

# Federalising the Aborigines?

## Constitutional Reform in the Late 1920s\*

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*This paper considers arguments in favour of federal responsibility for indigenous affairs provided to the 1927–29 Royal Commission on the Constitution. Various humanitarian organisations, including women's groups, argued that the future of the Aborigines in Australia was a matter of national importance and was above state and federal politics. Constitutional acknowledgement of Aboriginal Australians as the original owners of the land would mark Australia's progress as a modern nation.*

**FOLLOWING THE RECENT** thirtieth anniversary of the 1967 referendum, and as Australia approaches the centenary of Federation, the historical legacy of the Constitution has (re)emerged as significant to reconciliation between indigenous and incoming peoples. As Bain Attwood and Andrew Markus have pointed out, the referendum supporting this change did not grant Aborigines citizenship rights. However, it has come to represent a recuperative moment in Australian race relations history and is often positioned as dividing the racist past from the nonracist present.<sup>1</sup> Yet, settler-colonial nationhood and indigenous rights have long been acknowledged as inherently related. For Hugh Mahon, Western Australian member of the first House of Representatives writing in 1902, a national, honourable response to this relationship was necessary for Australia's maturation as a young nation on the world stage:

when a native is shot or flogged to death in the lonely interior of this continent, the mass of mankind—if the record of the deed ever leaps to light—will debit it to Australia. No geographical lines or constitutional limitations will be taken into account. The National Parliament is surely the custodian of the national honour and good name. Can we afford to remain quiescent and look on unheeding at a system which impeaches both?<sup>2</sup>

However, from the late 1920s and early 1930s, we can identify more clearly the antecedents of the broader nonindigenous support that was important to the 1967 referendum. The interwar years saw unprecedented interest in the 'Aboriginal

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<sup>1</sup> Bain Attwood and Andrew Markus in collaboration with Dale Edwards and Kath Schilling, *The 1967 Referendum, or When the Aborigines Didn't Get the Vote*, Australian Institute of Aboriginal and Torres Strait Islander Affairs, Canberra, 1997, p. 67. See also their article in this issue, and Heather Goodall, *From Invasion to Embassy: Land in Aboriginal Politics in New South Wales, 1770–1972*, Allen & Unwin in association with Black Books, Sydney, 1996. Goodall argues that, within the long history of Aboriginal activism, land, rather than political membership of the nation state, has been the central issue within Aboriginal rights campaigns.

<sup>2</sup> Hugh Mahon, *The Austral Light*, 1 March 1902, p. 200. The journal published essays by Australian progressives.

question', both in Australia and from overseas.<sup>3</sup> To pro-indigenous organisations contesting Aboriginal policy during these years, including the Women's Service Guilds of Western Australia and the National Council of Women, the Constitution figured as a significant obstacle to Aboriginal (as well as women's) rights.<sup>4</sup> Speaking at a dominion women's conference in London in 1935, the pro-indigenous Anglo-Australian woman activist and internationalist, Bessie Rischbieth, asserted that reparation for the past would remain incomplete until the Constitution was reformed to facilitate the federalisation of Aboriginal affairs. This was of national urgency because 'the whole of Australia owed a debt of reparation to the aborigines'.<sup>5</sup> This article considers the evidence Rischbieth and others presented to the 1927–29 Royal Commission on the Constitution in support of such change.

For those advocating a national response to the question of their status and conditions, the federalisation of policy-making in relation to Aborigines represented a shift from ad hoc treatment at state and federal levels to a recognition of national significance. At Federation, Aborigines had been excluded from citizenship within the states, their affairs incorporated into departments such as Fisheries and Wildlife. When the federal government became responsible for the Northern Territory in 1911, Aborigines were included within the brief of the Ministry for Home Affairs until 1929. A considerable turnover in ministers and governments exacerbated the lack of coherence and foresight characterising their administration.<sup>6</sup> Throughout the period, the Constitution remained an obstacle to reform. It asserted Aboriginal alienation along with Pacific Islanders and Asiatics, and exclusion from federal suffrage. Yet the question remained, growing in intensity after World War I: were Aborigines in effect the real Australians (as in illustrations 1 and 2)?<sup>7</sup> Could the frontier conditions of outback race relations continue,

<sup>3</sup> See, for example, Andrew Markus, *Governing Savages*, Allen & Unwin, Sydney, 1990, p. 4.

<sup>4</sup> While acknowledging that, in the case of Aboriginal women, indigenous and women's rights overlap, I am interested here in the separate yet linked status of each in Anglo-Australian women activists' calls for constitutional reform. I seek to underline the point that, while their pro-indigenous rights campaign centred upon Aboriginal women's rights, women's rights figured as nonindigenous women's rights. Ann Curthoys has considered the political legacy of this division within the history of Australian feminism in her important article, 'Identity Crisis: Colonialism, Nation, and Gender in Australian History', *Gender & History*, vol. 5, no. 2, Summer 1993, pp. 165–76.

<sup>5</sup> Bessie Rischbieth, *British Commonwealth League Conference Report*, n.p.d., 1935, p. 29.

<sup>6</sup> Markus, *op. cit.*, pp. 130–7.

<sup>7</sup> Stephen Muecke sees romanticism as one of the central discourses for the representation of Aboriginal 'others'. See his *Textual Spaces: Aboriginality and Cultural Studies*, New South Wales University Press, Sydney, 1992, particularly chap. 1. In contrast, the Australian Aborigines League (formed in 1927) and the Aborigines Progressive Association (in 1937), argued for the right to live alongside white men rather than be preserved 'like koalas'. See Russell McGregor, 'Protest and Progress: Aboriginal Activism in the 1930s', *Australian Historical Studies*, vol. 25, no. 101, October 1993, pp. 555–68. Marilyn Lake has argued that Aboriginal activist organisations promoted a masculine model of political rights. See Marilyn Lake, 'Feminism and the Gendered Politics of Antiracism, Australia 1927–1957: From Maternal Protectionism to Leftist Assimilationism', *Australian Historical Studies*, vol. 29, no. 110, April 1998, pp. 91–108. Aboriginal activist adaptation of western liberal discourse is discussed by Geoffrey Stokes, 'Citizenship and Aboriginality: Two Conceptions of Identity in Aboriginal Political Thought', in Geoffrey Stokes (ed.), *The Politics of Identity in Australia*, Cambridge University Press, Cambridge, 1997, pp. 158–71.

increasingly anachronistic as they were to an emerging national self-awareness? How might White Australia come to understand that its origins were violent, even shameful, and that its present was marked by the heterogeneous legacies of that history?

Recent feminist scholarship has pointed to the dominant gender and race hierarchies that have shaped Australian national and constitutional history. For example, Helen Irving has noted that the exclusion of Aborigines was so uncontroversial that little opposition to it emerged during the constitutional conventions held in the 1890s (while all factions were united in their opposition to giving legitimacy to the Chinese presence in Australia).<sup>8</sup> Further, during these conventions, a sizeable and influential women's lobby claimed their right to vote as white women in contradistinction to non-Anglo men.<sup>9</sup> Writing of these early suffrage campaigns, Patricia Grimshaw concluded that women activists' 'delineation of their own rights to citizenship itself rested upon the denial of Aboriginal rights'.<sup>10</sup> More broadly, Marilyn Lake has argued convincingly that feminist campaigns for women's citizenship rights rested on assumptions of the significance of race to White Australia.<sup>11</sup>

Less attentive to the complex interactions of race and gender in our national history, race relations historians have mostly documented the involvement of white men in shaping the pro-assimilationist direction of Aboriginal policy, among them race theorists, administrators, anthropologists and humanitarians.<sup>12</sup> Of the humanitarians, women's organisations mentioned among those taking part in pro-Aboriginal reform campaigning have been presented as participants who joined an already existing movement rather than as initiators.<sup>13</sup> Understand-

<sup>8</sup> Helen Irving, *To Constitute a Nation: A Cultural History of Australia's Constitution*, Cambridge University Press, Cambridge, 1997, p. 100. See also John M. Williams, 'Race, Citizenship and the Formation of the Australian Constitution: Andrew Inglis Clark and the "14th Amendment"', *Australian Journal of Politics and History*, vol. 42, no. 1, 1996, pp. 10–23; and John Chesterman and Brian Galligan, *Citizens without Rights: Aborigines and Australian Citizenship*, Cambridge University Press, Cambridge, 1997.

<sup>9</sup> Irving, *op. cit.*, chap. 10.

<sup>10</sup> Patricia Grimshaw, 'A White Woman's Suffrage', in Helen Irving (ed.), *A Woman's Constitution?*, Hale & Iremonger, Sydney, 1996, pp. 93–4.

<sup>11</sup> For example, see Marilyn Lake, 'Between Old World "Barbarism" and Stone Age "Primitivism": The Double Difference of White Australian Feminism', in Norma Grieve and Ailsa Burns (eds), *Australian Women: Contemporary Feminist Thought*, Oxford University Press, Melbourne, 1994, pp. 80–91, and "'Stirring Tales": Australian Feminism and National Identity, 1900–1940', in Stokes (ed.), *op. cit.*, pp. 78–91.

<sup>12</sup> Regarding Aboriginal policy in the 1920s and 1930s, see: Russell McGregor, *Imagined Destinies: Aboriginal Australians and the Doomed Race Theory, 1880–1939*, Melbourne University Press, Melbourne, 1997; Andrew Markus, *Australian Race Relations 1788–1993*, Allen & Unwin, Sydney, 1994; Jeremy Beckett, 'The Past in the Present: Constructing a National Aboriginality', in Jeremy Beckett (ed.), *Past and Present: The Construction of Aboriginality*, Aboriginal Studies Press, Canberra, 1988, pp. 191–217; and, for a gendered reading, Patricia Jacobs, 'Science and Veiled Assumptions: Miscegenation in W.A. 1930–1937', *Australian Aboriginal Studies*, no. 2, 1986, pp. 15–23.

<sup>13</sup> For example, Henry Reynolds, *Frontier: Aborigines, Settlers and Land*, Allen & Unwin, Sydney, 1987, p. 117. Reynolds has more recently shifted his view on women's activism, arguing that their internationalist politics on human rights had a powerful influence upon the Aboriginal question. Henry Reynolds, *This Whispering in Our Hearts*, Allen & Unwin, Sydney, 1998, especially chap. XI.



Illustration 1: *Real Australians*

(Source: William Robertson, *Coo-ee Talks: A Collection of Lecturettes upon Early Experiences among the Aborigines of Australia Delivered from a Wireless Broadcasting Station, Angus & Robertson, Sydney, 1928, p. 11*)



Illustration 2: B.E. Minns, *The Real Australian (The Lubra)*

(Source: *Australasian Advertisers' Manual and Newspaper Directory of Australia and New Zealand, volume 2, Weston Co., Sydney, 1924*)

ably, groups within the interwar humanitarian lobby shared similar concerns about the Constitution. They were usually federalists. As their evidence to the inquiry into the Constitution illustrates, however, some were more optimistic concerning the likely success of challenging Australia's state-based political system than others. They supported so-called protective policies and administration, although they differed on whether the impact of white culture upon Aboriginal society was degenerative. And, as will become evident, they were ready to draw upon international standards for their case about the administration of native peoples. These aims did not necessarily differ from those held by key members of the existing state administrations. From the 1910s, Western Australia's Chief Protector of the Aborigines, A.O. Neville, had been opposed by local pastoral interests in his work to instigate waged labour for Aboriginal men working on stations.<sup>14</sup> Although he was a proponent of biological absorption, he initially supported Western Australian women's organisations concerned to halt the sexual abuse of Aboriginal women by white men.<sup>15</sup> During the constitutional inquiry, there was considerable agreement among these groups and other individuals in seeking federal responsibility for Aboriginal policy and administration.

Looking beyond this shared desire for reform in Aboriginal policy, feminist historians have established the unique and productive role played by women's activism in Aboriginal rights debates during these years. We know that, as Anglo-Australians and dominion citizens, numbers of activist women and their organisations mobilised internationalist, human rights and antislavery discourses emanating from the League of Nations and from progressive international organisations including the London-based British Commonwealth League and the Anti-Slavery and Aborigines Protection Society in denouncing what they found to be the abusive conditions of gendered, sexualised race relations in Australia. Within this political framework, they considered that Aboriginal women's slavery, white male lust, and ongoing injustice and inhumanity continued to characterise Australia's dealings with its native population.<sup>16</sup> Government inquiries into Aboriginal status and conditions, and press reports of massacres and maltreatment in the north, affirmed this grim account.<sup>17</sup> The women's pro-Aboriginal lobby was distinct from other humanitarian groups in its emphasis upon the urgent need to uphold Aboriginal women's rights of the person, motherhood and paid employment, as well as to draw political attention to Aboriginal

<sup>14</sup> C.D. Rowley, *The Destruction of Aboriginal Society*, Penguin, Melbourne, 1970, p. 257.

<sup>15</sup> For example, in 1921, Neville presented a slide lecture to the Women's Service Guilds on the subject of Aboriginal women. Perth Guild Minutes, October 1920, in Women's Service Guilds Papers, 1949A/12, State Archives of Western Australia.

<sup>16</sup> Women's pro-indigenous activism has attracted interest beyond the academy. See Fiona Paisley, 'Assimilation: A Protest as Old as the Policy', *Australian*, 5 June 1997, and Marilyn Lake, 'Lessons from the Stolen Children', *Age*, 17 January 1998.

<sup>17</sup> Mary Bennett illustrated her considerable knowledge of this readily available material in her ground-breaking book, *The Australian Aboriginal as a Human Being*, Alston Rivers Press, London, 1930.

children's rights, including rights to family life, education and welfare.<sup>18</sup>

Under the umbrella organisation of the Australian Federation of Women Voters and through the British Commonwealth League in London, they assiduously promoted an honorable national policy during the 1920s and 1930s aimed at superseding contradictory or outmoded state and federal laws that were ineffectually or, at worst, destructively administered—laws that also utterly failed to protect Aboriginal women. Their national policy would reflect the rights and needs of Aboriginal women, men and children by recognising them as future citizens of a modern Australian nation. It was a policy necessary to White Australia's evolution from frontier colony to modern dominion and its cornerstones were federal responsibility for Aborigines, land set aside permanently for inviolable, autonomous reserves, citizenship, education, paid work and rights of motherhood. The appointment of women like themselves as administrators (knowledgeable in Aboriginal affairs, experienced among Aboriginal populations, and politically articulate) would empower Aboriginal women through their empathetic advocacy and representation. They would provide Aboriginal women with 'independence' through guidance and uplift, anticipating new forms of intervention in Aboriginal lives.<sup>19</sup>

While sharing federalist aims with others interested in reform, these women's organisations promoted Aboriginal policies that reflected their perspective as élite, Anglo-Australian women who supported a modernised imperial and white Australian nation. From as early as 1920, the Women's Non-Party Association of South Australia, whose president Constance Mary Cooke later became an adviser to the South Australian government on Aboriginal affairs, expressed concern to the Women's Service Guilds of Western Australia that Aboriginal women living along the Trans-Australia Railway, then being extended towards Western Australia, were at risk. In 1921, an umbrella organisation, the Australian Federation of Women Voters (AFWV), was formed by Service Guilds President Bessie Rischbieth, and, by the late 1920s, had formally added a commitment to Aboriginal rights to its political aims. One of its affiliates, the Victorian Woman Citizen's Movement, presided over by Edith Jones, became an important force in the network of these women's pro-indigenous campaigns during the interwar years. While other large women's networks such as the National Council of Women did consider the Aboriginal question among their welfare interests, it was the AFWV and its key

<sup>18</sup> Fiona Paisley, *Ideas Have Wings: White Women Challenge Aboriginal Policy 1920–1937*, Melbourne University Press, Melbourne, forthcoming 1999.

<sup>19</sup> In 1934, self-proclaimed 'half-caste' women in Broome sent a petition to the Royal Commission into Aboriginal Status and Conditions in Western Australia that included a demand for lady protectors. See 'Document 2.9: Make us Happy Subjects of This Our Country', in Marilyn Lake and Katie Holmes (eds), *Freedom Bound II: Documents on Women in Modern Australia*, Allen & Unwin, Sydney, 1995, pp. 33–67. For a discussion of the campaign for women protectors, see Fiona Paisley, 'No Back Streets in the Bush: 1920s and 1930s Pro-Aboriginal White Women's Activism and the Trans-Australia Railway', *Australian Feminist Studies*, vol. 12, no. 25, April 1997, pp. 119–37. And on the surveillance of Aboriginal women as homemakers, see Heather Goodall, "'Assimilation Begins in the Home': The State and Aboriginal Women's Work as Mothers in New South Wales, 1900s to 1960s", in Ann McGrath and Kay Saunders with Jackie Huggins (eds), *Aboriginal Workers. Labour History, Special Issue*, no. 69, November 1995, pp. 75–101.

members that constituted the main source of activism on Aboriginal rights. They considered their own participation in the process of modernisation essential to the forward movement of Australian and world society, particularly in the matters of gender, sexuality and race. As white women activists claiming to speak for other women, they brought a particularly feminist politics to race relations, linking protection of the individual bodily rights of Aboriginal women with the need for the general provision of community-based land. Autonomous reserves would provide secure areas for Aboriginal women from within which they could develop the skills needed for economic independence and citizen status. They argued that greater regulation of white men's interaction with Aboriginal people, especially Aboriginal women, would halt the gross abuses of the frontier and result in a secure future for white and Aboriginal Australia.

For women activists, then, a national response to the Aboriginal presence in Australia marked progress in the political and national development in which the women of Australia were to be fully involved. Women activists attending the royal commission in the late 1920s raised questions pivotal to modern settler-colonial gender and race relations at the national, British Commonwealth and international levels, questions they also raised at the British Commonwealth League women's conferences in London during these years.<sup>20</sup> From the first British Commonwealth League conference held in 1925, dominion women had called forth the responsible settler-woman and, more urgently, the responsible settler-man, whose task was the reform of sexualised frontier race relations in Australia. The white frontier man, that 'wandering member of the British race', had produced the 'great problem' of the mixed races and the degenerated conditions of the native woman.<sup>21</sup> Greater cognisance of the 'problems attached to contact with less advanced races' would raise the standard of race relations within the British Commonwealth. By acting upon this political duty, enfranchised women could lead the way towards a more humane future in which imperial and national governments would accept greater responsibility for the 'care and welfare of the races of the less forward development', particularly native women, whose right it was to receive 'preparation for the fuller citizen life in proportion to their ability'.<sup>22</sup>

The interwar years were decades of significant change in British–Australian relations as Australian national status and identity grew, although identity still remained closely linked to that of Britain. Crucial to activists' pro-Aboriginal constitutional reform aims was the increased role of the Australian federal

<sup>20</sup> The British Commonwealth League provided a powerful forum for bringing international pressure to bear upon the federal government. In the mid-1930s, Australian women delegates attending conferences held by the league in London, publicised Aboriginal conditions in Australia and were instrumental in bringing about a royal commission enquiring into Aboriginal affairs in Western Australia. See Fiona Paisley, "'Don't Tell England!': Women of Empire Campaign to Change Aboriginal Policy in Australia between the Wars', *Lilith*, no. 8, Summer 1993, pp. 139–52, and 'Challenging Aboriginal Policy in the Interwar Years', in Barbara Caine *et al.* (eds), *Oxford Companion to Australian Feminism*, Oxford University Press, Melbourne, forthcoming 1998.

<sup>21</sup> British Commonwealth League Conference Papers, 1926, p. 4, Fawcett Library, London.

<sup>22</sup> *Ibid.*, 1929, p. 8.

government in national and also, importantly, international affairs.<sup>23</sup> The two were parallel developments in a political landscape opening up to women's organisations like the AFWV, which claimed to represent the 'women of Australia' during these years, both Australian-based and internationally. Constitutional reform would have a great impact upon Aboriginal policy decisions nationally and upon national involvement at the international level. Over these years, women in organisations such as the AFWV became experienced lobbyists of the imperial national government at home and abroad. Travel and politics combined in the lives of its key members, élite women for whom the post-World War I world appeared poised on the edge of a new era of international co-operation and European civilisation.<sup>24</sup> As Antoinette Burton has noted of British suffrage campaigns, internationalist women's politics prevalent at this time must be read within the imperial and colonial historical context.<sup>25</sup> In the Australian context, women's and indigenous rights intertwined to form a postsuffrage white women's civilising mission to modernise the settler-colonial nation and effect a caring, moral Commonwealth of Australia.

The royal commissioners appointed were John Peden (Professor of Law, Sydney), Sir Hal Colebatch (a former agent-general for Western Australia and previously also premier of that state), Senator Percy Abbott (Country Party, New South Wales), Thomas Ashworth (President of the Victorian Employers' Federation), Eric Bowden (a former Nationalist minister for defence), Maurice Duffy (trade union movement representative and former union official, Melbourne) and Daniel McNamara (Labor Party MP, Victoria). These men were joined by assisting counsel, Mr Justice Harold Nicholas. They were briefed to report on reforms to federal-state relations including aviation, company law, health, industrial matters, judicial powers, navigation law, taxation, trade and commerce. Within these terms of reference, issues of particular interest to women activists—marriage and divorce laws and the status of Aborigines—were included under the commission's powers to investigate Commonwealth judicial powers.

The Royal Commission on the Constitution heard evidence from around Australia on the desirability of constitutional reform. Those women attending as

<sup>23</sup> The expanding financial relationship between Commonwealth and state governments finally provided the impetus in 1927 for a royal commission. Expansion of federal powers included the federal basic wage, the basis for which was established in 1907. See R. Anderson, 'The States and Relations with the Commonwealth', in the Hon. Mr Justice Else-Mitchell (ed.), *Essays on the Australian Constitution*, 2nd ed., Law Book Company of Australia, Sydney, 1961, pp. 93–127, and J. Starke, 'The Commonwealth in International Affairs', in *ibid.*, pp. 343–74. The funding issue had fuelled previous attempts to bring about a royal commission in 1919 and 1921. See H.L. Harris, *Australia in the Making: A History*, Angus & Robertson, Sydney, 1936, p. 333.

<sup>24</sup> Jill Roe, 'What has Nationalism Offered Australian Women?', in Grieve and Burns (eds), *op. cit.*, pp. 29–39; Ros Pesman, *Duty Free: Australian Women Abroad*, Oxford University Press, Melbourne, 1996; and Angela Woollacott, "'All This Is the Empire, I Told Myself': Australian Women's Voyages "Home" and the Articulation of Colonial Whiteness', *American Historical Review*, vol. 102, no. 4, October 1997, pp. 1,003–29.

<sup>25</sup> Antoinette Burton, 'The Feminist Quest for Identity: British Imperial Suffragism and "Global Sisterhood", 1900–1915', *Journal of Women's History*, vol. 3, no. 2, Fall 1991, pp. 46–81.

witnesses included Bessie Rischbieth (Women's Service Guilds of Western Australia) and Edith Jones (Victorian Woman Citizen's Movement), Edith Waterworth (Women's Non-Party League of Tasmania), and Clara Rutherford (National Council of Women). Independent, upper middle-class women, they brought considerable personal and political knowledge to the question of indigenous rights. Jones, for example, had lived on Thursday Island in the previous decade with her missionary husband, and had become interested in indigenous culture, Aboriginal status and conditions, and the political involvement of women in movements for both mission and state reform. Rutherford was the daughter of Northern Australian pastoralists and, like another pro-indigenous activist, Mary Bennett, drew upon that experience in formulating her political stance.<sup>26</sup> They were joined by humanitarian and mission organisation representatives, J.C. Genders (Aborigines Protection League), J.S. Needham (Australian Board of Missions), Queensland Chief Protector of Aborigines, J.W. Bleakley, and W. Morley (Association for the Amelioration of the Australian Aborigines), as well as officials such as Western Australian Chief Protector A.O. Neville. Each gave testimony calling for Aboriginal welfare and administration to be placed under Commonwealth jurisdiction. With others, the women witnesses argued that, if the status of Aborigines were defined as a Commonwealth matter (the federal government was excluded from making laws with regard to Aborigines under section 26 of the Constitution), federal responsibility for Aboriginal conditions would become clear. Their collective desire to instigate national responsibility through constitutional reform thus led them to challenge the Constitution of Australia, as it had been conceived by the 'founding fathers' in the late 1890s. In questioning the appropriateness of state responsibility for Aborigines and for social legislation, they also implicitly challenged state powers to legislate on land, education and health (key areas in their welfare agenda for Aboriginal people) and the lack of funding by the Commonwealth for state services.

The evidence of the humanitarian lobbyists pointed to a recognition among pro-Aboriginal groups that the nation owed a debt of reparation to Aboriginal people, and spoke of an emerging national consciousness, especially with regard to expectations concerning the nation and 'its' Aboriginal people. Against those supporting the status quo, who constituted Aboriginal people as the property of the states, women activists homogenised the Aboriginal population as a national responsibility. This question of responsibility had implications for Australia's international reputation. Federal responsibility would offer the opportunity to modernise Aboriginal policy (although it would be argued against this that federal administration of Aborigines in the Northern Territory was archaic), and also to elevate the Aboriginal question into the realms of national and therefore international affairs. They and other pro-Aboriginal reformers giving evidence expressed concern that Australian policy would be found dishonourable and

<sup>26</sup> Bennett wrote a biographical account of her pastoralist father, *Christison of Lammermoor*, in 1927. See Alison Holland, 'Feminism, Colonialism and Aboriginal Workers: An Anti-Slavery Crusade', in McGrath and Saunders with Huggins (eds), *op. cit.*, pp. 52-64.

Australia as a nation found backward by the world, the humane administration of native peoples figuring as a test of national maturity. Australia, it was argued, should show leadership to other dominions administering indigenous populations. Women's organisations, committed to promoting a new national identity, saw Aboriginal policy as precisely the sort of issue that transcended the parochial interests of the states and the Northern Territory, a process in which they were destined to play a leading role.

The Women's Service Guilds had lobbied for federal responsibility for women's and Aborigines' rights since its inception in 1921. Both were national and international issues; the Guilds considered 'local' interests inimical to Aboriginal and women's welfare. From Federation, however, the separation of state and Commonwealth powers had been formalised under the 1901 Commonwealth Constitution to protect states' rights over land and resources and to give to state governments responsibility for the health, education and welfare of their populations. This preservation and elaboration of state powers was a formidable barrier to the 'honourable national policy' on Aborigines foreshadowed by Rischbieth and other women activists. Their task was complicated by the difficulty of effecting constitutional change. In her evidence to the royal commission, Rischbieth supported the representative of the Anti-Slavery and Aborigines Protection Society, Canon C.E.C. Lefroy, that a referendum on the issue of 'handing over the Aborigines to the Commonwealth' should be presented to 'our young nation' 'fairly and squarely'.<sup>27</sup>

For women witnesses who represented activist organisations, an important issue was their own power as women citizens to effect change in the Australian political structure. State women's organisations linked together under the AFWV and National Council of Women, and speaking on behalf of extensive memberships around Australia, emphasised that the breadth of their constituencies distinguished them from other specifically pro-Aboriginal reform groups also present. Only three women witnesses, Jones, Waterworth and Rutherford, specifically urged the federalisation of Aboriginal policy and administration. Rischbieth focused on uniform marriage and nationality laws instead of the Aboriginal rights question, perhaps reflecting her greater concern for white women's conditions within the British Commonwealth at this time or the likelihood that activist women agreed to divide their labours as witnesses. However, they each emphasised the importance of federal legislation to the lives of women in general. In her account of the Royal Commission on the Constitution almost forty years later, Rischbieth wrote:

We requested that a Clause be introduced to include equal rights of citizenship as an established principle and the elimination of sex discrimination in our laws, both Federal and State This was necessary, we stated, to ensure that the growth of the Australian social fabric may proceed in accordance with these principles.<sup>28</sup>

<sup>27</sup> *Report of the Royal Commission on the Constitution together with Appendices and Index, Minutes of Evidence*, vols. I and II, Government Printer, Melbourne, 1929 (hereafter *MERCC*), p. 479.

<sup>28</sup> *Ibid.*, p. 332.

'Federalisation', in the view of these women activists, marked a new and progressive stage in Australian political and national development—one in which the women of Australia were to be fully involved. During the royal commission, Rischbieth and several representatives of the National Council of Women and the Queensland Electoral Lobby demanded universal marriage and divorce laws that would uphold women's rights as citizens. They found the Constitution to be uniquely able to encompass national rights for women; Rischbieth commended the potential of the Constitution to incorporate 'the principle of equality between the sexes in all social measures'.<sup>29</sup> In her evidence, Jones argued that national government was properly responsible for 'moral legislation', including marriage, divorce, naturalisation, film censorship, protection of Aborigines and national tertiary education.<sup>30</sup> Using domestic terminology to reinforce the relevance of national and international law to many aspects of social and family life in Australia and the part of women in their promotion, Jones claimed that the nation had to '[put] her house in order' while taking into account the 'trend of events in England and other parts of the Empire'.<sup>31</sup> 'Order', for both Jones and Rischbieth, would be achieved by co-ordinating all Australian legislation relating to the status of women, and by ensuring that it did not conflict with laws in Britain and the other dominions affecting the position of women, who were travelling in greater 'intimate social relationship' between British nations and to the 'Homeland'.<sup>32</sup>

Rischbieth also pointed to the growing sense of 'national sovereignty' within Australia, which, she argued, should be expressed in all matters of 'national significance' including social laws. The widening of federal powers by amending the Constitution would be 'compatible with local government' in Australia ('local' referring to Australia's dominion status within the British Commonwealth) but would also promote a 'greater sense of national unity ... in accordance with the hopes and desires of the people'.<sup>33</sup> This responsiveness to public trends as identified by Rischbieth could only be effected by regular amendment, thereby also rendering the Constitution accessible to lobbying by such national representative bodies as the AFWV.

Within this federalist, nationalist and internationalist agenda, Aboriginal rights figured as an important political focus. Jones began her evidence by calling for federal funding of missions, where, she knew '[f]rom personal experience in North Australia', Aborigines could 'without exploitation ... become a useful factor in the national life'.<sup>34</sup> Jones asserted that Aborigines were 'a vital non-party question'. Thus a singular Commonwealth government would be better able to appoint authorities to look after their interests, particularly those of Aboriginal women, than the divided jurisdiction of state authorities. She emphasised the concern of white women for the Aboriginal woman insufficiently protected from

<sup>29</sup> *Ibid.*, p. 553.

<sup>30</sup> *Ibid.*, p. 334.

<sup>31</sup> *Ibid.*, p. 333.

<sup>32</sup> *Ibid.*, p. 335.

<sup>33</sup> *Ibid.*, p. 552.

<sup>34</sup> *Ibid.*, p. 334.

white men by state and Territory legislation: 'There are women in Australia who think that aboriginal women should receive as much protection and care as is expected by white women'.<sup>35</sup> The comparison underlined the level of exploitation experienced by Aboriginal women but also demonstrated white women's organisations' application of the notion of 'protection' to endorse their own role in 'protecting' other women. Thus Jones advocated that white women protectors should be appointed by the Commonwealth, specifically to patrol the Trans-Australia Railway currently under construction—a focus of anxiety for those concerned about race contact.

Edith Waterworth (Women's Non-Party League of Tasmania) also called for a national policy for Aborigines. She voiced the commonly held view that the extinction of the Tasmanian Aborigines was one outcome of white settlement that would be replicated elsewhere unless the Aboriginal population was protected through segregation under federal legislation. They were owed federal care as the original owners of the land:

as they were in possession of the land when we came here so it is the Federal Government's duty to take care of them. They should be isolated and kept from all white people except those who are qualified to go amongst them.<sup>36</sup>

Those qualified included women like Waterworth.

Clara Rutherford (National Council of Women), whose 'own people' were pastoralists in the Murchison district, explained that federal responsibility for natives was a matter of the proper 'care' of natives, as distinct from their 'control'. This 'care' would entail training towards self-support, better funding and administration, and a new 'experimental' approach towards far northern Aborigines, whose numbers, she asserted, were significantly larger than commonly believed. In particular, Commonwealth jurisdiction could better provide 'protection' to 'our half-caste and aboriginal girls' up to eighteen years of age by strengthening existing laws against prostitution and 'general interference'. 'Local prejudice' and 'local influence' would disappear under 'the Federal atmosphere', especially if native courts were instituted and educational facilities provided.<sup>37</sup>

White male-dominated reform groups also presented evidence in support of federalising Aborigines. Of these, only J.C. Genders (Aborigines Protection League) did not support Commonwealth control, although he did advocate greater cooperation between state and federal governments. His minimalist position reflected a pessimistic view of the greatest obstacle to the federalisation of Aboriginal policy—the assertion of states' rights, including the state control of land in federated Australia. He argued that it would be too difficult and time-consuming to amend the Commonwealth Constitution, requiring a lengthy referendum, by which time 'all the full-blooded blacks would be dead'.<sup>38</sup> Genders spoke at length

<sup>35</sup> *Ibid.*

<sup>36</sup> *Ibid.*, p. 918.

<sup>37</sup> *Ibid.*, p. 626.

<sup>38</sup> *Ibid.*, p. 1,024.

of his alternative plan for the development of self-governing, large-scale Aboriginal communities on reserves, for fewer government regulations and for the encouragement of 'independence'. Under the 'whip hand' of enhanced federal involvement in Aboriginal affairs, separate state reserves for 'full-bloods' and 'half-castes' would be created and maintained co-operatively throughout Australia.<sup>39</sup>

Other witnesses were more optimistic about the possibility of amending the Constitution. The Reverend W. Morley (Association for the Protection of Native Races) called for an amendment that would give 'supreme control' of Aborigines to the federal government. He stated that his organisation had pursued the "'Federalising" of the aborigines' since 1911 (the advent of federal government jurisdiction in the Northern Territory). A more systematic approach might attend to the suffering of Aborigines exacerbated by the variety of existing authorities; such a national approach was in accordance with 'national honour' and would influence 'national character' positively. Aborigines would play a significant role in achieving modern nationhood as the north of Australia could only be developed with the full use of the 'native inhabitants'.<sup>40</sup> But sexual and economic exploitation were two main obstacles to the 'uplift' of Aborigines. Current state-based legislation discouraged the co-ordination of laws on 'cohabitation' and labour and wages—an extremely 'absurd' and 'highly unjust' situation resulting in geographical disparity in the treatment of Aborigines. They combined particularly destructively in the lives of Aboriginal women. Morley anticipated that Commonwealth control would end the worst forms of exploitative work practices, epitomised in the treatment of Aboriginal women domestic servants: 'a system which permits a householder to obtain a native servant by merely paying 5s per annum for a permit, approximates so closely to a condition of household slavery as to be scarcely distinguished therefrom'.<sup>41</sup> His description of the quasislavery of domestic servants echoed the concerns of British Commonwealth League delegates during the 1920s and 1930s regarding the domestic service of native women throughout the British Commonwealth—in Hong Kong and South Africa, as well as Australia. His recommendation for an inquiry into the child removal methods of government mission stations was also closely attuned to the ideas of many women activists.

According to the Reverend J.S. Needham (Australian Board of Missions), federal responsibility was necessary because Aborigines were 'alien' in religion and customs to white Australians and should be officially categorised under

<sup>39</sup> *Ibid.*, pp. 1,023–4. Both Mary Bennett and Constance Cooke were members of Genders' Aborigines Protection League during the late 1920s, and supported his call for a Model Aboriginal State. However, throughout these years, the question of land allocation and its implications for state interests, including those of pastoralists, remained a contentious issue for women's organisations (as it was elsewhere). At the Australian Federation of Women Voters' second triennial conference in 1931, opposition to a proposal from South Australia in support of an Aboriginal Model State caused disagreement between members and no resolution on land was passed. Bennett warned Rischbieth that such resistance to land reform reflected the pastoralist background of some women activists. Bennett to Rischbieth, 19 December 1931. Bessie Rischbieth Papers, MS 2004/12/22, National Library of Australia (hereafter Rischbieth Papers).

<sup>40</sup> *MERCC*, p. 1,599.

<sup>41</sup> *Ibid.*, p. 1,600.

federal immigration legislation. He considered that ‘unified control’ was urgently required as the Aborigines were ‘in danger of passing away’—a unified government policy would facilitate a unified missionary policy, the involvement of missions being essential to ‘saving the blacks’.<sup>42</sup> On mission reserves, Aborigines would be ‘civilised’ towards ‘gradually making them fit to take their place’, whilst being segregated from the dangers of white society such as a high death rate due to starvation, disease and ill-treatment, and a high rate of pregnancy among Aboriginal servant girls.<sup>43</sup> These views paralleled those of women’s organisations in their support for missions such as the Western Australian Margaret River United Aborigines Mission, home of activist Mary Montgomery Bennett.

In Needham’s opinion, little co-ordination existed between state and federal authorities in charge of Aborigines. Worse, parochial interests in the states (‘wire pullers’) adversely influenced Aboriginal policies, resulting in the exploitation of Aborigines as cheap labour, infringement of reserves, unjust trials and biased judges, and poor quality protectors (especially police) swayed by local issues.<sup>44</sup> Instead, an ‘Aboriginal Civil Service’ should be developed employing trained men (and eventually Aborigines) in the same way that the national government was engaging personnel to administer its mandate in Papua. These men (he made no mention of women) would constitute a ‘general native staff for all child races within the dominions or within the care of the Commonwealth’.<sup>45</sup> Mirroring AFWV policy, Needham asserted that the welfare of Aborigines was a duty owed to them by white Australians and a question of national reputation:

The national honour of Australia is involved before the world in the question of justice and mercy to the aborigines and the National Government is the proper guardian of the national honour in this regard, and should be able to speak before the nations of the world with authority and clarity on aborigines’ treatment.<sup>46</sup>

Of the chief protectors who gave evidence to the inquiry, Neville appeared closest to the position of the women’s groups in his support for Commonwealth responsibility. Neville described, on the one hand, the deleterious effects of the limitation on funds available to him and, on the other, the possibilities for ‘salvation of the remnants of the aboriginal race’ by national control, such as existed in South Africa, New Zealand and Kenya, which had all adopted national native policies.<sup>47</sup> Neville was an advocate of biological absorption and, as such, was concerned to develop a policy that would facilitate the eugenic management of Aboriginal castes or blood groups. In his experience, he said, Australian state

<sup>42</sup> *Ibid.*, p. 1,124.

<sup>43</sup> *Ibid.*, p. 1,127.

<sup>44</sup> *Ibid.*, p. 1,124–5.

<sup>45</sup> *Ibid.*, p. 1,125.

<sup>46</sup> *Ibid.*

<sup>47</sup> By the late 1930s, Neville had hardened his comparative argument and, along with his federal counterpart, the Chief Protector in the Northern Territory, Cecil Cook, asserted that the race problem might explode in Australia as it had done in South Africa and the USA. Aboriginal Welfare: Report of Initial Conference of Commonwealth and State Aboriginal Authorities, Canberra, 21–23 March, 1937, pp. 11 and 35, AA 571, 37/2750, Australian Archives, Canberra.

and federal Aboriginal legislation had not kept up with the changing make-up of the native population due to the prevalence of miscegenation. Moreover, the increasing numbers of 'half-caste' children were not adequately ministered to and most were left uneducated by the states despite the successes apparent where educational opportunities were available. Coupled with this, Neville argued, the lack of wages for Aboriginal workers in Western Australia was the source of 'all sorts of evil consequences' and 'fruitful causes of trouble between white and black'. It was his hope that a national system would 'equalise' wages and conditions with those existing under Queensland legislation, where Aboriginal wages were fixed by the Arbitration Court (and not by local pastoralists).<sup>48</sup>

During the proceedings of the commission, it became evident that the poor record of federal governments in the Northern Territory was problematic for the argument of the pro-federal responsibility lobby. In his evidence, Neville selected the Queensland administration as the most worthy model for future federal policy-makers, with Western Australia next best and the Northern Territory last. An improved federal approach to Aboriginal administration would require a national determination under international surveillance:

If we are going to save this race we must lose no time in improving our methods, and adopting new ones, giving more time and thought to the matter as a nation deemed capable in the eyes of the world of caring for its section of the indigenous races within its bounds, and to remove the reproach of the past.<sup>49</sup>

The evidence given by Neville, Morley and Needham is strikingly similar in tone and intent to that provided by the AFWV and British Commonwealth League. Each advocated a new racial morality in Australia inspired by national and international self-awareness. The need for dealing with an Aboriginal population that was to have a future within white Australia meant reforms to labour, health, welfare, family and community legislation. However, there were a number of crucial differences between the men's and the women's arguments. Women activists were fighting for: the involvement of women in advising governments, especially regarding social and moral laws affecting white and Aboriginal women; wide-ranging reforms through amendment to the Constitution, covering all aspects of moral reform; and the recognition of a large and important constituency, the 'women of Australia', as a politically active entity whose rights had not been sufficiently acknowledged by Australian federal governments. This difference in outlook informed their advocacy of Aboriginal women's protection. Whereas Morley's concern for Aboriginal domestics as 'household slaves' may be read as an echo of previous abolitionist and ameliorative campaigns against institutionalised slave labour, the reading of 'slavery' promoted by the Australian Federation of Women Voters and the British Commonwealth League involved an analysis of the specificities of black women's oppression, focusing on the violation of their bodies as well as the exploitation of their labour.

<sup>48</sup> *MERCC*, p. 489–91.

<sup>49</sup> *Ibid.*, p. 490.

These witnesses aimed to rid the Australian Constitution of the limitations that excluded Aboriginal people from membership in the nation. But the transcripts of evidence show that theirs was the minority view and that different concerns preoccupied the majority of the commissioners whose questions reiterated common conceptions of Aboriginal racial inferiority and mobilised a social Darwinist model of protection premised upon hierarchies of fitness. Commissioner Ashworth queried the 'fitness' of Aborigines, once civilised, to '[take] their chances' within 'our general population'.<sup>50</sup> Reflecting the interest of contemporary anthropology in Aboriginal adaptability, Commissioner Colebatch asked for a measurement of the potential of Aborigines as workers and thinkers—were they comparable, for example, with the South African native?<sup>51</sup> Were they intelligent or merely imitators, and did the 'contaminated' half-castes inherit the 'vices' of both races?<sup>52</sup> Several of the commissioners suggested that the amelioration of Aboriginal conditions might be problematic for Australians in the long run, voicing their concern that large numbers of Aborigines could lead to 'race problems' such as existed in America as a result of the ex-slave population. Dismissing this comparison, profederalist Lefroy pointedly countered, '[w]e did not introduce the Aborigines. They were already here'.<sup>53</sup>

In terms of legal reform, the majority of the commissioners resisted proposals to amend the Constitution to facilitate a national Aboriginal policy. Their questions reveal that they considered existing state co-operation with the federal government regarding funding, and the flow of expertise and advice between states to be sufficient and effective. Further, they argued that the poor record of the Northern Territory in its administration of the indigenous population was not a good indicator of the likelihood of improved conditions for Aborigines if responsibility for them were assigned to the national legislature; they also expressed a belief that local differences between Aborigines would preclude the application of a uniform national policy. They capitalised on a growing awareness, based on anthropological fieldwork, of the variety of Aboriginal cultural, language and identity groups, for conservative ends.

In their report, submitted after two years of gathering evidence around Australia, the royal commission finally rejected proposals to amend the Constitution as it related to Aborigines. There were, however, divisions on the issue. The majority report put forward by Peden, Bowden, Colebatch and Abbott concluded that while 'a great number of witnesses' had called for increased funding for Aborigines, whether through a national policy or from within existing state-based administrations, this humanitarian concern did not necessitate taking the drastic step of changing the constitutional relationship between the Commonwealth and

<sup>50</sup> *Ibid.*, p. 1,129.

<sup>51</sup> *Ibid.*, p. 480. In 1928, the Chief Protector of Queensland concluded that authorities had a moral duty to train those of part-white descent towards their inclusion in white society. 'The Aborigines and Half-Castes of Central Australia and North Australia: Report by J.W. Bleakley, 1928', *Commonwealth Parliamentary Papers*, 1929, vol. II, no. 21, p. 40.

<sup>52</sup> *MERCC*, p. 492.

<sup>53</sup> *Ibid.*, p. 1,024.

states, as it pertained to Aborigines, to intervene in issues relating to Aboriginal rights. They reaffirmed that the Commonwealth had no powers to make laws regarding Aborigines, although they endorsed a Commonwealth advisory committee of government authorities, citizens and employers to liaise with state authorities on the co-ordination of wages and employment. Overall, the majority determined that local police and authorities were 'better qualified' to deal with the Aborigines in their own states (noting also that some witnesses opposed the appointment of police as protectors) and agreed that, in this respect, the Queensland government was once again the best and the federal government the worst administrator of the Aborigines in the Commonwealth. The poor record in the Northern Territory militated against increasing Commonwealth control.<sup>54</sup>

In reaching these conclusions, the majority resolutely overlooked evidence presented to them concerning the inability of state authorities to deal with local issues such as judicial bias during state-based Aboriginal trials or pastoralists' control over wages of Aborigines working in Western Australia. Rather, the majority of the commissioners sided with E. Steere (Pastoralists' Association), who had advised them during his evidence that the states 'should look after their own natives'. Steere espoused a segregationist view; he considered that 'State people know the natives, their haunts, and where they are happiest. If you bring them in and try to clothe them in a crowd, they die at once'.<sup>55</sup> Even though Commissioner Bowden voiced concern that international interest in Aboriginal conditions argued for Commonwealth control, Steere was not impressed: '[I]t is pretty hard to know what to do for the best with regard to the natives. I take it that the chief object is to keep as many alive as possible, and to stop them from dying out'.<sup>56</sup> Against federalisation, he argued that local policy and administration were best placed to improve Aboriginal conditions. If one state government 'evolved' some better method of administration, the other states would not be 'so stupid as not to follow the lead'.<sup>57</sup> The obvious contradiction between Steere's confidence in administrators' inherent rationality and the existing discrepancies between the status and conditions of Aboriginal people living under contemporary state administrations was not taken up by the commissioners in their majority report.

In contrast, the minority report presented by Commissioners Ashworth, Duffy and McNamara reflected many of the reform aims promoted by witnesses from humanitarian, missionary and women's organisations. It criticised the current lack of communication between state administrations and the unequal treatment of Aboriginal people living within their borders, calling instead for a uniform policy regarding the regulation of wages, employment and miscegenation. A national policy concerning these issues would engender a new national status for Aborigines as subjects of the Commonwealth. They also argued that, as Aborigines

<sup>54</sup> 'Report of the Royal Commission on the Constitution together with Appendices and Index', *Commonwealth Parliamentary Papers*, 1929–30–31, vol. II, no. 16, (hereafter RCC), pp. 219–20.

<sup>55</sup> *MERCC*, p. 590.

<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid.*

knew nothing of political boundaries, they should therefore be governed by one authority.

From the international viewpoint, they noted that, as 'the reputation of Australia may be greatly affected by the treatment of aborigines', 'the responsibility should rest with national government'. An expert Commonwealth administration should be responsible for both the mandate of Papua and the Aborigines, bringing a similar League of Nations scrutiny to bear upon Aboriginal administration. While both majority and minority reports represented Aborigines as exploitable 'assets' (in the majority report, along with flora, fauna and fisheries), there were fundamental differences between the two reports about the place of Aboriginal people within the white Australian nation. The majority group recommended no change to the status quo (despite, as they acknowledged, the powerful argument that Australia's international reputation was involved), concluding that the states with their local knowledge were better equipped for the 'control' of Aborigines. In the view of the minority, the issue was one of national duty to 'care', and they asserted the 'responsibility of the nation as a whole to care for the aboriginal native races of the country'. The continued emphasis on control in the majority report endorsed the existing daily practices of the states and the federal government (in the Northern Territory) in the containment, utilisation, discipline and supervision of Aboriginal people, who were excluded from a legal identity within the Commonwealth on the grounds of their alleged incapacity.<sup>58</sup> Caring as a principle of democratic inclusiveness was considered inappropriate to the Aboriginal situation.

The commissioners' conclusions held particular implications for women giving evidence in support of widening their own and others' rights and conditions of membership in the national community. Throughout their evidence, the women proponents of federal responsibility promoted the idea of a caring and moral Commonwealth as a feminist project. Both Jones and Waterworth spoke of the imperative to better care for Aborigines as part of the reconsideration of a national history that had failed to recognise the pre-existing Aboriginal ownership of Australia. The inauguration of such a Commonwealth would stand as perhaps the most significant example of enfranchised white women's influence upon national affairs. This reconceptualisation of the nation was rejected by the majority endorsement of masculinist representations of the 'realities' of frontier Aboriginal administration in the states. As a southern-based woman activist, Clara Rutherford (National Council of Women) was called upon to prove that she had been north, and interrogated as to how long. Such definitions of 'real' knowledge would shape the treatment of white women activist witnesses during this and following enquiries, one response to the rise of women experts in the field. The denigration of women's testimony was underlined by its omission from the summation of evidence. Counsel Nicholas referred only to the evidence of missionaries and missionary groups for federal control or (diluting their argument) for improved state administration. At the end of his summation, Commissioner Colebatch

<sup>58</sup> RCC, pp. 219–20.

remonstrated: 'There were a number of women's organisations represented also?' With one dismissive statement, Nicholas replied: 'Yes. The women's organisations generally'.<sup>59</sup> There his summation ended.

Overall, reforms to the Constitution promoted by pro-indigenous and women witnesses in the late 1920s were unsuccessful. Rischbieth's call for a 'women's equality clause' did not eventuate. Nor did the commission fully endorse reciprocal marriage and divorce legislation within the British Commonwealth, although it recommended federal government co-operation with the states in formulating Australian marriage law. The proposal that a national response to the 'Aboriginal question' be encouraged by the removal of section 51 from the Constitution was rejected.<sup>60</sup> Nevertheless, the determination to challenge the moral constitution of the Commonwealth remained. Writing to Rischbieth in 1932, missionary teacher and activist Mary Montgomery Bennett declared optimistically: 'I have thought so much about what you told me about the Federal Constitution being in the melting pot, and the necessity for a national scheme for our natives. Isn't it wonderful how things are marching on ... ?'<sup>61</sup>

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<sup>59</sup> *MERCC*, p. 626.

<sup>60</sup> An increase in federal powers to intervene in Aboriginal affairs did not eventuate until the early 1940s. Chesterman and Galligan, *op. cit.*, pp. 153–4.

<sup>61</sup> Bennett to Rischbieth, 9 April 1932. Rischbieth Papers, MS 2004/12/378.