this tradition, this year the National Archives organised ‘A Constitution for all Australians’, a speakers’ forum on 1 July at Parliament House in Canberra.

Four prominent Australians put their views on Australia’s most important document: former High Court Justice the Hon. Michael Kirby AC CMG, Australian Catholic University Vice-Chancellor Professor Greg Craven, former WA Premier and federal MP Dr Carmen Lawrence, and Professor of Law and Indigenous Studies at University of Technology, Sydney, Larissa Behrendt.

Moderated by Damien Carrick (from ABC’s The Law Report) and recorded by our media partner, ABC Radio National, the forum will be broadcast on the Big Ideas program.

Speakers’ papers are published on the National Archives website, where all Australians can express their views on the Constitution. Look for ‘Constitution – Have Your Say’.

We present three of the papers here. The opinions stated are those of the authors, not the National Archives of Australia.

Australian federalism: an heroic defence

Professor Greg Craven argues that federalism is one of Australia’s most underrated but indispensable constitutional features.

Any defence of Australian federalism will be, by definition, heroic. This is not because it will be particularly majestic or inspiring and certainly not because it is likely to prove successful. Rather, a defence of Australian federalism will be heroic precisely because of the depressing and crushing odds stacked against anyone foolish enough to attempt it. The inconvenient reality that the case for federalism in Australia is, in fact, compelling, hardly enters into the equation.

Like all of us, Australian federalism has been in biological decline almost since the moment of its birth. The crises of economics and war have seen the powers of the national government wax at the expense of the States, even if that government has not proved universally successful at handling either category of disaster.

Perhaps worse, the very features designed by the founders of the Australian Constitution to protect the States and the federalism they embody all had collapsed within a generation of Federation. The Senate, the ‘States’ House’, had become an instrument of party. As a result, the Commonwealth Parliament strained against the strictly limited legislative powers conferred by the Constitution. The High Court, the ultimate constitutional adjudicator but appointed by the Commonwealth itself, gracefully gave way.

The ultimate result has been the States we see today: shambling shadows of their former great colonial selves, snapping around the tables of Commonwealth functionaries for any financial titbits that might fall their way. Worse, we have been treated to a profound moral decline among the States, which means that on the rare occasions that one or two might band together to resist any proposed Commonwealth atrocity, their colleagues can be relied upon to enthusiastically sell their inheritance for rather less than a mess of pottage.

All this has produced a popular vision of the States that is unflattering to say the least, and probably poisonous to speak frankly. Particularly in the largest cities like Melbourne and Sydney, it is fashionable to affect a profound contempt for the States. They are colonial relics like steam trains and courtesy in shops, which should be done away with. The higher-brow media peddles this attitude with as much enthusiasm as it promotes gourmet restaurants. Opinion polls regularly tell us that Australians readily would dispense with the States, which makes you wonder how on earth they are still here.

In fact, the case against federalism is prevalent, dominant and widely accepted. It also is predictable, facile and consistently misconceived. Along with the occasional sightings of panthers in the Great Dividing Range, it is one of Australia’s most popular myths.

Take the most common argument that Australia is over-governed with too many levels of government and too many politicians. Wrong. Most countries, whether federations or not, have three (and
sometimes four) levels of government and the incidence of politicians per head of population in Australia is well within the range of international normality.

Much the same can be said of the argument that Australia is drowning in bureaucracy. Our sweeping herds of public servants are unimpressive compared to their overseas counterparts, and even were the States to be abolished, the tasks and services still would have to be performed by somebody.

The argument over cost goes much the same way. Contrary to popular opinion, federations do not typically cost more to deliver the same level of service as a unitary State and – once again – it is the service that is the primary cost, rather than the State itself.

Of course, there is an assumption here that if only every conceivable function could be vested in the Commonwealth, what a welter of confusion and inconsistency would be brought to an end. But there are two discomforting thoughts here. First, is our central government really as all-efficient as we suppose? Secondly, uniformity only is a joy if it is uniformity at the highest level. What guarantee is there to the citizens of any State that the Commonwealth Government will pitch its bounty at a point higher rather than lower than the standards of services – in health, education or public gardening – that they currently receive?

Then there are some old chestnuts so hoary it is amazing they are not declared national monuments. For example, the States’ borders are old, historical and not necessarily based on the latest geo-positioning technology. True, but we also have just described France, Germany and the United States, and anyone who has not grasped that Adelaide really is in South Australia has more problems than constitutional dyslexia.

Another is the pipedream that the States could be abolished and replaced with multiple communal, responsive, biodegradable regional governments. As fantasies go, it is beguiling enough, but its chief effect would be to produce a gaggle of local bodies even more helpless, more dependent and more supine in the face of Commonwealth aggression than the States they supplanted.

Which brings us to what probably is the one incontrovertible fact in the debate over Australian federalism. The States are not going anywhere. Their abolition would require a referendum passed nationally and in every State. Australians do not like referendums. It would have as much chance of passing as a rhinoceros tap dancing.

So as the epic pragmatists we are, we had better start pondering whether there might not be some good reasons to retain the States. Fortunately, and contrary to the views of just about every broadsheet in the country, the reasons the founders adopted federalism in the first place remain as fresh as they did in 1900.

First, in a world rightly and deeply suspicious of power, federalism divides and balances it. Just as we automatically accept the separation of power by stream – legislative, executive and judicial – so federalism diffuses power geographically. No-one can do everything, everywhere, at once. Napoleon, George Bush and Kevin Rudd, eat your hearts out.

On 27 July 1899, the Victorian colonial government held its second referendum on the Constitution Bill. Although the first referendum in June 1898 was successful in Victoria, it was defeated in NSW. After the Constitution Bill was amended in early 1899, a second referendum was held.
Second, federalism actually allows local decisions to be democratically made by local populations. Much as it is almost certain that a public servant in Canberra knows more about groundwater in Fremantle than the citizens of Perth, there is something touching about leaving the matter to the Western Australians who actually will drink the liquid. In Australia, this is derided as ‘States’ rights’. In Europe, it is sexily marketed as ‘subsidiarity’.

Third, and correspondingly, it is remarkable how much better decisions tend to be when they are made by someone who actually understands the problem to which they relate. Astonishingly, scientific tests have revealed that understanding tends to correlate with familiarity. Consequently, people who live in and have responsibility for the problems of Melbourne tend to have a better idea of its schools, hospitals and trams than those with a daily view of the Brindabellas.

All of this is reinforced by what might be called Australia’s ‘tyranny of subtilty’. One public relations problem of the States is that they do not readily display the obvious differences that might be thought to ground real character: the Tasmanians do not speak German, for example, while the Queenslanders are not purple. But the slightest analysis of their divergent circumstances quickly reveals basic differences in policy reality. There can be only the slightest commonality, for example, in governing postage stamp-sized Victoria and mega-parcel Western Australia, while differences in environment, population size, transport and industry all work to the same effect among the various States.

Then there is the rarely acknowledged virtue of federalism – it is a hotbed of ideas, allowing different States to trial different policy solutions, with the winner spreading like a benevolent cane toad across the continent, and even further. Victoria might not rival Ancient Rome, but it did give the world the compulsory seat belt. On a similar note, if one or more States (or the Commonwealth Government itself) starts to get things massively wrong, the subsistence of better, alternative policies in other States tends to act as helpfully reproachful and correcting exemplars.

Finally, and at the risk of heresy, what exactly is wrong with internal Australian diversity? We celebrate multiculturalism throughout the land and we revel in the differences between Umbria and Transylvania. Surely it is a good thing if the Australian States can produce a rich and varied mosaic of culture rather than a pavement of imitation Los Angeles from Brisbane to Perth. Victoria, and its capital of Melbourne, with its emphasis upon culture, education and sport, is a potential example here.

We also need to understand that federalism-phobia is very much an Australian affliction, and not a reflection of fashionable overseas thinking. Internationally, the trend is all the
Greg Craven is a constitutional lawyer and Vice-Chancellor of the Australian Catholic University.

The Constitution as a protector for fundamental rights

The Hon. Michael Kirby AC CMG argues that the Constitution is a mixed story for fundamental human rights, and presents the case for a bill of rights. The Australian Constitution is one of the very few in the world that does not contain a substantive charter of fundamental human rights. This defect came about by decision of the founding fathers (there were no mothers) in the 19th century. They rejected a bill of rights as an American intrusion into notions of parliamentary sovereignty. That decision was taken at a time of Aboriginal disempowerment, the White Australia Policy, imperial rule and a largely monochrome population of British settlers.

Australia is now a very different place: cosmopolitan, multicultural, multi-religious, with assertive Aboriginal, ethnic, gay and other minorities playing their part in the nation’s society and culture. Unlike in most countries, these minorities do not have a constitutional principle of equality or basic guaranteed rights to appeal to when (as sometimes happens) the majority in Parliament ignore, or override, their dignity and rights.

In most other countries, there is an ongoing conversation between the courts (which protect basic civic rights) and the legislature and executive government (which tend to reflect majoritarian opinions and wishes). A contemporary democracy is not a place of brute majoritarianism. This we have learned from the errors of Nazi Germany, where the Nazis came to power and wielded their tyranny with apparently strong majoritarian support. But they ignored basic rights and trampled on minorities. If this could happen in civilised Germany, we cannot pretend that Australia is immune.

Australia’s Constitution contains a lot of provisions about elected democracy. And in many (perhaps most) disputes over civil rights, parliamentary democracy does ultimately address the rights of minorities. Sometimes, by reference to particular provisions in the Constitution, the High Court and other courts have upheld basic constitutional rights in Australia. A few examples include the right to hold property free from governmental seizure without just compensation, as in the Banking Case of 1948; the right to hold and express unpopular political views, as in the Communist Party Case of 1951; and the right of Aboriginal Australians to enjoy native title to their land (the Mabo decision of 1992 and Wik decision of 1996). The right to free expression on matters of political and economic concern so as to sharpen political debates was upheld in the Lange Case of 1997. Other examples of rights upheld include the notion of Australian nationality, in the face of constitutional provisions referring to the status of ‘British subjects’ (Sue v Hill in 1999); and the right of prisoners not to suffer a blanket disenfranchisement from voting (the Roach Case of 2007).

Despite these important decisions of Australia’s highest court, which sustained significant values against attitudes of discrimination, inequality and prejudice, there are many other cases that show the present incapacity of Australia’s courts when faced with important constitutional challenges. The Stuart Case of 1959, for example, demonstrated the unavailability of a remedy for an Aboriginal prisoner, sentenced to death, despite serious disquiet about the safety of his conviction for murder. The Darcy Dugan Case of 1978 preserved the antique notion that prisoners convicted of felonies suffered ‘corruption of the blood’ and lost the protection by the courts for their civil rights. Other examples include the suggested inability of the courts to remedy the permanent detention of a refugee applicant, based on parliamentary law rather than judicial orders (Al-Kateb v Godwin, 2004); and the failure of the democratic principle to uphold effective parliamentary scrutiny of governmental spending on political advertising, despite the...
important appropriation power (Combat Case of 2005). The failure of the Constitution to provide remedies against detention orders under anti-terrorism legislation despite the vagueness and over-breadth of such orders was demonstrated in the Jack Thomas Case of 2007, and its failure to provide effective remedies to Aboriginal Australians against the legislative deprivation of basic rights in the Northern Territory intervention was displayed in the Wurridjal Case of 2009.

A review of some of the key decisions of the High Court of Australia concerned with the basic rights of Australians in recent times will disclose admirable occasions where the judges have found enough in the constitutional text and doctrine to protect the basic rights of the individual. But in other cases (sometimes by majority) the court has felt unable to respond to complaints about serious departures from universal principles of human rights.

The Australian Government’s rejection in April 2010 of a federal statutory Charter of Rights for Australia, and the bipartisan concordat opposing national remedies for that purpose, suggests that effective constitutional protections for fundamental rights are still a long way off. In part, this conclusion rests on a naïve and romantic view of the capacity and interest of elected parliaments to respond to all of the legitimate needs of the people for law reform. Drawing on long service in institutional law reform and the judiciary I can say, without serious contradiction, that notions that parliament ‘fixes everything up’ are false and misleading. Parliament did not ‘fix up’ the basic deprivation of title to Aboriginal land during 150 years of representative legislatures. This was eventually done by the High Court in the Mabo case, which then properly stimulated the democratic parliamentary system. In 1979, economist and Nobel Prize winner Amartya Sen advocated the ‘capability approach’ to human rights: to allow people ‘to do and to be’ what they aspire to. The Australian Constitution safeguards some rights. But it falls short in protecting minorities, and especially misunderstood and unpopular minorities. We are a long way from Amartya Sen’s ideal.

One day, Australia – like virtually all other countries – will have a constitutional charter of basic rights. But it will require political champions who understand the complexity of governance and the weaknesses of the parliamentary system as it operates in an age of media infotainment, party control of members’ voting, and indifference or hostility to minority rights.

Whilst Australians can be proud of the independence of the courts and many of their important decisions under the Constitution, they lose out on the full attainment and protection of their basic rights. Not only does this mean that individual injustice goes unrepaired – it also means that the education of coming generations about their civil rights and the protection of such rights in administrative practice fall short of what citizens enjoy in other lands. The price of these realities is a diminution of the potential of the Australian Commonwealth to be a true example to the world of a vibrant modern democracy where the majority is encouraged to respect and protect minorities, stimulated to do so by legal provisions speaking of the universal values of rights belonging to all people that are put beyond electoral deprivation or neglect.

The great Australian philosopher Peter Singer, in his 1993 book Practical Ethics, suggests that ‘ethics carries with it the idea of something bigger than the individual.’ It requires the adoption of a ‘universal point of view’, by which selfish perspectives are tamed by the obligation to respect the interests of everyone else. This is what a charter of rights would afford. A look at Australia’s past suggests that our legislators and citizens are occasionally in need of the stimulus of such perspectives.

The Hon. Michael Kirby AC CMG is a former High Court Justice and at the time of his retirement was Australia’s longest serving judge. He has also served in many international and United Nations positions.
The relationship between Aboriginal Australians and the Constitution is a complex one. As our foundational legal document, the Constitution symbolises the supremacy of European-derived law over Aboriginal law and governance systems.

At the time the Constitution was drafted it was assumed that Aboriginal people were a dying race. The theories of white racial superiority and of the inferiority of the ‘coloured’ races were dominant. Aboriginal populations had depleted so significantly with the impact of colonisation that it was a popular view that the kindest thing that could be done for Aboriginal people was to give them a place – on government administered reserves – to live out their days, ‘smoothing the pillow’ to make their passing more dignified.

These views influenced the choices made about the kind of Constitution Australia should have, including the values that underpinned the document. Other constitutional models were considered before deciding on the Australian model, including those of France and the United States of America. Vigorous discussion was had about the extent to which rights should be included in the foundational document. There was a suggestion that a clause be included in the document that would protect a small number of rights including the rights to due process before the law and equality before the law.

This suggestion was rejected both because the framers of the Constitution thought that the questions of which rights are protected, how they are balanced and the extent to which they are to be protected, should be answered by the elected arm of government, the parliament. But the exclusion of rights of equality before the law and due process was also influenced by the dominant ideologies of the time. It was thought desirable to continue to make laws that regulated people of other races, continuing practices that related to both Aboriginal and Chinese people. A further testament to the influence of this ideology was the first legislation passed through the Australian Parliament: immigration laws that entrenched the White Australia Policy.

The Constitution left matters relating to Aboriginal people to the States and gave the federal government responsibility only for Aboriginal people in the territories. As Aboriginal people defied the expectations that they would die out, instead increasing their numbers, their exclusion from mainstream Australian life and its benefits and the appalling conditions that existed on government-controlled reserves and in Aboriginal communities around the country became an increasing national concern.

Within this legal framework, Aboriginal people continued to feel the impact of discriminatory policies and practices – dispossession, removal of children, the inability to access mainstream services and to earn a proper wage, regulation of right to marry and infringement of the freedom of movement. The impact of the lack of human rights protection is illustrated in the 1997 case of Kruger v Commonwealth. It was a case brought by Aboriginal people in the Northern Territory asserting that the policy of removing Aboriginal children from their family infringed their human rights including due process before the law, equality before the law, freedom of movement and freedom of religion. The High Court determined that the case failed because Australian law protected none of those rights – including the right to freedom of religion that is supposedly protected by s.116 of the Australian Constitution. The court said that the constitutional protection of the right did not extend to the circumstances complained of in this case.

The case of Kruger v Commonwealth highlights the fact that many basic human rights that we might assume were protected by the Australian legal system actually aren’t. And it also highlights how the failure to protect human rights can have a disproportionate impact on those whose rights are most likely to be negatively affected by government policy.

Significantly, Aboriginal people have seen constitutional change as an important part of the agenda to facilitate a new relationship between Aboriginal people and the Australian state. This was certainly the thinking behind the 1967 referendum, where it is clear from the campaigns for a ‘yes’ vote that it was assumed that transferring the power to make laws for Aboriginal people to the federal government would mean a new era of non-discrimination. Campaigners assumed that this transfer of power would result in its use only to benefit Aboriginal people.

However, these expectations have not been met. The 1998 case of Kartinyeri v Commonwealth concerned the building of a bridge over the Hindmarsh Island area. When traditional owners sought to prevent the construction over what they claimed was culturally significant land, the federal government sought to circumvent the opposition to the development by suspending the application of heritage protection legislation to the area and thus denying the traditional owners any mechanism for appeal. In challenging the government’s actions, the traditional owners argued that when the 1967 referendum gave

Professor Larissa Behrendt argues that the decision of the framers of our Constitution to exclude human rights protections needs to be amended by including clauses to protect fundamental rights.
the federal government powers to make laws in relation to Aboriginal people, it was with the understanding that the powers would be used only to benefit Aboriginal people, not to take rights away, as was being done in this case.

A majority of the High Court, with Justice Kirby dissenting, said that, whatever the intention was when voters said yes to the change, if the government has the power to make a law and provide a benefit, it has the power to repeal it. This highlights that the socio-economically disadvantaged, historically marginalised and culturally distinct are most vulnerable to human rights violations when there are gaps in rights protections.

Reinforcing the fact that the government can repeal legislation that provides rights protection was the suspension of the Racial Discrimination Act at the same time as heritage protection laws were suspended over Hindmarsh Island. It was one of three occasions on which the Racial Discrimination Act has been suspended. It was also suspended as part of the amendments to the Native Title Act by the Howard Government in 1998 and to allow the recent Northern Territory intervention.

The suspension of the Racial Discrimination Act in relation to the Northern Territory intervention bears a closer look because it highlights the way in which human rights violations continue to occur in Australia. Proponents of the intervention argued that it was acceptable to suspend rights to protection from racial discrimination in order to facilitate policies such as compulsory leasing of Aboriginal land and compulsory income quarantining. However, this tolerance of the suspension of one of our few protections of human rights overlooked the fact that the suspension did not just remove the principle of freedom of racial discrimination from the legislation and policies, it deprived Aboriginal people of the right to make a complaint to the Australian Human Rights Commission.

The same legislation also suspended the rights to make complaints under anti-discrimination legislation in the Northern Territory and to appeal to the Social Security Appeals Tribunal. The effect of the legislation was that any Aboriginal person subject to compulsory income quarantining who felt that they were being unfairly treated or discriminated against had no avenue to seek redress, no forum in Australia to hear their concern. This is an extraordinary violation of the rights to due process and equality before the law. This situation shows that human rights are not abstract ideas – merely a luxury for the elite to pontificate about rights. They provide a tangible, practical mechanism for people who feel aggrieved to claim some kind of redress.

I believe that a national bill of rights would modernise our legal system, transforming it so it reflects the contemporary understanding of human rights that has developed in the post-World War II era – an understanding that did not exist at the time our Constitution was drafted. I also believe that this additional rights protection would provide a valuable mechanism for Aboriginal and Torres Strait Islander people who have disproportionately felt the lack of their protection.

As the experience with the Racial Discrimination Act shows, the vulnerability of legislative rights protections is that they can be repealed or overridden when Parliament decides it is necessary. For this reason, I believe that we should consider including three fundamental rights in the Constitution, to complement a legislative bill of rights. These three rights aim to cure the underlying racial prejudices that remain within the Constitution and embody the idea of fairness that most Australians would say is an inherent Australian value. These three rights would be the right to due process before the law, the right to equality before the law and the right to be free from racial discrimination. These additional protections could be complemented by the adoption of a preamble to the Constitution that recognises the unique place and rights of Aboriginal and Torres Strait Islander people.

Other jurisdictions have been far more ambitious in their constitutional protection of Indigenous rights. Canada inserted a clause into its constitution in 1983 that recognised and protected Aboriginal and treaty rights. This has not led to a blanket protection of the rights of First Nations people in that country, and these rights are balanced with the right to development and other rights. But it has at least led to a more sophisticated conversation about the extent to which the rights of Aboriginal people can be protected, and has resulted in concrete protection of property and other rights.

Professor Larissa Behrendt is Director of Research at Jumbunna Indigenous House of Learning at the University of Technology, Sydney.

Unveiling the Constitution Cake

On 1 January 1901 the people of Glen Innes, NSW made a ‘Federal pudding’ to celebrate the birth of the new nation of Australia. It was no ordinary pudding but a ‘mammoth’ which was paraded through the streets on a ‘gaily decorated trolley’. After a celebratory sports carnival at the showground, the pudding was cut and shared among the crowd.

Cake was also served that day at Centennial Park in Sydney, where thousands of people gathered to celebrate their new nation and watch the swearing-in ceremony for Australia’s first Governor-General, first Prime Minister and his ministry.

Celebratory cakes also featured in other inauguration celebrations around the nation. They were subsequently made to mark 50 and 75 years of Federation.

This year, the National Archives invited culinary legend Maggie Beer to develop a unique recipe for an Australian Constitution Cake. She was delighted to accept the challenge.

On the eve of Constitution Day, at an event at the High Court of Australia on 8 July, Maggie will unveil the cake. The recipe will be published and distributed on 9 July from our offices and on our website (naa.gov.au).

Perhaps, one day, Maggie Beer’s Constitution Cake will be as popular in Australia as Anzac biscuits and lamingtons.
The sinking of Australian Hospital Ship *Centaur*

Hit by a torpedo on 14 May 1943, the hospital ship *Centaur* sank in a matter of minutes. The National Archives holds many records about the *Centaur*, including survivors’ eyewitness accounts that provide a glimpse of the horrors they faced.

In the early hours of 14 May 1943 the Australian Hospital Ship (AHS) *Centaur* was hit by a Japanese torpedo. It was off the south-east Queensland coast returning to New Guinea from Sydney with doctors, nurses and field ambulance staff, as well as the crew. Of the 332 people on board, only 64 survived the attack.

The Melbourne newspaper *Argus* reported the sinking on 18 May 1943:

> Survivors estimate that about 150 people succeeded in getting into the water. More than 200 were trapped below decks by water and flames and many others were sucked down with the ship … A number were killed by the explosion and by falling debris. Many were terribly burned and collapsed in the water. Several were taken by shoals of sharks. Some survivors said that, before they got away, they heard agonising cries of nurses caught by flames billowing up to the promenade deck and of men trapped below.

In August 1944, Sir William Webb, the Australian War Crimes Commissioner, interviewed survivors about their experience on this terrible night and following days. Their stories are preserved in a transcript of the evidence, held in the National Archives of Australia.
There was no doubt that the Centaur was clearly marked as a hospital ship. With only slight variations, witness after witness described the bright green stripe and three large crosses along the hull and the red neon cross on each side of the funnel. Several witnesses mentioned that the ship was brilliantly illuminated that night.

Francis Reid, the chief butcher on the Centaur, who was getting ready for work that morning, said ‘the whole ship was lit up at 10 past 4.’ Other statements indicate that this was the exact time that the torpedo hit.

Most witnesses had been woken by the blast, many thrown from their bunks. Dental mechanic George Richard Carter ‘landed from the upper bunk onto the floor of the cabin.’ Leonard Richard Hooper, the Centaur's paymaster, was ‘hurled onto the floor’, and John Lawrence Bayly remembered ‘picking himself up from the floor when ‘there was still a lot of … tearing and rending noise.’ Bayly’s brother seemed ‘a bit dazed’ so he helped him into a lifebelt. He told the commissioner how later, in the sea, he called out trying to find his brother, without success.

Sister Ellen Savage, the only survivor of the 12 nurses on board, told the commissioner she was more or less shaken out of bed and rushed to the cabin window where she could see the ship was ‘absolutely on fire.’ William Cornell was also knocked out of his bunk and got a ‘bit of a crack on the head.’ Pinned down by dislodged steam pipes, he found he couldn’t move. But, as the ship went down and water rushed in, he said it ‘sort of released the pipe’ and he wriggled out.

Albert John Taylor, from the dental unit, was perhaps the only person on board to see the torpedo. He was watching porpoises around the ship when he noticed a white flash in the water, at first thinking it was another porpoise. ‘But almost at the same second there was an explosion and I realised what I had seen,’ he said.

The ship sank so quickly – in only two or three minutes – that by the time Taylor and others tried to get the lifeboat over the rail and loosen the rafts, the ship’s nose was already sinking. ‘We decided the best thing for us was to jump,’ he said. ‘She went down very quickly and sucked me down with her.’

Seaman Samuel John Cullen also found himself going down with the ship. ‘I clipped my nose and dogpaddled to the surface,’ he said. ‘There was wreckage around me and no ship.’

Others had similar experiences. The paymaster, Leonard Richard Hooper, put his foot on the rail ready to jump when ‘she went from underneath me.’ Sister Ellen Savage also had a close escape. ‘I just went with the suction and … was caught in the ropes and I thought that it was over,’ she said. ‘And then all of a sudden I seemed to be released … and I shot up like a cork.’

Many suffered burns as they tried to escape. As Ronald Jones resurfaced, he was temporarily blinded by the hot oil on the water. Richard Mumford Salt, the ship’s pilot, tried to get up the stairway leading to the bridge – but couldn’t get past the flames. ‘I … seized a blanket off my bed and I rinsed it in a can of water and wrapped it around myself,’ he said. As he made his way along an 18-metre alley, sheets of flames hindered his progress. ‘My face and hands were all badly burnt,’ he told the commission.

William Cornell was groping his way in the darkness when he grabbed hold of steam pipes, burning his hands. He made his way towards a light, which he discovered was ‘the oil burning in the water.’ With his hands badly burned, Cornell couldn’t grasp anything, and owed his life to his friend Keith Lang who lifted him onto a raft and held him there. ‘We floated around for a while and we could hear screams and everything,’ he recalled.
William McIntosh, a fireman’s attendant, and his mate Ross Downing could see a raft but those already on it had no oars to bring it closer. McIntosh suggested that they swim for it. ‘But Ross never reached it,’ he told the commission. ‘He was taken by a shark.’

During the night some of the survivors heard what they believed was a submarine engine, heightening their fears. ‘We expected to encounter machine gun bullets or anything at any moment,’ said Francis Reid.

The survivors were eventually picked up by American destroyer USS Mugford about 36 hours after the torpedo attack. The following year, the Argus reported that Ellen Savage had been awarded the George Medal for courage and fortitude during the tragedy: ‘Although suffering from severe injuries received as a result of the explosion and immersion in the sea, she displayed great heroism … in attending to wounds and burns suffered by other survivors.’

Evidence given to the War Crimes Commission played a part in the search for the Centaur, which was found in December 2009.

By Elizabeth Masters, media officer at the National Archives.

The National Archives holds many records on Australian Hospital Ship Centaur, including copies of witness statements to the Commission, Army and Navy secret correspondence files, minutes of the Advisory War Council and ship plans. The witness statements are available online through RecordSearch. To find records search using Centaur as a keyword.
Foreign correspondents: Pioneering women journalists in Asia

Two women paved the way for Australian female correspondents in Asia. Dr Nathalie Apouchtine looks at their pioneering work for the ABC in the 1950s and 1960s.

In 1959, the Australian Broadcasting Commission (ABC) opened a full-time office in Jakarta. The men sent to set it up wrote to the ABC’s head office in Sydney about the difficulties facing a correspondent there: Indonesia’s troubled political and economic situation, suspicion of foreigners and of the media, restrictions on what could be reported, practical difficulties in equipping the ABC office and finding support staff. It was tough for journalists in Indonesia, where complicated logistics were compounded by unstable political circumstances.

Yet two years earlier, a freelance journalist began working regularly in Indonesia for the Commission (which later became the Australian Broadcasting Corporation).

A quarter of a century before the ABC hired its first female staff foreign correspondent, Christine Cole (now Dame Christine Cole Catley) was providing radio and television items and acting as a representative for the ABC in Indonesia. Granted, she did not have the practical headaches of setting up an office from scratch. And Cole did have the advantage of being the wife of a UNESCO adviser in Jakarta, with all the contacts and protection that implied. But she did not have the advantages of being an ABC official staffer or the assistance of local personnel in dedicated premises.

Cole and another early regular freelancer, Patricia Penn in Hong Kong, did pioneering work for the Commission, yet they are
rarely remembered in histories of the ABC. Documents about their experiences are in ABC files held at the Sydney Office of the National Archives, and were among those researched for a major project, led by media historian Dr John Tebbutt, on the ABC in Asia from the opening of its first full-time bureau in Singapore in 1956.

ABC files held by the National Archives provide a rich record of the decisions to set up offices in Asia, seen as such an important area for Australia, and the difficulties and triumphs of the first correspondents in various – often troubled – parts of Asia, and of the eventual development of a network of ABC offices working to tell Australians about Asia.

Christine Cole in Jakarta

Cole was on a retainer rather than on ABC staff, but she did everything a Commission correspondent would have done: providing radio and television coverage, acting as a contact for the Commission’s shortwave service Radio Australia and as an ABC representative in negotiations with Indonesian radio and television on exchanges of program material.

Indonesia was not an easy place for a European female journalist – or indeed any journalist – in the 1950s. Yet, as Cole said in an interview in the early 2000s, there were some advantages to being a woman. Her work took her around the country with the Indonesian President, to be greeted by large crowds everywhere:

Sukarno, this remarkable guy, liked women’s company, yes. He also liked to sing … I had a reasonable voice, a sort of, you know, in the chorus rather than a soloist, but Sukarno would not take no for an answer … I used to go up on the platform and sing to this vast audience. What they made of it, God only knows, but whatever Sukarno said, went …

Cole’s singing appearances belie the difficulties and dangers of her work. Indeed, at times events were too daunting for the cameramen with whom she covered television stories – so she picked up the camera herself.

In one letter to the ABC in 1957 she wrote about ‘the largest crowd I’ve ever seen in Jakarta’, fired up over the future of what was then Dutch New Guinea:

neither of my cameramen would have anything to do with this mass meeting, so I attempted to shoot it myself … several times I was in some danger of being crushed and my camera would be passed from one person to another while a pathway would be made for me, etc. (Although I was the only European present, I was treated with every courtesy … It’s just that these crowds get over-exuberant and stampede.)

In spite of the difficulties, she was able to gain access to people and places closed to other Western journalists. For instance, in early 1958 she travelled to Sumatra where an anti-government movement was brewing. As the ABC’s Singapore office pointed out to Sydney headquarters, the footage Cole obtained was the first to be made of [the] Indonesian revolutionary movement and the only existing film on the declaration of the revolutionary republic … she showed outstanding initiative and underwent considerable danger and hardship … [She] gave us in effect a world news scoop.
Despite Cole's achievements, the Singapore office had to plead for better recompense for her, warning that she could be poached by another organisation. When the ABC discussed setting up a full-time correspondent in Jakarta, at least one news executive in Sydney agreed:

Mrs Cole did a remarkable job for us in sound news and in shooting film, far beyond what we could reasonably expect for the money we paid her … I do not think anybody could serve us better than Mrs Cole.

Christine Cole was to leave Indonesia for personal reasons before the ABC office was set up, though she did occasionally send the ABC stories from her home in New Zealand.

Patricia Penn in Hong Kong

A few years later, another woman began sending material regularly to the ABC from Asia. Patricia Penn worked on commissions for the BBC, but she was soon also freelancing for the ABC and other broadcasters around the world from Hong Kong, first for radio, then also television. She taught herself to do the camera work and edited much of her own film.

While British-ruled Hong Kong perhaps provided a less difficult working environment than Indonesia, Penn ranged over a wide area, reporting from places such as Vietnam, Laos, Thailand and China. A former supervisor at Radio Hong Kong told the ABC, “she concentrates on throwing light on Asian sociological problems.”

Penn wrote to the ABC in Sydney that she was most interested in researching subjects in depth and providing insights on the region more broadly:

though the treatment in each case would be of the Hong Kong situation my object would be to put them in a wider, Asian, context, and the context of fast growing industrial societies which are having difficulties in keeping up with related social and technological problems …

She covered stories such as drug addiction, corruption and social disruption. In Vietnam, her focus was not the fighting, but the civilian victims of it. She reported on refugees of the war and spent weeks in hospitals recording and filming. In an interview in 2009, she spoke about her experience telling these stories:

my first encounter with casualties, civilian casualties … I must say it was quite a shock, and that was my initiation into what was happening. You know, there was quite a lot of napalm injuries and it was very difficult to record, but I thought I’m here to record what really happens… but it was very, very difficult…

Covering the Vietnam conflict was also dangerous:

we did get bombarded at night, mortared… Yes, there were times in Vietnam, there were one or two times when I was worried, but you don’t want to be chicken. I mean, it’s a weakness, I suppose… but I did take advice from people about going into remote villages and so forth.

In 1965 Penn was in one of the first groups of Western journalists to be allowed into China. But Chinese issues regularly spilled over into Hong Kong too. When the Cultural Revolution found echoes there in protests, Penn was in the midst of them with her camera. Her coverage, it was agreed in Sydney, was “first-class”; the ABC knew it was getting a good deal. ABC headquarters saw keeping her on a retainer, ‘when the Communist agitation in Hong Kong was at its height, as the most efficient way of ensuring availability of her services.’ It was, the ABC recorded, ‘a comparatively cheap investment for us in relation to our costs at other overseas posts.’

Penn, like Cole, never got the opportunity to experience the conditions offered to staff correspondents. When the ABC opened a full-time office in Hong Kong in 1972, she preferred to focus on features and documentaries rather than hard news. Indeed, she continued to sell the ABC such programs for more than another decade.

In 1983, the ABC sent Helene Chung to Beijing, the first woman to get an overseas posting. In an account of her time there, Chung pointed to the weight of expectations on her as the first female overseas staff correspondent. Yet the archives show that the way had been paved in Asia a couple of decades earlier by two remarkable women – Christine Cole and Patricia Penn.

Dame Christine Cole Catley, a publisher and writer in New Zealand, also teaches journalism and writing. Patricia Penn is active in environmental issues in Sydney.
The family file: ASIO, the Archives and the Aarons family

Growing up in the 1950s and 1960s at the height of the Cold War, my family life was shared with an unseen but almost palpable presence. This ghost was there, but we could never pinpoint where it was exactly. From an early age my parents, Laurie and Carol Aarons, taught my brothers and me that the Australian Security Intelligence Organisation (ASIO) was watching and listening to our every deed and word. They explained that our house was almost certainly bugged, our telephone was tapped, some of our neighbours had been induced to watch us, we were being secretly photographed and even our friends had probably been recruited to report on our activities.

This might seem to be the product of some sort of feverish paranoia. However, after reading the family’s intelligence files, held in the National Archives, I can confirm that almost everything my parents said was true. These files so far amount to 209 volumes of more than 32,000 pages, covering over half a century of the Aarons family from the late 1920s to the late 1970s and beyond.

For four generations, the Aarons family were ‘subversive revolutionaries’, avowed communists who were at the top of ASIO’s list. My great-grandparents Louis and Jane were Jewish migrants from London and New York who became revolutionaries around the turn of the 20th century, joined the Australian Labor Party and then the far more radical Victorian Socialist Party, and were involved in the bitter anti-conscription campaigns during World War I. Louis and Jane became foundation members of the Melbourne branch of the Communist Party of Australia (CPA) in 1921.

Their children Sam, Millie and Miriam followed their lead, as did their grandchildren Laurie, Eric, June and Gerald. My brothers, Brian and John, and I also espoused Louis and Jane’s cause from the 1960s. Many family members played prominent roles in the...
Australian revolutionary socialist movement, including Laurie, Eric and Brian. By the time I was 13 my father was the CPA national secretary, which explains why his ASIO file is so extensive, with 84 volumes and a massive New South Wales Police Special Branch dossier starting when he was 14. His file alone is around 14,000 pages.

A meticulous chronicle

When I first embarked on the research for my book, The Family File, I had no idea where it would lead, let alone the enormity of the task for both the National Archives and ASIO. The access examination, or declassification, of intelligence files is a laborious process. ASIO provides the National Archives with advice on the information that is suitable for release under the Archives Act 1983. ASIO officers read each file and highlight areas that might require exemption, mostly to protect ASIO’s sources and methods. The records are then examined by National Archives staff and sections deemed to be too sensitive to be publicly released are ‘blacked out’, and a photocopy of the file is provided to the public. With more than 30,000 pages requiring review, the Aarons family files, covering 13 individuals, took five years to be completely declassified.

Much of the material held in these files is inconsequential, detailing the humdrum of daily life. Some is almost incomprehensible, especially the thousands of pages of telephone intercept reports. Sure in the knowledge that their phones were tapped, communists invented an inscrutable code to try and bewilder those who recorded every call and transcribed large passages for the files. Even at the time, ASIO often had trouble guessing what was being talked about. With the passing of time, many conversations have been rendered meaningless.

Despite such limitations, there is a powerful and basically accurate thread running through the family files. It tells the story not just of one family, but of the Australian left-wing movement in the 20th century. The idealism that motivated almost all of my family to become active communists between the 1920s and the 1980s reflected the varied reasons many other Australians were drawn to the CPA over its 70-year history. Often such idealism was misplaced and masked terrible political mistakes, excesses and blindness to the crimes committed in communism’s name.

Taken as a whole, however, the family files are a comprehensive account of our lives. It would have been impossible to keep such an extensive diary, even if we had each spent many hours every day recording where we went, who we met and what we said and did.

Much of the intelligence gathered by ASIO concerned things that, from the perspective of 2010, were unexceptional political activities, such as opposing racism and supporting Indigenous causes, fighting for better wages and conditions for union members, and campaigning against environmental degradation. These were legitimate activities, but ASIO recorded them because they were carried out by ‘subversives’ committed to the overthrow of the constitutional order and the creation of a revolutionary socialist society.
My own file, for example, chronicles my youthful involvement in opposing the Vietnam War. It records my serial arrests in demonstrations against the war, in support of the Gurindji land rights campaign at Wave Hill and against the apartheid regime in South Africa. The file details my role in sustaining an illegal radio link to the guerrilla forces in East Timor resisting Indonesian occupation and my illegal importation of a large sum of money to run this operation – as well as documenting ASIO’s close interest in my early romances.

Unexpected disclosures

But the story of the Aarons family files is much more than the sum of its political and family history. It provides a fresh look at the story behind ASIO’s establishment and much of its work for its first 40 years. Ben Chifley’s Labor government formed ASIO under intense American and British pressure following the discovery of the Soviet spy ring that operated in Australia in the 1940s. The story behind ASIO’s establishment and much of its work for its first 40 years is much more than the sum of its political and family history. It provides a fresh look at the story behind ASIO’s establishment and much of its work for its first 40 years. Ben Chifley’s Labor government formed ASIO under intense American and British pressure following the discovery of the Soviet spy ring that operated in Australia in the 1940s.

Mark Aarons in the National Archives reading room in Canberra, with his family’s ASIO files.

Spy networks in many Western nations in the 1930s and 1940s, often under the cover of local communist parties. The details of these operations were partially uncovered by Operation Venona, a super secret effort to crack Moscow’s radio codes. As a result, major aspects of the KGB’s Australian operations were uncovered, including the key role played by Wally Clayton, the KGB’s Australian spymaster. Clayton ran the CPA’s ‘illegal apparatus’ (to sustain activities if the CPA was banned) and had developed a network of well-placed agents in key government departments, especially External (Foreign) Affairs. Parts of his network were exposed by the Royal Commission on Espionage in the mid-1950s, which concluded that Clayton was the main KGB agent in Australia, although he was never prosecuted. My father inherited responsibility for running the CPA’s ‘illegal apparatus’ from Clayton (but not his role in espionage). As a consequence, the two men developed a close relationship.

Clayton was an extremely tough man, and despite ASIO’s best efforts to wring a confession from him, he went to his grave denying he had ever spied for Moscow. But, in Laurie’s massive collection of papers and tapes, now deposited in the Mitchell Library in Sydney, I rediscovered his long-lost tape of Clayton’s confession, surreptitiously recorded a few years before Clayton died in 1997. This not only confirms the major conclusion of the Royal Commission on Espionage, but explains why ASIO so doggedly infiltrated the CPA, bugged its leaders’ houses and tapped their telephones in a decades-long pursuit of further Soviet spies who apparently never existed.

Holding governments to account

In piecing together this dramatic story I read not only my family’s ASIO files but dozens of dossiers on CPA members and “fellow travellers” and “subversive” organisations which ASIO monitored and infiltrated. Such files, however, were not my only sources in the extraordinary collection that is held as a public resource in the National Archives. I also found the service records of my maternal grandfather, Tom Arkinstall, who served bravely in World War I and earned high decoration; my paternal grandfather opposed the war and was viciously beaten by the Victorian police in an anti-conscription demonstration in 1916. I also used my father’s service record from World War II, my great-grandfather’s patent applications for cigar and shoe making, and the records of several other Australian Government agencies, including the Australian Federal (Commonwealth) Police and Defence Department records about our illegal radio transmissions to and from East Timor.

Over the past 30 years I have worked in the national archives of several countries, including the United States and Britain. These institutions preserve not just the history and the memories of nations, but are vital in holding our governments to historical account. The people who work in them are key links in one of the most powerful and important elements that makes up a vibrant democracy; the right to know what has been done by our government in our name and to interpret this record as part of a nation’s history.

More prosaically, without the National Archives of Australia and the groundbreaking Act under which it operates, the secrets of the Aarons family file would moulder unread in an ASIO vault, with that Cold War presence still a ghostly shadow.

Mark Aarons is an experienced archival researcher and author of several books. His latest book is The Family File, released by Black Inc. in July 2010.
Secrets, spies and videotape

Two upcoming television documentaries lift the curtain on the history of ASIO, with help from the National Archives’ film archive.

Among the National Archives’ collection of more than half a million audiovisual records are surveillance and training films from the height of the Cold War. This material, created by the Australian Security Intelligence Organisation (ASIO), has recently captured the attention of two film-makers.

Smart Street Films is currently working on a four-part documentary series, Persons of Interest, for SBS. It uses the previously secret files of five individuals – writer Frank Hardy, father and son Roger and Bruce Milliss, Aboriginal activist Gary Foley and student revolutionary Michael Hyde – to explore the story of ASIO and political dissent in Australia. Director Haydn Keenan was drawn to the subject when shown a good friend’s personal ASIO file. He explained: ‘I was entranced by the quiet bureaucratic malevolence that was on display.’

Peter Butt, director of the Blackwattle Films production I, Spry for the ABC, had encountered ASIO material in previous projects, including Who Killed Dr Bogle and Mrs Chandler and The Prime Minister is Missing. When he encountered an unnamed document within the papers of the 1977 Hope Royal Commission, released by the National Archives in May 2008, Butt was convinced he had found a new and interesting story to tell. The document, said Butt, ‘went to the heart’ of the dramatic years when Charles Spry was director-general of ASIO.

**Watching the watchers**

Peter Butt drew upon the surveillance films to recreate the Cold War era in Australia and incorporates the footage into his dramatised documentary. He recreates, for example, the circumstances in which original surveillance film was taken, depicting the ASIO agent sitting in a car filming a secret meeting. The characters that play out the drama in I, Spry interact with the archival material as well: watching, studying, flicking through files. As Butt explained, the records are ‘part of the plot.’

Smart Street Films is using the records a little differently. Keenan described the role of the archival footage in Persons of Interest: ‘It gives an important socio-political insight into the times … the films are temporal scene setters.’ Keenan layers ASIO footage of a location over contemporary footage of the same place, and brings together ASIO footage of the same individual in numerous locations and time periods. These effects breathe new and creative life into the original footage and create a unique connection between past and present, story and history.

Both productions use footage of the 1958 Congress of the Communist Party of Australia. This film, a rather innocuous reel showing individuals entering an unmarked doorway, is narrated by an ASIO agent who identifies each arrival and their background. From this narration, Keenan discovered that the first person to arrive at the Congress was well known for playing the role of Robert Menzies in May Day marches. Taking this 50-year-old tip from an unseen ASIO agent, Keenan searched other reels and found the individual in question dressed up as Menzies: ‘walking up George Street [in Sydney], doffing his hat to the crowd.’ By bringing these two moments together, explained Keenan, ‘you have got yourself a film sequence.’

Butt took a different approach. Watching the footage of alleged communists walk through the doorway, he asked: ‘Who is the person narrating?’ The answer: an ASIO agent who had infiltrated the Communist Party. Butt recreates these
events in I, Spry, in a scene in which Spry enters the screening room where the agent is recording his commentary, with both watching the original archival surveillance footage.

Butt and Keenan creatively use these film archives as research tools, story tellers, cinematic props, narrative impetus and subject matter. The anonymous ASIO agent could hardly have imagined the film being put to such uses.

**Following the leads**

Keenan and Butt also trawled through photographs, paper files and audio recordings from the National Archives’ ASIO holdings so they could better understand the context of the surveillance films. Butt described the experience of researching ASIO as a ‘mammoth task’, but one with rich rewards. He even draws a parallel between his research and that of his subject matter. He explained: ‘Once I find a connection to someone I’m interested in, I will follow that and see if it leads somewhere … and this is the way ASIO works in its research of people, they find connections.’

Keenan too found himself elbow deep in ASIO files. He said: ‘[The Archives material] forms the backbone of the content of our film … the physical paper documents, the hundreds of rolls of film, the still photographs.’ ASIO was once based in East Block, now home to the National Archives, and Keenan was reminded of this as he researched records in the reading room. He described the experience: ‘some very ghostly sensations of the ghosts of spies past [were] in that room with me as I uncovered a number of their secrets and their lives.’

Both film-makers see the ASIO surveillance archive – which is available to the public as a result of the National Archives’ intensive preservation work on its audiovisual holdings – as an invaluable resource for their work and for other Australians. ‘The ASIO cinefilms … provide an absolutely unique and continuous social history of Australia,’ Keenan said. Butt commented that the records provide ‘the untold story.’ When you watch these films, he suggested, ‘you get so many different perspectives. Pieces of paper give you two dimensions but the films raise so many questions.’ Keenan believes that audiovisual materials are ‘the signposts, the route maps of where we have been.’

These two film-makers are drawing on film records in the Archives’ collection to show us new directions in ASIO’s story.

**Persons of Interest** will screen in four parts later this year on SBS. I, Spry will screen on ABC1 later this year.

By Daniel Eisenberg, an audiovisual strategic development officer at the National Archives. He is currently researching his PhD in film theory at the Australian National University.
A career with a challenge: Australian patrol officers in Papua and New Guinea

Before Papua New Guinea achieved independence from Australia in 1975, a number of young Australian men served as patrol officers there. Records in the National Archives help tell the story of the kiaps and the role they played.

More than 2000 Australians served as patrol and district officers in the former Territory of Papua and New Guinea between 1949 and 1974. They were commonly known as ‘kiaps’, a pidgin version of the German kapitän (captain).

Following World War II, the Australian Government encouraged young men aged between 18 and 24 with ‘initiative, imagination and courage’ to apply to become cadet patrol officers in Papua and New Guinea. Young women were also invited to apply for positions, such as cadet education officers, but they were ineligible for patrol work.
The government received hundreds of applications each year from young men eager for a new challenge. Many had already read books about the experiences of the patrol officer; Leslie Rees’ novel, Danger Patrol: A Young Patrol Officer’s Adventures in New Guinea, was compulsory reading for school children in several Australian states. A number of applicants were ex-servicemen and had acquired knowledge of the area during the war. Some men had joined for altruistic reasons.

Each applicant had to submit satisfactory evidence of good character, health and physical fitness for employment in a tropical climate. Successful applicants were required to complete a short training course at the Australian School of Pacific Administration (ASOPA) before they were sent to Papua New Guinea for field experience under the supervision of veteran kiaps. After a term of 21 months a cadet became a patrol officer. The responsibilities of patrol officers were broad and varied: they maintained law and order as commissioned officers in the Field Division of the Royal Papua & New Guinea Constabulary and as magistrates of local courts. They introduced basic services such as postal and radio communication, roads and airstrips; and they patrolled villages and maintained contact with village leaders. Their role was to bring the benefits of ‘modern civilisation’ and a form of governance to villages scattered throughout numerous administrative districts.

Kiaps wrote detailed reports about their patrols, which give their impressions of European contact with remote villages, health care, the administration of justice, languages and tribal warfare. Kiaps also made general observations on demographic trends, land disputes, initiation ceremonies and instances of cannibalism, as well as such matters as housing, cooking methods and vegetable gardens.

The National Archives holds numerous records about kiaps, including personnel and correspondence files, photographs, maps and patrol reports. Many are on microfiche. These records are an important source of information on the pre-independence history of Papua New Guinea. They also reveal the varied experiences of Australian kiaps – and the challenges they faced in this unfamiliar and sometimes difficult environment.

Many Australian men who responded to the government’s call would agree with the sentiments expressed by former kiap James Patrick (Jim) Sinclair: ‘the years so spent are in many ways the finest and most rewarding of the patrol officer’s life, filled with the satisfaction of country covered, new people seen and new mountains climbed.’

By Tracey Clarke, a curator at the National Archives.
The kiaps in a time of change

Historian Donald Denoon outlines the unique relationship between Australia and Papua New Guinea, and the changing role of the kiaps.

When civilian administration resumed in Papua and New Guinea after World War II, and officers in the Australian New Guinea Administrative Unit of the Army (ANGAU) were demobilised, the Australian Government had an almost clean sheet on which to form a government. Papua had been an Australian Territory since 1904, and New Guinea a Mandated Territory since the Treaty of Versailles in 1919, but few ANGAU officers survived the war, and fewer returned to the region. Very little infrastructure remained and many people had been displaced by the fighting.

The Papua and New Guinea Act of 1949 brought the two Territories under a joint administration centred in Port Moresby that was in regular telegraph contact with the Minister and Department of External Territories in Canberra. The Australian Government could fund and oversee an expanded regime with a wider range of services. The kiaps played a vital role: out on patrol, each kiap was the de facto government. The 1950s was the golden age of the kiaps, the pioneering ‘outside men’.

Australia’s relationship with Papua and New Guinea was unique. Until the 1960s, the Territory’s destiny was unclear: it might evolve into the seventh Australian state, or an independent nation, or achieve some intermediate condition. What was clear to policy-makers was that Australia would govern, unchallenged, for many decades.

From 1951 to 1963 Minister for External Territories Paul Hasluck visited often and exercised tight control. He was especially cool towards British and other colonial precedents, and to advice from the United Nations. The Administration was therefore shaped by the Territory’s perceived problems – and by Australia’s capacity to address them.

The challenges of administration

Australian administrators in Papua New Guinea faced distinct issues. Wet, mountainous New Guinea was nothing like Australia. The populations had even less in common: Australians enjoyed high incomes and social services delivered by stable governments, especially in the cities, whereas Melanesians subsisted without government services, in rural communities with limited horizons. Local circumstances were also changed: plantations were slow to revive in the fertile New Guinea Islands, and aeroplanes brought the densely populated Highlands under some control.

Education was important, but a shortage of teachers in Australia meant that the Administration could do little more than subsidise the missions to continue their mix of elementary schooling and evangelisation. The Administration provided little schooling of any kind, and hardly any industrial education until this became urgent in the 1960s. Kiaps facilitated the expansion of primary education to villages beyond the main towns.

Health care provided another challenge. With the recruitment of refugee doctors who were denied the right to practise in Australia, the Administration expanded the services provided by stretcher-bearers and other para-professional ex-servicemen as medical assistants (liklik dokta). Drawn into the Territory’s Public Health Department, the European doctors and the local medical assistants built rural hospitals, used penicillin and sulfa drugs for the benefit of many, and mounted quasi-military campaigns against tropical diseases, often escorted by kiaps. The campaigns proved over-ambitious, but the Public Health Department provided an unprecedented quantity and quality of care.

Melanesians generally were astonished by the resources that had been mobilised for the war, and the wealth that outsiders took for granted. Many leaders resolved to emulate these achievements and rallied their communities for economic development.
A few invoked spiritual forces to help. Missions and kiaps often saw these ‘cargo cults’ as misguided and potentially subversive. To meet this crisis, agricultural extension officers (didimen) were appointed to advise those involved and to channel their energies into orderly Rural Progress Associations. Cooperatives officers were recruited as well, to foster producers’ cooperatives for the same mix of economic and political motives.

**A changing role for the kiaps**

As more services were introduced to the people of Papua New Guinea through the 1960s, delivered by specialist agencies and professional officers, the kiaps’ responsibilities shrank. Hasluck was increasingly successful in prising Commonwealth resources for Territory purposes. By 1967 it was evident that the Territory would not become an Australian state, yet Commonwealth funds enabled its Administration to adopt more and more ‘Australian’ features. One of these was a Public Service Commission which derailed the Administrator’s freedom to appoint and promote public servants. More usefully, the court system was boosted with professional prosecutors and public solicitors who travelled on circuit with judges to hear cases in rural centres. At the same time the gradual removal of previous police powers from the kiaps emphasised the independence of the judicial system.

With direct elections, most members of the Legislative Council were rural Big Men. Their roles were limited by esoteric Westminster parliamentary procedures, but most were content with an administration which offered increasing services funded almost entirely by the Australian Government. The innovations that affected kiaps most directly were the local government councils and village courts. Most other developments affected only the tiny towns (Port Moresby, Lae and Rabaul), bypassing the vast rural majority. By contrast, village councils and courts foreshadowed an era of local self-government – in which there was no role for the kiaps. The introduction of tertiary education also implied that the period of the kiaps was fading. Paradoxically, the Administration began to recruit indigenous kiaps precisely when the career itself was becoming obsolete.

Self-government came abruptly in 1973, and independence two years later: but the kiaps’ roles and their authority had already been dispersed. Explaining the people to the Administration and vice versa had been one of their roles. The kiaps’ tasks now fell to politicians. For all their virtues and abilities, kiaps had no role in a democratic Papua New Guinea.

Emeritus Professor Donald Denoon has published widely on Australia’s relations with Pacific countries. He delivered the 2009 RG Neale Lecture presented by the National Archives of Australia and the Department of Foreign Affairs.

Top left: Many patrol reports include detailed maps.
Left: A patrol officer examining a carved canoe. The individuals and the location are not identified.

You can order copies of records relating to Australian patrol officers in Papua and New Guinea by contacting the National Reference Service by telephone (1800 886 881), email (ref@naa.gov.au) or in writing (PO Box 7425, Canberra Business Centre, ACT 2610).

To help us identify relevant records, please supply as much of the following information as you can:

- Full name of patrol officer and date and place of birth
- Place of enlistment and whether they served in World War II
- Period of service
- Patrol area.
Native title records kept for the future

Valuable records about native title will be preserved for the future, with the signing of a new records authority.

Many Memento readers will have researched records in the National Archives’ collection. Poring over an old file in a reading room or online, deciphering that public servant’s scribbled note in the margin, perhaps you have wondered what researchers will be looking at in 30, 50 or even 100 years. Which records will make their way from a government department’s filing system to the National Archives?

The National Archives forges partnerships with government agencies to identify records of national significance and ensure that they become part of the nation’s story. In developing a records authority, an organisation and the National Archives work out how long the agency needs to keep records of its main activities. Some records are needed to carry out day-to-day business; others must be kept to comply with legislation or to support the rights and entitlements of citizens now and into the future. A small number of records are so historically significant that they are transferred to the National Archives.

The National Archives works with agencies to develop records authorities – a big undertaking, when you think about how many emails, reports, letters and other records are created in the course of a day’s work for a government department.

Keeping the right records

The National Native Title Tribunal is an independent professional body created in 1994 by the Native Title Act 1993. The Tribunal works with all parties to native title processes to facilitate timely and effective outcomes.

Like many agencies, the National Native Title Tribunal had good business reasons for developing a records authority. ‘It’s the most effective way to identify and evaluate records and information about our core business,’ Corporate Information Services manager Geraldine Merrigan explained. ‘Assessing the value of Tribunal records was critical to ensure that the right records were kept for posterity and for historical, cultural and educational reasons.’

To prepare a records authority, agencies document the legislation under which they were established, how they are organised, what they do, and the records they create. They identify those people and organisations that have an interest in the work they do and the records that document their activities. This extensive analysis helps agencies, and the National Archives, decide how long different types of records need to be kept.

Recognising that identifying and classifying all of these records can be a daunting and time-consuming task, the National Archives has recently simplified the process – allowing agencies to focus on just one or two business activities with a one-step submission process, supported by written and personal advice from the National Archives.
Archives’ information management staff. Ms Merrigan appreciated the practical advice she received from Archives staff: ‘They understood the value of Tribunal records and our requirements.’

For the National Native Title Tribunal, the process has brought practical business benefits, with a new archiving program being introduced and a review of records management underway. Records that are no longer needed for the Tribunal to carry out its business can now be identified and destroyed. Ms Merrigan explains: ‘Working according to the authority has encouraged us to become more strategic in the management of our records.’

An important and ongoing chapter

The value of the Tribunal’s records is immense: a large number of records have been identified as ‘retain as national archives.’ Tribunal President Graeme Neate explained: ‘Tribunal members and employees are involved in a broad range of complex matters with serious ramifications. The Tribunal’s documents include many of the stories about native title that have emerged since soon after the High Court’s historic Mabo judgments.’

The records include information about native title parties and stakeholders; the resolution of native title applications; maps and other geospatial documents that give clear pictures of native title claims; and historical, anthropological and linguistic research that provides important background to claims. As Mr Neate explained, these important records document ‘the Tribunal’s role in the native title system and the processes that the organisation devised and followed as law and practice changed and matured.’

The records cover well-known native title cases, such as the Yorta Yorta people’s claim in Victoria and New South Wales, which was launched in early 1994 – one of the first claims under the Native Title Act. Said Mr Neate: ‘We take pride in knowing that documents we have worked on have been kept as records of this important and ongoing chapter in Australia’s history.’

Some of these valuable and unique records have already been transferred to the custody of the National Archives and will be available to the public when they are 20 years old. With the signing of the National Native Title Tribunal’s records authority in late 2009, more records will follow in the future. The National Archives looks forward to working with other government departments to help them manage their records and to contribute to the archives of the nation.

By Kellie Abbott, Memento editor.

Records management news

The National Archives of Australia assists Australian Government agencies to develop and maintain best practice in information and records management. These are some of our latest initiatives.

Agency survey

Early this year, the National Archives surveyed more than 200 Australian Government agencies. The Archives asked agencies about the electronic and paper records they create, the systems they use to store their records, and the challenges they face in managing information effectively. The survey will help the National Archives to continue to provide practical, targeted assistance to agencies.

The results will provide a comprehensive picture of records management in the digital environment now and into the future. The Archives is analysing the responses, and the results will be made available to agencies later this year.

Check-up 2.0

The Archives has released a new and improved version of Check-up, a tool for Australian Government agencies to assess the current state of their information and records management practices.

Check-up 2.0 incorporates an expanded rating scale of one to six and allows agencies to store the results of previous assessments, so they can track their progress as their records and information management capability and effectiveness improve over time. Agencies will also be able to compare their results with similar agencies or across the whole of government.

Check-up 2.0 will be available soon at naa.gov.au.

AFDA Express

AFDA Express is the new streamlined version of the Administrative Functions Disposal Authority (AFDA), which sets out how long government agencies have to keep records of administrative activities that are common across the public service.

AFDA Express is easier, quicker and cheaper for agencies to use. It focuses on protecting the most significant records for transfer to the National Archives.

AFDA Express is available on the National Archives website. Click on the Records Management tab then ‘Keep, destroy or transfer’, where you can find a link to AFDA Express.
Many Australians have items of special significance they would like to keep for future generations. Well-known cookery writer Margaret Fulton OAM, recognised and loved as a National Living Treasure, has her father’s tailoring shears, which were almost lost to the family forever.

The remarkable story of the shears is featured in *Keeping Family Treasures*, recently published by the National Archives. The book is an easy-to-read guide to preserving family heirlooms of many types, including papers and documents, photographs, albums, diaries, scrapbooks, film, disks and tapes.

Margaret Fulton’s tailoring shears

Naturally, food plays a special role in Margaret Fulton’s memories of her treasure. She recalls being treated to cakes in her father’s tailoring shop as a young girl.

‘My father was a master tailor in the town of Glen Innes in New South Wales,’ said Margaret. ‘When I visited him, he would send across to the pastry shop and buy a little cake for me. He used to cut it with these great heavy shears and pop a piece into my mouth.’
Margaret’s family had lived in northern Scotland, where her father made ‘hunting, shooting and fishing gear for the aristocracy.’

In 1927, when she was about three, Margaret’s parents and their six children came out to Australia from Glasgow by ship.

‘My father was encouraged to come to Australia by someone he worked with in Scotland. The friend came back and said Australia was a land of golden opportunity. Father was a marvellous optimist and a wonderfully cheerful sort of person.’

Alexander Fulton, who was born in 1888 and died in Australia at the age of 95, brought the shears Margaret recalls so vividly out with him from Scotland. His talents were in high demand, with people travelling to Glen Innes from as far as Sydney.

‘There was a shortage of tailors of his quality so he got a reputation,’ said Margaret. ‘Although there were good tailors in Sydney, my father was a favourite and people felt it was worthwhile travelling to have their garments made by him.’

The shears are now among Margaret’s most treasured belongings, especially as they came close to disappearing forever.

When Alexander Fulton sold his tailor’s shop, one of the ladies in Glen Innes bought his shears because she thought they would look decorative on her hallstand. After her death, the woman’s son unexpectedly presented them to Margaret when she was on a speaking tour in the area.

‘It was a surprise,’ she said with a laugh. ‘My daughter Suzanne was thrilled when I arrived back in Sydney with them. They now sit proudly on my hallstand and will one day grace Suzanne’s hallstand – a constant reminder of our forebears.’

Ian Batterham, one of the National Archives conservators who shared their expertise in the book, advised Margaret on how to ensure the shears survive for future generations. He noted that the large and sturdy shears are in excellent condition, their brass handles polished by years of use. The steel is dark and spotted, but not rusty.

Ian suggested that Margaret could wrap the shears in a soft cotton cloth and store them in an archival cardboard box, which would minimise changes in humidity around the shears. They could also be placed in a zip-lock bag with a small package of silica gel to prevent moisture.

Filling a gap

Keeping Family Treasures also features the stories of precious family items from historian and actor Alice Garner, singer Hayley Jensen and authors Kim Huynh and Samantha Faulkner.

As caretaker of some of the nation’s treasures – the records of the Commonwealth and its people – the National Archives works with government agencies to ensure records are properly managed and preserved.

‘Keeping Family Treasures provides an opportunity for the Archives to extend this assistance and knowledge to the public’, said Ian. ‘With interest in family history at an all-time high, more people recognise the importance of preserving their family’s special records, but aren’t sure where to start.’ Keeping Family Treasures fills the gap with helpful professional advice.

Keeping Family Treasures by Elizabeth Masters and Ian Batterham can be purchased from National Archives offices in capital cities and online from eshop.naa.gov.au for $24.95 plus p&h.
**In brief**

**Goodies’ naughty bits found**

An Australian tour by former Goodies Tim Brooke-Taylor and Graeme Garden rekindled the interest of long-time fan John Williams in searching for ‘missing’ footage from the classic British television show, which also starred Bill Oddie. John is an archives researcher at the Australian Broadcasting Corporation (ABC) and has previously traced historic footage in the Archives, in some cases entire episodes of shows thought long lost.

‘I knew that the only surviving copy of *The Goodies* episode ‘Commonwealth Games’, broadcast in Australia in 1973, was recovered from the ABC, as the BBC copy was missing, most likely wiped,’ John explained. ‘According to fan folklore, the ABC copy had several minutes cut from it before it was broadcast in Australia.’

*The Goodies* was screened in the early evening in Australia and the censors considered some scenes too racy for this family-friendly timeslot. The missing footage from ‘Commonwealth Games’ was known to fans as ‘The Sex Test Sequence’.

John thought he would try the National Archives’ censorship collection, which includes scenes from film and television programs cut by the Commonwealth Film Censorship Board. As most cuts are quite short, sometimes less than a second, the National Archives has compiled all the cuts for each film or television program and copied them to video tapes.

With the help of staff in the Archives’ Sydney Office, John located several compilations of excised Goodies footage for viewing. ‘Amazingly, the missing material was on the first tape I looked at,’ he recounted. ‘This segment had not been broadcast in Australia at all, and had not been seen in the UK since the early 1970s.’

The rediscovered 40 seconds of footage shows a rather cheeky sequence in which elderly MPs gather in the Minister for Sport’s office in the hope of representing England in the Commonwealth Games – as long as they pass a ‘sex test’ with his female secretary.

When it was shown on stage as part of the Goodies 2009 Australian tour, it was the first time Australian audiences – ‘perhaps the most fanatical Goodies fans in the world’, according to John – would see this material. John met Graeme and Tim after their performance in Sydney, when Graeme remarked that he loved the punchline, delivered by actor Reginald Marsh as the Minister for Sport: ‘And I didn’t even get a cup of tea!’

**Reforms to provide greater access to records**

New freedom of information laws will make records in the National Archives available to the public sooner.

The Information Commissioner Bill and the Freedom of Information Amendment (Reform) Bill were passed in May 2010. Under these reforms, the open access period for most records held by the National Archives will commence after 20 years instead of the current 30 years. Cabinet notebooks will be publicly available after 30 years instead of the current 50 years.

Director-General of the National Archives Ross Gibbs said, ‘These are by far the most significant reforms to the Archives Act since its introduction in 1983.’

These earlier open access periods will be phased in over 10 years, commencing on 1 January 2011. Said Mr Gibbs, ‘The National Archives looks forward to working with the new more open access regime, a change which will be welcomed by the Archives’ users.’

**Finding our lost airmen**

In issue 38 of *Memento*, we featured the story of Alan Storr OAM, a former Royal Australian Air Force navigator, who has spent many years researching the casualty files of RAAF servicemen who did not return from World War II. He has published his research in 38 volumes and donated them to the National Archives and other cultural institutions.

In 2010, Mr Storr received the Medal of the Order of Australia for his research.
Faces at the Archives

Senator Joe Ludwig, Cabinet Secretary and Special Minister of State, at a meeting of the National Archives Advisory Council in March. The Advisory Council provides advice to the Minister and to the Director-General of the Archives.

Historian and actor Alice Garner spoke about her great-great-grandfather’s sketchbooks at the launch of Keeping Family Treasures in Melbourne. The book provides easy to understand advice on looking after precious family keepsakes (see story, page 30).

Visitors at the Shake Your Family Tree day at the National Archives in Brisbane get advice on researching their family histories. More than 1500 keen family historians attended this annual Archives’ event at offices across the country.

The next Shake Your Family Tree day will be held in February 2011.

Historian Susan-Mary Withycombe at a ‘Talking history’ presentation in Canberra. Dr Withycombe spoke about the role Ethel Bruce (wife of Prime Minister Stanley Melbourne Bruce) and Ruth Lane Poole played in designing The Lodge in Canberra. Listen to a podcast of Dr Withycombe’s talk, or read the transcript, at naa.gov.au/whats-on/audio/.

The article prompted an emotional response from many readers, especially those who had lost relatives in the RAAF during World War II. One reader wrote that he would like to thank Mr Storr personally for his ‘labour of love’. Others were keen to know how they could gain access to Mr Storr’s books (which aren’t commercially available) and the RAAF casualty files.

The 38 volumes are available for viewing in the National Archives’ Canberra reading room. There is an individual entry for each airman, arranged alphabetically within squadrons. Each entry has reference details for relevant files in the National Archives and the Australian War Memorial.

The National Archives also holds the casualty files themselves as well as RAAF service dossiers. For further information about gaining access to the casualty files and service dossiers, readers can submit an inquiry through the reference inquiry form on the Archives’ website (naa.gov.au) or by phoning the national inquiry number, 1300 886 881.
Celebrate with us

Each year, the National Archives celebrates Constitution Day on 9 July.

When Queen Victoria gave royal assent to our Constitution on 9 July 1900, the nation of Australia was created.

Help us mark the occasion this year. See articles in this issue by leading Australians who tell us what they think about the Constitution. And have your say by blogging on our website or tweeting on Twitter. Go online to find out more about our Constitution, hear talks about its founders and see the founding documents.

Celebrate 9 July by baking Maggie Beer’s Constitution Cake – the recipe will be on our website that day.


Go to ‘What’s on’ to also find details of other National Archives’ talks, workshops and travelling exhibitions across the nation.

Your story, our history

There’s something for everyone this Constitution Day!