

SENATE COMMITTEE ON FEDERALISM

This article is about an important feature missing from the current federal arrangements: close legislative scrutiny of the state of the Federation by the Commonwealth Parliament

It is remarkable how little the federal Parliament does in the name of federalism. One would think that the Senate as the originally intended ‘federal House’ would at the very least have a standing committee on federalism. One possible explanation of the absence of such a committee is that the political parties prefer to mainstream federal issues so that each and every Senate committee includes a remit to take note of relevant federal implications of law or policy under its scrutiny. Such a political preference would be plausible, but I suspect it is not the real explanation for the Senate, in particular, failing to establish a dedicated committee to monitor the Federation.

The failure reflects the underlying commitment by the major political parties to ‘responsible government’—by which they mean strong party government based primarily in the House of Representatives. It is sad to think how Australian political parties have overinvested in a very dated version of the ‘Westminster Model,’ something Westminster itself abandoned long ago. The Australian constitutionalists in the lead-up to Federation broke away from the United Kingdom in so many valuable ways: They left us a constitutional system that was years ahead of Westminster in its explicit commitment to popular democracy.

That spirit of institutional innovation was nowhere better expressed than in the Australian model of bicameralism where both houses reflected elector choice, with an open page of potential changes that Australia could then make to the Old World Westminster practices. Female suffrage was one of the first, with women voting as equals and eligible to stand as candidates in either house, a generation before Westminster. Later changes to bring in preferential and subsequently proportional voting were

consistent with this ‘post-Westminster’ spirit of institutional innovation.

But there were limits, none more obvious than the subservience of federalism to ‘responsible government,’ as exemplified in the readiness to tolerate changes to the Senate so long as they did not obstruct strong party control of the lower, and allegedly primary, house.

The Senate already delivers remarkable federal dividends by ensuring that all states are represented in equal numbers, not only on the floor of the Senate but across its pesky committee system. I acknowledge that the Senate is only half the size of the House of Representatives and cannot be expected to devise an institution or practice to repair every defect arising from the underlying culture of ‘responsible government.’

But the one innovative device I hope to see is a dedicated committee on the state of the Federation, comprising representatives of each state and territory, reporting annually on ‘the state of the Federation.’

The business of this committee would be quite simple: monitor the Council of Australian Governments (COAG), hold public hearings into COAG activities, and promote wider public debate over the content and consequences of the executive-dominated agenda of COAG and its participating ministerial councils. No matter that this committee would hold no real power over COAG; what is more important is that the Senate champions regular debate over the developing nature of Australian federalism by bringing an element of public accountability to the black box of COAG.

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