This is an emotional subject and one on which I have held strong views and on which I have spoken often with passion. This speech is typical of many of my speeches about drugs and was given on Wednesday, 23 November 1994 to the Medico-Legal Society of New South Wales.

Because this is an emotional subject, an attempt will be made to put some simple propositions and to develop what seems to be a ‘least worst’ policy position.

First, we might ask why was it that we prohibited the use of some drugs—totally in some cases, recreationally in others? After all, heroin is just a white powder. It has no value and no addictive properties except as humans use it. The demonology of drug use is enormous with people who should know better, presenting accounts that are simply at variance with the truth.

We probably prohibited narcotics early in this century for two reasons. First, because the Americans told us to do so. Second, our own racist tendencies—specifically our anti-Chinese racist tendencies—also played a part. When the Americans asked us to prohibit the use of cannabis two decades on, we complied. When, later, the Americans leaned on us to become party to some treaties about use of prohibited drugs, we agreed. And lately we have undertaken even more treaty obligations—even as the game has changed and such obligations have become more ridiculous and inappropriate.

Some people support the prohibition of certain drugs because they believe that prohibition is good policy. This is a view consistent with acculturation that emphasises law, rules, sanctions, punishment. After all, there was a majority of Americans who supported the introduction of prohibition of alcohol in 1920—but that majority evaporated when the entrenchment of criminality and corruption as a direct result of the policy of prohibition became public knowledge in the decade that followed.
For other people there is the desire to protect children from evil people and from evil events. But children meet these things anyway. Prohibition does not prevent exposure to evil—it may actually make property and personal crime more frequent. Still others see society in an idealised way. They view society as being drug-free (or at least a society free of drugs that they themselves do not use) and frame laws and rules accordingly. That this seems not to accord with reality worries them not at all.

What has happened as a result of our prohibition approach has been sad indeed. Many people have been convicted of drug-related crime and some estimates have up to 60 per cent of the prison population being there for drug-related convictions. But young people know only too well that while many of the drugs they want to use are illegal, those used by their parents are legal. They know that arrest and conviction rates are related systematically to socioeconomic status. They call us hypocrites—and with some justice!

Perhaps the greatest indictment of current drug policies is that they have not worked as even their most fervent advocates had hoped they might. While the overall numbers using some substances might be reduced by current approaches (a not-inconsiderable benefit), this is not the whole story. Importation of illegal drugs occurs contrary to the law. Production of illegal drugs occurs contrary to the law. Distribution of illegal drugs occurs contrary to the law. Sale of illegal drugs occurs contrary to the law. Use of illegal drugs occurs contrary to the law.

There has been corruption of customs services, of police, of the magistracy, of prison officers. We were told once of a time when there was so much heroin inside Pentridge Gaol (where it was forbidden) that the excess was being exported back to the streets of St Kilda for sale.

The amount of current use is staggering. Cannabis has been used by about five million Australians and is used currently by a significant minority of that number. Some people use opiates at weekends and not all opiate users are addicts.

Criminal syndicates have become wealthy. It is a classic market situation with high demand and criminal sellers willing to supply that market. Their business is lucrative, they pay no taxes, they obey no rules, they dilute drugs with toxic or infected substances, they corrupt and subvert the forces arrayed against them, they provide whatever legal services are needed for operatives who are arrested.

Add to that the alterations in fashion for drugs—some drugs are used only by particular generations, some are in fashion one year and out the next (LSD is a good example). So it is that we have recently seen an increase in deaths from
opiates—from a tiny number to a larger but still tiny number. But it remains a fact that almost all drug-related deaths (97 per cent) are due to legal drugs, not to those we have declared illegal.

Future options are few. We could opt for more of the same. After all, it has meant that few deaths are due to proscribed drugs. But the current system does not produce what its proponents hold out as the goal, it forces our young to have contact with criminals and it is associated with widespread corruption. Those who do use illegal drugs pay exorbitant prices for products that may be toxic, and run risks that they will contract hepatitis C or HIV.

We could opt for more severe laws, for a more draconian system of control. We could call for longer sentences, for deeper dungeons, we could throw away the keys, we could reintroduce capital punishment, we could fill the gaols, we could introduce phone taps. The trouble is, that such a system would work no better than the present system. After all, Malaysia, which has the death penalty, has more opiate users than we do.

We could, on the other hand, go more towards harm minimisation. We could accept that drug use is here permanently, that our choice is limited, that people will use psychoactive substances, and that we may have a role in helping people to remain within society. We could aim to identify and respond to dysfunctional drug use rather than just punishing people—this is the basis of methadone maintenance programs, which allow so many opiate addicts to eschew property crime and return to work.

Might we not accept now that we are a drug-using society and will be forever? Should we not follow the lead of the ACT and SA and alter the sanctions for personal possession of cannabis—so-called ‘prohibition with civil penalties’—forthwith? Should we not move to discover what education messages might work and then introduce them—remembering that many drug users (for example, cigarette smokers) do have a good knowledge base about some of the adverse effects of the drugs they use? And finally, should we not at least consider legalisation—not the libertarian position, but availability without advertising and through government.

It seems a ‘least worst’ option which would, in one move, eliminate much of the protected preferential position of criminal syndicates. It would provide users with cheap, pure substances and reduce the risks of coincidental infection. The downside to legalisation might be increased numbers of users but a balance would have to be struck carefully between the costs and benefits of any policy change. The costs of our current policy are high. Above all, let us improve the debate about drugs in Australia. Let us end what has been called ‘the drug problem problem’.
This has been a personal view. No-one else is to blame for any of the contents of the message. Those who have a different view might care to begin any rebuttal of this argument by explaining how much evidence of policy failure they require before (as with current policy) they are willing to admit a policy is not working.