John Curtin: party, parliament, people

JCPML Anniversary Lecture presented by the Hon Gough Whitlam on 5 July 1998.

It is always a joy to begin something important. I was, therefore, honoured to receive, and delighted to accept, Vice-Chancellor Twomey's invitation to deliver the Inaugural Curtin Anniversary Lecture under the auspices of the John Curtin Prime Ministerial Library within the university which bears his name. He suggested that I address some current national issues that can be related to the principles or views upheld by John Curtin. It is a broad brief.

I pay tribute to the work of the Library and the University in keeping John Curtin's memory fresh and his record relevant. I refer, for example, to two excellent publications. One, published in 1995 under the University's imprint Paradigm Books, lets Curtin speak for himself, In His Own Words, a collection of his speeches and writings "edited and narrated" by Professor David Black of this University. The collection spans nearly forty years, from the 21-year-old idealist writing in the Victorian Socialist in 1906 to the war-time Prime Minister of Australia making his noble farewell to President Roosevelt, twelve weeks before his own death, on the eve of victory, 53 years ago today.

The second publication will be an enduring tribute equally to its subject and its author: For Australia and Labor: Prime Minister John Curtin by Geoffrey Serle. This elegant monograph has just been published by the [John] Curtin Prime Ministerial Library, of which Geoffrey Serle was the first Visiting Scholar last year, only a few months before his illness and death. In the introduction, Jessie Serle has written: "It is not the major biography Geoffrey has long wished to write but he hopes that it will introduce a new generation to a great Australian prime minister". It will achieve that, and more: it will introduce a new generation to a great Australian historian. Elsie

Macleod has paid a moving tribute to her father in the foreword. She and her daughter are here today. I never met John Curtin but I came to know his widow Elsie well. In April 1967 I was in the then unprecedented position of being a new Leader of the Federal Opposition under threat from his party's power broker in Western Australia. I was immensely reassured by a letter from Elsie Curtin, still a highly respected and influential figure in Labor circles in this State. To my astonishment she observed that Margaret and I must be celebrating the 25th anniversary of our wedding, which had taken place on the 25th anniversary of her own.

Geoffrey Serle's title For Australia and Labor embraces the themes of my own title today: Party, Parliament, People. They are the resonant themes of Curtin's career. By "party" I mean not only his faith in the Australian Labor Party, but his conviction that the party system -a strong two-party system- was the indispensable basis for parliamentary democracy. This is the real significance of his refusal to countenance the formation of a national [i.e. all-party] government after the 1940 election, even though Menzies offered to serve under him in 1941. As he said: "If there is one thing worse than a government of two parties [the UAP and Country Party] it would be a government of three parties". After Menzies and then Fadden fell, Curtin became prime minister in October 1941. The House of Representatives which had made him prime minister sustained his Labor Government until the 1943 elections. It was always in a minority in the Senate. Our most narrowly divided House of Representatives provided our strongest government throughout our most dangerous time; and it ran its three-year term. The course which Curtin chose has been fully vindicated by the verdict of history. It was overwhelmingly vindicated by the verdict of the Australian people at the 1943 elections. On that day, 7 August 1943, it all came together–John Curtin's trust in party, the Parliament, the people.

It is now more than 37 years since I delivered the second Curtin Memorial Lecture under the auspices of the ALP branch of the University of Western Australia. As Deputy Leader of the Federal Parliamentary Labor Party, I set out the elements of a Labor program within the Constitution. It was, in essence, the program that my government set out to achieve, and in the main did achieve, from 1972 to 1975. I said on that occasion:

My interest in constitutional matters stems from the time when John Curtin was Prime Minister. The Commonwealth Parliament's powers were then at their most ample and it was constitutionally, if not always politically, more open to a Labor government to carry out its policies than it is in peace time. John Curtin, however, saw that he was presiding over a passing phase. He was not content with the paradox that the Labor Party was free to enact its policies in times of war alone. Accordingly, in 1944, he sponsored a referendum to give the Federal Parliament post-war powers. His motives for holding the referendum were based on patriotism and experience. He argued the case with his full logic and eloquence. The Opposition to the referendum was spurious and selfish. The arguments were false. My hopes were dashed by the outcome and from that moment I determined to do all I could to modernise the Australian Constitution.

It was not the last time that my hopes were to be dashed. Nevertheless, I have never lost that determination to advocate the modernisation of the Australian Constitution.

I use both terms "modernisation" and "Constitution" comprehensively. The formal Constitution is neither the progenitor nor the guarantor of our parliamentary democracy. Its capacity to evolve to meet the needs of a modern Federal system involves more than alteration of the written document by referendum of the people. Curtin achieved the greatest single reform in Commonwealth-State relations, not by referendum, but through uniform taxation. He was opposed by State Premiers of his own party, and supported by the High Court. The High Court itself can advance or retard reform. A great and independent Court can initiate reform. Even regressive rulings can force reform parties and governments to use the existing Constitution more constructively. That is why I emphasised reform within the Constitution in my 1961 Curtin Lecture. I was exasperated by the way in which the Labor Party of the 1950s had allowed the 1948 ruling against bank nationalisation to stultify its platform; I was intent on weaning the Party from its negative obsessions with Section 92 towards the positive potential of Section 96. The High Court never invalidated any of my governmentÕs acts or actions. Yet another route towards modernisation now lies through the recognition of the Constitution as an

international instrument. It is by accepting our international obligations, as responsible members of one world that we may aspire to be in truth one nation.

The paradox of the Constitution is that the distinctive features which underpin parliamentary democracy are not mentioned in it. The role of the prime minister, indeed the existence of the office, is not recognised. Nor is the fundamental principle of collective Cabinet responsibility. The basic principle of parliamentary government, Ministers answerable to Parliament, is not spelt out; it is implicit only in the third sub-clause of Section 64, which states:

After the first general election no Minister of State shall hold office for a longer period than three months unless he is or becomes a senator or a member of the House of Representatives.

Nothing in the Constitution provides that the Executive Government shall be chosen from the party or groups having a majority in the House of Representatives. At the first Constitutional Convention in Sydney in March 1891 Sir Henry Parkes did indeed want to make this explicit. His foundational resolution to establish a Federal Government provided for:

An executive ... whose term of office shall depend upon their possessing the confidence of the House of Representatives, expressed by the support of the majority.

Had Parkes not been thwarted by Sir Samuel Griffith, the Premier of Queensland, the author of the first draft of the Constitution, and later the first Chief Justice of Australia, we might have been spared the crisis of 1975. We would certainly have been spared the absurdity of the Barwick doctrine, which asserted that a government is not legitimate unless it has the confidence of both Houses, the Senate as well as the House of Representatives.

Nevertheless, such aberrations apart, the great defining principles of parliamentary democracy have prevailed, with or without provision in the Constitution. And they have prevailed because of the strength of the most important of all the institutions not mentioned in the Constitution: the great political parties. To defend the party

system is to defend parliamentary democracy; to maintain a strong party system is to maintain a strong parliamentary democracy. Individual parties may change; they may split; they may decay or die. Coalitions may crumble and re-group. New parties may emerge. At Federation, the Labor Party itself was a third party. All great parties in a democracy are in a sense coalitions. All government in a democracy involves compromise. Nobody understood these central facts of parliamentary democracy better than John Curtin. He lived through two disastrous splits in the Federal Labor Party. As its leader after 1935, he said: "All I ever seem to do is to go to Sydney for another unity conference in bloody New South Wales". The collapse of the conservative coalition made him prime minister and gave him the landslide electoral victory of 1943. In December 1944 Menzies regrouped the anti-Labor factions and launched the Liberal Party in Albury with the Union Jack behind him and not an Australian Ensign, Red or Blue, in sight. Curtin respected Menzies's qualities and scorned those in the Labor Party who complacently believed that "They can never win again with Menzies". For both Curtin and Menzies, a driving force was their unwavering conviction, born of searing experience, that a strong parliamentary democracy absolutely requires strong political parties.

That is the background to my themes "Party, Parliament, People", and against that background I now touch on some matters of constitutional modernisation which embrace all three. They also provide examples of the variety of methods by which modernisation can be achieved.

Fixed Four Year Terms

Acknowledging the limits on my time, I concentrate these days on those aspects of modernisation that I believe most urgent. None is more urgent than electoral reform. No constitutional amendments are more urgent than those which would reduce the multiplicity and dyschronicity of elections in Australia. No reform would do more to restore the effectiveness of Parliaments and respect for parliamentarians. The frequency and arbitrariness of election dates, nationally and in all States except New South Wales, distorts the Federal system, destabilises the parliamentary system and corrupts the party system. Specifically, I urge that the Labor and Liberal Parties

should set out to achieve the goal of holding elections for all Federal and State Houses of Parliament on a fixed date every four years.

Our Federal Constitution envisaged the holding of elections every three years. In fact, the draft constitution presented to the Adelaide Convention in April 1897 provided a four-year term for the House of Representatives. The Premier of Victoria, Sir George Turner, successfully moved to amend Section 28 to provide a three-year term. He said:

If we have a Parliament retiring at the end of three years–unless there happens to be a dissolution at some particular time, which is not very likely to happen in connection with the Federal Parliament–we may allow an election for senators and representatives to take place together. (Adelaide Convention Debates p.1031)

At the Sydney session of the Second Convention in September 1897, the Premier of Western Australia, Sir John Forrest, moved an amendment forwarded by the Western Australian Legislative Assembly, which already had a four-year term. Sir John Forrest said: "I think there is a general feeling throughout Australia that the triennial system is rather short". (Sydney Convention Debates p.463.) With optimism and foresight like that, no wonder Forrest succeeded in every one of his explorations. Alas, his amendment in Sydney was negatived. The point is, however, that the founders took it as axiomatic that Parliaments would run their full term. Save for the double dissolution in September 1914 and the House of Representatives election in October 1929, members of both Houses served their full terms until the second double dissolution of 1951, even, as I have said, in the extraordinary circumstances prevailing after the 1940 elections. In 1955 Menzies made opportunistic use of the prime minister's right to dissolve the House of Representatives in which the government had a majority. He repeated the exercise in 1963. That caused the separate elections for half the Senate in 1964, 1967 and 1970. It also meant that no Senators were elected concurrently with the House of Representatives in December 1972. In 1975, 1983 and 1987, there were double dissolutions on spurious or faulty grounds. The Parliaments elected in 1990 and 1993 were the first to run the full three years since the Parliament elected in 1958.

We can now see the cumulative and calamitous effect of these pernicious precedents, caprices and opportunism, combined with dyschronous State elections, themselves increasingly regarded as vast Federal by-elections, or opinion polls on a grand scale.

Section 29 of the Constitution ordains that "Every House of Representatives shall continue for three years from the first meeting of the House, and no longer, but may be sooner dissolved by the Governor-General". The present House first met on 30 April 1996. The Australian Parliament has been in election mode since the last quarter of 1997. In Queensland, the only State which has not adopted four-year terms, the last elections had been held on 15 July 1995. Prime Minister Howard and Premier Borbidge argued the toss–or perhaps tossed a coin–to see who would go first. They could not hold the State and Federal elections on the same day because a section of the Commonwealth Electoral Act 1918 prohibits State elections being held on a Federal election date. That 80 year old section should be repealed.

The Queensland election on 13 June is generally thought to have been determined on Federal issues such as immigration, Aboriginal advancement and privatisation. If the State and Federal elections could have been held on the same day, Coalition candidates for the Federal Parliament might well have suffered more than Coalition candidates for the State Parliament. In the aftermath of the Queensland fiasco, the prime minister overtly regarded a double dissolution as just one of his options, to be taken up or discarded at convenience. It is precisely this manipulation of the system which creates the cynicism in which a movement like the so-called One Nation can take root.

If we accept that poor perceptions of established parties and politicians have contributed to this phenomenon, we can see the damage done by the manipulation of election dates. It distorts the role of Parliament. It impedes the serious development of policies at both parliamentary and party levels. Federal-State conferences are routinely abandoned because an election is in the offing; in Australia, they are perpetually in the offing. The manipulation of election dates entrenches the power of the party machines and the non-elected officials who monopolise the modern methods of measuring the public mood. It reinforces the

media superficiality in the coverage of political affairs. The cost and frequency of elections are the major likely causes of corrupt conduct in this country.

We must now recognise that the multiplicity of dyschronous elections in Australia is not a manifestation but a manipulation of democracy. All the States, except Queensland, have adopted four-year terms. Since 1965 elections for both Houses of the Western Australian Parliament have been held on the same day. In 1987 the maximum term for the Assembly was extended to four years and the Council was changed from a body whose members were elected for fixed six year terms, half every three years, to a body whose members are all elected for fixed four year terms. In 1995 the people of New South Wales overwhelmingly approved a fixed four year term for both Houses. They removed from the Executive the power to terminate Parliament at will. They withdrew the prerogative which prime ministers and premiers of all parties have abused.

In the United States simultaneous elections are the rule. In 1845 the Tuesday after the first Monday in November in even-numbered years was fixed as the election date for presidents and members of the House of Representatives. By the end of the century the same date had been fixed for the election of governors and State legislators. By the 17th Amendment (1913) it became the election day for senators. Whether their positions are for six, four or two years, all incumbents and candidates have to face their electors on the same day. Australians will have a stronger democracy and a better Federal system when all Federal and State Houses of Parliament are elected on a fixed date every four years.

Fair Elections

The real measure of democracy is not the frequency of irregular elections but the integrity of regular elections. It is by no means coincidental that the One Nation movement is maximising its efforts in the two States which have had the least democratic electoral systems, Queensland and Western Australia.

The two Houses of the Western Australian Parliament continue to deny the equal suffrage which the 1966 International Covenant on Civil and Political Rights lays

down as a fundamental human right. One vote one value has been achieved in the House of Representatives, both Houses of the NSW, Victorian and South Australian Parliaments and, except for five remote electorates, in the single chamber of the Queensland Parliament. In 1995 the Tasmanian Parliament produced redistribution proposals for the Legislative Council which would ensure one vote one value in future elections for that House.

In the Western Australian Legislative Assembly there are 34 electoral districts in the Metropolitan Area and 23 districts in the Country Area. At 31 March 1998 the quotient of electors for the Metropolitan Area was 24 683 and for the Country Area 12 731. The number of electors in the most populous Assembly districts were 30 443 and 27 775 and in the least populous assembly districts 10 098 and 10143.

In the Western Australian Legislative Council there are six electoral regions. Four of the regions have five members each. At 31 March 1998 there were 66 698 electors in the Mining and Pastoral Region, 89 462 in the Agricultural Region, 239 285 in the South Metropolitan Region and 252 075 in the East Metropolitan Region. Two of the regions have seven members each. At 31 March there were 136 662 electors in the South West Region and 347 878 in the North Metropolitan Region.

The British Parliament at last trusted Western Australians sufficiently to grant them self-government in 1890 when Sir Malcolm Fraser was administering the colony. The other five Australian colonies had been granted self-government between 1855 and 1859. Parliamentary democracy was crippled in the State Parliament from the outset. Malapportionment of electors has been endemic since the first elections for the Legislative Assembly in 1890 and for the Legislative Council in 1894.

Parliamentary democracy in the Federal Parliament was born in a healthy condition. Members of the House of Representatives were elected in March 1901. Enrolment in the five divisions in Western Australia varied from 15 969 to 18 811. Curtin served in Parliaments for which distributions took effect in 1922 under the Bruce-Page Government and in 1937 under the Lyons Government. Enrolments varied on the first occasion between 31 081 and 33 946 and on the second between 41 248 and 58 675.

Fair Federal distributions were guaranteed by the legislation passed at the joint sitting of the House of Representatives and Senate in August 1974 and upheld by the High Court in November 1977. On 22 April 1996 Western Australians were told the boundaries of the 14 divisions in which they will vote at the next Federal elections. At 30 April 1998 the enrolment varied between 74 551 and 85 633. I repeat that, at 31 March 1998, enrolments in the 57 electoral districts in the Legislative Assembly varied between 10 143 and 30 443.

The Fitzgerald Inquiry in Queensland and the Kennedy Royal Commission in Western Australia have confirmed that there cannot be a responsible government unless there is a representative Parliament. Western Australia has neither.

In December 1993 Carmen Lawrence, Jim McGinty and Geoff Gallop challenged the unequal State franchise in the High Court. They had to overcome McKinlay's case, a challenge to the unequal Federal franchise in 1975. To quote my latest book, Abiding Interests:

That case was heard in the last week before the coup of November 1975, and with a spectacular sprint the Justices delivered their judgments on 1 December in advance of the Federal elections on 13 December. McGinty's case was heard in September 1995 by only six justices, since Chief Justice Mason had retired and Justice Deane had been designated as Governor-General. There is reasonable speculation in legal circles that if they had sat on the case the challenge would have succeeded. On 20 February 1996 the new Chief Justice Brennan, Justices Dawson and McHugh, and the new Justice Gummow, rejected the challenge. To many it seemed that the Brennan Court would not be as innovative as the Mason Court. It is more fruitful to speculate that the Justices might have felt that the Western Australian Parliament not only could and should but would correct the situation.

The Court Government was returned on 14 December 1996 and has taken no steps to correct the situation. Western Australians can, however, initiate another strategy to secure democracy in the State Parliament. They can approach the United Nations Human Rights Committee which monitors and implements the International Covenant on Civil and Political Rights.

The first UN human rights convention was the 1948 Genocide Convention. If the Menzies Government had promptly enacted it, the practice of taking children from their Aboriginal mothers would have ended at least a decade sooner. The next and the second most widely accepted UN human rights convention was the International Convention on the Elimination of All Forms of Racial Discrimination that was opened for signature on 21 December 1965 and entered into force on 2 January 1969. The High Court and the Federal Court have been able to secure compliance with it because my Government enacted it in the Racial Discrimination Act 1975. Australian courts have been able to secure compliance with the 1979 Convention on the Elimination of All Forms of Discrimination against Women because Senator Susan Ryan, Australia's most successful woman legislator before Cheryl Davenport, persuaded the Senate to pass a Sex Discrimination Bill to enact it in 1982 and then persuaded the Hawke Government to enact it in the Sex Discrimination Act 1984.

I describe in my book, but shall not repeat here, the circumstances in which the Hawke Government failed to enact the most widely accepted UN human rights convention, the International Covenant on Civil and Political Rights, which had entered into force generally on 23 March 1976. The Keating Government secured the passage of the Human Rights (Sexual Conduct) Act 1994 after the Human Rights Committee's unanimous and strong findings that the Tasmanian Criminal Code breached the Covenant's Article 17, which forbids arbitrary or unlawful interference with privacy and unlawful attacks on reputation. When the Tasmanian Government was slow to amend the Code, the complainant secured leave to take proceedings against it in the High Court. The Tasmanian Parliament then amended the Code.

Beyond any doubt the Human Rights Committee would find that the Western Australian malapportionment violates every possible definition of equal franchise and that all available domestic remedies had been exhausted. Any Western Australian elector can submit a written communication to the Human Rights Committee for consideration. As in the Tasmanian situation, the Federal Parliament would inevitably have to enact the equal franchise article of the Covenant and the State Parliament would introduce equal franchise for both the Legislative Council and the Legislative Assembly.

The Australian Republic

The timing and outcome of the next Federal election are speculative. There is, however, one certain sequel to it. As a result of last February's Constitutional Convention, a referendum will be held in 1999 on a proposal to effect a very considerable modernisation of the Constitution. If the electors approve the alteration, the Commonwealth of Australia will have a resident President as its Head of State instead of an absentee monarch with a resident viceroy called the Governor-General.

The proposal adopted by the Convention provides a mechanism for the appointment of the President: under this model the president would have to be nominated by the prime minister, supported by the Leader of the Opposition, and elected by a two-thirds majority in a secret ballot at a joint sitting of the Senate and House of Representatives.

The February Convention was impeded by ignorance of Australia's Constitutional processes. One could only wince at the performance of an Associate Professor of Political Science from Western Australia. Some delegates, academics and lawyers among them, spoke and acted as if the Convention could compel the Federal Parliament to pass a particular bill and compel the Federal Government to advise the Governor-General to submit that particular bill to the people. They spoke and acted as if different proposals on the republic could be passed by the Federal Parliament and submitted to the electors to choose between them.

The Constitution does not permit the electors to choose between competing proposals. There is and always has been a single method of altering the Constitution. The Federal Parliament has to pass a bill proposing specific words to be added to, or excised from, the existing words. The Federal Government has to advise the Governor-General to submit the bill to the electors. A majority of the electors in the whole of Australia and a majority of the electors in a majority of the States have to approve the bill. The Constitution permits several proposals on different subjects to be submitted to the electors at the same time. It does not, however, permit alternative proposals on the same subject to be submitted at the same time.

Since 1929 every Head of StateÑ-George V, George VI and Elizabeth II-Ñhas appointed as Governor-General a man nominated by the Prime Minister of Australia. Every prime minister who has nominated a Governor-General has been the leader of the Labor Party or the leader of the United Australia Party, which was the precursor of the Liberal Party, or the leader of the Liberal Party. Thus for seven decades, every Governor-General of Australia has been a political appointment. Ironically perhaps, no appointment was intended to convey a more pointed political message than Curtin's appointment of the Duke of Gloucester, the King's brother. Its express purpose was to signal Australia's solidarity with the British Commonwealth.

At the National Conference of the ALP, which was held in Hobart before the Constitutional Convention, the leaders of the Queensland, Western Australian, South Australian and Tasmanian Parliamentary Labor Parties advocated direct election of the president by the electors. At the Convention the same leaders again advocated direct election and were slow to realise the folly of that course. The premiers of those States persisted in advocating direct election.

If the president was directly elected, he or she would be the person nominated by the Labor Party or the Liberal Party. Under direct election the president would be a partisan. Under Parliamentary election the president would be bipartisan.

Many of the delegates at the Constitutional Convention were slow to realise that a directly elected president, who would have been either a Liberal or a Labor candidate, would be seen or tempted to meddle in disputes between the Senate and the House of Representatives. The Menzies Government lost its majority in the Senate after June 1962 and the Fraser Government lost its majority in the Senate after June 1981. The Holt, Gorton, McMahon, Whitlam, Hawke, Keating and Howard Governments have not had a majority. For as far ahead as anybody can see, the Senate will be a multi-party House and no Government will have a majority in it. A President who was directly elected by the electors could claim to have a mandate in competition with the mandate which a prime minister has received from the members of the House of Representatives. Malcolm Fraser and I, John Howard and Kim Beazley all agree on the implications of having a president directly elected by the voters.

Australia is not a plebiscitary democracy but a parliamentary democracy. Its Head of State should not be set apart from the Parliament but should be, constitutionally, part of it. Section 1 of the Constitution ordains that the Parliament of the Commonwealth "shall consist of the Queen, a Senate, and a House of Representatives". The Parliament should now consist of the President, the Senate and the House of Representatives.

Federal Finances

I referred earlier to John Curtin's achievement of uniform taxation. There will be no meaningful tax reform in Australia without reform of Federal/State finances. The rejection of the States' liquor, tobacco and petrol taxes by the High Court on 5 August 1997 in Ha's Case will have a greater effect on Federal/State finances than any of the Court's decisions since its approval of uniform income tax in 1942 and 1957. The judgments should lead to a reallocation of Federal/State functions. Specifically, the State Parliaments should delay no longer in transferring their remaining responsibilities in health and hospitals to the Commonwealth Parliament. The 1942 Beveridge report in Britain inspired the Curtin Government's legislation on health services as well as social services. The Pharmaceutical Benefits Act 1944 was the first instalment. "National Health" was one of the Fourteen Powers sought in the August 1944 referendum.

In a referendum in April 1933 the electors of Western Australia voted by a majority of more than two to one in favour of seceding from the Commonwealth. Curtin's election 18 months later as leader of the Federal Parliamentary Labor Party gave Western Australians a better national perspective. Western Australia was one of two States which approved the Fourteen Powers referendum. A large majority of electors in the services approved the referendum. Passengers in troop trains especially realised the importance of the Clapp report on rail standardisation requested by the Curtin Government in March 1943 and received in March 1944. Western Australia's railways had been an international laughing stock since 1920, when Edward, Prince of Wales, and Lord Louis Mountbatten were in a carriage which overturned while the State factotum was locked in the lavatory. In June 1995, fifty years after Curtin's

death, his constituents could at last travel to all mainland capitals without a break of gauge.

Doubtless due to Curtin's national perspective Western Australia approved all three of the referendums held in conjunction with the Federal elections in September 1946. All secured an overall majority, but two were not carried because they secured a majority in only three States. The Social Services referendum secured a majority in all States and thus gave the Federal Parliament the power to make laws with respect to "the provision of ... medical and dental services". This is a power that the Federal Government and Parliament should now exercise.

It cannot be claimed that hospitals are traditionally and intrinsically State responsibilities. They accounted for minuscule proportions of government expenditures by the Australian colonies and, for the first decades of Federation, by the Australian States. It is inevitable that Federal involvement will increase in hospitals, just as it has in universities. The residents in any Australian State cannot develop their scientific and medical skills in isolation from other Australian States.

In the 1974 Budget my Government commenced a five-year program of capital assistance for the provision, expansion and modernisation of public hospitals. A joint Hospital Works Council was established in each State to co-ordinate the use of State and Federal funds. Premiers of both sides of politics co-operated. The Fraser Government terminated the contribution of Federal funds in the 1978 Budget. The Hawke and Keating Governments did not restore a joint Works Council in any State; the Howard Government has shown no inclination to do so.

Federal legislation to collect liquor, tobacco and petrol taxes and then to pass the revenues back to the States can be no more than a stop-gap measure. No Federal Government will concede that State Governments can spend Federal revenues better than the Federal Government can spend them. The Federal Government should accept responsibilities commensurate with its revenues. Under current arrangements, State officials and institutions irresponsibly shift health treatment into forms provided or subsidised by the Federal Government. Any State can make an agreement with the Commonwealth to transfer its health services and hospitals to

the Commonwealth. Agreements between the Commonwealth and other States would soon follow. The present absurd impasse merely underlines the impossibility of our continuing on our present path.

Western Australians will remember that the health minister in the Lawrence Government resigned on 13 November 1992 when the latest hospital agreement was being negotiated. The two Territories and all States except Western Australia signed the agreement on 8 February 1993. Richard Court's minister signed the agreement on 30 June 1993. In the financial year 1993-1994 the Federal Government contributed $513.894 million and the State Government contributed $422.728 million to funding Western Australia's public hospitals. In the financial year 1996-1997 they contributed $531.464 million and $595.118 million respectively. These figures exclude capital expenditure. The greatest step that could be taken towards equating Federal finances and Federal responsibilities would be for the Federal Parliament to exercise its jurisdiction over medical services conferred in the 1946 referendum. Specifically, the Federal Government and Parliament should promptly and fully accept the responsibility for hospitals as they have long since accepted responsibility for tertiary education.

Aborigines

Another of the subjects in Curtin's Fourteen Powers referendum was "the people of the aboriginal race". Two great Western Australian parliamentarians of the next generation took the first steps to awake the National Parliament to its responsibilities for the nation's Aborigines. Nothing could be more fitting than that in an address dedicated to John Curtin I should pay tribute to his successor in the seat of Fremantle (1945 to 1977), Kim Beazley Snr, and to the first member for Curtin in the Federal Parliament (1949 to 1969), Paul Hasluck. Kim Beazley's Curtin Memorial Lecture at the Australian National University in 1971, entitled John Curtin, An Atypical Prime Minister is superb in its sweep and insights. Hasluck's masterwork, The Government and the People 1942-1945, published in 1970, remains the most authoritative assessment of Curtin's prime ministership.

It was, however, in his first book, Black Australians, published in 1942, that Hasluck established the ground for his later endeavours towards national responsibility for Aborigines. The book itself was based on his 1938 MA thesis on "official policy and public opinion towards the aborigines of WA from 1829 (when the Swan River was settled) to 1897 (when control of aborigines was transferred by the Imperial Government to the WA Government)". British officials did not trust elected and appointed persons to safeguard the condition and status of Aborigines in WA. Hasluck points out that WA was at last given self-government in 1890 on condition that one percent of the gross revenue of the colony should be appropriated for the welfare of the aboriginal natives. In 1897 Britain allowed the WA Parliament to control expenditure on Aborigines. Three years later, on the eve of Federation, Parliament's expenditure on Aborigines had been cut to one-sixth of one percent.

On 22 February 1950, his first day in the House of Representatives, Hasluck put a question on notice about the educational requirements of Aborigines in the Northern Territory; the answer appears in the Hansard of 14 March 1950 at page 722. He spoke on the adjournment on 28 March on the welfare requirements of "aborigines and half-castes".

On 8 June 1950 he moved:

That this House is of the opinion that the Commonwealth Government, exercising a national responsibility for the welfare of the whole Australian people, should cooperate with the State Governments in measures for the social advancement as well as the protection of people of the aboriginal race throughout the Australian mainland.

Hasluck's 30 minute speech was the most thorough speech on Aborigines to have been delivered in the National Parliament to that time. In the course of it he used these words:

When we enter international discussions, and raise our voice, as we should raise it, in defence of human rights and the protection of human welfare, our very words are

mocked by the thousands of degraded and depressed people who crouch on the rubbish heap throughout the whole of this continent.

Paul Hasluck could never be accused of taking the "black armband" view of our history. He did, however, want us to take off the white blindfold. His aspirations were curbed during his period as Minister for Territories (May 1961-December 1963) in the Coalition Governments led by Menzies but dominated on indigenous issues by the Country Party.

In advocating support for the Native Title Bill 1993, I frequently quoted not only Hasluck's 1942 book but also the elder Beazley's elegant and eloquent speeches in Parliament in the early 1960s. He set out, with characteristic passion and perception, the great moral issues that we have not yet resolved.

On 19 October 1961 (Hansard, page 1854) Beazley stated:

In any land policy, for God's sake, let us get over the great historical assumption that you must make a decision about the lands as though there was no one living on them.

On 23 May 1963 Beazley moved:

In the opinion of this House–

(1) An aboriginal title to the land of aboriginal reserves should be created in the Northern Territory, (2) A form of selection by aborigines of trustees to conduct affairs arising from this title should be devised, and (3) Meanwhile the safeguarding of aboriginal rights should be ensured by discussion with spokesmen for the aborigines of the Gove Peninsula area.

The motion was in the context of exploring and exploiting the bauxite deposits at Yirrkala Mission, where my RAAF squadron had been based twenty years earlier, and I had listened to Curtin's broadcasts in support of the Fourteen Powers referendum. Beazley proceeded:

Since the first settlement in 1788, we–the European-descended people of the continent of Australia–have never acknowledged that aborigines have any entitlement at all to land. The proclamation by the Commonwealth of large reserves, some of them with great potential, as land for the aborigines in the Northern Territory, will, of course, mean nothing if systematically, when anything of any value is discovered in them, areas become excised from the aboriginal reserves and the aborigines have what is left.

On 14 May 1964 (Hansard, page 1917), Beazley stated:..

[I]rrespective 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 NationsÑno 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.

Australia's international obligations, so powerfully invoked by Kim Beazley 34 years ago, now lie at the heart of the issue. Nineteen months later, on 21 December 1965, the International Convention on the Elimination of All Forms of Racial Discrimination was opened for signature. Ten years later, on 30 September 1975, Australia's instrument of ratification was deposited after my Government secured the passage of the Aboriginal and Torres Strait Islanders (Queensland Discriminatory Laws) Act 1975 and the Racial Discrimination Act 1975. The latter was the first act to make a human rights convention part of the law of Australia. It has been the foundation for the High Court's judgments in Koowarta in May 1982, in Mabo [No.1] in December 1988, in Mabo [No.2] in June 1992 and in Wik in December 1996.

In the wake of Wik, the calumniation of the High Court and the misrepresentation of the decision itself are the principal causes of the current shameful imbroglio. The seed was sown by State Premiers within hours of the judgment. In Mabo the justices had examined the history of native title in general. In Wik they examined the history of leasehold estates in particular. In Mabo they found, following Beazley three decades earlier, that past assumptions of historical fact were false and they held that

native title had always existed in Australia. In Wik the Court found that leasehold estates now took a variety of forms. All seven justices found that the mining leases extinguished native title. The four justices in the majority found that, where there are inconsistencies in place and terms between pastoral leases and native title claims, the pastoralists' rights prevail.

Yet from the beginning this circumscribed and circumspect judgment, and the justices who made it, became the object of unprecedented misinformation and malice. Premier Court urged the Australian Government to denounce its obligations under the 1965 Convention and he wanted the Australian Parliament to renounce the obligations imposed on it by the people of Australia under the 1967 referendum. Premier Borbidge of Queensland began his long and ultimately disastrous election campaign by threatening repeal of the Queensland Act which the Goss Labor Government had passed to complement the Native Title Act. Now, the shrill and strident voice of One Nation rises above the chorus of misrepresentation which these premiers were once ready enough to lead, demanding the repeal of the Racial Discrimination Act itself. Amidst all the uncertainty they have helped to create, one thing, however, is certain: every step Australia takes away from the course of national responsibility first urged by Paul Hasluck 48 years ago brings us closer to that international judgement which Kim Beazley foresaw 34 years ago.

Two days ago, at the 11th hour, the Howard Government accepted an amendment to the Native Title Amendment Bill 1997 that will ensure some continuing operation of the Racial Discrimination Act 1975.

Conclusion

The relationship between Australia's international standing and its domestic policies increasingly influenced John Curtin's thinking in the last months of his life, as the war drew to its victorious close.

I give two instances.

The first is from the recently published book Backroom Briefings–John Curtin's War edited by Professor Clem Lloyd and Richard Victor Hall, my old associate. The book is

based on transcripts kept by the AAP journalist Frederick Smith, recording the confidential briefings Curtin gave to the Canberra Press Gallery throughout the war. From the briefing on 23 November 1943, Smith recorded:

Curtin is anxious that Australian papers should avoid raising the White Australia issue or even referring to the term "White Australia" at the present juncture.

A spokesman who is close enough to Curtin to make his views something of a reflection of Curtin's viewpoint (the editors note that this was probably Don Rodgers, Curtin's press secretary) told me today that Australia would be in difficulties after the war when she tried to make use of the manufacturing potential built up during the war by seeking trade with Asiatics and other coloured people and at the same time strenuously refusing them access to an empty Australia. (Backroom Briefings p.175)

My other example of the change and development in Curtin's thinking is taken from his last major speech to the Parliament on 28 February 1945. As David Black writes (page 250), "Curtin dealt with his vision for the creation of a new international peace-keeping organisation, the forum of which would be decided at the San Francisco conference scheduled to be held in April".

Curtin told the Australian Parliament:

If we are to concert with other peoples of goodwill in order to have a better world, there must be some pooling of sovereignty.... There must be some realisation that countries cannot always have their own way, if they really want to live in amity. There must be some give and take. ... There is a price that the world must pay for peace; there is a price that it must pay for collective security. I shall not attempt to specify the price, but it does mean less nationalism, less selfishness, less race ambition.

In these remarkable passages, the nuances of the phraseology do not disguise but rather emphasise the revolutionary change of thought and attitude that Curtin was foreshadowing for Australia. Their full significance can be realised only in the context of the deeply-held orthodoxies of his time and generation, of Curtin and the Labor

Party as deeply as any. It is a measure of the man that towards the end of his life he was preparing to challenge the most cherished articles of faithÑhis own, his party's, his country's–just as he, the jailed anti-conscriptionist of 1917, had challenged the Labor Party on conscription in 1942.

As with the man, so with the nation. We best measure the Australian achievement, not by glossing over the truths about sectarianism, racism and dispossession in our history but by our courage in confronting them. In calling for "less nationalism, less selfishness, less race ambition", John Curtin gave a message to his party, the Parliament and the people as relevant in 1998 as it was radical in 1945.