

The Culture of Entitlement

A Government Minister was bailed up by a somewhat irate fellow with a complaint about the Committee of Management for a particular Crown land reserve.

"They are evicting me from my camping site," he fumed. "My family has used it every summer for decades. What right do they have...!"

To prove his point, he waved a legal document under the Minister's nose: "See here – this is my Uncle Bert's Last Will and Testament. When he died he left the site to me!"

It came as a surprise when he was told that a bit of Crown land, no matter how long it had been 'in the family' was not Uncle Bert's to bequeath to anybody. Apart from the courtesy of a season's notice (which the committee had in fact given him) he was entitled to nothing.



The Government is to be congratulated for getting cattle out of the Alpine National Park – but in doing so has it broken the Culture of Entitlement?

The culture of entitlement dates back to the 1840s, when the squatters vigorously resisted being dispossessed of their vast runs. They had no legal rights to the land, but politics dictated that they each be granted 'Pre-emptive Rights' over their most fertile one-square-mile. So began many of Victoria's private fortunes – and an expectation that has survived to this day.

The Mountain Cattlemen couch their case for continued alpine grazing in terms of heritage and fire management – but close below the surface of these rather dubious claims lies the Culture of Entitlement: *because we were here in the past we are entitled to be here in the future.*

The *Land Acquisition and Compensation Act* 1986 recognises an entitlement to compensation only for parties with a legal 'interest' in the land. On Crown land this extends to holders of unexpired leases and mortgages over leases, but

not to holders of licences or permits. Once a lease expires, the tenant has no further 'interest' and therefore no compensable entitlement.

The law, however, isn't politics – and political reality does recognise a wider notion of entitlement. We accept that the sick are entitled to be supported by the healthy, the poor by the rich, and the elderly by those of working age. That's what our system of taxes and social welfare, despite its faults, is supposed to achieve.

Does this social obligation extend to users of public land? Did our irate camper indeed have some unwritten entitlement whose withdrawal society was obliged to compensate?

Governments have certainly recognised a need to offer structural adjustment or transitional assistance to some victims of change. On public land this has taken the form of packages for timber workers displaced by changes to forestry policy, and compensation for fisheries disrupted by the introduction of Marine National Parks.

In what circumstances might such a social entitlement exist? What are its limits? How should it be quantified?

In our view, government should adopt a code for recognising those special circumstances in which entitlements arise from long usage of public land – and conversely, those circumstances in which there is no entitlement and therefore no obligation.

One factor in such a code might be the nature of the usage: an activity which supported the user's livelihood might be compensable, but recreational usage might not. Another factor would be the terms on which the activity had been entered into: there should be little sympathy for any tenant attempting to default on terms and conditions to which he or she had knowingly signed up.

A clear code would surely deter attempts to negotiate through the media, or by waving around copies of Uncle Bert's Will. Or would it? ■

The Weighty Case of the Burnley Tram Stop

Parliament has commenced the budget session, and our esteemed legislators are settling down to some serious consideration of serious issues.

Would the temporary appointment of Judges undermine the Westminster doctrine of separation of powers? Is the registration of sex offenders a justifiable infringement of civil liberties? Have the channel deepening studies shaken our confidence in the EES processes?

But it's not all such weighty stuff. Also included on the Parliamentary agenda is a Bill relating to a tram stop in Burnley and a long-abandoned abattoir site on the outskirts of Bendigo.

We look forward to reading in Hansard:

"Will the honourable Minister please explain why the House needs to devote its time to these items? Surely a thousand such matters are dealt with every week of the year without the need for an Act of Parliament?"

It's true: through the Planning System and the generic provisions of various Acts we entrust Councils, public servants and the courts to sort out these run-of-the-mill property issues. Parliament sets the rules, but doesn't debate every planning permit.

What's special about this tram stop? Why is this abandoned abattoir different? *Because they are permanently reserved Crown land.* This gives them the same degree of protection as the Royal Botanic Gardens and Wilsons Promontory National Park: any variation to their status can be effected only by Parliament itself.

"Will the honourable Minister please frame criteria for distinguishing those areas of public land where parliamentary attention is justified from those areas where it's not, and processes which allow the less significant areas to be dealt with by administrative government..."

Of course, some reserves need parliamentary protection. If there's a proposal to sell off parkland then parliament (and everybody else) should get to hear about it. But abandoned abattoirs?

Honourable members interjecting: "Hear, hear!"
Well, maybe one day... ■

Walk the Talk

by Lyn Murrell

On Tuesday January 4th 2005, I commenced a solo, unassisted walk of Victoria's coastline from the South Australian border to arrive at the NSW border by the end of April 2005.

I completed the walk ahead of schedule on 16 April. I was backpacking and camping with no support crew etc. It is my understanding that this has not been undertaken previously.



As a community representative on many coastal organizations over the past 30 years, I have been witness to much "talk" about how best to demonstrate an appreciation of this wonderful asset and how to manage the many pressures being exerted on the very finite resources Victoria's coastline possesses.

I felt I now had the time and opportunity to "walk the talk", thereby being able to create a greater awareness for myself and hopefully pass on this direct experience to others who may care to listen.

My two specific goals were to create greater awareness and to test out first-hand the feasibility of linking existing walking trails to create a "Great Victorian Coastal awareness for myself and to hopefully Walk". I kept a diary and a pictorial record as the walk progressed.

From www.walkthetalk.ws
where you will also find Lyn's diary and pictorial record

Q & A

Exactly which Minister is now responsible for Crown land?

(Question asked by a state public servant)

The Minister for Planning (Rob Hulls) is responsible for the *Crown Land (Reserves) Act 1978*, with the exception of three particular reserves:-

- The Old Treasury Building is administered by the Minister for Finance (John Lenders)
- Station Pier is administered by the Minister for Transport (Peter Batchelor)
- The former Distance Education Centre in Albert Park is administered by the Minister for Sport and Recreation (Justin Madden)

The Minister for Planning also administers the *Land Act 1958*, with certain exceptions:-

- Sections 22C-22E of the Act (which deal with surrender of freehold land to the Crown) are administered by the Attorney-General (Sure, the A-G is also Rob Hulls)
- The leases over certain jails are administered by the Minister for Corrections (Tim Holding)
- A series of high-profile leases - including the Melbourne Casino - are administered by the Minister for Finance.
- the lease over the Victorian County Court is also administered by the Attorney-General
- The provisions relating to the sale of Crown Lands are administered by the Minister for Finance
- Leases over Traralgon and Mildura hospitals are administered by the Minister for Health (Bronwyn Pike)
- The leases at Station Pier are administered by the Minister for Transport

The Minister for Planning is also responsible for many (but not all) site-specific Acts dealing with Crown Land.

For the full story, you need to check out the "General Order 2005" signed by Premier Steve Bracks on 16 May 2005. ■



The Old Treasury Building in Spring Street is a reserve under the Crown Land (Reserves) Act 1978 – but unlike all other Crown reserves, its Committee of Management reports to the Minister for Finance, rather than the Minister for Planning. We don't know why: perhaps there's still bullion in the basement.



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Planning your 2005-2006 Training Program?

You may consider sending staff to some of the following courses. Full details available at www.publicland.com.au

Land Law for Service Utilities

Strategic Awareness for Professional and Field Staff

This one-day course provides a sound basic understanding of land law as it applies to water, sewer, gas and electricity utilities.

Land Law for Managers of Rivers, Lakes & Catchments

The management of water cannot be separated from the management of the land over which it flows...This course provides a sound overview for staff of Catchment Management Authorities, Councils and Water Authorities

Public Land and Activity Centres

A Tool-Kit for Strategic and Statutory Planners

This one-day course provides a tool-kit for Council staff and consultants involved in the re-configuration an adaptive re-use of roads and reserves in Melbourne's Activity Centres

Land Law for Managers of Roads, Streets and Lanes

The Road Management Act 2004 added another layer to the already-complex body of law relating to roads. It's all clarified in this one-day course for Road Engineers, Property Managers and Statutory Planners

Land Law for Coastal Authorities

Professional Development for staff of agencies responsible for the governance and management of Victoria's coastal lands and waters

Crown Land Law, Policy and Practice

An Intensive one-day course for newcomers to this area of property law, or for 'old hands' needing a refresher

Coming Soon - as part of DSE's 'Planet' Professional Development Program - Roads in Activity Centres

Many Activity Centres designated in Melbourne 2030 include a large proportion of land set aside as roads, streets and lanes.

These spaces are often under-utilised or poorly configured. Redundant lanes and rights-of-way can impede site assembly and title consolidation. Surface car parks are often no longer justified by land economics.

Structure plans may envisage rationalisation of street networks, the separation of pedestrian spaces from through traffic, and the innovative use of the spaces above or below roadways.

This half-day course aims to familiarise Municipal Planners and Property Managers with their councils' suite of responsibilities and powers in relation to roads. It covers –

- *The legal status of roads, streets and lanes in Victoria*
- *Road ownership, control and management*
- *The creation, deviation, closure and discontinuation of roads, streets and lanes*
- *Use of strata above and below roads*
- *Ownership and control of car parks*