

THE LEGISLATIVE COUNCIL

An Upper House elected for terms which differ from its Lower House, or with a different franchise, is essentially conservative in the better sense of that term.

The doctrine of checks and balances no doubt has many fathers. One was the French revolution when people with a legitimate grievance, on gaining power, behaved with excessive zeal. The doctrine is founded in a healthy fear of government. The responsibility of an Upper Chamber is to say "No" - to stop a government throwing a baby out with bath water.

Because it lacks an electoral procedure which adequately legitimises its existence, the West Australian Legislative Council is not filling the role which alone justifies its existence. Not confident of its authority, it has failed to stop new laws which are plainly at odds with principles professed by the majority of its members. It has, however, thrown out electoral changes which, whatever else was wrong with them, would have offered the chamber the moral standing it needed to be resolute.

That parliament's traditional role is protection of the citizen from the government is too often forgotten in these days of disciplined party politics. Because Lower Houses must legitimise governments it is more difficult for Lower Houses to keep governments in line. A Lower House will always have a majority of government supporters and political parties seeking power will emphasise party loyalty.

In practice this leads to stable government and permits the expert civil service to be influential through the ministers. It is not a bad arrangement but it does little to stop governments and their civil service, who have a vested interest in their own importance, meddling in people's lives and wasting money.

An Upper House is not so constrained, but if it is merely a clone of the Lower House it may as well be abandoned.

When the Council found it could not accept the government's electoral changes, it should have introduced legislation of its own to remove the bias. I would prefer one vote one value, but anything which put the two main parties on a roughly equal footing would serve to legitimise the Council. On the other hand, the Council ought not to have a bar of deadlock provisions which rob it of its ability to place a rein on the government.

Of late we have heard a lot from the Liberal Party about return to liberal principle. If Liberals in the Council had been mindful of individual liberty they would have thrown out the bill making Student Guild fees, or a payment in lieu, compulsory. The law is now ridiculous. A student receives a free education from which he will gain financial benefits, provided he pays for tennis courts and a cafeteria he may never use and political activity of which he may disapprove, or makes an equivalent payment to charity.

Do Liberal MLCs not care about freedom of association and non-association, have they no fear of compulsory payment of union dues, or do they simply feel that if they are a mirror of the Assembly they will be left in peace ?

Extension of the SGIO franchise, expansion of the Tourist Commission's activities and the Ashton Diamond purchase are nationalisation by stealth and ought to be opposed also. To block such things is not to obstruct a mandated government. The government's mandate is the law, and the law is the responsibility of both houses, who in turn get their mandate from the people at elections.

Effective bi-cameral government requires an Upper House which can be as confident of its mandate as is the Lower House.