

‘Battlin’ for their rights’: Aboriginal activism and the Leper Line

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In 1957, three Aboriginal men travelled north across the twentieth parallel, to the north-east of Port Hedland in Western Australia, to encourage Aboriginal workers on Wallal Downs Station to leave their employment. After several days of discussion, the men left Wallal with 17 people, including most of the workers. In returning south, they breached Section 10 of the state’s Native Welfare legislation which made it illegal for Aboriginal people to cross from north to south of the twentieth parallel.¹ Although this action placed those involved in conflict with the authorities, Aboriginal men and women travelled back and forth across the line during the following months in repeated breaches of the legislation. This article argues that these activities were an example of activism carried out to challenge restrictive legislation in an effort to achieve equal rights for Aboriginal people.

The men and women involved in these activities were members of an Aboriginal organisation that had its roots in the Pilbara pastoral workers’ strike of a decade earlier, and which had been engaged in a number of cooperative enterprises, principally mining.² This organisation was known in the late 1950s by its company name, Pindan, but was also known by reference to its non-Aboriginal advisor, Don McLeod, as ‘McLeod’s Group’ or simply ‘The Group’.³ As individuals came and went from the group, its numbers fluctuated, but generally numbered a few hundred. Its membership was made up of people from a number of different language groups, including the Ngarla, Nyamal and Kariyarra (Ngarluma) speaking traditional owners of the Port Hedland and Marble Bar area, as well as newly arrived migrants from the desert region to the east and north. These included Nyangumarta-, Mangarla-, Warnman-, and Western Desert-speaking people, many of whom were first-generation migrants into the pastoral area.

The importance of the group’s industrial action in Australia’s labour history has been highlighted by Michael Hess in an article on the history of strike, although he notes, too, that in a situation of colonial domination the demand for the right to organise is profoundly political.⁴ The group used strike action not only to

1 *Native Welfare Act 1954* (WA).

2 Accounts of the strike and of the mining cooperatives that developed from it include Hess 1994; Wilson 1961; Biskup 1973: 219–257. Biographical, autobiographical and novelised accounts include Hale 2012; Palmer and McKenna 1978; Read and Coppin 1999; Brown 1976; Stuart 1959.

3 Wilson 1961: 2.

4 Hess 1994: 68.

achieve improvements in wages and living conditions on stations, but also for political ends. In early 1949, for example, its members successfully used the threat of an escalation in strike action to prevent the state Department of Native Affairs closing the Twelve Mile camp near Port Hedland, used by some of the strikers as a base for their activities and for their school.⁵ Later that year the group responded to the prosecution of some of its members by visiting stations in large numbers to remove workers, effectively flooding the jails when those involved were also arrested.⁶ As a result of this action, according to strike leader, Dooley Binbin, the government 'finally had to change the law'.⁷

As well as industrial action, the group used other strategies to achieve political ends. In an action described by John Wilson as 'a key point in the formation of the Group', for example, 400 men, women and children disobeyed a police order to remain outside the town during the 1946 Port Hedland horse races, by marching into the Two Mile camp in an open demonstration of defiance of the police and pastoralists. During this incident they decided on non-violent strategies to resist police intimidation, which were used effectively in encounters with police on this and later occasions.⁸ In a similar action, strikers marched into Port Hedland to release Don McLeod from the police lock-up.⁹ Members of the group believed that over the years such actions had led to changes in legislation that had impacted negatively on their lives. Human rights activist, Jessie Street, who visited Pindan work camps in 1957, reported that members of the group believed that 'they were entitled to the same status and rights as white British subjects' and that Western Australia's Native Welfare and other restrictive legislation deprived them of these rights.¹⁰ John Wilson, who spent time with the group in 1959 and 1960 as an anthropology student, notes that members of the group saw their activism as leading directly to changes in the law. He remembers being told by Jacob Oberdoo, one of the group's leaders, that they 'had beaten the government on those laws'.¹¹ Another group leader, Dooley Binbin, told participants at the 1963 meeting in Canberra of the Federal Council for the Advancement of Aborigines (FCAA) that 'we tell the government to go to hell'.¹² The group 'developed confidence and tactics of opposition', Wilson wrote in his thesis, and 'believed they had influenced changes in State labour and Native Welfare laws'.¹³ Charles Rowley wrote that members of the group had become '*political* men and women'.¹⁴

5 Tommy Sampie, undated letter to the Government; Sergeant Plunkett to Middleton, 11 February 49; Middleton to Sergeant Plunkett, 11 February 1949; Middleton to McDonald, 15 February 1949, State Records of Western Australia [henceforth SROWA], Series 2030, 1948/0732.

6 Scrimgeour 2012a; Wilson 1961: 68.

7 Wilson 1961: 68.

8 Wilson 1961: 63-64.

9 Wilson 1961: 65-66.

10 Street 1957.

11 John Wilson, pers comm, 5 August 2012.

12 Horner 2004: 90.

13 Wilson 1961: 68.

14 Rowley 1971: 257, original emphasis.

This article provides evidence that the group's political activism continued beyond the end of the three-year strike. Its activism has, I believe, been largely overlooked in studies of Aboriginal activism and the struggle for Aboriginal rights in Australia. John Chesterman has argued that it was activism within Australia, together with international pressure, that led, from the 1950s, to a gradual dismantling of legislation that had operated to deny Aborigines basic citizenship rights.¹⁵ Some studies of the activism that led to legislative change at this time make brief reference to the Pilbara strike as an example of Aboriginal resistance¹⁶ or as an important precedent in the Aboriginal struggle for equal wages and the civil rights movement of the 1950s and 1960s.¹⁷ In discussions of the achievement of Aboriginal rights, too, brief mention has sometimes been made of the establishment and early financial success of the group's cooperative companies.¹⁸ Charles Rowley referred to Pindan as 'the first group of Aborigines who effectively challenged white bureaucratic domination'.¹⁹ Michael Hess suggests that the self-supporting communities established by the group a generation before the land rights and outstations movements deserve greater recognition in these terms, and that their histories require greater scrutiny.²⁰

Other studies, however, including Jennifer Clark's and John Chesterman's studies of the Aboriginal and civil rights movement of the late 1950s and 1960s, make no reference to the group's activism.²¹ Clark possibly viewed the activities of Aboriginal people in the Pilbara as constituting the 'local and scattered' activism which she described as uncoordinated and unsustainable, and therefore largely ineffective.²² Such a view ignores the fact that although the group was geographically isolated, its activities were widely publicised, and served to influence and inspire southern organisations and activists.²³ Faith Bandler and Len Fox claim, for example, that 'Don McLeod's people' had 'a big impact' on the Aboriginal movement in New South Wales, by raising awareness that Aboriginal people were denied 'ordinary citizenship rights'.²⁴ Sue Taffe has noted the degree to which the activities and achievements of the Pindan group informed and inspired those involved in FCAA (FCAATSI after 1965).²⁵ In *Rights for Aborigines*, too, Bain Attwood acknowledges that the Pindan cooperatives become 'a sort of symbol' for leaders of the Melbourne-based Council of Aboriginal Rights, but although he discusses the Gurindji strikes at length, the political activities of the Pindan group are not included in his discussion of Aboriginal activism.²⁶ This article attempts to redress this oversight by examining action taken by the

15 Chesterman and Galligan 1997: 192.

16 Lippmann 1991: 26-27.

17 Anthony 2007: 20; de Costa 2006: 54-55; a longer discussion of the Pilbara strike in terms of the campaign for equal wages is provided by Bunbury 2002: 43-65.

18 Burgmann 2003: 54-55.

19 Rowley 1978: 22.

20 Hess 1994: 82.

21 Clark 2008; Chesterman 2005.

22 Clark 2008: 4.

23 Attwood and Markus 1999: 62.

24 Bandler and Fox 1983: 93, 96.

25 Taffe 2005: 31-32, 51.

26 Attwood 2003: 143-144.

Pindan group in 1957, a decade after the strike, in relation to legislation which restricted the freedom of movement of Aboriginal people, as an example of the group's political activism in directly opposing legislation believed to be unjust.

The leper line

In the decade since Aboriginal people had first walked off Pilbara sheep and cattle stations in 1946, their action in withholding labour, and the subsequent development of Aboriginal mining cooperatives as an alternative source of employment, had led to significant improvements in wages and conditions for Aboriginal people who remained in or returned to employment on stations.²⁷ The effect of this industrial action, however, was limited by the operation of Section 10 of the *Native Welfare Act 1954* which prohibited the movement of Aboriginal people from north to south of the twentieth parallel without the permission of the Commissioner of Native Affairs.²⁸ Enacted as a measure to prevent the spread of leprosy from the Kimberley to the southern areas of the state, the legislation effectively restricted the activities of the Pindan group to south of the twentieth parallel. Wages and conditions for Aboriginal people north of the line remained poor. As I have argued elsewhere, pastoralists on Wallal Downs, Mandora, and Anna Plains stations, just to the north of the line, used the legislation to prevent their workers leaving their employment, and to prevent the spread of industrial unrest among their own workforce. Pay, food, and working conditions on these stations remained poor. According to Native Welfare Officer, Adrian Day, Aboriginal workers on these stations 'considered themselves victims of the line which ... prevented them from seeking better employment conditions further south'.²⁹ The restriction on movement across the leper line also prevented them maintaining family and cultural links with people further south.³⁰

Restrictions on the freedom of movement imposed by the legislation and enforced by pastoralists north of the line was also resented by members of the Pindan group. In 1991, Pindan member Paddy Yaparla recalled being told by Reg King, the manager of Wallal Downs Station, that he could not pass north of the Wallal boundary fence. 'It's not allowed to be come through in the twenty parallel', King told him:

'Paddy, you know that twenty parallel between Pardoo and Wallal, shouldn't be get through in that, not allow! What all belong to Port Hedland district he got to be stand by at this gate and turn back. And what all the Broome people [must stop at] this gate and come back from there'.

27 Scrimgeour 2012b.

28 Enacted in 1941 as the *Native Administration Act Amendment Act 1941*, inserted as Section 10 of the *Native Administration Act 1905-1940*, and retained as Section 10 in the *Native Welfare Act 1954*.

29 Native Welfare Officer Adrian Day to Middleton, Commissioner of Native Welfare, 9 May 1957, SROWA, Series 2032, 1950/0667/58.

30 For a more detailed examination of impact of the strike on wages and conditions in the region, and the effect of the leper line legislation on wages and conditions north of the twentieth parallel, see Scrimgeour 2012b.

And I said, 'I come through there and 'e haven't got a notice, ..., nothing. Just an ordinary fence and an ordinary gate I see' m. ... This country been free before. We bin get through up and down and the old people bin take us up and down in this country. We bin brought up in this country. And we was going up and down just very free, right up to Broome and back and right up to Port Hedland'. I tell the King about that and after that he tell me, 'well look, shouldn't have come through ... not right to be come'.

'Well', I say, 'this my country, can't help it I come through, this is in my country'.³¹

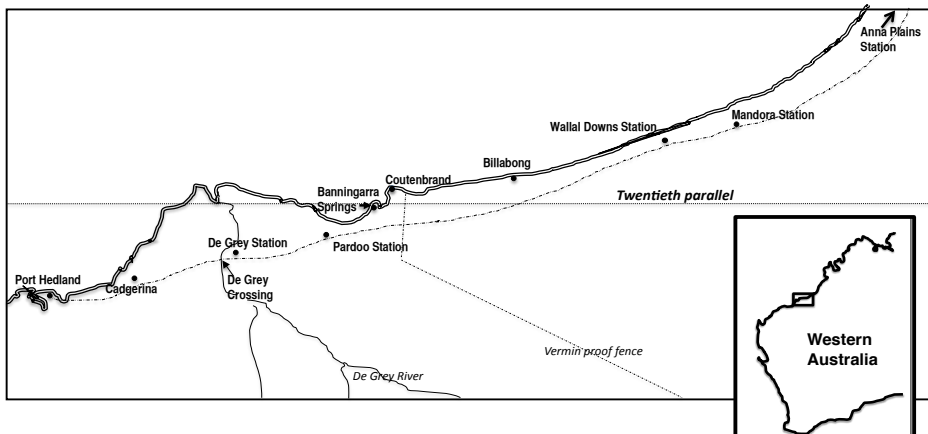


Illustration 1: Map of coastal north-western Australia showing principal places north and south of the twentieth parallel.

Source: Author.

Crossing the line

In 1957 most of the members of the group were living in work camps along the coast to the north-east of Port Hedland. They had, for a period, shifted their activities away from mining, with the exception of two small beryl-mining operations, to the collection of buffel grass and kapok seed for sale to a distributor in Sydney, and dryshelling for mother-of-pearl shell, used in the manufacture of buttons. This latter had brought the group good returns but was highly seasonal, and could only be carried out during periods of greatest tide range.

31 Yaparla, Paddy 1991, oral history recording, recorded by the author at Woodstock Station.



Illustration 2: Pindan shelling camp on the coast near Cadgerina, 1959.

Source: Photo courtesy of John Wilson.



Illustration 3: Dooley Binbin (facing camera) with other group members, 1961.

Source: Photo courtesy of John Wilson.

Early in 1957, when McLeod was away campaigning for Aboriginal rights on a speaking tour of Melbourne and Sydney, Pindan leader and company director, Ernie Mitchell, received a message from Aboriginal people on Wallal Downs and Mandora stations, just north of the leper line, that they were dissatisfied

with conditions there and wished to leave the stations to join Pindan. Although the immediate motivation for making the illegal incursion across the line was to respond to these requests, the political nature of the act is evident in the fact that Mitchell arranged for Dooley Binbin to lead a team across the twentieth parallel to investigate the situation on the closest weekend to 1 May, May Day, and the date on which the strike had begun in 1946.³² On Friday 3 May Dooley, an experienced campaigner and one of the principal organisers of the 1946 strike, travelled across the line with two other Pindan members, Laka Flower³³ and Raymond, and made camp a little distance from the Wallal homestead. Over the next two days they carried out discussions with the Aboriginal people at Wallal as opportunity presented itself. On the Sunday other Pindan members arrived with a truck, and further discussions took place. When the station manager, Reg King, noticed them in the 'native camp' that afternoon, he ordered Dooley to leave under threat of police action. 'I knew of [Dooley] as a trouble maker amongst the natives', King wrote in a police report. The men left about two hours later, taking most of the local people with them. The 17 people who left, including both workers and older people who received government rations as indigents, and a young child, were taken on the back of the Pindan truck to the shell camp of Banningarra Springs, located on the coast just a few kilometres south of the line.³⁴ A few days later they were examined for leprosy by a medical practitioner from Port Hedland, at the request of Ernie Mitchell. They were also visited by police and Native Welfare officers responding to complaints made by King. In the group's headquarters at the Two Mile camp in Port Hedland, Ernie Mitchell refused to make an official statement to the police, stating merely that he had been in touch with his solicitor in Perth.³⁵

The group staged a second incursion over the line during the weekend of 22 and 23 June. According to McLeod, this trip was made in response to 'an appeal from those working over the line for us to get moving and come up'.³⁶ Murlangajayi (Norman Mula), who left Mandora to join the group on this occasion, later told the police:

Long time ago I sent Dooley message to come and see me. I want to tell Dooley tucker no good and we not getting money. I want pay fortnight same as other stations. Sometime I think Boss forget to pay me. I tell Native Welfare fellow when he at Mandora, but he do nothing about it.³⁷

32 Day to Middleton, 9 May 1957, SROWA, Series 2030, 1950/0667/57.

33 Or 'Lugger'.

34 Day to Middleton, 9 May 1957, SROWA, Series 2030, 1950/0667/57; Sergeant Hasleby to District Inspector McGeary, 10 May 1957, SROWA, Series 76, 1957/3461 v2; police statement made by Reg King, 5 May 1957, SROWA, Series 76, 1957/3461 v2.

35 Hasleby to McGeary, 10 May 1957, SROWA, Series 76, 1957/3461 v2.

36 McLeod to Bill Bird, 7 August 1957, JS Battye Library of West Australia MN 1444 [henceforth Battye] 1568A/2/3.

37 Norman Mula, police statement taken by Hasleby, De Grey River, 15 July 1957, SROWA, Series 76, 1957/3461 v2.

The trip was also prompted, according to McLeod, by claims made by a woman from Mandora, Winnie Grey, who had joined the group when she was in Port Hedland to give birth in hospital. She had reported that the women at Mandora were forced 'to put up with all sorts of indignities'.³⁸

On the evening of Friday 21 June a group of men, again led by Dooley, drove across the line to Mandora Station. Two of their number, Nganakulu (Jack Kurala) and Tommy Woodman, were dropped off as they passed through Wallal. The others went on, picking up three people from an outcamp on Anna Plains Station, and then returning to Mandora the following morning. There, Dooley spoke to everyone about leaving the station to join Pindan, saying,

the stations don't give you enough money and a good home to live in. They only give you bread and meat. Down at our camp where we live we get plenty of tucker. Now who wants to come with me can come. ... You don't have to go if you don't want to but any one that doesn't go will have to chuck in a few quid.³⁹

Seven people elected to leave Mandora on the Pindan truck, and were also taken south of the line to Banningarra Springs.⁴⁰

Meanwhile, the manager of Wallal, Reg King, had returned home after sunset on the Friday evening to be told that two of 'the McLeod group', Kurala and Woodman, were there, attempting to persuade more of his workers to leave. He reacted violently, forcing them out of the area by driving his jeep at them and ordering a station hand to shoot them. Shots were fired, and in the process of being driven off, the foot of one of the men was run over. According to McLeod,

our team tangled to some extent with the local squatter who tried to run two of our chaps down in a Jeep and kept extorting [sic] his mate to drop the two of them with a rifle, it was largely bluff as he only managed to run over one of their toes and not badly while his mate didn't have the guts to do his stuff.⁴¹

When the Pindan truck, returning from Mandora, arrived on the Saturday to collect Kurala and Woodman, they found them gone. One of the men, Paddy Yaparla, later recalled,

I pull up Wallal, I trying to get a couple of people from Wallal.

'No!' [King] said, 'no, you not taking them, you go'.

'Where's my two boy?' I ask'm.

38 McLeod to Bill Bird, 7 August 1957, Battye 1568A/2/3.

39 Monkey, police statement taken by Hasleby, Mandora Station, 12 July 1957, SROWA, Series 76, 1957/3461 v2.

40 De Pledge to the Officer in Charge, Port Hedland, 23 June 1957; Police statements made by Smiler Boodarra, SROWA, Series 76, 1957/3461 v2.

41 McLeod to Bill Bird, secretary of the Victorian branch of the Seamen's Union, 10 July 1957, Battye 1568A/2/88.

'I don't know where that two fellas gone'.

'E bin here and he bin chase them about, chase them with a motorcar, fire a shot, every way. ... And after that and I say, 'right, I'll see you, when I find those two boys, and I'll be back'.⁴²

Setting off to find out 'what happen, ... get shot or what, run over or anything like that' they located the two men on the Pardoo-Wallal boundary, recognised as the leper line. 'I picked [up] them two boys', Yaparla recalled. '[I said], "Dooley, you want to come back with me and see that King Reg? We'll do a fight against of him"'.⁴³

Yaparla's recollection of Dooley's response to his suggestion that they return to confront King is an indication of the degree to which the group were prepared to refer to the mainstream legal system as a means of achieving justice. 'Oh never mind', Dooley replied, 'Never mind, we'll go. We'll get him in a court, we'll catch him in a court, we'll do it. He'll [be] buggered. He won't pull through in that, nothing'.⁴³

Publicising the illegal act

Don McLeod probably learned of the group's breach of the leper line when he returned from his speaking tour of Melbourne and Sydney to Perth, where he was joined by Pindan leaders Ernie Mitchell and Peter Coppin. Coppin spoke at a stop work meeting in Fremantle on 27 May, and the following day all the three men addressed a large crowd at a public meeting the Perth Town Hall on their struggle for independence and equal rights. At this meeting, McLeod told the audience that they were going make sure that 'the iniquitous leper line' could no longer be used to prevent them organising in the Kimberley region, where 'the biggest concentration of slave labour is employed'.⁴⁴ When Mitchell and Coppin returned to Port Hedland (accompanied, incidentally, by the left-wing activist, Jessie Street, who visited the group as part of a survey on the Aboriginal situation in Australia) McLeod remained in Perth, where he began informing the group's supporters, including trade unions, of their plans to break through the leper line, 'so there will be a fairly wide knowledge of what is involved if the baloon [sic] goes up suddenly'.⁴⁵

McLeod was a prolific letter-writer with a wide network of correspondents in trade unions and Aboriginal and civil rights organisations. Publicity was an essential component of the group's activism. By carrying out their illegal action openly, and making public announcements of their transgressions, Pindan hoped to create awareness of the unjust law being challenged, and to build support for their position. Moreover, publicity meant that any police or Native Welfare

42 Yaparla, Paddy 1991, oral history recording, recorded by the author at Woodstock Station.

43 Yaparla, Paddy 1991, oral history recording, recorded by the author at Woodstock Station.

44 ASIO report, NAA A6119/3306; McLeod to 'Bill', 16 June 1957, Batty 1568A/2/156-7.

45 McLeod to the group's secretary in Perth, Jack Williams, 12 July 1957, Batty 1568A/2/66.

Department response to the group's actions was open to public scrutiny, and had to be carried out within the law. McLeod's role as publicist was important, therefore, in enabling the group to carry out campaigns such as this.

Making the legislation unworkable

One of the tactics the group employed in opposing Section 10 was to try to make the legislation unworkable. The remote and inaccessible location of the leper line had always made the legislation difficult to police, a difficulty the group hoped to exploit. They hoped, McLeod wrote, 'to bluff them into leaving ... this section of the act go as another casualty of our struggle'.⁴⁶ The group planned to compound the difficulties involved in policing the line by crossing and recrossing it in large numbers; if the authorities were to take action in response to their breach of the line, they would be faced with the need to prosecute large numbers of people. It was a strategy the group had previously used to good effect.⁴⁷ McLeod wrote that they planned 'to send up a hundred of our own and bring them down if they get into us so there will be some large scale arrests if they do start'.⁴⁸

At the end of June, the Western Australian Minister for Police and Native Welfare, John Brady, decided that 'the natives' should be shown that 'they cannot break the law and get away with it'.⁴⁹ In accordance with the provisions of Section 10, orders were issued to those who left northern stations, instructing them to return north of the line within 30 days, or risk prosecution. Leaders Ernie Mitchell and Peter Coppin agreed to bring those who had left Wallal in to the Pindan headquarters at the Two Mile camp in Port Hedland to enable the orders to be issued, preferring to co-operate in this way rather than 'have the wolves poking around our various camps'.⁵⁰ They planned, in McLeod's words, 'mucking about for a week if we can' before bringing the people in to the Two Mile, in order to delay the deadline by which the orders to return north were carried out. They hoped that by the deadline many of those involved would be taking advantage of the good tides north of the line, and many others would have travelled back and forth.⁵¹ Brought into the Two Mile by Coppin, the Wallal people refused to be interviewed by the police or to make a statement.⁵² 'Some may go back', McLeod wrote,

46 McLeod to Bill Onus, 22 July 1957, Battye 1568A/2/35.

47 Scrimgeour 2012a.

48 Telegram Day to Middleton, SROWA, Series 2030, 1950/0667/78; McLeod to Bill Bird, 10 July 1957, Battye 1568A/2/88.

49 Brady to Middleton, 26 June 1957, SROWA, Series 2030, 1950/0667/62.

50 McLeod to Williams, 21 July 1957, Battye 1568A/2/46.

51 McLeod to Williams, 10 July 1957, Battye 1568A/2/77.

52 Day to Middleton, 22 July 1957, SROWA, Series 2030, 1950/0667/85.

but as we will have between one and two hundred of our own battlers to mix up with[,] it will avail them little to hunt them back as they will need to proceed against us as well if further action is contemplated as we are in constant movement passing up and down over the line.⁵³

As Section 10 included the provision that permits to remain south of the line could be issued on application, subject to certain conditions, those who had received orders to return north also received a letter from the Native Welfare Department, advising them of that right. McLeod wrote to the department in reply:

I have been asked to reply to you on behalf of the fifteen people from North of the 20th Paralell [sic] to whom you wrote on 24 July. I am asked to thank the Minister for his solicitude on behalf of those concerned. I am also asked to convey to you the view that it is held that Section 10 of the Welfare Act appears to be in conflict with Section 92 of the Commonwealth constitution and also the Quarrantine [sic] Act and in this case it would not be possible to sustain the restriction on travel and intercourse.⁵⁴

The group's solicitor, TJ (or 'Diver') Hughes, also addressed a response to the department, suggesting that proceedings be taken against one person to make a test case of the issue.⁵⁵

On 26 July, summonses were issued on Dooley out of the court of Petty Sessions at Port Hedland charging him with breaches of Section 10 on two counts, under subsection 5 which made it illegal to 'cause a native' to travel from north to south of the line. However, the remoteness and inaccessibility of the work camps meant that Dooley was still 'somewhere up the coast' some four weeks later, and the summons had not been served.⁵⁶ By this time, with tides becoming favourable for dry shelling, a large group of Pindan people, including many of the new arrivals from Wallal and Mandora, shifted north of the line to Kurtamparanya, or Cape Keraudren, known at that time as Coutenbrand, on Pardoo Station, and to Billabong outcamp, or Warrungkul, on Wallal Station. McLeod continued to keep the trade unions and other supporters informed of developments (in his terms 'awake to what we are up to'), telling the unions that 'as we now have a large camp working shell over the line who will be returning this weekend it will be interesting to see what happens for if they start arresting people who have breached the line they will have quite a crowd to put inside'.⁵⁷ Ron Hurd, of the Fremantle branch of the Seamen's Union, responded with a telegram, 'Advise us immediately any difficulties'.⁵⁸

53 McLeod to Shirley Andrews, 17 July 1957, Battye 1568A/2/53.

54 McLeod to Day, SROWA, Series 2030, 1950/0667/90.

55 Hughes to Day, 1 August 1957, SROWA, Series 2030, 1950/0667/95.

56 Hasleby to McGear, 17 July 1957, SROWA, Series 76, 1957/3461 v2.

57 McLeod to trade unions, 29 July 1957, Battye 1568A/2/22.

58 Ron Hurd to McLeod, 31 July 1957, Battye 1568A/2/20. This union had previously supported the group, having imposed a ban, in 1949, on the shipment of wool from stations that failed to meet the demands of Aboriginal strikers.

Pastoralists north of the line complained to the police about the presence of groups of people on their properties, the manager at Pardoo reporting that lambing ewes were being unsettled by 20 or so people camped at Coutenbrand.⁵⁹ The large camp at Billabong outcamp was also causing headaches for Reg King at Wallal, who complained that 'at least 60 blacks' were camped there, 'disturbing the sheep and no doubt eating them'.⁶⁰ He asked the Port Hedland police for 'some assistance to remove them to some spot where they cannot do any damage'. Before the strike, police had been active in responding to pastoralists' complaints by forcing groups camped on pastoral leases to shift, and shooting their dogs in dawn raids.⁶¹ Without access to information on their legal rights, Aboriginal people had been powerless in the face of this. Through their association with McLeod, however, they had gained knowledge of their rights to enable them to resist harassment. A spokesman for the people at Billabong, Albert Orange, told the police that as Aboriginal people they had a right to camp at the Billabong windmill, which had been erected at a natural soak. The police found no evidence that sheep were being killed, and felt that this was just another case of 'The Pastoralists v McLeod'. Although no action could be taken on the matter of trespass, and there was no evidence of sheep stealing, the police reported that those camped at Billabong would be in breach of Section 10 when they finished shelling and returned south. Moreover, Pindan men, Narti (Jimmy Imburri), Ernie Mitchell and Minyjun (Monty Hale) had been travelling back and forth across the line to take them supplies and bring away the shell. The police found these movements were, however, 'practically impossible' to police, due to the distance and the time involved.⁶²

When the 30-day deadline for Wallal people to return north had expired, police found about half of them working shell at Coutenbrand. As they had technically complied with the order to return north, they could not be apprehended, although police knew they would return south again as tides became less favourable. Some of the older people from Wallal, however, and a couple with a young child, were living in grass-seed camps south of the line at Cadgerina and at the De Grey River Crossing near De Grey Station. On 2 September a number were identified by police and Native Welfare officers at Cadgerina. They were told to roll their swags to be taken into Port Hedland. The group leader at Cadgerina, Gordon Snowball, asked the officers if they had discussed with Mitchell their intention to 'take these old men away'. The policeman told him that he would see Mitchell about it later. The Wallal people, including the small girl, were apprehended and taken directly to the police lock-up in Port Hedland. On the same day three older women from Wallal were apprehended at De Grey Crossing and also lodged in

59 Smith, manager of Pardoo Station, to F Thompson, 27 August 1957, SROWA, Series 76, 1957/3461 v2.

60 King to Hasleby, 21 August 1957, SROWA, Series 76, 1957/3461 v2.

61 Police reports provide evidence of this. See, for example, the patrol report of Constable McRae, 28 October 1944, SROWA, Series 76, 1939/1777v7; the patrol report of Constable Lindley, 21 December 1944, SROWA, Series 76, 1943/0099v7; and the patrol report of Constable McMahan, SROWA, Series 76, 1939/1777v7. See also Morrow 1984: 33.

62 Hasleby to McGeary, undated, SROWA, Series 76, 1957/3461; Monty Hale, pers comm, 14 January 2012.

the lock-up in Port Hedland.⁶³ Arrangements were made by the District Officer of Native Welfare to have these people removed back north of the leper line.⁶⁴ Because of the poor conditions at Wallal, and to enable them to make use of commercial airline services as a means of transport, the authorities had decided to transfer them to Broome rather than back to the station.

Challenging legislation in the courts

The group were unaware of the Native Welfare Department's intention of transferring these people to Broome. Orders to return north issued by the department on those who had left Wallal and Mandora had informed them that failure to comply could result in prosecution, a prospect welcomed by the group as a means of testing the legislation in court, and of increasing publicity for their campaign. On learning that members of the group were being held in the police lock-up, Mitchell sent an urgent wire to McLeod, in Perth to attend court on another matter. McLeod was unconcerned, telegramming Mitchell, 'we can handle this quite easily; just carry on'.⁶⁵ He told Mitchell:

Tell Dooley and the rest of the people not to worry about this bit of nonsense [sic] ... These summonses are just ordinary court cases and are issued under the Native Welfare Act and we wont expect to get a decision in the local court but that wont matter as we will appeal at once and take them first to the supreme Court and then the High Court and if necessary to the Privvy [sic] Council ... and by then we will have organised quite a lot of support through the trade Union Movement as well as the usual Court proceedings.⁶⁶

He felt that everything was going according to plan. He hoped to be able to arrange bail for those in the lock-up and to have their charges heard when Dooley came up for trial, and wrote that day to the Deputy Leader of the Federal Labor Party, Arthur Calwell, informing him of the arrests and the charges brought against Dooley.⁶⁷ He also arranged an interview with the Minister of Native Welfare, John Brady, in an attempt to negotiate the release of those apprehended. Referring to the minister as 'an old schoolmate of mine', McLeod was unaware that it was Brady himself who had initiated the action being taken against the group. Brady made no mention of the plan to return people to the north.⁶⁸ Believing the interview had gone well, McLeod wrote to Mitchell later that day, saying 'Dont worry about the people in the Peter⁶⁹ I will be on to this as

63 Charles White, Police Report, 4 September 1957, SROWA, Series 76, 1957/3461 v2; Day to Middleton, SROWA, Series 2030, 1950/0667/117; Mitchell to McLeod, 10 September 1957, Battye 1568A/3/136.

64 Day to Middleton, SROWA, Series 2030, 1950/0667/118.

65 McLeod to Mitchell, incorrectly dated 31 August 1957, Battye 1568A/3/173.

66 31 August 1957, Battye 1568A/3/173.

67 3 September 1957, Battye 1568A/3/164.

68 McLeod to Mitchell, 4 September 1957, Battye 1568A/3/161.

69 Colloquial term for a prison cell.

soon as I can tomorrow and you can be sure they will not be forced to go back'.⁷⁰ As he wrote this, five of those who had been apprehended, including the young child, were already on their way to Broome, and the other three older men were flown out the following day.⁷¹

The group's solicitor, Hughes, was unaware of the group's removal to Broome when he wired the police in Port Hedland on 5 September, seeking information on the charges under which they were held. Receiving a reply: 'Natives apprehended under Section ten subsection six native welfare Act and returned north of Boundary Line', Hughes immediately responded with a letter of protest to Brady. Their removal to Broome had, he said, been carried out 'secretly in such a way as to prevent them from having any judicial determination upon the validity of their arrest detention in jail and transportation North'. He added,

I venture to say that it would be difficult to find throughout the world an enactment or decree involving such a ruthless invasion of human rights or providing for such use and abuse of arbitrary [sic] power.

Arguing that if the section were shown to be invalid, those concerned would be in a position to bring proceedings for wrongful imprisonment, Hughes demanded that they be returned to the south. He suggested that if summonses were served against them they could then be adjourned *sine die*, and Dooley's case proceeded with as a test case.⁷² Meanwhile, McLeod updated trade unions and supporters on the latest developments and addressed a meeting of waterside workers.⁷³ He and Hughes sought an adjournment of Dooley's case to allow themselves time to prepare a defence.⁷⁴

The stand-off at De Grey Crossing

While it is clear from these events that McLeod and Hughes were engaged in a political campaign to draw attention to and challenge the leper line legislation, the question remains of the extent to which the Pindan people who moved back and forth across the line at that time saw their actions in these terms. Certainly there were social and economic motives for their activities, as crossing the line enabled group members to re-establish ties with family members on northern stations, and to access shelling sites north of the line. That they had political intent in their involvement in these activities, however, is suggested by the group's history of political activism, discussed above, and by their belief that their activities could lead and had led to changes in legislation that denied them access to equal rights. The decision to time the Wallal walk-off to coincide with May Day is also evidence of the political nature of these events. However,

70 Battye 1568A/3/162.

71 Hasleby to McGeary, 5 September 1957, SROWA, Series 76 1957/3461 v2.

72 Hughes to Brady, 6 September 1957, SROWA, Series 76, 1950/0667/106.

73 McLeod to Ron Hurd, 16 September 1957, Battye 1568A/3/117.

74 McLeod to Mitchell, 1 October 1957, Battye 1568A/3/39.

the strongest evidence that members of the group were engaged with these activities as political action can be found in the response made to the attempted apprehension of a further five of the Wallal people in early October.

Following the apprehension and transportation to Broome of the eight people from Wallal, the group put up fiercer resistance to attempts to make further apprehensions. When police and Native Welfare officers again attempted to apprehend those who had left Wallal, they identified at the De Grey River Crossing five Wallal men who had been working at Coutenbrand when the earlier arrests were made. A group of some 30 or 40 people were at the Crossing engaged in gathering buffel grass seed,⁷⁵ and their response to the attempted apprehension of the five Wallal men is evidence of their belief in the injustice of the leper line legislation, and of their active involvement in the campaign to oppose it. When instructed by a Police Constable to roll their swags and accompany him to Port Hedland, the five Wallal men refused, and were supported in their refusal by the rest of the group. Kurrkurrayinya (Jimmy Toile) and Albert Orange acted as spokesmen, Toile stating that 'the five natives concerned could not be forced to go North of the line as that was an infringement of freedom and that they were free to move when [and] where they liked the same as any white man'.⁷⁶ Toile and Orange also told the officers that, since they had all recently been north of the line at Coutenbrand, they were in fact all Section 10 offenders, and if the police were going to arrest anyone for breach of the Act, they should arrest them all. They believed Section 10 to be illegal, they said.⁷⁷

To prevent the police arresting the men from Wallal, the people at the De Grey Crossing employed strategies of non-violent resistance. When attempts were made to physically separate the Wallal men from the rest of the group, everyone, men and women, closed in around the officers, a strategy the group had developed as early as 1946 to avoid the use of violence in confrontations with police,⁷⁸ and which they had used on previous occasions as a group response to threats of force.⁷⁹ Advised that they could be arrested, the group stated that it made no difference to them.⁸⁰ Referring to Pindan's activities at this time, the Commissioner of Native Welfare, SG Middleton, wrote that Pindan members 'and their white and coloured leaders and advisors' welcomed prosecution and imprisonment when they were, 'as they put it, "battlin' for their rights"'.⁸¹

Efforts by the Native Welfare officer to reason with the group proved equally futile. Jimmy Toile stated that the Native Welfare Department had done nothing for them over the past few years, that the officers did not visit their camps when they were on patrols, and that they would have nothing at all to do with

75 Hasleby to McGeary, report, 11 October 1957, SROWA, Series 76, 1957/3461 v2.

76 Parker to District Officer, Native Welfare, 3 October 1957, SROWA, Series 2030 1950/0667/120.

77 Parker to District Officer, Native Welfare, 3 October 1957, SROWA, Series 2030, 1950/0667/120.

78 Wilson 1961: 64.

79 Mac Gardiner (Pirntilkampanyaja), oral history recording 18, recorded by the author at Warralong, 5 August 1993.

80 White to Hasleby, 4 October 1957, SROWA, Series 76, 1957/3461 v2.

81 Middleton to Minister Brady, 16 October 1957, SROWA, Series 2030, 1957/0509/10.

the department or its officers. The police officer later reported that the Native Welfare officer was held up to ridicule, and that he 'was more hindrance than help in trying to persuade the natives to leave the camp and board the vehicle'. 'No sign of violence was shown', he wrote, 'but it was obvious from the way they were talking among themselves that these five natives were not going to be taken into Port Hedland'.⁸² There was nothing the police could do but return to Port Hedland empty handed.

The following day the group at the Crossing were approached by Police Sergeant Haselby, accompanied by the Native Welfare officer and a Police Constable, to make another attempt to bring those concerned in to Port Hedland. Murlajalayi (Norman Mula) and his wife Lola, who had joined the group from Mandora, had arrived from Coutenbrand the previous evening, bringing the number of people to be apprehended to seven. Despite his intention to force those involved to return to Port Hedland with him, Haselby met with the same resistance. 'They all stood firm in their refusal to be taken back north of the line', he wrote. They had no grievance with the police, they told Haselby, but they would have no dealings with the Native Welfare Department, and would continue to be uncooperative as long as one of its officers was present.⁸³ They asked to be summonsed to give evidence at Dooley's trial, saying they had engaged a solicitor to represent them.⁸⁴ Given the level of resistance he encountered, Haselby considered that it was unwise, after all, to force those concerned to accompany him, and he returned to Port Hedland.

With the situation at a stalemate, Sergeant Haselby visited the group's main camp at the Two Mile in Port Hedland to appeal to Ernie Mitchell to assist him in overcoming the impasse at the De Grey Crossing. Mitchell agreed to assist him to bring in the seven people on condition that they not be returned north until after Dooley's hearing. As the group had refused to have anything to do with the Native Welfare Department, including travelling in its vehicle, Haselby was obliged to use his own vehicle, at his own expense, when he drove back out to the grass-seed camp with Mitchell the following day. There, Mitchell informed group members of McLeod's concern that their leper line activities not hamper production, and he suggested that those involved should 'accept transport arranged by the sergeant out of his own pocket and "volunteer" to come to Port Hedland'.⁸⁵ They agreed to do so, and were lodged in the police lock-up. It was a somewhat embarrassing outcome for the police, and, in reporting to his senior officer, Haselby downplayed Mitchell's role in these events, suggesting instead that he was able to make the arrests once Native Welfare officers were no longer involved. In return for Mitchell's cooperation, Haselby undertook to hold those concerned in the lock-up to allow time to have them subpoenaed as witnesses

82 Brennan to District Officer, 3 October 1957, SROWA, Series 2030, 1950/0667/120; White to Haselby, report, 4 October 1957, SROWA, Series 76, 1957/3461 v2.

83 Brennan to District Officer, 3 October 1957, SROWA, series 2030, 1950/0667/120; White to Haselby, report, 4 October 1957, SROWA, Series 76, 1957/3461 v2.

84 Day to Middleton, 3 October 1957, SROWA, Series 76, 1950/0667/117.

85 Day to Middleton, 3 October 1957, SROWA, Series 2030, 1950/0667/117.

in Dooley's case. He made the request himself to Native Welfare Officer Day to hold off on the arrangements for their removal to Broome, as Mitchell refused to deal with that department.⁸⁶

Given the arrangement made between Haselby and Mitchell, Day urgently requested instructions from Perth. The Commissioner of Native Welfare, SG Middleton, felt himself placed in a humiliating position. Having offered the Wallal and Mandora people the option of applying to the Minister, individually and in writing, for permission to remain south of the line, an option they had refused to accept, he felt himself 'manoeuvred into a situation where to save face we had to interpret a verbal request as an application for a permit'. He urged the Minister to sign permits allowing the seven to remain below the line, although later wrote that 'it is probably certain they will throw the permits away'.⁸⁷

Outcomes

Written permits to remain south of the line until the end of the year were distributed on 10 October, and the seven people were released from the lock-up.⁸⁸ Four days later they gave evidence in the local magistrate's court about their living conditions at Wallal. The case was, however, as McLeod wrote, 'mostly a legal argument' about the validity of Section 10. 'We really would rather be found guilty in the first place', he wrote, 'as otherwise we would have no chance to get the measure tested in a higher court'.⁸⁹ Evidence was heard on the circumstances under which Aboriginal people left Wallal on 5 May, with no argument against the Crown case that Dooley took people south of the line. Rather, Hughes argued for a dismissal of the charge on the grounds that, as the people referred to were not free, were poorly paid, and lived in conditions of slavery, the Act was contrary to the Imperial Anti-Slavery Act, and therefore had no force throughout the British Empire. The second charge against Dooley, relating to the removal of people from Mandora, was adjourned *sine die*. Dooley was found guilty of causing the Wallal people to travel south of the leper line and fined £1, with £32 costs, but the Magistrate reserved decision on the validity of Section 10. An appeal made to the High Court for the decision to be reviewed was dismissed in March of the following year.⁹⁰

On one level, the group's challenge to the leper line had failed, and the legislation remained in place. However, Paddy Yaparla, who recorded his own account in 1991, remembered the outcome of these activities quite differently. As he

86 Mitchell to McLeod, 4 October 1957, Batty 1568A/3/22-23; Day to Middleton, 6 October 1957, SROWA, Series 2030, 1950/0667/117-118; Hasleby to McGeary, 11 October 1957, SROWA, Series 76, 1957/3461 v2.

87 Day to Middleton, 6 October 1957, SROWA, Series 2030, 1950/0667/118; Middleton to Minister Brady, 16 October 1957, SROWA, Series 2030, 1957/0509/11.

88 Hasleby to McGeary, 11 October 1957, SROWA, Series 76, 1957/3461 v2.

89 McLeod to Mitchell, 9 October 1957, Batty 1568A/3/17.

90 Day to Middleton, 18 October 1957, SROWA, Series 2030, 1950/0667/130; Haselby to McGeary, 16 October 1957 and 23 November 1957, SROWA, Series 76, 1957/3461.

remembers it, it was Reg King, not Dooley, who was under trial in the court case. He recalled that when he and Dooley returned to Port Hedland after their altercation with King:

I sent word for solicitor, Mr Hughes, crown lawyer from Perth, and he coming, and we had a court there. Oh, that King Reg was shivering! ... When the ... constable been get the name: 'You know who that man? He's the crown lawyer from Perth, Mr Hughes', after that he shaking, ah he knock the table, knock the chair, everything. And he walk out, he's tell, 'walk out and settle down'. After he come back again he shivering again, can't, he can't get through in that, nothing. And he pull that man, King Reg, Mr. Hughes [told him], 'come on, you stand up here, I want to bump you with a car, same as what you bin done with those two boys'. ... 'Oh I can't', shivering and shivering! Fined him for two hundred, two hundred pounds for that, and let him go.⁹¹

Yaparla's recounting of these events reflects the degree to which the group's actions were indeed successful. Although Section 10 remained in place following the court cases, both the Police and Native Welfare Departments refused to administer it. Even while Dooley's case was going to trial, Sergeant Hasleby of the Port Hedland police reported that policing the legislation was 'becoming more difficult and bitterness by members of the McLeod group towards the Native Welfare Department, increasing'. Although members of the group freely admitted to travelling back and forth over the line, he argued that it was 'almost out of the question with the limited staff here to obtain positive evidence owing to the time and distance involved'. He insisted that the legislation could only be enforced if the Native Welfare Department took responsibility and kept track of people's movements.⁹² 'Sergeant Hazleby [sic] believes that it is a matter which does not concern the Police', Native Welfare Officer Day wrote. Day argued that they were facing 'mass migration figures' if they proceeded with the plan to return offenders to the north. 'The Hon. Minister's instructions, specific at the time they were delivered, cannot be conscientiously applied in practice to the present situation. On this, the local officer in charge of Police is in agreement'.⁹³

While King was not fined £200, as Paddy Yaparla remembered, he was no longer able to use the legislation to prevent Aboriginal workers seeking better conditions in the south, or to prevent Pindan group members from entering Wallal. Although pastoralists on stations above the line continued to make complaints about breaches of the legislation, they were ignored by the authorities. Some two years later Native Welfare Commissioner Middleton reprimanded a Patrol Officer for wasting time reporting that Aboriginal people had crossed the line to attend ceremonies. The legislation was, Middleton said, 'ineffective and useless

91 Yaparla, Paddy 1991, oral history recording, recorded by the author at Woodstock Station.

92 Hasleby to McGearry, 11 October 1957, SROWA, Series 76, 1957/3461 v2.

93 Day to Middleton, 18 October 1957, SROWA, Series 2030, 1950/0667/134.

and certainly not required for any welfare purpose', and it was not the duty or responsibility of the Native Welfare Department 'to institute action of behalf of the Health and Police Departments'.⁹⁴

No longer willing to administer the legislation by prosecuting Aboriginal people who breached it, the Native Welfare Department now took action to counter the illegal activity by addressing a major cause: the poor conditions for Aboriginal workers on stations north of the line. Whereas permits had previously been issued to pastoralists, medical officers and government officials to enable them to have employees or patients travel over the line, Aboriginal workers on Wallal and Mandora were now informed that permits could be applied for and 'easily obtained' if they wished to travel south of the line to seek better working conditions. Although workers asked how that *mirlimirli* (paper permit) could stop them getting leprosy, many expressed the intention of making use of this provision.⁹⁵

Concerned that poor working conditions played 'into the hands of persons traditionally opposed to pastoralists and constituted authority',⁹⁶ the department applied increased pressure on pastoralists on these stations to improve conditions for their Aboriginal workers. Instead of prosecuting Aboriginal people for breaches of Section 10, the department now looked at the possibility of prosecuting pastoralists for failing to meet minimum conditions for employing Aboriginal people. Adrian Day reported that when he visited Wallal shortly after Dooley's hearing, 'all the natives complained that the food was very poor, being almost entirely bread and meat, month in and month out'. When he attempted to discuss this matter with the manager, King declared that he had 'more to do than hang around and talk about niggers'. It was at this point that Day raised the possibility of prosecution, and noted a marked change of attitude in King, who became, suddenly, much more willing to discuss the provision of better food for his Aboriginal employees.⁹⁷

Yaparla's memory of these events also reflects the degree to which the group successfully used such action to undermine legislation. Their action over the leper line contributed to the international and domestic pressure being placed on Commonwealth and state governments at that time to amend discriminatory legislation. While Dooley's case was being heard in the Magistrate's Court in Port Hedland, Middleton wrote an argument for the removal of Section 10 from the *Native Welfare Act*. It was clear that the Pindan group would continue to defy the legislation and cross and recross the line, and while it remained in place the department would continue to attract severe public criticism. 'Whatever the outcome of the Court case may be', he wrote,

94 Middleton to District Officer, 9 October 1959, SROWA, Series 2030, 1950/0667/164.

95 Day, Patrol report 4 1957-8, p 2, SROWA, Series 2030, 1957/0160.

96 Middleton to Managing Director, Wallal Downs Pastoral Co, 29 April 1958, SROWA, Series 2030, 1943/0118/203.

97 Patrol report 4 1957-8, 31 November 1957, SROWA, Series 2030, 1957/0160.

it is certain that in the eyes of 95% of the Public of Australia and in most places elsewhere in the World the Department will appear in the invidious position of being the oppressors of the people it purports to aid and protect, while the McLeods, Hughes and others will emerge as knights in shining armour fighting the good fight for the oppressed natives.⁹⁸

He was unsuccessful, however, in obtaining the support of the Department of Public Health to have the legislation dismantled.

Middleton thought that 'it would be surprising if the question was not also taken up in Parliamentary circles' and, indeed, the matter was raised in Federal Parliament by Arthur Calwell in January of the following year. Citing a letter he had received from McLeod about Dooley's prosecution, Calwell stated in Parliament that 'apparently in Western Australia there is a line across which certain Aborigines cannot pass. Such a state of affairs should cease forthwith'. He referred to the incident in which King had driven his vehicle into two members of the group. 'This is not a matter any Minister in the Parliament can deal with', he said, 'but it does indicate how necessary it is to have uniform laws and conditions for the aborigines'.⁹⁹

Conclusion

The Pindan group took action over the leper line in 1957 as part of their opposition to government control over Aboriginal lives. As the actions of Pindan people at De Grey Crossing show, they were prepared to face prosecution to achieve their political goals. They were successful in their attempt to render the leper line legislation unworkable by repeated breaches of the law. They were successful, too, in bringing to public attention the existence of a law they believed to be unjust. They directly challenged the legislation in courts of law, and although they were unsuccessful in having the legislation removed from the Act, did succeed in reducing its impact on their lives, and on the lives of the Aboriginal workers on Wallal and Mandora stations. This was example of Aboriginal political activity as defined by Attwood and Markus,¹⁰⁰ in that Aboriginal people were consciously attempting to change the condition of their existence by putting pressure the government to change or ignore legislation that restricted their freedom of movement. They were, as they told Native Welfare Commissioner Middleton, 'battlin' for their rights'.

98 Middleton to Brady, 16 October 1957, SROWA, Series 2030, 1957/0509/10-11.

99 Hansard, 3 December 1957, SROWA, Series 2030, 1957/0509/13-14.

100 Attwood and Markus 1999: 7.

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