

[Tuesday, 29 June 1993.]

**HON A.J.G. MacTIERNAN** (East Metropolitan) [7.31 pm]: As it seems to be the convention, I begin my speech by sincerely congratulating all of those members recently elected to positions in this House. I also express my gratitude for the welcome that has been extended to me, by not only members on this side but also members on the opposite side of the House, and members on the cross-bench. I hope that, notwithstanding the inevitable incidents of our adversarial parliamentary system, this goodwill survives beyond the conclusion of this inaugural address.

Notwithstanding having had much of the wind so brilliantly taken from my sails by my comrade, Hon John Cowdell, a risk incurred by those who dally too long as maidens, I propose to commence my career in this place by putting on record my belief that this House is an anachronism, and that its existence falsely suggests that important checks and balances required in the parliamentary democracy are in place. Accordingly, I take the view that this House should be abolished and that its membership and function be incorporated into an expanded Legislative Assembly. With your indulgence, Mr President, I will take this opportunity to explain why I have come to this view, why I believe that abolition is preferable to the reforms recommended by the Royal Commission into Commercial Activities of Government and Other Matters and what structure I would envisage could provide more effective representation and protection to the people of Western Australia.

I endorse the comments of my colleague, Hon Nick Griffiths, in pointing to the malapportionment that undermines the credibility of this House. However, I take the view that the problem is somewhat more profound and that this House in its very conception is undemocratic. At the time that this Council commenced its life in 1890 as a second Chamber, the members of the Assembly were elected while the Council members were appointed by the British Government. In 1893, when the Council became an elected body, universal manhood suffrage was granted in the Assembly, but the property qualification for voters in the Council remained. In 1904 plural voting for property owners was abolished in the Assembly, yet both the property qualification and plural voting remained in force in the Council until 1964.

Today we have an electoral system which is weighted massively in favour of the rural conservative voter. This House has always fiercely protected property and conservative rural interests, which is hardly surprising given that it is the direct spiritual descendant of the House of Lords. Political theorists in the eighteenth and nineteenth centuries, on contemplating the role of the Roman Senate, saw second Houses as sparing the communities they served from "the corrupting influence of undivided power". However, politics and Parliaments in the twentieth century are dominated by political parties who control the selection of the vast majority of members of all Houses. It has been suggested by some academic commentators that, unlike those selecting Roman senators, and I quote, "parties do not select men who are likely to add any original or specialist note to the debate, since they use the Chamber to reward faithful service". I note with approval that the author of that notion, Professor Alan Davies, seemed to have no quarrel with the calibre of women selected. The comments of Hon Derrick Tomlinson last week could be taken to suggest that he agrees that at least on some occasions the anthropoid equivalents of Caligula's horse have obtained preferment to this House.

Of course I am not suggesting that this is the case with the current members of this House. However, my argument is not based on the uncertain question of relative talent. As was so eloquently demonstrated in the address of Hon John Cowdell, the Legislative Council has not during any period of conservative government this century provided any real fetter on the power of the Government of the day. Indeed, it has been the servant, or even the poodle, of the conservative Executive. It is only during times when the Labor Party has the popular support of the electorate that any division of or fetter on the power has occurred - a constraint not exercised largely in the interests of peace, order and good government, but rather to protect the interests of property and conservatism over the reform agendas that form part of the mandate of the democratically elected Labor Governments.

Since conservatives must concede that this House does not serve to protect conservative Governments from the corrupting influence of undivided power they point to the usefulness of the committee system and the valuable work done in reviewing and recommending amendment legislation. We will watch with great interest over the next four years the degree of willingness displayed by the members of the majority of this House to impartially review the legislation put forward by the Government of the Legislative Assembly and how their colleagues in the Assembly will review the considerable body of legislation that we can expect to emanate from this House of Review, which is now the home of five senior Ministers. One positive of the Legislative Council is its multi-membered electorates. This structure makes it more possible for small parties and Independents to win seats.

This diversity of representation is important to check the complacency of the major parties, to act as a stimulus for new direction and to reflect the pluralism of our society.

We can properly limit the power of the Executive Government, provide opportunities for the detailed review of legislation and allow for a greater diversity of representation within a unicameral system. The basic structure which I propose is that of the German Bundestag and that of the various German Lander, or State Parliaments. The majority of members of those chambers are elected from single member constituencies, and the remainder are elected from party or group lists. A threshold requirement of five per cent of the vote exists to prevent unmanageable proliferation of parties, so ensuring that Governments can be formed. Members have the same powers, rights and obligations whichever way they are elected. To create meaningful division of power and review functions Government members would not be eligible for appointment as Speaker or to the Chair of review committees. Standing orders would be structured to limit the capacity of Government to use its majority to gag debate.

Such a system, Mr President, would remove the frankly objectionable and ludicrous distinctions between the Honourables and the commoners. More importantly, it would provide for real fetters on Executive power and permit the proper review of legislation regardless of which Government was in power. It would make it possible for representatives of smaller parties to be involved in all aspects of parliamentary life. It would enable Governments to choose Ministers and allocate ministries on the basis of merit without regard to the method of their election. It would allow greater flexibility in the appointment of committees. Finally, and of considerable importance, it would save the pointless repetition of procedures and debates, and the inefficiencies, delays and additional costs incurred by the requirement that matters be dealt with by two Houses. The structure I propose will not necessarily cost the members of this House their jobs, although the enlarged Assembly could operate with around 80 members rather than 91. However, it requires a preparedness to critically assess the effectiveness of existing institutions and to open our minds to alternatives; a preparedness to learn from the past but not a compulsion to repeat it.

Notwithstanding these views I will use my best endeavours to work within the current structures in order to contribute to the proper and fair governance of this State in order to deliver effective and creative representation for my constituency in the East Metropolitan Region. As much as I would like to bask in some personal glory at winning the first position for the East Metropolitan Region I doubt whether any more than 400 or 500 of the 85 000 or so persons who voted for me really had any idea who I am. While this is a state of affairs which I am confident will change dramatically over the next four years, I have no difficulty with this fact surrounding my election. Those people who elected me put their faith in the Australian Labor Party. They had faith that this is the party that will strive for a fairer distribution of the community's resources and that will encourage and reward enterprise without falling victim to the obviously flawed theories of the laissez faire economists who are lately, and quite improperly, known as economic rationalists.

Many Labor voters in the East Metropolitan Region believe the Labor Party understands that the desire and the need for short term economic gain has to be tempered by environmental imperatives; imperatives which not only affect the quality of life directly, but also affect economic prospects in the long term. Labor is honouring that faith in fighting to preserve the integrity of the Ningaloo Marine Park and in fighting to prevent the emasculation of the Environmental Protection Authority. Beyond that, like many in the Labor Party, I support the thrust of Hon Jim Scott's environmental philosophy which he so eloquently articulated the other evening. We need to reassess our focus on material goods as the measure of quality of life and standard of life and we need to recognise that our current level of consumption of the earth's resources is not sustainable. We have a moral obligation to future generations to reverse that process. However, this is not a battle, exclusively or primarily, which will take place on the floor of any Parliament. It is a major ideological shift which must take place within society at large. I commend Mr Scott and the green movement for bringing this debate to the community.

To others, the Labor Party represents an opportunity for justice for those who are so often wrongly marginalised. Democracy is not tyranny of the majority; democracy demands proper consideration of the needs and rights of all people. In Western Australia conservative thought has, through the unfair constitutional structures we have discussed tonight, hampered law reform that will provide such consideration. During its recent period in office Labor introduced legislation aimed at providing justice and opportunity to a number of such marginalised groups. In respect of homosexual law reform it was successful, thanks to the enlightenment of one or two of the conservatives in this House. In other areas such as Aboriginal land rights, the reform was blocked in this undemocratic Chamber. A great deal was done by Labor to provide land by other means and to provide improvements to housing, health and education for Aboriginal people, but the underlying issue of recognition of the prior occupation of this land by Aborigines and the subsequent circumstances of their dispossession has

never been resolved. It was a similar failure to address land rights issues in Queensland that led the Murray Islanders to the High Court. It is the ultimate bad faith for conservatives now to blame the High Court for compelling them to deal with a problem that they have had 100 years to come to terms with.

Mr President, in addition to pursuing the more mainstream and traditional concerns of the Labor Party, I will use the opportunity my election has given me to pursue reform of our laws affecting other groups wrongly dealt with by harsh and inappropriate legislation. Perhaps one of the most appalling examples of this is our drug laws. I will spend some time on this issue as I gather there has not been much debate in this House on the matter. The justification cited for these laws is that the drugs banned - marijuana, opiates, cocaine, etc - are deleterious to an individual's health and that use of these substances renders the users poor members of the community and leads to personal debilitation, criminal activity and dependence on social security. In reality, many of these laws were introduced into western democracies in an atmosphere of hysteria. A recent history of the introduction of the anti-opiate laws in England in the 1920s demonstrates that it was fear that drug use would lead to white women lowering their guard and engaging in sex with coloured men that motivated opiate prohibition in that country. I would expect that today few politicians would publicly argue that preventing interracial sex was of itself a requirement for the continued wellbeing of society.

Indeed, far from the prohibitionist legislation protecting individuals from themselves or protecting the community, this legislation has put users' lives at risk and has created a social menace of mammoth proportions. We have unleashed in this bloody-minded legislation all the evils of the United States of America's alcohol prohibition of the 1920s and 1930s. We have provided organised crime with an international trade that is the world's second largest industry, ranking behind only the arms trade. No-one would suggest that use of these drugs is beneficial to physical health, but is this of itself a reason for prohibiting their consumption? Many members of this Chamber choose to smoke, drink alcohol or eat cream cakes, notwithstanding the health risks inherent in these activities. They choose to do so because in their judgment such activities enhance their enjoyment of the time between the cradle and the grave. In the same way, many members of our community choose to use illicit drugs to aid recreation. By prohibiting use and distribution of these substances we have forgone any capacity to stop harmful adulterations. It is adulterations that by far and away are the greatest cause of drug deaths. We make it difficult to deal with the spread of AIDS through intravenous injection of drugs. We have driven the price of these substances up, particularly opiates, driving many chronic users and abusers to crimes against property and prostitution to fund drug purchases. The need to find money to fund inflated underworld prices has, for some, changed drug use from an incidental activity of otherwise law abiding and productive citizens to an obsession dominating and debilitating their lives. We have created a mystique of danger and glamour surrounding illicit drugs that has enticed rather than deterred experimentation and use by teenagers and young adults.

In order to enforce prohibition, we are continually revoking age old civil and legal rights that are an intrinsic part of our free society. Reversal of onus of proof, searches without warrants and tapping our telephones are examples. Perhaps one of the most regrettable side effects of these unjustifiable laws is the contempt they engender in adolescents and young adults for the law and the police. The young ones know well that the recreational use of marijuana is far less dangerous than the permitted and promoted drug, alcohol, and that it is of itself an enjoyable and non-destructive habit. Legislators and Governments are seen as reactionary and hypocritical. Police attract odium as the agents enforcing unjust laws.

We have squandered hundreds of millions of dollars on ineffective law enforcement while forgoing tax revenues, not to mention the prospect of new agricultural products and, most importantly, while neglecting the development of realistic strategies for the control of the harmful effects of drugs. It may be that the age or lifestyles of some members in this House could lead them to underestimate the extent of drug use in our community and, therefore, to a failure to appreciate the relevance of this issue. The Commonwealth Department of Community Services and Health published the result of a 1990 survey revealing that 57 per cent of Australian males and 40 per cent of Australian females, between the ages of 20 and 39, have used marijuana. We now have a United States President who admits to trying it, albeit not performing the drawback, and, not so well known, a United States Vice President who admits he has not only tried marijuana; he has enjoyed it.

The atmosphere of hysteria surrounding drug policy has increased in the last decade with the militaristic rhetoric of the war against drugs and the drug offensive. Despite the billions of dollars which have been poured into the battle worldwide, the fight is not being won. The United Nations estimates these colossal efforts result in only 10 per cent of the drugs in circulation being seized. Like the Vietnam War, it should not have been a war in the first place and, in any event, it is not a war we can win. In case some members labour under the misconception

that these conclusions are those shared only by naive social workers, hippies and other lefties, I will quote two heroes of the right wing pantheon.

Professor Milton Friedman wrote in the Wall Street Journal in 1989 that -

Drugs are a tragedy for addicts, but criminalising their use converts that tragedy into a disaster for society, for users and non-users alike. Our experience with the prohibition of drugs is a replay of our experience with the prohibition of alcoholic beverages. Illegality leads to the corruption of law enforcement officials: illegality monopolises the efforts of honest law forces so they are starved for resources to fight the simpler crimes of robbery, theft and assault.

George Schultz, the former US Secretary of State in the Reagan Administration, echoed those sentiments when he said -

It seems to me that the conceptual base of the current program is flawed and the program is not likely to work. It seems to me that we are not really going to get anywhere until we can take the criminality out of the drug business and the incentive for criminality out of it. We need at least to consider and examine controlled legalisation of drugs. We find it very difficult to say that. Everyone is scared to talk about it. No politician wants to say what I just said not for a minute.

Mr Schultz is right, except of course that there are now politicians who are prepared to talk about it.

Abolition of drug law prohibition is an idea whose time has come. Senior jurists, medical practitioners, politicians, law enforcement officers and academics around the world are rapidly appreciating this reality and are calling for the end of prohibition. Let us hope in Western Australia that we too can recognise it is time for a change and that we can put aside the rhetoric and lead the community in a rational debate on this important issue. I look forward to the day that we adopt a drug policy that is based not on dogma and fear but on pragmatic strategies aimed at minimising the hazards of drug use for the user as well as for the community.

Another idea whose time has come is that of an independent Australia - incorporating the adoption of a republic and a new flag. The desire to sever the remnants of our colonial history is not a rejection of our British heritage. It is simply a recognition that that heritage is just one part of our story and that now, 100 years from the commencement of nationhood, that one strand should not dominate our national symbols. I note that many members have entertained us with real life anecdotes to illustrate important issues and, like Hon Bruce Donaldson, I would like to tell a story about the attitudes of young girls. Last school holidays I allowed my 11 year old daughter and my niece to persuade me to accompany them to a matinee showing of the film Reckless Kelly. At one point Reckless, a rather attractive bikkie descendent of Ned, rips the Union Jack from the Australian flag, tears off portion of a blue bar cloth bearing a red kangaroo graphic and triumphantly inserts the bar cloth kangaroo in the place vacated by the Union Jack. The audience, comprising largely eight to 15 year olds, rioted with excitement. One was left in no doubt about how they felt about a new flag or how they would vote in a referendum in three or six years' time.

Those who respond to the prospect of a republican Australia by arguing secession are living in pixieland. The majority of Western Australians decades ago supported secession; today the composition of Western Australia's population has changed dramatically. Vast numbers have migrated west from the Eastern States and from overseas. Those born and bred in Western Australia have themselves travelled more, and many have family and friends who live "over east". Many Western Australian businesses are integrated into the national economy. State parochialism is a lot of fun at the footy and gives us the opportunity to whinge or preen from time to time, but while most Western Australians are proud of their State they are, as Hon Nick Griffiths said, proud to be Australians first.

A considerable number of other policy areas are of great interest to me and of great importance to those whom I represent, including policing, corrective services, local government, planning and heritage. However, I will not bore members with an exegesis on each of these now; I am sure I will have plenty of opportunity to do that over the next four years.

Before I finish, however, I will make some acknowledgments of a personal nature. My first thought was that I should not mention names of significant individuals as there are so many who contributed to my personal, intellectual and political development. I must, however, acknowledge my predecessor in this House, Hon Kay Hallahan. Like the electors of Armadale, I think Kay is a wonderful woman - charming, kind, capable,

dedicated, open-minded and with a wicked sense of humour and a love of life that is infectious. It has been and continues to be a great treat to work with her. I record my special debt to my mother, who imbued in all her children an awareness of social and economic inequalities and of the immorality of the suffering caused by those inequalities and the possibility that those wrongs could be corrected by political action. I acknowledge also that giant of Australian politics in the 1970s, Gough Whitlam, who was the seminal figure not in my attraction to the left of politics but to my development of a belief in the Labor Party as a worthy and effective vehicle for both justice and enlightenment - for the vision of a fairer and more interesting Australia, where diversity and creativity are celebrated and collective responsibilities are accepted willingly.

I thank all my friends, both inside and outside the party, and my extended family, who have given me so much support over the years and who have expressed so much faith in my capacity to make some useful contribution to this society through the political process. In particular, I thank those true believers who tramped the streets in the summer heat doorknocking, and my great comrades in the Highgate branch and those in the Perth electorate council with whom I have worked for many years. Beyond that, I give special tribute to the rank and file of the Labor Party, those decent women and men who give freely of their time and their money, seeking no personal reward other than the satisfaction of having contributed to the ongoing struggle to make this great State and this great country a better land where all can have a place in the sun. For them and for the people of East Metropolitan Region I pledge to do my best.

Members: Hear, hear!

[Applause.]