

ACTIVITY 3

'Your petitioners humbly pray . . .' What attempts were made to change the Constitution by petitions?

This activity helps students explore the material in the *Earlier attempts to change the Constitution*, *Early petitions*, *National petition campaign 1962-63*, and the *FCAATSI Legislative Reform Committee* sections of the website <http://www.nma.gov.au/indigenoustrights/>

You will see from the previous Activity that by 1967 not all Australians had equal citizenship rights in practice. In 1967 there was an attempt to change this situation by changing the Australian Constitution.

The rest of this unit shows how you can use the rich resources in the National Museum of Australia's **Collaborating for Indigenous Rights website** to explore this reform.



One way that people tried to bring about a change in the reality of Aboriginal people's lives and rights was by **petitions**.

What is a petition? How and where are petitions used in Australia today?

A petition is a collection of signatures of people who are asking for a change, often to a law.

- 1 Imagine that you were organising petitions to change the situations set out in the table below. Who would you present the petition to? What would determine whether the petition was effective or not? Complete this table.

| Change required: | Petition to be presented to: | Key factors that are likely to make it effective: |
|--|------------------------------|---|
| An aspect of your school | | |
| Parking laws in a local street | | |
| Reduce plastic use in supermarkets | | |
| Increase (or decrease) refugee intake to Australia | | |
| Increase (or decrease) Australia's adoption of international human rights laws | | |

How did people use petitions to try to bring about this change?

For a Commonwealth matter the petition had to be directed to the Commonwealth Parliament. Petitions are presented to Parliament by the members who represent a particular electorate (for the House of Representatives)

or a State (for the Senate). The MP presents the petition, even if he or she does not personally agree with it. Nothing actually happens with petitions after being presented to Parliament. The point behind them is to try to influence the Government by showing what the people want.

Petitions are regularly presented to Parliaments today. You can find information about them at several sites, including: <http://www.aph.gov.au/Senatepubs/odgers/chap1809.htm> and <http://www.edo.org.au/edovic> and go to Kits, then EDO Petition Kit.

You could also explore petitions presented to Parliament. Do an internet search for State or Commonwealth Hansard and you will find a record of those that have been presented recently. See if any have been presented by your local Member of Parliament.

Understanding the Constitution

Most of the petitions you are about to study called for a change to the Australian Constitution, created in 1901.

The Australian Constitution determines what power the Commonwealth and the States and territories have.

Soon you will see that the main aim of reformers was to have the Commonwealth Parliament able to make laws affecting Indigenous people. Before 1967 it could not do this in most areas of life.

2 Look at this table, and:

- summarise what sections 51(xxvi) and 127 as passed in 1901 meant for Aboriginal people;
- decide what effect you think the proposed changes to those two sections would make to Aboriginal people.



| Before 1967 | | After 1967 | |
|--|--|--|--|
| 1901 Australian Constitution | Meaning and implications for Indigenous people | Proposed change to the 1901 Constitution | Meaning and implications for Indigenous people |
| 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: (xxvi) The people of any race, other than the aboriginal people in any State, for whom it is necessary to make special laws. | | 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: (xxvi) The people of any race, other than the aboriginal people in any State, for whom it is necessary to make special laws. | |
| 127. In reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal natives should not be counted. | | 127. In reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal natives should not be counted. | |

CASE STUDY The 1962–63 petition campaign

Several petitions were presented to Parliament (and other authorities) before 1967. These petitions did not achieve their aim of changing the Constitution. Why not? The Group Research Task on page 10 is a good way of exploring this question.

However, we can still learn a lot about the issue and the times by looking at a case study of one of these petitions, the 1962 national petition campaign.

- 3 Look at the petition on the next page, and answer the questions in boxes around it.
- 4 Imagine that you are a Member of the House of Representatives in 1962.

You are aware that there is a national petition campaign about to start. You have to decide whether or not it will influence you.

Look at the following documents, and use them to answer these questions:

- What is the problem?
- What does the campaign want you to do?
- Why is it targeting you?
- The target is for 250 000 signatures out of an Australian population of 10 700 000. (In fact it will achieve about 100 000.) Does this influence you?
- Identify the strategies that the campaign is using.
- If the campaign is successful, what will follow?
- What are the main factors that will determine whether or not you are influenced by the campaign?
- What is your response to the campaign?

GROUP RESEARCH TASK Attempts to change the Constitution

Many petitions were presented concerning the status and rights of Aboriginal people between the 1840s and the 1960s. Several are included on the National Museum of Australia's *Collaborating on Indigenous Rights* website:

SOURCE 3.2



1846 Petition to Queen Victoria

Bain Attwood and Andrew Markus,
The Struggle for Aboriginal Rights: A Documentary History, Allen & Unwin, Sydney, 1999, pp38-39
<http://www.indigenoustrights.net.au/files/f85.pdf>



SOURCE 3.3



Petition for a Referendum, 1958

Barry Christophers papers,
MS 7992, box 16, National Library of Australia, Canberra
<http://www.nma.gov.au/indigenoustrights/subsectionb538.html?ssID=24>



SOURCE 3.4



1933 Petition to King George V

Bain Attwood and Andrew Markus,
Thinking Black: William Cooper and the Australian Aborigines' League, Aboriginal Studies Press, Canberra 2004, pp 35–36
<http://www.indigenoustrights.net.au/files/f74.pdf>



SOURCE 3.5



Referendum Petition, FCAATSI 1966

Barrie Pittock personal papers
<http://www.nma.gov.au/indigenoustrights/subsectiond539.html?ssID=72>



SOURCE 3.6



Aboriginal-Australian Fellowship, Petition to amend the Constitution, 1957

Fitzpatrick papers, MS 4965/1/5273,
National Library of Australia
<http://www.nma.gov.au/indigenoustrights/subsectionb538.html?ssID=24>



As a class, allocate these petitions and demands among groups. Complete this table of questions for each, and report back to the class — summarising the answers for those petitions you did not personally research.

| Questions | 1846 | 1933 | 1957 | 1958 | 1966 |
|--|------|------|------|------|------|
| Who is organising it or involved in creating it? | | | | | |
| When? | | | | | |
| Who has signed it? | | | | | |
| Who is it being presented to? | | | | | |
| Why present it to that person/organisation? | | | | | |
| What problem or situation is it seeking to overcome? | | | | | |
| What change does it want to bring about? | | | | | |
| What effects does it expect this change will have? | | | | | |

250,000 SIGNATURES TO BE SOUGHT ON NATIVE-RIGHTS PETITION

The Federal Council for Aboriginal Advancement hopes to collect 250,000 signatures for a petition, to be submitted at the opening session of Federal parliament next year, calling for improved rights for Aborigines.

The petition calls for the amendment of two clauses of the Commonwealth Constitution.

The council claims the clauses give support to other laws and regulations depriving aborigines of equal wages and employment opportunities and denying them the right to own and develop their remaining tribal grounds.

It also claims that natives have inferior legal status to other Commonwealth citizens, and that the two clauses limit their right to 'peace, order and good government'.

Aboriginal leaders from every State would speak at the Sydney meeting. Representatives from Brisbane, Perth, Darwin and Cairns will come to the Melbourne meeting. The main speaker in Melbourne would be Mrs Kath Walker, Queensland secretary of the Federal Council for Aboriginal Advancement. The Melbourne campaign committee of eight includes Mr Gordon Bryant, Federal member for Wills, and Pastor Doug Nicholls.

The main line of attack in the campaign would include the trade unions and church bodies.

Petition forms would be returned on February 23.

- 5 Language changes over time. Identify words used in this article that would not now be used. Discuss why such words would no longer be used.



<http://www.nma.gov.au/indigenousrights/subsectionc58a.html?ssID=25>

SOURCE 3.8

Gordon Bryant,
'Arguments for a Referendum',
1962

by G. M. BRYANT, M.H.R.,

President, Aborigines' Advancement League.



A REFERENDUM

No aborigine can feel absolutely free and equal to other Australians whilst the Commonwealth Constitution contains the two clauses which exclude him from the Census (section 127) and from Commonwealth laws (section 51, placitum 26).

This placitum of section 51 was for a long time the excuse given by the Commonwealth for the exclusion of aborigines from Social Service benefits. It was not until a number of members of the Commonwealth Parliament challenged the logic of this in the House, that a new look was given to the old question, and this discrimination removed. It is, of course, a question of language. A law which excludes aborigines from a benefit is just as much a law about Aborigines as one which includes them.

The demand for the removal of these clauses from the Constitution is not just an academic one—it rests on two grounds. The first—that the implied discrimination is a reflection in fact

an insult to the aboriginal people; the second—that the specific exclusion of the Commonwealth from the right to make special laws about the aboriginal race means that the Commonwealth denies any responsibility (outside the Territories) and the State Governments therefore claim it. And in so claiming, they exercise rights and powers over the aboriginal people, which they would not dare to exercise over the last arrived migrant.

A great deal of the energies and thinking of organisations affiliated with the Aborigines' Advancement League outside Victoria is devoted to trying to have State acts altered.

So we find our friends in N.S.W. mounting campaigns to have the restricted clauses of the State act amended.

In Queensland, Western Australia and South Australia, the position is much the same. In Western Australia and Queensland, for instance, despite the grant of votes for aborigines at

2

SMOKE SIGNALS

OCT 1962

Continued on next page >>

Federal elections, aborigines are still excluded from State elections.

ABORIGINES STILL HAVE NO VOTE for State elections in Queensland and Western Australia.

So all over Australia — outside Victoria — the Aborigine is beset with a more complicated set of laws than any other Australian.

The quickest and the most logical way to amend this position is to change the Constitution by Referendum.

Remove from the States the right to make special laws for the aboriginal people, and the State acts which deprive Aborigines of fundamental rights and freedom must surely be invalid.

This does not mean, of course, that the Commonwealth has been full of sweetness and light on the Aboriginal question, but the Commonwealth carries out its activities under much closer public national scrutiny than any State Government or the totality of them.

At present, those of us concerned with the plight of the Aboriginal people have to fight six State Governments and the Commonwealth — seven legislatures and seven administrations — an enormous organisational task. (I include Tasmania here, because there is a handful of mixed race people on Cape Barron Island, for whom little is being done.)

Transfer the responsibilities to the Commonwealth and immediately every Federal parliamentarian and every Federal department has to accept its share of responsibility. And this must be said, "that whether one agrees with it or not, when the Commonwealth acts — it acts in grand manner".

Compared with the resources at the disposal of the States, when applied to a particular field, the resources of the Commonwealth are relatively limitless. (Compare the schools of Canberra, for

example, with those of Melbourne.)

Both the Federal Council and the Victorian Aborigines' Advancement League have adopted such an amendment of the Constitution as urgent policy.

We should therefore commence campaigning immediately — the task is in two stages:

- To convince the Commonwealth to conduct the Referendum, and
- Secure a majority of votes in a majority of the States when the Referendum is submitted to the people.

Of the two I think the first may be the more difficult task, but nothing must be left to chance — we should set up campaign committees in every Federal electorate now, and take the following steps:

- Approach prominent and active citizens for support;
- Send informed delegatories to explain the position to every member of the Federal Parliament, and ask for support in the Parliament;
- Commence stimulation of public interest by the circulation of petitions to be presented to the Parliament; and
- Form interim campaign committees.

It is important that we understand the nature of the task if we organise along normal election campaigning lines.

We will need 5,000,000 "how to vote" cards — costing perhaps £7,000.

We will need thousands of supporters at the polling booths on Referendum day. No stone must be left unturned — a vote approaching national unanimity on this question would give notice to all Governments that the conscience of Australia is stirred, and the public will brook no delay in tackling the other disabilities of the aboriginal people.

COME THEN, LET US TO THE TASK.



Smoke Signals, October 1962
<http://www.nma.gov.au/indigenoustrights/subsectionc58a.html?ssID=25>

SOURCE 3.9 Alick Jackomos, FCAA state secretary for Victoria, recalls his street campaigning in the 1960s

We were given petitions and it was our job to get names on 'em. And Doug [Nicholls — a prominent Aboriginal ex-athlete, footballer and eventually Governor of South Australia] and I . . . used to go up to Smith Street, Collingwood with a little card table outside of old Foy and Gibson's . . . And Doug'd be yelling out 'give Aborigines citizenship rights!' And he'd be dragging people. And Doug was like chewing gum to anyone because if he put his hand on them they'd come right to the table, you know? He could mesmerise them, Doug and get them there. And it was Doug's job to lead 'em to the table, and there's me sitting at the table getting people to sign.

We signed those petitions there but we also had a good spot outside the Collingwood football ground on home matches — outside the Collingwood members' stand. Now Collingwood supporters are black and white one-eyed. Normally they'd just rush into the grandstand to get their seat. But this particular day Doug Nicholls, again as they were walking in — and everybody knew Doug, I mean Doug was a household name. He was better known than Henry Bolte who was the Premier at the time. Soon as they see Doug, they couldn't resist Doug. So he leads 'em to the table and we'd get these petitions. And we got a lot of petitions signed and so did all the other workers in Victoria.

Alick Jackomos, Federal Council for the Advancement of Aborigines and Torres Strait Islanders Oral History Project, 12 December 1996, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.
<http://www.nma.gov.au/indigenoustrights/subsectionc58a.html?ssID=25>

The campaign did not achieve its aim of having Federal Parliament introduce a bill to authorise a referendum to change sections of the Constitution.

6 Why do you think it did not succeed? List the reasons.

For the petition to succeed it needed to have a bill introduced into Parliament. Most bills are introduced into Parliament by the Government of the day. It is rare for Opposition or Private Members to introduce bills. For a Government bill to be introduced it needs the approval of Cabinet — a group of Senior Ministers.

So to understand what happened we need to focus on Cabinet and Parliament in the next Activity.



National Petition

TOWARDS EQUAL CITIZENSHIP FOR ABORIGINES

TO THE HONORABLE THE SPEAKER AND MEMBERS OF THE HOUSE OF REPRESENTATIVES IN PARLIAMENT ASSEMBLED:—

The Petition of the undersigned citizens of the Commonwealth respectfully sheweth:—

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.

And your petitioners, as in duty bound, will ever pray.

Name

Address

Multiple horizontal lines for entering names and addresses.

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."

This Petition should be returned to P.O. Box 59, Coburg, Vic. or to person from whom it was received.

Authorised by Mr. Stan Davoy, general secretary for the Federal Council for Aboriginal Advancement, on behalf of 34 affiliated organisations from all Australian States and Northern Territory.

Petition to Her Majesty Queen Victoria, 17 February 1846

The humble petition of the free Aborigines Inhabitants of V.D.L. now living upon Flinders Island, in Bass's Straits &c &c &c.

Most humbly showeth,

That we Your Majesty's Petitioners are your free Children that we were not taken Prisoners but freely gave up our Country to Colonel Arthur then the Gov^r after defending ourselves.

Your Petitioners humbly state to Y[our] M[ajesty] that Mr. Robinson made for us & with Col. Arthur an agreement which we have not lost from our minds since & we have made our part of it good.

Your Petitioners humbly tell Y.M. that when we left our own place we were plenty of People, we are now but a little one.

Your Petitioners state they are a long time at Flinders Island & had that plenty of Sup^{dts} & were always a quiet & free People & not put into Gaol.

Your Majesty's Petitioners pray that you will not allow Dr. Jeanneret to come again among us as our Sup^{dt} as we hear he is to be sent another time for when Dr. Jeanneret was with us many Moons he used to carry Pistols in his pockets & threaten'd very often to shoot us & make us run away in a fright. Dr. Jeanneret kept plenty of Pigs in our Village which used to run into our houses & eat up our bread from the fires & take away our flour bags in their mouths also to break into our Gardens & destroy our Potatoes & Cabbages.

Our houses were let fall down & they were never cleaned but were covered with vermin & not white-washed. We were often without Clothes except a very little one & Dr. Jeanneret did not care to mind us when we were sick until we were very bad. Eleven of us died when he was here. He put many of us into Jail for talking to him because we would not be his slaves. He kept from us our Rations when he pleased & sometimes gave us Bad Rations of Tea & Tobacco. He shot some of our dogs before our eyes & sent all the other dogs of ours to an Island & when we told him that they would starve he told us that they might eat each other. He put arms into our hands & made us to assist his prisoners to go to fight the Soldiers we did not want to fight the Soldiers but he made us go to fight. We never were taught to read or write or to sing to God by the Doctor. He taught us a little upon the Sundays & his Prisoner Servant also taught us & his Prisoner Servant also took us plenty of times to Jail by his orders.

The Lord Bishop seen us in this bad way & we told H[is] L[ordship] plenty how Dr. Jeanneret used us.

We humbly pray Your Majesty the Queen will hear our prayer and not let Dr Jeanneret any more to come to Flinders Island. And We Y.M's servants & Children will ever pray as in' duty bound &c &c &c

Sgd. Walter G. Arthur, Chief of the Ben Lomond Tribes King Alexander, John Allan, Augustus, Davey Bruney, King Tippoo, Neptune, Washington.

From: Bain Attwood and Andrew Markus, *The Struggle for Aboriginal Rights: a documentary history*, Allen & Unwin, Sydney, 1999, pp38-39.

Petition to King George V

PETITION of the Aboriginal Inhabitants of Australia to His Majesty, King George V, by the Grace of God, of Great Britain, Ireland, and British Dominions beyond the seas, King; Defender of the Faith; Emperor of India.

TO THE KING'S MOST EXCELLENT MAJESTY, IN COUNCIL THE HUMBLE PETITION of the undersigned Aboriginal inhabitants of the Continent of Australia respectfully sheweth: —

THAT WHEREAS it was not only a moral duty, but a strict injunction, included in the commission issued to those who came to people Australia, that the original inhabitants and their heirs and successors should be adequately cared for;

AND WHEREAS the terms of the commission have not been adhered to in that —

- (a) Our lands have been expropriated by Your Majesty's Governments, and
- (b) Legal status is denied to us by Your Majesty's Governments;

AND WHEREAS all petitions made on our behalf to Your Majesty's Governments have failed.

YOUR PETITIONERS humbly pray that Your Majesty will intervene on our behalf, and, through the instrument of Your Majesty's Governments in the Commonwealth of Australia — will prevent the extinction of the Aboriginal race and give better conditions for all, granting us the power to propose a member of parliament, of our own blood or a white man known to have studied our needs and to be in sympathy with our race, to represent us in the Federal Parliament.

AND YOUR PETITIONERS WILL EVER PRAY

[This petition appears as document 11 in Bain Attwood and Andrew Markus, *Thinking Black: William Cooper and the Australian Aborigines' League*, Aboriginal Studies Press, 2004, pp 35–36]

Federal Council for Aboriginal Advancement

President:

Dr. C. Duguid (Sth. Aust.).

Secretary:

Mr. S. Davey (Vic.).

Vice-Presidents:

Mr. H. Groves, J.P. (N.S.W.).

Mr. W. Grayden, M.L.A. (W.A.).

Miss A. Bromham (Qld.).

P e t i t i o n

To the Honourable the Speaker and Members of the House of Representatives in Parliament assembled:—

The humble citizens of the Commonwealth respectfully sheweth that while the aboriginal people of Australia suffer under disabilities social, economic and political, your petitioners are concerned and anxious on their behalf, requiring that they be adequately fed, clothed and housed and given such securities as are the people of all races who have come to live in this country. These disabilities in important respects are not remediable without the Commonwealth Government accepting responsibility for the care of the aboriginal people throughout Australia.

Your petitioners therefore humbly pray that the Commonwealth Government make provision for an alteration of the Federal Constitution by means of a Referendum to be held at an early date, in order to:

(1) Delete the words in Section 51 (xxvi) of the Constitution of the Commonwealth ("OTHER THAN THE ABORIGINAL RACE IN ANY STATE") which now gives power to the Parliament of the Commonwealth to make laws for the peace, order and good government of "the people of any race, OTHER THAN THE ABORIGINAL RACE IN ANY STATE for whom it is deemed necessary to make laws", and

(2) Delete Section 127 of the Constitution of the Commonwealth which reads "In reckoning the numbers of the people of the Commonwealth or of a State or other part of the Commonwealth aboriginal natives shall not be counted".

And your Petitioners, as in duty bound, will ever pray.

NAME

ADDRESS

West Australia

Miss L. Turner 246 High Rd. Riverina WA

S. Turner 214 High Rd. Riverina WA

W. Smith 117 Canning Hwy S. Perth WA

John R. Smith 117 Canning Highway S. Perth WA

M. M. Barker Granddara Suburban

A. J. Hill 27 Basinghall St. Vic. Park Perth

Mrs E. Hells Vic Park

Miss M. Baine 116 Armadale Rd Riverale

R. G. Williams (Mrs) 13 Lyons St Riverale

MRS Tucker 34 Parkdale St. East Vic Park

A. Parryton 100 Todd Ave Roma Perth

D. Buckley 21 Patricia St Victoria Park Perth

(Perth) L. G. ...

by G. M. BRYANT, M.H.R.,

President, Aborigines' Advancement League.



A REFERENDUM

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The demand for the removal of these clauses from the Constitution is not just an academic one—it rests on two grounds. The first—that the implied discrimination is a reflection in fact

an insult to the aboriginal people; the second—that the specific exclusion of the Commonwealth from the right to make special laws about the aboriginal race means that the Commonwealth denies any responsibility (outside the Territories) and the State Governments therefore claim it. And in so claiming, they exercise rights and powers over the aboriginal people, which they would not dare to exercise over the last arrived migrant.

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Federal elections, aborigines are still excluded from State elections.

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