for Yarra was there. It is for the honorable member for Yarra to say whether or not he spoke, whether or not Gibson spoke, whether or not they were on the same platform and whether or not, as the Leader of the Opposition suggests, Gibson was on the floor of the room in which the meeting was held. The honorable member for Yarra is very concerned about this, as well he might be, but the fact is that the report was made on 11th March, the meeting was held on 6th March, and there has been no denial by the honorable member for Yarra at any time, even now, that he was there as I have stated.

CONSTITUTION ALTERATION (ABORIGINES) BILL 1964.

Bill presented by **Mr. Calwell,** and read a first time.

Second Reading.

Mr. CALWELL (Melbourne—Leader of the Opposition) [11.16].—I move—

That the bill be now read a second time.

The purpose of this bill is to submit to the people at a referendum a proposal to alter two sections of the Constitution of the Commonwealth. It is proposed to remove from section 51, placitum (xxvi), the prohibition on the Commonwealth's legislating for the people of the aboriginal race in any State. It is proposed to delete section 127 of the Constitution of the Commonwealth, which provides—

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.

Articulate and sophisticated aborigines have come to regard these sections as being discriminatory against them. It is therefore important to look at the origins of these sections of the Constitution and the history of their application, and also at the intentions of the founding fathers as revealed in the reports of debates of the convention at which attempts were made to draft a Commonwealth constitution. Section 51, placitum (xxvi), now reads—

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 race in any State, for whom it is deemed necessary to make special laws.

The original form of this section in the draft bill of 1891, as considered during the convention debates of that year in Sydney and in Adelaide, read somewhat differently. Among the exclusive powers of the proposed federal parliament it was suggested that there should be a power to legislate for—

The affairs of the people of any race with respect to whom it is deemed necessary to make special laws not applicable to the general community; but so that this power shall not extend to authorise legislation with respect to the affairs of the aboriginal native race in Australia and the Maori race in New Zealand.

There was a representative from New Zealand at that convention. It was thought at the time that New Zealand might join the proposed federation.

The main interest of the convention of 1891 was not directed at the prohibition against the Commonwealth to legislate for aborigines, and, assuming that New Zealand would join the federation, at any prohibition against the Commonwealth's passing legislation for Maoris. The main interest of the convention of 1891 was directed at the power of the Commonwealth to legislate for the people of any race. This was distinct from the immigration power. It was motivated by the desire to end the scandal of what was virtually a form of slavery—the abduction of Pacific islands natives to work on the Queensland sugar plantations. Sir Samuel Griffith was the moving spirit in the framing of the section. In Queensland politics he had fought the Queensland Government on the question of blackbirding which was politely referred to as the recruiting of labour in the Pacific islands. He was determined to use the proposed federal parliament as a means of coercing the Parliament of Queensland into ending a scandal, as he had never succeeded in persuading the Parliament of Queensland from within it.

He had developed widespread support for labour reasons, for imperial reasons and for international reasons. Working men disliked the depressing effect that the presence of Pacific islands labour had on labour conditions. The British Admiralty constantly remonstrated with the British Colonial Office, urging that pressure should be brought to bear on Queensland in the matter of recruitment of Pacific islands labour. The career of a naval officer in the late 19th century was largely connected with the suppression of slavery and the

commander of the British Pacific Squadron regarded blackbirding as slavery as, indeed, it was. Moreover, when the labour recruiters abducted natives from German New Guinea, stirring up a hatred of white men that expressed itself in attacks on German planters, Bismarck sent a stinging protest to the British Foreign Secretary who, in turn, put pressure on the British Colonial Office to have the traffic stopped.

The references to aborigines and Maoris in the proposed section of the constitution were almost overlooked. The power to repatriate the Pacific islands peoples was a temptation to some to suggest the deportation of aborigines because at that time it was suggested that we might send all the aborigines in Australia to New Guinea. It was also a temptation to others to exercise general Draconic powers over coloured peoples. No convention delegates had expressed any such views but convention delegates were affected by foolish statements from outside the convention and felt the need for safeguards.

Sir George Grey, the New Zealand delegate, had had a noteworthy career in protecting the rights of Maoris in New Zealand, especially land rights. I think I made reference to this matter in a debate earlier this year when it was proposed that some Australians might buy land in New Zealand for about a farthing an acre. Sir George Gray had been Governor of South Australia and he knew Australian conditions. Without a doubt he wanted Maori affairs reserved for New Zealand. Some other delegates, such as Sir John Forrest, envisaged the Commonwealth pushing aborigines around, and he was opposed to the Commonwealth having any powers resting upon considerations of colour or race. As the section was primarily aimed at the scandal of Pacific islands labour recruitment, the references to aborigines and Maoris were entirely protective and designed to ensure that they were outside the scope of legislation designed to deal with the presence of an abducted alien group living in depressed labour conditions. The whole section began to be misinterpreted by successive Commonwealth governments after the establishment of federation and after it was adopted in its present form.

We have seen how, after nearly 50 years in which the section had been interpreted so as to deprive aborigines of age pensions and other more lately introduced social service benefits, the Commonwealth reversed its attitude and decided to grant those benefits. I think it was some time during the days of the Chifley Government that the first alterations were made; but it was a long time after federation before anything was done to give the aboriginal people the social service benefits that other Australians enjoy. To-day, we do regard the aboriginal as an Australian citizen, and any argument about his race is entirely irrelevant. We do not mention Scottish, Irish, Welsh, English or German descent in the Constitution, and aboriginal descent should not be singled out for comment, either. The words "other than the aboriginal race in any State" should, therefore, be deleted from the Constitution. These words are regarded by many aborigines as an insult, and, as they see the meaning of the words, they are entitled to their views. I am sorry that they have to feel the hurt that the words convey to them. These words have been interpreted so as to deprive aborigines of benefits, and these considerations, therefore, in the view of the Opposition, justify the proposal that the words should go from the Constitution.

I come now to the second matter contained in the bill. Section 127 of the Constitution reads today almost as it was proposed by Sir Samuel Griffith at the convention of 1891 in Sydney. His wording was—

> In reckoning the number of the people of a State or other part of the Commonwealth, aboriginal natives of Australia shall not be counted.

At the 1897 convention in Adelaide, this proposal was again adopted, with the deletion of the words, "of Australia". This amended form is the present Section 127 of our fundamental document—our Constitution—which protects our rights and our liberties and also imposes obligations on us. Those obligations are borne by the aborigines, but the aborigines do not share the rights. We desire that they shall be given equal rights in all matters with all other Australian citizens, whether born here or naturalized here.

Dr. Cockburn of the South Australian delegation feared that the section would prevent aborigines on the South Australian electoral rolls from voting in Commonwealth elections once the Commonwealth was established, but he was assured that the

existing rights of aborigines would be protected; in other words, that they would not be affected. At that time, aboriginal natives in South Australia were entitled to be enrolled. They lost that right subsequently, so far as the Commonwealth was concerned. A curious anomaly was allowed to exist. The Legislative Councils of New South Wales and Tasmania sought to insert the words, "and aliens not naturalized" in the section. This was rejected. An anomaly was not merely allowed to exist but indeed was emphasized, because whereas aliens are to-day counted when population is determined for the purpose of allocating parliamentary seats to the States, enfranchised aborigines are not counted.

The conventions of 1891 and 1897 were confronted with the fact that in no State was the enumeration of aborigines complete. The Queensland delegates simply provided to the conventions repetitions of an 1881 guess. They had no data, they had no basis for obtaining data; they just thought that they knew how many aborigines there were in Queensland, and that is what they told the convention. In South Australia, which then had the Territory we now call the Northern Territory as part of its State, the counting was spasmodic. Western Australia counted only aborigines in contact with Europeans, and there were many nomad aborigines, many myall aborigines in those days, who were never in contact with Europeans. I use the term "Europeans" as indicating the ethnic origin of the Australian people. They were really mostly Australians in Western Australia about that time. Under those circumstances, the aborigines were excluded from the census because a census was regarded as impossible. That was the only reason for excluding them. Today, a census is possible and the section can only be construed as meaning that aborigines do not count as people of the Commonwealth. This is completely unjustified and grossly unfair. It is intolerable, and must not continue. I emphasize that all aborigines have voting rights to-day, so the deletion of section 127 is obviously long over-due as it no longer serves a purpose and can only be read as an insult.

That is the case which I put to the House on behalf of the Opposition for the holding of a referendum to make amendments to sections 51 and 127 of the Constitution, but I have one or two other observations to make. Many petitions have been presented to this House over recent months and over the lifetime of the last Parliament. Indeed, quite a number of petitions dealing with both these matters were presented to this Parliament to-day, and they came from members on both sides of the House. The presentation of each petition has not been just a formality. I am sure every honorable member who has presented a petition on either question sincerely hopes that a referendum will be held to make the desired alterations to our Constitution.

Not only do we inside this country who have done nothing to effect alterations to the Constitution feel guilty and feel that we should apologize to the aborigines for the treatment they have received from the Commonwealth over 60 years in the deprivation of their rights, but we cannot divorce ourselves from the international scene to-day. While ever these sections of the Constitution remain, we are vulnerable in the United Nations Organization, for it will be said against us, and quite truly, that we are discriminating against the aboriginal inhabitants of this country, that we are discriminating against the old Australians, against the people who are descendants of those who came here from wherever they came. Anthropologists and scientists have never been able to tell us the origin of the aboriginal people. All we know is that they have been here for thousands of years. We took this country from them and they have been badly treated for many generations in all States of the Commonwealth. That is on our consciences, too.

Because of the social service benefits which the Commonwealth is now paying to aborigines, because of the treatment they are getting at the hands of the Commonwealth and State authorities, the aboriginal population is growing again. It was estimated the other day by the distinguished anthropologist, Dr. Stanner, that in two generations Australia will have 300,000 aborigines, which is about the number that occupied the country when Captain Cook landed at Botany Bay in 1770. That makes the problem all the more acute. The aborigines are not a dying race; they are not being absorbed, or assimilated, however you like to describe it, and there are many educated and sophisticated aborigines who want to

see their race preserved intact, who do not want it absorbed by the majority of Australians. I think the case is very convincing and I hope the Government will take action.

If the Government does hold a referendum on this question, I hope that at the same time it will hold a referendum on the question of the Commonwealth legislative machinery, particularly those sections of the Constitution, of which section 24 is the principal one, which deal with the number of senators and members of the House of Representatives and the relationship between the Houses. I guarantee on behalf of the Opposition that we will support both referendums, and I think it is highly desirable that they should be held. If we do not do something about the matter it will not be very long before members of the Senate or House of Representatives are representing 55,000 or 60,000 electors, and that is not democratic.

I commend the bill to the House. I hope the Government will not block its passage, and I hope that in due course, perhaps at the time of the Senate election, we will have a referendum on the two sections of the Constitution that this bill covers and on those other sections to which I have made passing reference.

Mr. SPEAKER.—Is there a seconder?

Mr. Whitlam.—I second the motion and reserve my right to speak to it.

Mr. Snedden.—I suggest that it may suit the convenience of the House to continue the second-reading debate on this bill forthwith.

Mr. SPEAKER.—There being no objection, the debate will continue.

Mr. SNEDDEN (Bruce — Attorney-General) [11.36].—The bill which is before the House introduces material on which there is much common ground, but the Government cannot accept the bill for reasons which I propose to point out to the House. I believe all parties and all honorable members in the House feel that there should be no discrimination against aboriginal natives of Australia. The Government's policy has revealed an anxiety to do everything possible to assimilate the position of the aboriginal natives to the rest of the Australian community. I stress the word "position" here and repeat that the Government has been anxious to assimilate the position of the aboriginal natives to the position of other members of the community.

Mr. Beazley.—Not a biological assimilation?

Mr. SNEDDEN.—Well, this may or may not happen. The essence is to have their position assimilated to the position of other members of the community.

Mr. Beazley.—It is not your policy to have biological assimilation but to have a status assimilation?

Mr. SNEDDEN.—That is right. Whether the other follows is for history to determine. An inter-departmental committee has for some time been examining the Commonwealth statute-book. That committee has had the task of seeing what provisions remain in Commonwealth statutes that might be thought to discriminate against aboriginal natives.

Now I come to the two parts of the bill. One relates to section 127 of the Constitution and the other relates to placitum (xxvi.) of section 51. Section 127, I believe, is an anachronism which survives from the early days of federation. The framers of the Constitution put in section 127 for specific reasons which no longer exist. In introducing the bill the Leader of the Opposition (Mr. Calwell) pointed out that at that time there was difficulty about census taking. I have no doubt that that is why section 127 found its way into the Constitution. However, that position does not apply to-day. At that time it was thought necessary to put the provision into the Constitution because of the difficulty of counting aboriginal natives. They were scattered, they were living in tribal conditions and they were nomadic. But those difficulties can now be overcome by modern methods.

I think it is important to point out that the aboriginal natives are not prejudiced by section 127. The Leader of the Opposition said that it is an affront to the aborigines that section 127 should be there, but I am quite sure that the honorable gentleman agrees with me that the fact that section 127 is in the Constitution is not in itself discrimination against aboriginal natives.

Mr. Cope.—But how does it appear in the eyes of other countries?

Mr. SNEDDEN.—I was going to come to this. Section 127 does not itself discriminate. The aboriginal is enfranchised in Commonwealth elections and he receives social service benefits and other benefits. As to how the people of other countries see section 127, I am sure that they would look at the essence of the matter and decide whether or not there was discrimination against the aboriginal natives. My view is that there is in fact no discrimination against them, nor ought there to be discrimination against them. It is important also to direct the attention of the House to the fact that although section 127 appears to the Leader of the Opposition to be the offending section in principle, it would be necessary to cast an eye over section 25 of the Constitution also, because the mere elimination of section 127 would still leave the provisions of section 25 in the Constitution. Amending section 25 would not, in itself, be something that a person would sit down and try to do in a moment. More reflection than that would be required. One cannot think of an amendment to section 127 as being a matter of great urgency. I readily concede that very strong arguments exist for the elimination of section 127, but another census is not to be taken for some years. Therefore, one could not regard this as a matter of immediate urgency, and it certainly is not a reason which would lead me to support this bill.

Mr. Calwell.—It might affect the number of representatives that each State can send to the Parliament. It would affect the representation from Western Australia.

Mr. SNEDDEN.—I am bound to say that I have looked at that position closely. I come now to the second part of the proposal, which is contained in clause 2, which is that the words in placitum (xxvi.) "other than the aboriginal race in any State" should be removed. I can understand and sympathize with the reasons why the Leader of the Opposition has suggested that those words should be removed. I can see some arguments in favour of the removal of those words. Perhaps I could mention some arguments in favour of that course. The first is that there should be no reference in the Constitution to aboriginal natives as such. Also the Commonwealth has the power in the Territories so it may be asked why it should not have the power in the States also. Another reason which can be proffered in favour of this course is the 1963 United Nations declaration against racial discrimination, which could be implemented as a matter of Commonwealth power. They are arguments in favour of the removal of those words. But when honorable members consider the contrary arguments they come to realize that the House could not accept this bill.

I think it is most important to understand the contrary arguments, which I do not think have been put as strongly as they should have been put in discussions on this matter. The contrary arguments are these: The words proposed to be removed are in themselves not a discrimination, but are a safeguard, because the Commonwealth under this placitum has power to make laws—special laws, discriminatory laws—against people of any race, "other than the aboriginal race in any State". These words were put there as an essential safeguard for the aboriginal race so that special laws discriminating against a race could not be laws discriminating against the aboriginal race. The essential intention of those words from the outset was the provision of a safeguard; the words were not intended to be discriminatory.

So that to remove the words is to give the Commonwealth power to legislate throughout Australia for aborigines as a race. It is my view that this is contrary to Australian thinking, that there is no thinking in Australia which desires that the Commonwealth should have the power to legislate for the aboriginal race. I believe—and I think that the Australian people believe—that the aboriginal native should be assimilated in his status and that there should be no necessity for special laws for him. But by removing these words there is created a constitutional grant of power to the Commonwealth to make special laws for the aborigines, so that the purpose sought to be achieved would not be achieved by this means.

Mr. Calwell.—The laws we make for those who live in the Northern Territory are better laws than the special laws anywhere.

Mr. SNEDDEN.—I accept the comment in the way it is offered. I am sure that my colleague, the Minister for Territories

(Mr. Barnes), will regard it as a compliment —or his predecessor will.

Mr. Calwell.—And all his predecessors too.

Mr. SNEDDEN.—Yes. But if you take out these words the essential element of discrimination remains, whether for or against the aborigines.

Mr. Beazley.—At the convention they said that if anybody is to control the aborigines it should be the States. Some have very clear discriminatory policies against aborigines.

Mr. SNEDDEN.—You may be speaking later and can then make that point. The discrimination would remain but in a different form if these words were merely plucked out. I think it is true that discrimination is discrimination whether it is as an advantage or as a disadvantage.

Mr. Calwell.—We think it would be beneficial.

Mr. SNEDDEN.—Even beneficial discrimination is discrimination. We want to move to the stage where there is no special legislation, whether it is beneficial or disadvantageous. We do not want to turn back the clock, and by taking these words out of placitum (xxvi) there would be a turning back of the clock.

I now draw attention to the fact that there is no need for an amendment of placitum (xxvi) to provide social service benefits for aborigines, as they are in fact provided for them. If the placitum were amended, how would the power be used? If the power is used by the Commonwealth it is discrimination. I direct the House's attention to the fact that placitum (xxvi) of section 51, which we are discussing, is not an exclusive power to the Commonwealth but is a concurrent power, which means that by removing these words you would vest the Commonwealth with power to legislate but you would not deprive the States of power to legislate.

Mr. Calwell.—Only if you were to legislate.

Mr. SNEDDEN.—I am coming to that. You do not, by this bill, take away the power of the States. By taking out these words you would create a situation where there was a concurrent power of the Commonwealth with the States. If the Commonwealth legislated it would depend on whether it legislated to cover the field, or if the States legislated it would depend on whether there was an inconsistency. By section 109 of the Constitution the Commonwealth law would prevail, but in any event legislation by the Commonwealth would be discriminatory because it would apply to the aborigines as a race and in such a way that it did not apply to other people. It would therefore constitute discrimination against the aboriginal race where now there is none.

Mr. Cope.—Could not that be amended at a later stage?

Mr. SNEDDEN.—We are thinking about it at this point of time. I know that the honorable member is trying to help but that comment does not assist us. We have the situation that the Commonwealth is given the power; if it chooses to exercise the power it is discriminatory and if it chooses not to exercise it the States still have the power. This is a very important question: Should the Commonwealth be given the power, and what is the point unless it exercises the power? If it exercises the power, it means that the Commonwealth's power will not only be discriminatory because it separates the aborigines as a race, but also by exercising the power the Commonwealth will make the legislation apply in the same way to all aborigines throughout the Commonwealth. It is not at all comprehensible to me that the Commonwealth could decide to exercise the power to legislate if it were given it and and then exercise that power differently in relation to Queensland and Victoria, or differently in relation to South Australia and the north-west of Western Australia.

Mr. Calwell.—But you know that it would not do that.

Mr. SNEDDEN.—That is the point. It would not distinguish between those groups, which means that it would defy ingenuity to draw up a piece of legislation applying to all aboriginal natives, irrespective of whether they are in Victoria or in the north-west of Western Australia, because the problems of these widely-spread people are quite different. It would defy the wit of this Parliament to contrive a piece of legislation

which would serve the interests of the aboriginal natives in the north-west of Western Australia and at the same time, by the same words and through the same provisions, equally serve the interests of the aborigines in Victoria.

Mr. Calwell.—Could we not pass a law if the Constitution were altered to allow the aborigines to have separate representation in this Parliament, which they desire and which they probably would need as a growing non-assimilated force? This is what New Zealand has done for its Maori race.

Mr. SNEDDEN.—With great respect to the Leader of the Opposition, I think he departs from his essential premise when he makes that suggestion. His essential premise is that there should be no discrimination, but now he asks whether there ought not to be special representation for the aboriginal natives in this Parliament. If anything is calculated to show discrimination or to leave open to the peoples of the world the belief that our aboriginal natives are not treated equally with other residents of Australia it is to have them specially represented in this Parliament. I must say also, and again with respect to the honorable gentleman, that I have not noticed anywhere the slightest inclination to feel that the aboriginal natives ought specially to be represented in this House.

So that we come to the point that the States have power to legislate where special legislation is necessary. The Commonwealth Government legislates in respect of the aboriginal natives in the Commonwealth Territories. The problems are different and I am sure that my colleague, the Minister for Territories, will make this point. It is not for me to do so. One has to know only a little about it to realize that the problems of the Victorian aboriginal natives are vastly different from those of the aborigines in the Northern Territory or in north-west Western Australia. At present the States have the power. If this proposed change were accepted it would create a situation where the Commonwealth was vested with power which, if it chose to exercise it, would take away the power of the States. Of course, there would be no point in making the change unless the Commonwealth were to exercise the power. There would be no point in going through this procedure unless the Commonwealth were to exercise the power and I am sure that I could not contemplate a situation where that is desirable.

I turn now to the second matter related to placitum (xxvi) and the elimination of certain words. I shall read them out to the House to remind honorable members of them and to support what I have said. One must go back to the beginning of section 51 to gain a proper understanding. The section reads—

> 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 race in any State, for whom it is deemed necessary to make special laws:

If the words objected to were taken out, the placitum would read—

> The people of any race for whom it is deemed necessary to make special laws:

As I pointed out earlier, such a provision would empower the Commonwealth to make special laws in relation to the aboriginal race. In other words, the constitutional safeguard would be eliminated.

Mr. Beazley.—The Commonwealth can make special laws in relation to Chinese.

Mr. SNEDDEN.—That is so, and we want to retain that right.

Mr. Bryant.—And the English.

Mr. SNEDDEN.—I would not regard the English as a special race in this context.

The Leader of the Opposition said that the Constitutional Review Committee had dealt with this matter and had made a recommendation in relation to section 127 of the Constitution. In pointing out this difficulty in relation to placitum (xxvi.) of section 51 of the Constitution, I think it desirable to read paragraph 397 of the report presented by the Constitutional Review Committee in 1959. This paragraph, which appears at page 56 of the report, states—

> When the Committee ceased its deliberations in 1958, it had given some consideration to the very important question as to whether the Commonwealth Parliament should have an express power to make laws with respect to aborigines, and representations from various quarters advocated the adoption of a recommendation to this effect. The Committee had, however, not completed its inquiries on all the issues involved and consequently no recommendation has been made.

So there is no recommendation from anybody, other than the recommendation made with due goodwill by the Leader of the Opposition. There is no recommendation on this matter from the Constitutional Review Committee, on which the honorable gentleman, as I recall, served with distinction.

Mr. Calwell.—We made a recommendation on section 127 of the Constitution. It appears in the next paragraph of the report.

Mr. SNEDDEN.—I concede that with respect to section 127. However, the committee, after lengthy consideration and many submissions, was unable to come to a conclusion about placitum (xxvi.) of section 51, which the Leader of the Opposition, in his bill, proposes to amend.

We cannot accept this bill, first, because it would eliminate from that placitum the fundamental safeguard for the aboriginal race that is provided there. This bill would effect a transfer to the Commonwealth of power that the Commonwealth ought not to have. The Commonwealth ought not to have that power unless it intended to exercise it. But the Commonwealth would not seek to exercise a power in such a way that the exercising of it amounted to discrimination where now no discrimination exists. Secondly, the reality of the problem that arises must be considered. Legislation of the kind that is good for the aboriginal native in Victoria could not, in similar words and provisions, be equally good for the aboriginal native in the north-west of Western Australia, for example. For these reasons, we cannot accept clause 2 of the bill.

The third clause of the measure relates to section 127 of the Constitution. By way of repetition, let me say that I understand and sympathize very strongly with the reasons that have motivated the Leader of the Opposition in putting the proposal contained in this clause. But I point out that, despite section 127, there is in fact no discrimination against aboriginal natives. This section in itself does not discriminate. It gives offence, as the Deputy Leader of the Opposition (Mr. Whitlam) says, but it does not in itself discriminate. So there is no urgency about this matter, especially as the proposed change would require amendment of the Constitution.

Mr. BRYANT (Wills) [12.0].—Mr. Deputy Speaker, for the second time to-day, the Attorney-General (Mr. Snedden) has demonstrated quite conclusively that he does not know what he is talking about.

Mr. DEPUTY SPEAKER (Mr. Mackinnon). — Order! The honorable member should not refer to the Minister in such terms.

Mr. BRYANT.—Honorable members opposite, in answering the case made by the Opposition on the facts, ought to look into their own hearts. They have heard what has been said to-day. Let us examine the case before us now. The Attorney-General said, a few moments ago, that discrimination against aborigines does not exist. He said that to insult a person is not to discriminate against him. But section 127 of the Constitution provides—

> 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.

That is an insult to every person of aboriginal blood. Nobody with any conscience, any sense of justice or any sensitivity at all could see that provision in the Constitution as anything less than an insult to aborigines. I believe that the Attorney-General has great capacity, but for more than twenty minutes he indulged in legalistic quibbles that did great injustice to aborigines. I speak with a very close knowledge resulting from intense study of the situation. I have travelled the country and talked about these matters to people here, there and everywhere. I have raised this subject on numerous occasions in this House, as have other members of the Australian Labour Party. No matter what the Attorney-General may say, we on this side have a great deal of support in our demand for a change in the Constitution. That support comes from a great section of the Australian people. I hoped that this morning the Attorney-General would take this opportunity so early in his career as a Minister to take one step at least towards removing these discriminatory provisions from the Constitution, knowing that he would have the wholehearted support of the Labour movement, and conscious as I am of the fact

that he would have a good deal of support from a great body of opinion in the Liberal Party of Australia and the Australian Country Party, too. The course that we propose must be adopted.

What is the present position? The Attorney-General says that if we remove from the Constitution the provisions in question we shall discriminate against the aborigines whereas, at present, we do not discriminate against them. Let me consider for a few moments, Mr. Deputy Speaker, the present position of Australian aborigines. No aboriginal in this country can be absolutely free in the sense in which every other Australian is free, and in the sense in which even the most recently arrived migrant is free, while some of the laws at present on the statute-books in Australia remain. Let us take the position in the Australian Capital Territory, where the Attorney-General himself is responsible. There is on the statute-book here a discriminatory law that could be amended almost by the stroke of a pen. The law to which I refer is the Aborigines Welfare Ordinance 1954—Ordinance No. 8 of 1954. Section 7 (1.) reads—

> The Minister may, if he is of opinion that an aboriginal or a person apparently having an admixture of aboriginal blood—

The definition contained in the expression "apparently having an admixture of aboriginal blood" includes almost everybody who has any trace of aboriginal ancestry—

> (a) . . . . . .
>
> (b) should be placed under control, apply to the Court for an order directing the aboriginal or person to reside in a reserve or such other place as the Court directs.

Can that be done in respect of any individual in Australia other than an aboriginal? Of course it cannot. The due processes of the law do not apply to the aboriginal people in this Territory as they apply to other people. That provision is discriminatory. Yet it appears in a Commonwealth law though it could be removed without the slightest difficulty. The first point that I want to make is that, even in this Territory, discrimination exists. At Easter, there gathered in Canberra a conference of aboriginal people who came from all over Australia and who live under the cloak of laws different from those applied to any other person who visits this Territory. Nobody with any sense of Australianism or any sense of a true national spirit can support this kind of discrimination. That is the position that exists to-day.

This involves no legal quibble about whether alteration of the Constitution is difficult. We know that it is difficult to alter the Constitution and that the people of Australia have often rejected referendums. But not often have they faced one that they could approach with so clear a conscience as that with which they could tackle a referendum on the present issue. I am prepared to believe that, given the will, the Attorney-General could easily draft an amendment of the Australian Capital Territory law that would comply with the requirements of the situation. He could deal with the position that exists right here, where he is responsible, not in the North-West of Western Australia, in Queensland or in Victoria. This is a law that must be changed. But the law is even worse in other places.

I said earlier that no aboriginal person may be free while this body of law exists in Australia. No aboriginal person can feel as free and as absolutely equal to every other citizen as he should while this provision remains on the statute book. I will read section 127 again. It says—

> 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.

It has been my duty to go overseas on behalf of this Parliament in the recent past and I will do so again. The matter we are now debating is the basis of questions that are always raised overseas. No matter how we argue, no matter how many legal quibbles we raise, the fact that this provision remains in the Constitution of Australia besmirches our fair name and reputation with any one who cares to read it, and it is under close examination in all parts of the world.

I will overlook for the moment the question of whether this provision affects distribution and the number of members of this House. The simple fact is that we are dealing with people. I am not concerned with anything but people, and here we have 100,000 of them who live under a law that is

different from the law that applies to every one else in Australia. As I said before, no aboriginal can be absolutely free. The last arrived migrant stepping off the ship is freer than the truest, bluest, if I may use that term, Australian aboriginal once he steps into Queensland. Let us examine for a moment the Queensland law. I understand that the Queensland Government is in the process of removing it. The definition of aborigines is quite extensive and I will not bore the House by reading the whole of it. It includes—

> Any aboriginal native of the mainland of Australia or of any islands in the territorial jurisdiction of Australia;

So it does not matter that aborigines are free citizens in Victoria. They are free as Victorians while they are in Victoria, but the moment they step into Queensland this law applies to them. The law gives the Director of Native Affairs absolute, unqualified and unchallengeable power over every person of aboriginal blood who steps into Queensland. Let there be no doubt about it; that is positively the position. The Director of Native Affairs has absolute authority. Honorable members may go through the acts and the regulations; they are Draconian.

In Queensland, the Director of Native Affairs may remove an aboriginal to a reserve and the aboriginal has no appeal. The aboriginal cannot seek a writ of habeas corpus nor can he claim the rights set out in Magna Carta. The ancient and treasured traditional rights of every other citizen, whether born in Australia or only recently arrived here, do not apply to aboriginal persons. This is the position of all aborigines, whether they are my good friends who come here, Pastor Nicholls or Captain Reg Saunders. The moment they step into Queensland they are subject to this law. Whether the law is applied does not matter; it is still there and can be applied to them. Once an aboriginal person goes to a reserve, he may be required by the superintendent to work for up to 32 hours a week without remuneration.

The Attorney-General said that there is no discrimination. Of course there is discrimination. I have never at any time claimed that this law arose out of malice, that anybody was malicious or that the law was the result of racial prejudice. As the Leader of the Opposition (Mr. Calwell) and the Attorney-General himself said, this is the result of historical development. But the historical development from protection to suppression has been inevitable and gradual and must be removed. All we are asking here to-day is that, first, the discriminatory provision in the Constitution be removed by referendum. I would remind honorable members that this provision places the aboriginal people in an almost impossible position. It is not a question of whether they are conscious of it; a great many of them are.

I will bring to the attention of the House a schedule of the acts and laws that are applicable to the aboriginal people of Australia. It was prepared last year. I must apologize for being unable to provide a copy of it to all those who may want a copy. It is not precisely up-to-date, because radical amendments have been made in Western Australia in the last few months. Some seven laws apply to the aboriginal people. There is one in New South Wales, two in Queensland—one for the Queensland aborigines and one for the Torres Strait islanders—an ordinance in the Australian Capital Territory, various ordinances in the Northern Territory and laws in Western Australia and South Australia. That makes a total of seven. Then there is the welfare act in Victoria. Innumerable differences occur in the definition of aborigines in these laws. I have often said that if an aboriginal is to move with any sense of freedom around this country he needs a staff of three. He needs a lawyer to be able to interpret the laws and to say whether they apply to him. He needs a navigator to tell him whether he is in an area where a law applies and to say when he has crossed the dotted line. He needs an anthropologist to say whether he fits into a definition. This is the nonsense of complexity that we have imposed upon these people.

I speak in this House with a deep sense of appreciation of what is involved. I do not think at any time since I have been interested in this subject have I deliberately made political capital out of it. My party and I have not been necessarily conscious of doing so at any time we have raised any question relating to aborigines. I had not taken much cognizance of this subject until I entered the Parliament and had a chance

to move around and see what is happening. This is a question that must be answered by this Parliament as a gathering of free Australians. Why are not the aboriginal people free and full Australians? In the Commonwealth electoral law, we say that they are. We say that they are in the Australian Capital Territory. We do not say that they are in the Northern Territory, but the various ordinances there should be rescinded.

I have no time for the difficulties raised by the Attorney-General. There can be no difficulties whatsoever, legalistic or otherwise, in the removal of these laws. Let us consider the suggestion that the removal of the words mentioned in section 51 will produce discrimination against the aboriginal people in such a way that they will suffer serious disadvantages. Every person in this country, including migrants who may just have stepped ashore, come under Commonwealth law except aborigines. How can we tolerate this situation? How can we explain it? How can we ease our conscience by legalistic arguments? The question of laws applicable to the aboriginal people involves our conscience and our status before the world at large. I would remind honorable members that the position in New Zealand, in Sweden with the Laplanders and in the United States is completely different. The whole body of the laws in those countries has been based upon a different concept. The aim in those countries has been to develop free citizens with absolute rights. For instance, this is the situation of American Indians—

> American Indians to-day are participating citizens in our democracy, free to develop in any way they wish, either within their tribal organizations or as individuals living off their reserved lands as ordinary members of our communities.

That is not the situation of the Australian aborigines. We have a body of law that applies to an aboriginal person who moves from one State to another. The average Australian is a free-moving citizen. He can move from Victoria to Queensland without let or hindrance. I do not at the moment suggest that the Queensland law is applied generally to visiting aboriginal people, but I have seen examples of social discrimination that have arisen out of it in the last two years. These relate to the vexed questions of drinking and going into hotels. Social and administrative discrimination can be removed only if there is no legal discrimination. Many results flow from this legal discrimination. First, there is social discrimination. I do not want to raise here the question of drink and all the issues that go with it. But if the question of drink is raised and prohibitive laws are passed about it, people are not willing to associate with any one who looks as if he might be an aboriginal because if they did they could be held to be breaking the law. Different standards are likely to apply to housing and there is discrimination in other social and administrative questions.

This is the point that we put to the House: It is the clear issue of the clarification of the Australian law to make all Australians equal before the Commonwealth's bounty. This is the point I want to make to the Attorney-General and to the Minister for Territories (Mr. Barnes), who will follow me in this debate. Surely no one would doubt that the Commonwealth has much greater resources at its disposal with which to tackle any social problem than any State or any aggregation of States has. This is a question for the nation. It happens that there are few aboriginal people in Victoria. I think there are only 3,500 there. But there are thousands in Queensland and thousands in Western Australia. The Western Australian Government has not the resources it needs to tackle the problem. The duty to do this devolves upon the Victorian taxpayer and legislator just as much as it does on the Western Australian taxpayer and legislator. We must bring the Commonwealth's resources to bear on this problem. This can be done only if the Commonwealth accepts more responsibility. I think we can deal with this problem in the way that we have dealt with repatriation. The Repatriation Act covers ex-service men and women from various wars in respect of housing, medical benefits, pensions, land settlement and education for their children. That is the kind of system that we would envisage being applied to the aborigines—a system that is not prohibitive or restrictive but which confers some benefits. The word "discriminatory" has been used in this debate. I suppose every piece of legislation which confers a benefit, whether it be child endowment or a subsidy on butter, is discriminatory if we give to the word the meaning given to it by the Attorney-General.

There are no difficulties associated with doing the things that I have urged. This is an urgent matter. It has been raised in this place year after year. There is a great body of conscience all over Australia demanding that something be done along the lines I have suggested. I have no doubt that the Attorney-General, despite my disagreement with him in the last 24 hours over various matters, has the ability, given the will, to draw up the necessary amendments. I think I can give a guarantee from this side of the House that the 50 per cent. of Australians who vote for the Labour Party will support those amendments and I would think also that the large number of people which supports the Liberal and Country Parties will do so also. If we can divorce ourselves from feeling that this is a matter from which some party political advantage may be gained and look at it instead as something which affects the nation's honour and 100,000 people, I am sure that we can take an historic step. If we give the people an opportunity to express their views on this matter at a referendum, I am almost certain that the referendum will be carried; and we may at the same time engender in the people of Australia a new attitude towards Commonwealth constitutional reform. If we are looking for a piece of legislation with which to tackle this vexed question there is no better way to start than with this bill.

Mr. BARNES (McPherson—Minister for Territories) [12.17]. — The honorable member for Wills (Mr. Bryant) introduced a great deal of emotion into the debate. I do not think he contributed very much of a material nature. As Minister for Territories I am very interested in the matters that have been brought forward. Possibly the only point in the speech of the honorable member for Wills on which I can agree is his suggestion that we on this side of the House also are interested in the affairs of the aborigines. This is true, because during my predecessor's term of office great advances were made in the areas where the aborigines are controlled by the Commonwealth. I think the Commonwealth has given a valuable lead to the States in this matter. Measures have been taken in all States to rectify practices that may be considered discriminatory.

First let me refer to clause 3 of the bill which reads—

> The Constitution is altered by repealing section one hundred and twenty-seven.

I would agree with my colleague, the Attorney-General (Mr. Snedden), who said that that section as it exists to-day is something of an anachronism. In a sense it is a discrimination against the aboriginal from the point of view of his status. I think the honorable member for Watson (Mr. Cope) indicated that by way of interjection. He said that an aboriginal could be Prime Minister of Australia but could not be counted in the census. If an aboriginal has the right to be Prime Minister of Australia it indicates a considerable advance in his status. I agree that there is merit in the claim that section 127 of the Constitution should be eliminated, but that would not affect the political status of the aboriginal. He now has a vote. He may accept office in the Commonwealth Parliament. The historical fact is that when the Constitution was framed it was no easy matter to take a census in which the aborigines were counted. Of course, conditions have changed. I have heard honorable members opposite say in this House—I think the honorable member for Wills has made the statement outside the House—that cattle and sheep are counted for the purposes of annual statistics but not aborigines. That is incorrect. Aborigines are counted, but they are not included in determining the size of the population.

As the Attorney-General has said, I think there is a good case for the elimination of section 127; but I am not sure that it would be a good idea to hold a referendum immediately on this issue. After all, referendums are very expensive propositions. It costs hundreds of thousands of pounds to hold a referendum. I do not know whether the community should be asked to bear such an expense simply to remove from the Constitution a section which does not affect the political status of aborigines.

Clause 2 of the bill states—

> Section fifty-one of the Constitution is altered by omitting from paragraph (xxvi.) the words ", other than the aboriginal race in any State,".

The Leader of the Opposition (Mr. Calwell) gave the historical background to the inclusion of that section in the Constitution.

The historical situation has changed since the Constitution was framed. The Leader of the Opposition pointed out quite rightly that when the Constitution was framed the large numbers of aliens in the country were of very great concern to sections of the community. The honorable gentleman referred to the kanakas. I do not think he referred to the Chinese. The kanakas were brought into Australia in thousands during the latter part of last century to work on the sugar plantations of Queensland, but there was also a tremendous influx of Chinese to the goldfields in Queensland and, earlier in the century, to the goldfields in New South Wales and in Victoria. Those were matters of great concern to the community. When section 51 was framed these matters were uppermost in the minds of the people who framed the Constitution. The situation affected different States in different ways.

Sir Samuel Griffith, who was chairman of the committee which drafted the Constitution, was a Queenslander, and obviously this was a matter of great concern to him. The position of the aboriginal was a secondary consideration. The important matter to consider was this large population of aliens which in some communities, such as sugar-growing areas and the goldfields in certain States, represented a very large percentage of the overall population. If honorable members wish to pursue this aspect further I refer them to the excellent history of north Queensland titled " A Thousand Miles Away ", which gives a very clear picture of the attitude in north Queensland in the latter part of last century. By removing the words " other than the aboriginal race in any State " from paragraph (xxvi.) of section 51 the Commonwealth would have power to legislate in affairs concerning aborigines in the various States. As the Attorney-General pointed out, there would be concurrent power in the sense that the State law would prevail unless legislation were enacted by the Federal Parliament. He gave reasons for and against changing section 51. I think he gave excellent reasons why it should not be changed. He is supported in that line of thought. For instance, the report of the Royal Commission on the Constitution, presented in 1929, states, in relation to this section—

> We do not recommend that section 51 be amended so as to empower the Commonwealth Parliament to make laws with respect to aborigines.

We recognize that the effect of the treatment of aborigines on the reputation of Australia furnishes a powerful argument for a transference of control to the Commonwealth. But we think that on the whole the States are better equipped for controlling aborigines than the Commonwealth. The States control the police and the lands, and they to a large extent control the conditions of industry. We think that a Commonwealth authority would be at a disadvantage in dealing with the aborigines, and that the States are better qualified to do so.

The Attorney-General also mentioned that the report of the Constitutional Review Commitee, made in 1959, showed that the committee had considered this matter. However, no recommendation was made, which indicated that the committee was not of the same opinion as the 1929 royal commission. There is great merit in that opinion.

The Attorney-General pointed out the differences and the many factors that exist in the various States. The States have control of education, health, lands and many other matters, and the methods of control vary from State to State. It would be virtually impossible for the Commonwealth to enact laws which would be fair to the aborigines in all the States, because the conditions of aborigines in the various States are so different. Tasmania has no aborigines; Victoria has only about 141; and Queensland and Western Australia are the States with the largest aboriginal populations.

I believe that we are progressing towards the removal of these points of discrimination. Quite recently a bill was introduced in the Legislative Council for the Northern Territory for the elimination of all the discriminations against aborigines in that Territory, except the provisions in relation to aboriginal reserves. I do not think even honorable members opposite would suggest that we should remove those provisions. Also, as I mentioned before, the States are following the lead of the Commonwealth. There is no need for the removal of these words from section 51.

I refer honorable members to a statement of policy approved at a conference of Commonwealth and State Ministers held in Darwin on 11th and 12th July, 1963. This is very important. The Commonwealth and the States agreed on this statement of policy. I will read a section of it which I believe covers this matter. Under the heading " The Meaning of the Policy of Assimilation ", it states—

The policy of assimilation means that all Aborigines and part-Aborigines will attain the same manner of living as other Australians and live as members of a single Australian community enjoying the same rights and privileges, accepting the same responsibilities, observing the same customs and influenced by the same beliefs, hopes and loyalties as other Australians.

Mr. DEPUTY SPEAKER (Mr. Mackinnon).—Order! As it is now two hours after the time fixed for the meeting of the House, this debate is interrupted.

Motion (by **Mr. Hulme**) agreed to—

That the time for the discussion of Notices be extended until 12.45 p.m.

Mr. BARNES.—The statement of policy continues—

Any special measures taken for Aborigines and part-Aborigines are regarded as temporary measures, not based on race, but intended to meet their need for special care and assistance to protect them from any ill effects of sudden change and to assist them to make the transition from one stage to another in such a way as will be favorable to their social, economic and political advancement.

The Commonwealth is doing everything possible to carry out that statement of policy. That is indicated in the bill that was introduced recently in the Legislative Council for the Northern Territory. I believe that there are grounds for the repeal of section 127; but I do not see the need for holding a special referendum. I certainly believe that the suggested alteration of section 51 is not acceptable. That belief was supported by the 1929 royal commission.

Mr. BEAZLEY (Fremantle) [12.32].—The Constitution of the Commonwealth has three ways of describing the people whom it unites in an "indissoluble Federal Commonwealth under the crown of the United Kingdom". It describes them as subjects of the Queen, as people of a State and as people of the Commonwealth. The Select Committee on Voting Rights of Aborigines, which was appointed by this House some years ago and of which both the present Minister for Territories (Mr. Barnes) and I were members, rested its case for the granting of Commonwealth voting rights to aborigines on the ground that they certainly were subjects of the Queen, that they certainly were people of a State and that they certainly were people of the Commonwealth.

That they were subjects of the Queen does not seem to have been disputed anywhere, unless we take the recently repealed legislation of the State of Western Australia as a case in point. In that State, aborigines applying for something that was called "citizenship rights"—they were exclusively Western Australian citizenship rights, whatever that means—were said to have conferred upon them the rights, privileges and immunities of a natural-born subject of the Queen. That was completely unintelligible legislation, as they were natural-born subjects of the Queen already. No representative of Western Australia could explain to the select committee why that State wanted to put aborigines through a process akin to naturalization. That is the only procedure that ever appeared to dispute that aborigines were subjects of the Queen.

There never was any dispute that aborigines were people of a State; and we members of the select committee, for the sake of our report, also said that they were people of the Commonwealth. But section 127 of the Constitution casts some doubt on that. It states—

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.

I would say that the reasoning of the select committee was this refinement: Aborigines are people of the Commonwealth, but they are not numbered among the people of the Commonwealth; section 127 is a census provision.

When I was in India in 1954 a certain Australian Communist lady correctly quoted this section of the Constitution in many parts of India, and interpreted it as meaning that the Australian Constitution declared that aborigines were not people. If we go to an Asian or African country and start to explain this section of the Constitution by attempting to say that it is a census matter only, people will reply that it seems to say in black and white that in numbering the people of the Commonwealth aboriginal natives—the original inhabitants of the territory now occupied by the Commonwealth of Australia—shall not be counted. The section serves no useful purpose.

At the Constitution conventions, apart from the census question, the section was sustained by other outmoded arguments, such as one advanced by Mr. Walker in answering Dr. Cockburn, the leader of the South Australian delegation, who feared that it would take Australian aborigines off the South Australian roll. Mr. Walker said—

> I would point out to Dr. Cockburn that one point in connexion with this matter is that when we come to divide the expenses of the Federal Government per capita, if he leaves out the aboriginals South Australia will have much less to pay, whilst if they are counted South Australia will have so much more to pay.

Quite clearly, that consideration which helped to persuade the framers of the Constitution at that time does not apply to-day. There is nothing to be said about section 127 except that it should be eliminated because any aborigine who reads it must construe it simply as a declaration that he is not one of the people of the Commonwealth. I cannot see that it serves any purpose. Its deletion would cause no controversy, so far as I can see, in any State. I cannot see any State government fighting hard against the counting of aborigines in a federal census. No State interest would be infringed if the section were abolished, but there are involved the very important consideration of the international standing of this country and the even more important consideration that some people of the aboriginal race construe the section as an insult.

As for the other section of the Constitution, let us consider the period when the Commonwealth Constitution was framed. Do not let us delude ourselves that in the late nineteenth century the process of the granting of self-government to the white community of Australia meant anything other for the status of the aborigine than a decline. He had a much better chance when the Secretary of State for the Colonies in London exercised great power than he did after the colonies were granted self-government. The former Minister for Territories, the Honorable Paul Hasluck, has written a book, which I think was his thesis for his Master of Arts degree, called " Black Australians ". He establishes the conflict on the whole question of the status of aborigines between the government in the United Kingdom and the colonial authorities which colonial authorities subsequently became the self-governing authorities of the colony of Western Australia in the 1890's. The Secretary of State for the Colonies remonstrated again and again with the Governor of Western Australia pointing out that aborigines were subjects of the Queen and must be given equality of treatment with white people.

When section 51, placitum (xxvi) was before the closing stages of the constitutional convention in 1898 there was discussion about this matter. Sir John Forrest spoke for Western Australia, which was moving towards the taking away of voting rights of aborigines which had been included originally in the constitution of Western Australia by the United Kingdom. Rights had been granted all British subjects. The constitutions granted to every State provided, in their original forms, for the voting rights of aborigines included as British subjects. The aborigines lost those voting rights only when the self-governing colonies by deliberate enactment took them away, as Western Australia did around 1903. Confronted with section 51, placitum (xxvi.) of the Constitution, which provides that the Commonwealth shall have the right to legislate for the people of any race, other than the aboriginal race in any State, for whom it is deemed necessary to make special laws, Sir John Forrest said—

> I cannot for the life of me see why we should desire to give the Federal Parliament the control of any person, whatever may be his nationality or his colour, who is living in a State. Surely the State can look after its own affairs. It may require to place a restriction on a certain class of people.

Years later, the Commonwealth Government began the move to lift restrictions on the voting rights of aborigines, the Western Australian Parliament followed. Yet Commonwealth authority was often conceived as " inimical ", as a control, as a "power".

It seems to me that two concepts have been played with throughout this debate. One is the concept of discrimination and the other is the concept of assimilation. I am not against discrimination. It depends on the nature of the discrimination. Almost all of our laws are discriminatory. We say to the man who has been wounded at the war, " We discriminate for you under the Repatriation Act." The Repatriation Act is discriminatory because it legislates for a special category of persons with a special category of needs. The legislation by which the Government says to a young person in a university or in an advanced

technical school, with certain qualifications, "We meet your special needs", is discriminatory legislation.

In 1931 when Arthur Blakeley and Mr. Scullin granted certain large aboriginal reserves in the Northern Territory—the aborigines were in the tribal state and the Government did not want the aborigines interfered with at that stage—that was discrimination. I do not run away from the word "discrimination" simply because most people construe the word as meaning hostile discrimination. I claim that aborigines have special needs. I have the utmost respect for the former Minister for Territories and, from my experience with the present Minister on two select committees, I have the utmost respect for the present Minister for Territories. I respect their policies also but do not let us start deceiving ourselves that what is happening in the Northern Territory is some new revelation from heaven.

If you read the "Medical Journal of Australia" you will find that at a point in the 1950's in our glorious Northern Territory the incidence of leprosy among aborigines was the highest in the world—higher in this wealthy country than in the most backward nations of Africa. There is a high incidence of yaws, there is a high incidence of hookworm, and while our European community has an infant mortality rate of 22 for each 1,000 births, there are certain government settlements in the Northern Territory where, according to the latest information I have, there is a rate of 208 deaths among each 1,000 births.

Mr. Barnes.—That is of infants.

Mr. BEAZLEY.—Infant mortality. A tremendous amount must be done. These features have not come into parliamentary reports. You can sometimes find these facts if you go to such publications as the "Medical Journal of Australia". You can sometimes find them if you study the research done by students of the Australian National University; you can see demographic figures if you read F. Lancaster-Jones's "Demographic Survey of Aborigines in the Northern Territory". But I am afraid there is a constant tendency to lull the Parliament as if we were old ladies who need to have smelling salts held to our nose so that we can believe that everything in the Northern Territory garden is becoming indubitably lovely.

The Constitution was framed at a decisive period. In the nineteenth century tribal peoples such as the Red Indians had been destroyed by liquor, gun-running, by drugs and by prostitution, and the protective concept of legislation was developed. However, this concept is being removed in the Northern Territory where some glorious new liberty is supposed to be descending upon the aborigines because a few fringe dwellers among them may legally drink—they are already illegally doing that—and because their women can offer themselves to white men without the white men being prosecuted or having to marry them. The removal of this kind of discrimination, once conceived as protection, does not mean that the fundamental needs of the people concerned are being met. We were approaching this transitional stage in 1901, but had not reached it, before the League of Nations stated the concept when it provided that mandatory powers had to guarantee to protect their mandated protected peoples from drink, drugs, gun-running and prostitution.

We have, therefore, in the Commonwealth Constitution, a very clear idea expressed that the States were to be allowed to continue their restrictions. Sir John Forrest implied that all race questions like the aboriginal question ought to be for the States. So it was enacted. It may be that we will never change the Constitution. One of your predecessors in office, Mr. Deputy Speaker, as Mr. Speaker, once defined a referendum to me as the process of an appeal from those who know or who ought to know to those who do not know and do not want to find out. It may be that the technicalities of a referendum are very difficult to argue before the general public, but whatever the difficulties one terrible fact remains: irrespective of who has control over aborigines only one government is answerable before the forum of international opinion—the Government of the Commonwealth of Australia. In the forum of international opinion—the United Nations—no one will raise Western Australia's policy or Queensland's policy but the delegates of the Government of the Commonwealth of Australia will have to answer for Australia's attitude. The United Nations increasingly is looking into domestic questions. That is why we would like to have removed from the Constitution the prohibition against the Commonwealth's legislating for aborigines outside the Territories because, irrespective

of whether or not we have the power, we will answer before world opinion for whatever goes on in our aboriginal affairs.

Mr. DEPUTY SPEAKER.—Order! The time allotted for precedence of General Business has expired. The honorable member for Fremantle will have leave to continue his speech when the debate is resumed. Resumption of the debate will be made an order of the day under General Business for the next day of sitting.

Sitting suspended from 12.45 to 2.15 p.m.

MEMBERS RE-ADMITTED.

Mr. Snedden.—Mr. Speaker, I ask for leave to move a motion to enable the honorable member for Yarra (Dr. J. F. Cairns), on making an acceptable apology to Mr. Speaker, to return to the House.

Mr. SPEAKER.—Is leave granted? There being no objection, leave is granted.

Motion (by **Mr. Snedden**) agreed to—

That so much of the Standing Orders be suspended as would prevent the honorable member for Yarra, on making an acceptable apology to Mr. Speaker, returning to the House.

(The honorable member for Yarra having taken his place in the House)—

Mr. SPEAKER.—Order! I think the condition was that there would be some form of apology.

Dr. J. F. Cairns.—Mr. Speaker, I desire to apologize to you personally and in your office as Speaker.

Mr. SPEAKER.—That is acceptable.

Mr. Snedden.—The Deputy Leader of the Opposition (Mr. Whitlam), in a question to me this morning, asked me if I would, using the resources available to me, check the accuracy of my statement that Ralph Gibson was on a platform with the honorable member for Yarra. I have made inquiries and find that the statement was not accurate. Ralph Gibson was not on the platform with the honorable member for Yarra.

Mr. Calwell.—What about the position of the honorable member for Reid?

Mr. SPEAKER.—That is a different matter.

Mr. Whitlam.—I ask for leave to make a statement, Mr. Speaker.

Mr. Harold Holt.—Are you initiating a debate on this?

Mr. Whitlam.—No.

Mr. SPEAKER.—Order! The honorable member has asked for leave to make a statement on the subject that has been disposed of.

Mr. Whitlam.—I think the Attorney-General has made a statement which, by inference, was made by leave. You, Mr. Speaker, had already re-admitted the honorable member for Yarra before the Attorney-General spoke. The Attorney-General asked for leave to move a motion. He obtained leave, moved his motion and it was carried. Then the honorable member for Yarra made an apology and you re-admitted him.

Mr. SPEAKER.—Order! The Deputy Leader of the Opposition cannot make a statement on the same matter.

Mr. Whitlam.—I wish to comment on the statement of the Attorney-General.

Mr. Harold Holt.—Mr. Speaker, will you ascertain whether the Deputy Leader of the Opposition proposes to comment on these issues?

Mr. SPEAKER.—Order! The Deputy Leader of the Opposition is seeking leave to make a statement. I suggest to him that he outline to the House briefly the subject on which he wishes to make a statement.

Mr. Whitlam.—I seek leave of the House to make a statement on the statement that the Attorney-General has just made—the statement in which the Attorney-General withdrew a statement he had made about an honorable member.

Mr. SPEAKER. — Order! Is leave granted?

Mr. Harold Holt.—If I may just comment on this, I feel that the proper procedure is for the honorable gentleman to avail himself of the opportunity afforded by the motion for the adjournment of the House. There are other members on both sides of the House who would wish to discuss this matter. It is not disposed of by any means despite the action that has now been taken. If the honorable gentleman wishes to make a political discussion of it, then there are others who would participate.