



by G. M. BRYANT, M.H.R.,
President, Aborigines' Advancement League.

"Aborigines need an umbrella not a strait-jacket."

AFTER THE REFERENDUM — WHAT ?

The Campaign for Constitutional Reform

The Federal Council for Aboriginal Advancement has launched a campaign to have the Federal Constitution amended; public and parliamentary support is being canvassed by means of a petition to the Commonwealth Parliament.

The petition states—

'THAT, in view of the fact that the Commonwealth Constitution discriminates against the Aboriginal people in two Sections (as set out below), it thereby limits their right to "peace, order and good Government under the Commonwealth Parliament", and

'THAT, such discriminations in effect give support to other laws and regulations which deprive Aborigines of equal wages and employment opportunities and deny them the right to own and

develop their remaining tribal lands; and "THAT they have an inferior legal status compared with other citizens of the Commonwealth.'

'Your petitioners humbly pray that the Commonwealth Government remove Section 127 and the discriminatory words in Section 51 (as underlined), by the holding of a referendum at an early date.'

The Sections we want repealed and amended are—

Section 51: "The Parliament shall, subject to this Constitution have power to make laws for the peace, order and good Government of the Commonwealth with respect to:—

Clause xxvi: "The people of any race, other than the aboriginal race in any State, for whom it is deemed necessary

to make special laws."

Section 127: "In reckoning the number of the people of the Commonwealth or of a State, or other part of the Commonwealth, aboriginal natives shall not be counted."

Although the history of Commonwealth Referenda is an unhappy one (depending upon your point of view about Commonwealth power of course), with twenty-six questions submitted to the people and only four passed, the Federal Council feels confident that it has popular support on this issue.

If a referendum is passed on this subject, the question then arises, with what are we to replace the jungle of State Laws which **CONTROL ABORIGINES?** The main theme of Aboriginal Legislation has always been control; the word ordinarily used is 'protection', but invariably this has produced not an umbrella but a strait-jacket. For some odd reason, authorities always act as if they own Aborigines, an attitude of mind which you will never find in say, the Repatriation Department, the Social Services Department or the Education Department.

Legislation for Aborigines has usually been designed on the assumption that the Aborigine has no basic inalienable civil rights, but that he has to earn them. We apply this principle to no one else; the last arrived migrant, even the illegal migrant, the ship deserter and so on, has protection from arbitrary authority. Just recall the numerous campaigns against the Immigration Department and its powers to deport. **CAN YOU EVER REMEMBER A SIMILAR CAMPAIGN AGAINST A GOVERNMENT'S REMOVAL OF AN ABORIGINE TO OR FROM A RESERVE WITHOUT TRIAL.** Yet this arbitrary removal happens many times a year. This is because the State Government's absolute power has remained unchallenged and will so remain while Section 51 part 26 remains in the Constitution.

Aboriginal Legislation while conferring benefits always takes away rights.

The Federal Council for Aboriginal Advancement believes that we must reverse this doctrine and apply the same principle of benefits to Aborigines as we do to every other Australian. They should be presumed self-reliant unless an individual is of proven incapacity.

The Federal Council is of the opinion that we have a good working model in the Repatriation Act.

The Repatriation Act is Australia's most comprehensive and experienced social service legislation; it is always under review, and

in fact, has been amended about forty times since 1920. This is in direct contrast to the States Acts on Aboriginal Welfare which are hardly ever amended.

The Repatriation Act, (or system is probably the better word, as the whole scheme embraces more than one Act) confers benefits on ex-service men and women without taking anything from them.

Almost the whole range of social security protection and rehabilitation is covered for the ex-service man or woman. The payment of pensions is only part of the programme, other sections are;

- Medical Service
- Hospitalisation
- Technical and Professional Training
- Business and Domestic Loans
- Rehabilitation
- Family Protection and Welfare
- Housing
- Land Settlement
- Legal Service
- Preference and Protection in Employment.

These benefits are administered as a national project with sympathy, understanding and what is perhaps equally important the tremendous resources of the Commonwealth. Consider for a moment the Soldiers' Children Education Scheme — the Repatriation Department acts as a foster parent for children whose parents are either deceased or incapacitated because of war service. More than 8,000 children are under the scheme this year being paid living allowances, advised and supported at all stages of their education from pre-school to post-graduate University. This is a working model of what could be done for the Aboriginal children of Australia.

Housing — The War Service Homes Scheme has the cheapest and best large-housing-finance system in Australia; it would be easy to apply the same principles to re-housing the Aboriginal people of Australia, and housing is the most urgent basic need.

These two examples show that Australia has the experience and know-how to give the Aboriginal people a long delayed "fair-go" based upon individual needs.

BUT THIS WILL NEVER HAPPEN UNLESS THE COMMONWEALTH UNDERTAKES THE TASK, BECAUSE ONLY THE COMMONWEALTH HAS THE RESOURCES. AND IT IS ALSO ALMOST CERTAIN THAT IT WILL NEVER HAPPEN WHILE THE CONSTITUTION RETAINS THE WORDS WE HAVE UNDERLINED IN SECTION 51.