

**Federalism and the Welfare State:
AUSTRALIA**

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Introduction

Considerations of systematic coverage apart, there are, a number of reasons why a comparative study of the impact of federalism on the development of the welfare state might wish to dwell on the Australian case. Perhaps, the most important is that the Australian case seems to exemplify all of the key hypotheses identified in the theoretical literature linking these phenomena. If the basic hypothesis connected to the old politics of the welfare state is that federalism has hindered welfare state expansion, Australia appears, at least on the surface, to fit the bill rather well. With the exception of a decade or so of radical experimentation immediately after federation, the story of the Australian welfare state in the first half of the 20th century is one of the late adoption of schemes increasingly common elsewhere and, after World War Two, is of levels of expenditure consistently towards the bottom of international league tables. Forms of provision have also been quite different from those of most other advanced countries, with no contributory social insurance and nearly all provision on a selective, means-tested, basis.

Since the early 1980s, however, things have changed somewhat. In an era when social expenditure worldwide has been under increasing pressure, Australia has been hailed as one of the few OECD countries to combine measurable success in economic performance with a significant improvement in welfare provision.¹ This capacity to stand out against the global forces making for social policy down-sizing seems, at least, at first sight, to fit with the notion of federal institutions exercising a “ratchet effect” on expenditure development, making it difficult for political forces opposed to statist intervention to obtain the leverage required to reverse existing policies. The point, then, is that Australia is an important test case for understanding the impact of federalism on the development of the welfare state. If the apparently contradictory trajectories of Australian welfare state expansion over the past century cannot be sheeted home to the character of the federal compact, at least, to some extent, then these hypotheses derived from theory may have to be discarded or in some way modified.

The Australian case also appears to offer confirmation of the hypothesis that welfare state development can, in turn, modify the functioning of federal institutions. A modern welfare state demands some uniformity of provision, an adequate resource base and a capacity for central direction. At the time of federation, however, the new constitution of the Commonwealth of Australia gave little promise that it contained the mechanisms required to bring such a project to fruition. Over time, however, ways were found of using institutions in new ways to realise the purposes of the welfare state. A Commonwealth Grants Commission established in 1933 to cope with the immediate fiscal implications of the onset of the Great Depression became in time an instrument of fiscal equalisation between states. A transfer of the income tax power to the Commonwealth in time of war became the means of financing new income maintenance programmes and welfare services in the post-war world. By the 1970s, an existing constitutional provision that the Commonwealth parliament could grant financial assistance under such terms and conditions it saw fit was being used extensively to direct the states to carry out services at Commonwealth behest. Above all, the fact that, from early on, almost any positive actions by states or Commonwealth required collaboration between both meant that there was a major stimulus to collaborative federalism in the area of the ‘welfare state’ as in other fields. It, therefore, seems highly probable that Australian evidence will be immediately relevant to the argument that the relationship between federalism and the welfare state is reciprocal rather than unidirectional in character.

¹ See Herman Schwartz, “Social Democracy Going Down vs. Social Democracy Down Under?”, *Comparative Politics*, 30 (1998), pp. 253-72; and Fritz W. Scharpf, “Economic Changes, Vulnerabilities and Institutional Capabilities”, in Fritz W. Scharpf and Vivien A. Schmidt (eds), *Welfare and Work in the Open Economy*, Volume I, Oxford: Oxford University Press, pp. 21-124.

Another reason why the Australian case is particularly illuminating is that the linkage between federal institutions and the welfare state is, in part, spelled out in the Constitution itself, making some aspects of the relationship more transparent than might otherwise be the case. Because the Australian Constitution came into force in 1901, at a time when ideas for modern social reform were first becoming practical politics, the social policy responsibilities of the Australian Commonwealth were explicitly identified in the federal compact. Those responsibilities were initially quite limited ones, including only the power to legislate in respect of old-age and invalid pensions, the conciliation and arbitration of industrial disputes and the establishment of a Commonwealth quarantine service. All powers not specified by the Constitution were reserved to the States. By the 1940s, the restricted nature of federal powers in the social policy area was widely recognised and, in 1946, the post-war Labor government secured one of the very few substantive constitutional referendum victories in Australian history, allowing the federal government to legislate in order to provide a much wider range of social service benefits.

Accordingly, a linkage between Australia's late adoption of welfare schemes and the Commonwealth's restricted powers in the area prior to World War Two would seem to be an obvious initial hypothesis. However, after 1946, apart from the limitation that social service provision could not involve 'any form of civil conscription', the federation appeared to possess all the constitutional power required to build an extensive and expensive welfare state. Some post-war expansion of social spending did occur, but the fact that much of the growth was delayed until the 1970s and that, by international standards, it was extremely modest suggests a weaker correspondence between constitutional change and expenditure development than might be expected. In what follows, an important focus is on discrepancies between the ostensible powers of the federation and the realities of social policy development, with the Commonwealth government often doing far less than it appeared capable of in some areas, but of finding ways of doing far more than its limited powers suggested possible in others. Locating the sources and mechanisms of both types of discrepancies provides us with a means of assessing federalism's impact on both the expansion and contraction of the welfare state and its relative weight versus other causal influences.

A final reason for focussing on the Australian case is that the practice of Australian federalism is highly distinctive in a manner that appears to contradict widely held views concerning the nature of the mechanisms underlying the relationship between federalism and public expenditure growth. A standard set of assumptions deriving from the public choice literature is that centralised fiscal power leads to high levels of public spending and that federalism serves as a curb to such tendencies because it limits centralised control of the fisc.² However, from federation onwards, the Commonwealth has tended to monopolise the taxing power in Australia, initially because excise taxes were reserved to the Commonwealth and later because the Commonwealth acquired a *de facto* exclusive right to levy taxes on income. Throughout the post-war period, the Commonwealth's share of total taxation has been greater than in any other of the federal countries treated in this study. Indeed, it has also been greater than in the great majority of OECD nations with unitary forms of government, Ireland and the United Kingdom being the only exceptions.³ Because Australian levels of public spending are very low by international standards, and low even in comparison with some federal nations, there must be a real question mark over whether the negative relationship between federalism and social expenditure identified in the literature can properly be attributed to the operation of the fiscal mechanism.

² See Geoffrey Brennan and James M. Buchanan, *The Power to Tax: Analytical Foundations of a Fiscal Constitution*, Cambridge: Cambridge University Press (1980).

³ For data on degrees of fiscal centralisation in both federal and unitary states, see Francis G. Castles, 'Decentralization and the post-war political economy', *European Journal of Political Research*, 36 (1999), p. 34.

These reasons for focussing on the Australian case provide the basic themes for our subsequent discussion. Establishing the goodness of fit between the Australian experience and hypotheses derived from federal theory follows immediately from the rationale of this study. An assessment of the degree of correspondence between constitutional provisions and welfare outcomes is obviously a part of that task and also assists us in locating other factors that have influenced the development of the welfare state in Australia during the past century. Some attention to the evolution of fiscal federalism is useful given that Australia seems to be a case critical to key generalisations in the theoretical literature. These themes are developed through what is essentially a chronological presentation. Our investigation of the place of federalism in the old politics of the welfare state begins by identifying the institutional context of Australian politics as it emerged in the Constitution of 1901. It proceeds with a discussion of the development of the Australian welfare state between 1900 and 1980, which seeks to untangle the wide range of factors impacting on that development. In particular, it attempts to locate reasons why the trajectory of Australian social security expenditure followed a different pattern from that of the old politics of the welfare state as manifested in other Western nations. This discussion helps to nuance our account of the correspondence between constitutional prescriptions and trajectories of social policy development and also permits us to consider the question of how far welfare state imperatives have had a reciprocal impact in modifying the institutions and practices of Australian federalism. From the 1970s onwards, Australia has experienced an extensive process of institutional reshaping and redesign. No institutions have been more affected by this process than those defining the practice of Australian federalism. The final section of the chapter explores these changes and asks whether the functioning of federal institutions over recent years has contributed to the emergence of a distinctively new politics of the welfare state in Australia.

The Federal Settlement

The federal Constitution of the Commonwealth of Australia came into effect on 1 January 1901, bringing together the six former British colonies – New South Wales, Queensland, South Australia, Tasmania, Victoria and Western Australia – which had hitherto governed the island continent. These six colonies became Australia's original states and, although constitutional provision was made for creating new states, the only 20th Century additions have been two Territories – the Australian Capital Territory (the seat of federal government) and the Northern Territory, both with present-day populations of less than half a million and somewhat more limited powers of self-government.

The federal compact did not mark the beginning of democratic self-government on the Australian continent. From the 1850s onwards, the colonies had evolved political systems based on manhood (and, in South Australia, from 1894, universal) suffrage and representative and responsible government moderated only by the conservative influence of property-franchised or nominated upper houses and the ultimate, but distant, suzerainty of the British parliament.⁴ The imperatives which brought colonial politicians to embrace the federal idea over the decade of the 1890s were threefold: the need to create an independent defence capability, the need to remove the vexation of tariff barriers between the colonies and the need to control immigration to Australia's shores.⁵ Unlike most other nations which have come together to create federal political systems, the Australian population at the time of federation was extremely homogeneous,⁶ divided neither by religion nor language and sharing

⁴ See Paul Finn, *Law and Government in Colonial Australia*, Melbourne: Melbourne University Press.

⁵ See Helen Irving, *To Constitute a Nation*, Cambridge: Cambridge University Press (1999), 79-86.

⁶ B. W. Hodgkins, J. J. Eddy, S. D. Grant and J. Struthers (eds) *Federalism in Canada and Australia, 1920-88*, Peterborough: Forest Centre for Canadian Heritage and Development Studies, Trent University (1989).

a common culture in which strong adherence to the rule of law⁷ was conjoined with “a living tradition of parliamentary self government, often sharpened and intensified by radical democratic ideas”.⁸ The differences which, despite this remarkable homogeneity, made federation rather than unification the most appealing solution to the imperatives of the 1890s were essentially geographical (vast distances separating colonies when transport by sea was, in most instances, the most rapid means of communication), institutional (loyalties and inertia built around established governmental structures and policies) and economic (vested interests related to the established basis of each colony’s production, commerce and trade).

Because the Australian Constitution was drawn up when it was, the Founding Fathers had the opportunity to consider and to borrow from existing federal constitutions. Understandably, the models foremost in their minds were those of the United States and Canada, the two other federations borne of former British colonies. With one major exception, the template chosen was American rather than Canadian. However, the exception was hugely significant. Rather than adopt a separation of powers between legislature and executive wholly alien to the British system of parliamentary government, the architects of Australian federalism enshrined the practices of responsible and representative government with which they were familiar. The federal parliament was to consist of two chambers: a lower house, the House of Representatives, elected on the basis of territorial constituencies of roughly equal population size and an upper house, the Senate, with an equal number of representatives elected from each state. In direct conflict with the separation of powers doctrine, ministers were required to be members of one or other chamber of parliament. The Constitution did not lay down rules for how the executive government would operate, assuming, doubtlessly, that existing colonial and British practice of a government formed with the support of the majority in the lower house and a Prime Minister (a role unmentioned in the Constitution) who was leader of the largest party constituting the majority would continue as before. In late 19th Century colonial practice as well as in the early years after federation, parties were often fissiparous and party lines extremely malleable, encouraging considerable independence on the part of legislators. However, with caveats concerning the role of the Senate in recent decades to be discussed later, the main trend of 20th Century Australian parliamentary practice has been towards a two-party system based on strong party discipline.⁹ In consequence, the practice of executive government in Australia has experienced a substantially similar evolution from cabinet government to prime ministerial government as has occurred in the United Kingdom.¹⁰

Much of the recent debate on the relationship between federalism and the development of social policy has focussed on the impact of federalism in proliferating veto-points and veto-players in the political system in a manner that diminishes the system’s capacity for policy change.¹¹ The fusion of legislature and executive inherent in parliamentary government

⁷ See Martin Krygier, ‘The Grammar of Colonial Legality: Subjects, Objects and the Australian Rule of Law’, in Geoffrey Brennan and Francis G. Castles (eds) *Australia Reshaped: Essays on Two Centuries of Institutional Transformation*, Cambridge: Cambridge University Press (2002)

⁸ L. F. Crisp, *Australian National Government*, Melbourne: Longmans (1967), p.2.

⁹ For a discussion of this development and its consequences, see Ian Marsh, *Beyond the Two Party System*, Cambridge: Cambridge University Press (1995), pp.17-44.

¹⁰ A limitation on the power of Australian Labor Prime Ministers is that caucus selects the ministry, although not who holds which cabinet and which non-cabinet posts. It would, however, be naïve in the extreme to believe that supporters of the Prime Minister did not take care that the caucus selects a slate acceptable to the leadership. For a variety of perspectives on the evolution of the Australian prime ministership, see Patrick Weller (ed) *Menzies to Keating: The Development of the Australian Prime Ministership*, Melbourne: Melbourne University Press (1998).

¹¹ With specific reference to social policy development, this argument has been elaborated in Ellen Immergut *The Political Construction of Interests: National Health Insurance Politics in Switzerland, France and Sweden, 1930-1970*, New York: Cambridge University Press (1992) and in Evelyn Huber, Charles Ragin and John Stephens ‘Social Democracy, Christian Democracy, Constitutional Structure and the Welfare State’, *American*

clearly means that the Australian federalism lacks one of the pivotal veto-points of the American system. However, other constitutional features, which the Founding Fathers borrowed from the American constitutional model, build in a whole series of veto-points that have no counterpart in British parliamentary practice. These include an upper house whose powers nearly rival those of the lower house, a strong power of constitutional review, a method of constitutional amendment extremely difficult to implement and an enumerated set of Commonwealth powers leaving all unstipulated areas in the domain of the states. In what follows, we discuss these provisions in turn, but leaving more detailed discussion of recent developments to the final section of the chapter.

The federal Senate can be regarded as being amongst the most powerful upper chambers in the democratic world. Although, by convention the Prime Minister must come from the lower house, the only restrictions on its legislative reach are that it cannot introduce money bills or amend them. However, it can and it has refused the government Supply, that is the budgetary resources to continue the conduct of government. In 1974, by threatening to do so, it forced the Whitlam Labor government (the first Labor government for 23 years) to go the polls for a fresh electoral mandate. In 1975, by refusing to pass the Supply bills required to implement the budget, it precipitated a constitutional crisis and the replacement of the government. More normally, the procedure for settling deadlocks between the houses is for the House of Representatives to pass a bill for a second time and return it to the Senate. If the bill is again defeated, the Governor-General (the monarch's representative in Australia) on the Prime Minister's advice may dissolve both houses, and if, following the resulting election, the Senate again fails to pass the legislation, the matter is settled by a joint meeting of both houses. For many commentators, viewing the practice of Australian government through the prism of the Westminster model of government, the strong powers of the Senate and its potential to frustrate the will of the lower house on whose majority the government rests is a serious anomaly in Australian parliamentary practice that undermines its claims to constitute a fully responsible system of government.

However, while it is true that the Senate is a key veto-player in the Australian system, it is by no means necessarily the case that its role is democratically illegitimate or that it privileges state interests against wider Commonwealth concerns. Early interpretations of the relevant chapter of the Constitution saw the Senate as a states house, but a more recent view is that what was intended by the stipulation that Senators should be "directly chosen by the people of the State" was a duality of state and national citizenship inherent in the federal design.¹² The Labor Party has, in the past, favoured the abolition of the Senate, and its last Prime Minister, Paul Keating, in a charmingly direct Australian way, described Senators as "unrepresentative swill". But the case that the Senate is unrepresentative because small states have the same number of legislators as large ones can only be made in principle. For 50 years, the Senate has been elected by what is effectively a list system of proportional representation and its composition usually reflects the national distribution of votes rather more accurately than does the House of Representatives.¹³ As a consequence of party-system dominance, the Senate has been a party house rather than a states house for much of its existence, and what has made it a significant veto-player on occasions has been that its party composition has differed from that of the House of Representatives. What makes it particularly significant for contemporary Australian politics, and possibly part of the

Journal of Sociology (1993) 99 (3): 711-49. A more general public choice formulation application to all forms of political and policy change is offered in George Tsebilis 'Decision making in political systems: veto players in presidentialism, parliamentarianism, multicameralism and multipartism', *British Journal of Political Science* (1995) 25, pp. 289-325.

¹² See Brian Galligan, *A Federal Republic*, Cambridge: Cambridge University Press (1995), pp.67-68.

¹³ David W. Lovell, Ian McAllister, William Maley and Chandran Kukathas, *The Australian Political System*, Melbourne: Longman (1995), pp.47-49.

explanation of why Australia has resisted the recent trend in the English-speaking world to welfare down-sizing, is that over the past 20 years, no government has commanded an absolute majority in the Senate, giving third parties and independents a real capacity to block government initiatives. This again is a topic for the final section of the chapter.

The Founding Fathers modelled the High Court of Australia on the American Supreme Court, even toying with the idea of confirmation of appointment by the Senate, although, in the end settling for the more parliamentary practice of appointment by the Governor-General on the advice of the government of the day. With only a limited right of reference to the Privy Council in London (finally closed off by the Australia Act of 1986), the Judiciary Act of 1903 implemented the Constitution's intent by giving the High Court, consisting of a Chief Justice and six puisne judges, virtually exclusive jurisdiction over the interpretation of the Constitution. The Judiciary Act saw one of the Court's roles as offering advice to the government on the validity of Commonwealth legislation. However, the Court itself rejected this Canadian practice as unconstitutional, satisfying itself with the American procedure of constitutional interpretation arising from the cases coming within its jurisdiction. The High Court is not bound by the precedent of its own previous decisions and views originally receiving only minority support have, on occasions, become those of a majority of the Court.

An important case in point for the prospects of an interventionist social policy was the celebrated *Engineer's Case* of 1920. Prior to that date, the leading figures in the Court were amongst the most prominent of the Founding Fathers of the Constitution. Their tendency was to interpret the Constitution broadly as a contract between the peoples of the several colonies, interpreting the balance between states and Commonwealth in terms of "implied prohibitions" limiting the centralising ambitions of the latter. By the early 1920s, however, a new generation of Justices, some of them radicals who, in the 1890s, had pushed for stronger powers for the Commonwealth, had taken over the leadership of the Court. They rejected the notion of the Constitution as a contract, replacing it with a quasi-literalist reading of the content of the Constitution without consideration of possible implications for the federal balance. As Galligan notes, "(t)hat favoured the consolidation of national powers because now the Commonwealth's enumerated powers were to be read, with some minimal restrictions, in a full and plenary sense regardless of their impact on the States."¹⁴ This trend of interpretation, which, with qualifications, continues to be the Court's favoured reading of the Constitution was, as we shall subsequently see, crucial to Commonwealth fiscal centralisation in the first half of the 20th Century and, hence, to the creation of a national welfare state. That does not, however, mean that the Court has invariably sided with the Commonwealth. In the 1940s, it ruled against the Labour government's attempt to create a pharmaceutical benefits scheme and interpreted the Constitution's section 92 insistence on "absolutely free" trade amongst the states as restricting the Commonwealth's extension of its economic powers. The Court has been neither a principled opponent of constitutional change nor a consistent sponsor of increased Commonwealth power. It has, however, played an extremely significant role in Australia's 20th Century economic and social policy development.

Seemingly, a more serious obstacle to change were constitutional provisions relating to the amendment of the Constitution itself. The amendment procedure is, provisions for citizen initiatives apart (which do not exist in Australia), modelled on those of the Swiss constitution. Initiatives passed by an absolute majority of both houses of parliament (or one house, if passed for a second time) are submitted by the government of the day to a referendum of the electors of the states and territories and become part of the constitution if they receive a majority of votes in the federation as a whole as well as in a majority of states. Whilst the Founding Fathers do not appear to have considered the constitutional document as finished

¹⁴ Galligan, *A Federal Republic*, p.174.

business, this procedure has produced very few constitutional changes during Australia's first hundred years of federation. Of forty-three constitutional amendments put to the Australian people, only eight have received the requisite majorities and, of the plethora of mostly Labor inspired proposals to extend the original powers granted to the Commonwealth, only that relating to the extension of the social services has been adopted.

A number of considerations help to explain this relative inability to change the Constitution. The provision that the referendum pass in a majority of states gives a privileged position to those at state level who seek to maintain the *status quo* and there is some evidence of patterns of state voting in referendums congruent with divergent perceptions of state interest.¹⁵ More generally, the very fact that some policy initiatives require constitutional amendment invests them "with a significance that other proposals do not have... (and) gives a strong advantage to those who wish to oppose the policies in question".¹⁶ Perhaps, most important of all has been the influence of party and of party ideology. In the context of a two-party system, for the opposition to support a government's referendum proposal means effectively conceding their opponents an own goal. As a result referendum proposals usually become a matter of party politics as usual. In the case of Labor referendum proposals to extend the economic powers of the Commonwealth, that partisanship has been reinforced by the strong ideological antipathy not only of the conservative parties, but also of the economic interests which they represent, not least those of the media interests framing referendum campaigns in the different states. In the most recent period, either because of its history of futility in seeking to amend the Constitution or because of its own increasing economic moderation, Labor has learned to live with federalism.¹⁷ Its last attempt to extend the economic powers of the Commonwealth was in 1973.

From the point of view of the subsequent development of the welfare state in Australia, arguably the most significant aspect of the constitutional settlement was the division of powers between the states and Commonwealth. Again, despite some debate in the constitutional conventions, the model adopted was American rather than Canadian practice, with a listing of Commonwealth competencies rather than state powers. The Constitution enumerates only a very limited number of exclusive Commonwealth powers. These relate to the seat of government, the control of the Commonwealth public service and the right to impose customs and excise duties. The Commonwealth's control of these latter sources of taxation was, of course, integral to the purposes of federation and, given that such revenues constituted the bulk of colonial taxation, represented an important first step on the road to fiscal centralisation. This did not, however, mean that the Commonwealth got to spend the taxes it raised. Under the provisions of section 87, over the first ten years after federation the states were to receive three-quarters of the customs duties collected by the Commonwealth. This compromise was widely seen as the linchpin of the whole constitutional settlement, since it removed what one of the Founding Fathers described as the 'lion in the path' of federation, how to resolve the tariff question, by simultaneously creating the basis for free trade within the area of continental Australia, while protecting the expenditure base of the former colonies. What subsequently became known as 'vertical fiscal imbalance' – a systematic disjuncture between the central government's power to tax and the states' primacy in respect of expenditure – was effectively built into Australia's original constitutional settlement.

Section 51 lists most of the remaining powers of the Commonwealth parliament under thirty-nine heads. The wording of this section states only that the Commonwealth has the

¹⁵ Campbell Sharman, 'Patterns of State voting in the national referendums', *Politics* (1981)16:2, pp.261-70.

¹⁶ P. H. Partridge, 'The Politics of Federalism', in Geoffrey Sawer (ed) *Federalism: An Australian Jubilee Study*, Melbourne: F. W. Cheshire (1952) p.190.

¹⁷ See Brian Galligan and David Mardiste, 'Labor's Reconciliation with Federalism', *Australian Journal of Political Science*, 27:1, pp.71-86.

power to make laws on these matters, not that the states are proscribed from doing so. In principle, then, the majority of enumerated powers are concurrent, but some are monopolistic by their nature (obvious examples are external affairs, defence, coinage and weights and measures), while in other areas Commonwealth control is guaranteed by the provision of section 109 that “(w)hen a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid”. Taxation other than customs and excise is an area in which the original intention was clearly concurrent, but where the Commonwealth has effectively monopolised the field. While there is no enumeration of state powers in the Constitution, their residual powers are protected by section 107, which stipulates that, except in instances where the Commonwealth has exclusive powers, the powers of the states shall continue to be as they were at the establishment of the Commonwealth.¹⁸ This division of powers has guaranteed the states a continuingly strong role in service provision, especially in the areas of education, health and housing.¹⁹ It has not, however, always ensured that the Commonwealth has kept out of the states’ backyards. Quite on the contrary, the combination of fiscal centralisation and the seemingly innocent power given to the Commonwealth under section 96 “to grant financial assistance to any State on terms and conditions as the Parliament sees fit” has often given the Commonwealth the necessary leverage to persuade the states to implement national programs in areas of ostensibly state competence under the Constitution.

Commonwealth powers under section 51 include such matters as trade and commerce with other countries, military defence, coinage, weights and measures, naturalization and aliens, marriage and divorce, immigration and emigration, external affairs and relations with the islands of the Pacific. The listing contains only three items that can even remotely be regarded as welfare state powers, all of them reflecting contemporary concerns. The only health power was that of quarantine, where the key issue was that of controlling devastating outbreaks of disease, such as bubonic plague, which was rampant in Sydney in the year the Constitution was enacted. The only social services power in a modernly understood sense was the power to make laws in respect of invalid and old-age pensions. This provision was Germany’s only direct contribution to the Australian Constitution. Its inclusion was an expression of the progressive view strongly represented at the constitutional conventions that such concerns could no longer be seen as questions of charity appropriate to the domestic (and, hence, state) arena, but must be regarded as matters falling within the legitimate ambit of the national (and, hence, federal) regulation of a set of economic relations which now overstepped state boundaries.²⁰

Regulation of the economic sphere was even more to fore in the inclusion of the only remaining welfare power, the power to make laws with respect to “(c)onciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State”. The origin of this power was in the experience of serious industrial conflict between unions and employers in the Australasian colonies during the depression of the early

¹⁸ Protagonists of states rights were not necessarily conservative in their politics. There was a strong view amongst some of those at the constitutional conventions that statist social intervention was the shape of the future, but the state they expected to be dominant was the local state at a provincial level. Given such a perspective, it was rational to argue for the enumeration of federal powers (in order to define and limit them) and to argue for the reserve or residual character of state powers (in order to leave them as unconstrained as possible) See Gordon Greenwood, *The Future of Australian Federalism*, Melbourne: Melbourne University Press (1946), pp.47-8. There were also other more prudential reasons why reformers might prefer to concentrate their energies on the states. Partridge notes that, in the early decades of federation, anxieties about hostile Senate majorities made many in the Labor Party see the states as a more favourable arena for the implementation of their welfare objectives. Partridge, ‘The Politics of Federalism’, p.192.

¹⁹ Compared with many other countries, the role of the states is further enhanced by the fact that local government is extremely weakly developed in Australia. See Ronald Mendelsohn, *The Condition of the People*, Sydney: George Allen & Unwin (1979) pp.33-4.

²⁰ Irving, *To Constitute a Nation*, pp.94-6.

1890s, leading to the enactment of legislation providing for compulsory arbitration of industrial disputes in both South Australia and New Zealand. In 1904, the Commonwealth established a Commonwealth Court (in later times, Commission) of Conciliation and Arbitration, with the power to terminate industrial disputes by compulsory wage-setting. As we shall see later, this unusual power (not conferred by the constitution of any other federation) was to have momentous implications for the shape and subsequent development of the welfare state in Australia.

How then to sum up the implications for the future development of the welfare state in Australia? From a vantage point early in the 20th Century, arguably, not all that promising. The new Constitution only gave extremely limited welfare powers to the Commonwealth, leaving areas like hospitals, housing, charitable relief and education firmly in the hands of the states. The prospects of constitutional amendment might well have seemed rather dismal, given that a Labor Party, largely excluded from the constitution-making process, but only ten years later the dominant party in the federal arena, had already made concerted efforts to extend the economic powers of the Commonwealth, but had failed in referendum after referendum. Nor, as we have already noted, was the High Court in its early decades interested in departures that would upset the existing federal balance, a stance that had already had deleterious effects on the development of social policy as judgement after judgement of the Arbitration Court was overturned through the process of judicial review. In the next section, we seek to explore the main features of the historical evolution of the Australian welfare state from around 1900 to the late-1970s, focusing particularly on the twin questions of how the constitutional features we have described have influenced the emergence of social programs and the growth of social expenditure and whether there is evidence to support the reciprocal proposition that the social policy imperative has itself been a major factor shaping the development and functioning of federal institutions.

Why No ‘Old Politics’ in Australia?

The term the ‘old politics of the welfare state’ has been used to designate the political dynamic underlying the mass expansion of social security and social expenditure in the decades following World War Two. In the majority of Western nations, that dynamic was a matter of Left and Center-Left parties claiming credit with the electorate for enacting policies in tune with their traditional egalitarian preferences. Australia, however, was not amongst them. With the exception of just a few years in the 1970s, Australian welfare growth lagged well behind that of other Western nations, just as it had throughout the interwar years. In ‘old politics’ terms, the obvious reason was the virtual absence of reforming governments of the Left during these years. The question we address in this section is whether the federal arrangements and prior institutional features of Australian welfare state development may also have contributed to this outcome.

Social Expenditure Trends

Australia’s unusual course of social policy development can be formally charted using social expenditure data from 1900 onwards. Table 1 reports figures for total social welfare spending as percentages of GDP at ten-yearly intervals from 1900 to the late 1970s, together with percentage shares of state and federal spending and percentages of GDP devoted to social security, education and health for the same time-points.

These figures tell us many important things about the broad trajectory of welfare spending in Australia. They tell us that, as in most other Western nations, there was a massive expansion of aggregate social spending over the course of the 20th Century, although, even with the spurt of the 1970s, quite insufficient to overtake even the OECD social

expenditure rearguard. They also make it clear that there was a no lesser change in the locus of expenditure control from state to federal auspices, with the most decisive shift occurring in the 1940s. Finally, they tell us that trajectories of growth were quite different for different items of expenditure. Social security expenditures went from almost nothing to somewhat over four per cent of GDP during the first thirty years of federation and they went up by almost another four percentage points during the course of the 1970s. In the intervening period of forty years, they did not increase at all, despite a major extension of Commonwealth powers in the area of social services provision. This plateau effect is entirely absent in the cases of education and health spending. These latter categories of expenditure grew slowly, if at all, during the first half of the century, but then expanded steadily from 1950-51 onwards. Paradoxically, then, the story of educational and health spending in Australia appears rather as one might expect on the basis of an 'old politics' of the welfare state account of the trajectory of post-war spending, while the growth path of social security expenditure, which that account was primarily designed to illuminate, appears altogether different.

Year ¹	Total social spending as % GDP	%Share of states	% Share of Commonwealth	Social security as % GDP	Education as % GDP	Health as % GDP
1900-01	1.7	100	0	0.3	1.0	0.4
1910-11	1.9	69	31	0.7 ^a	0.9 ^a	0.3 ^a
1920-21	4.0	44	56	2.1	1.3	0.5
1930-31	6.9	49	51	4.6	1.7	0.7
1940-41	5.2	50	50	3.5 ^b	1.3 ^b	0.6 ^b
1950-51	7.0	30	70	4.3	1.2	1.5
1960-61	9.4	39	61	4.7 ^c	2.0 ^c	2.3 ^c
1970-71	12.0	42	58	4.3	4.4	3.5
1978-79	19.1	30	70	8.2	6.1	4.8

Sources and Notes: Data to 1970 calculated from figures in a statistical appendix reporting data from relevant state and Commonwealth yearbooks in Ronald Mendelsohn, *The Condition of the People*, Sydney: George Allen & Unwin (1979). Corresponding figures for 1970 onwards from Ronald Mendelsohn (ed) *Australian Social Welfare Finance*, Sydney: George Allen & Unwin (1983), Tables 2.1, 2.2 and 2.4. ¹ Australian financial years run from July 1st to June 30th. ^a = 1909-10; ^b = 1939-40; ^c = 1959-60.

Future Portents

Despite the potentially conservative implications of their constitutional engineering, the idea that Australia might, by the second half of the 20th Century, be regarded as being in the international rearguard of social reform is one that the Founding Fathers would, almost certainly, have regarded with total astonishment. In the last decade of the 19th Century and in the early years of the 20th Century, Australia and New Zealand (a colony which had initially contemplated joining the Australian federation) were widely regarded, both at home and abroad, as being 'social laboratories' of progressive reform in the fields of democratic politics, labour relations and social welfare provision.²¹ The colonies had been pioneers in inventing the secret ballot (widely known at the time as the 'Australian ballot'), had been in the vanguard in introducing representative and responsible government and, in the 1890s, were again pioneers in giving women the vote. The first federal election in 1903 was

²¹ See Francis G. Castles, 'Social laboratory', in Graeme Davison, John Hirst and Stuart Macintyre (eds) *The Oxford Companion to Australian History*, Melbourne: Oxford University Press (1998) pp. 592-3.

conducted under a system of universal suffrage and has been seen as qualifying Australia as the world's first fully 'democratic' nation in the modern sense of the word.²² In the area of labour relations, the battle for the 8-hour day had been won in some trades as early as the 1850s²³ and was the Australian norm by the turn of the century. Following the great strikes of the early 1890s, all the colonies, together with the federation of Australia, had established judicial or quasi-judicial mechanisms for settling industrial disputes, either through arbitration courts or wages board systems. Nor were the Australian colonies laggards in the area of social security itself. Age pensions became a reality in New South Wales in 1900 and Victoria in 1901. Queensland passed similar legislation in 1908. In 1909, all three schemes were superseded by the Commonwealth age pension using the power explicitly conferred by section 51 (xxiii) of the federal Constitution for that purpose. A 1908 New South Wales invalidity pension was superseded by 1910 Commonwealth provision for an invalidity benefit for those above the age of 16 unable to work on grounds of disablement or blindness. In 1912, in what, in retrospect, may be considered the last act of the progressive era, a federal Labor government, ignoring the restrictions imposed by the Constitution, passed legislation providing lump-sum maternity allowances to women on the birth of their children.

Contemporary commentators would also probably have seen the fact that this was the act of a Labour government – in fact, the world's first majority Labour government – as a portent of a radicalism yet to reveal its full potential. Although much of the colonies' social experimentation was a product of an admixture of 'radical' and 'social liberalism',²⁴ Labor was rapidly achieving electoral prominence and, in the process, real policy leverage. Already in 1891, Labor won 30 per cent of lower house seats in New South Wales, declaring its guiding principle to be: "Support in Return for Concessions. If you give us concessions, then our votes will circulate on the Treasury Benches; if you do not, then we shall withdraw our support. But we have not come to this House to make and unmake Ministries. We have come into this House to make and unmake social conditions".²⁵ Although Labor had almost no hand in the constitution-making of the 1890s, in the period after federation, it rapidly achieved a position in the Commonwealth parliament analogous to that it had earlier held in New South Wales, using its third-party leverage to good effect both in facilitating revenue arrangements for the federal pension and in extending the coverage of the federal arbitration system.

A probable future in which Labor held federal office in its own right seemed to promise still more in the way of progressive social policy, but this was not to happen in anything like the time-frame that contemporaries might have expected. In part, that was itself an indirect consequence of federalism, since much of federal Labor's radical energies during the next three decades were diverted to fighting losing battles for extending the economic and arbitration powers conferred by the Constitution.²⁶ In part, it was simply a matter of bad luck, which, between 1914 and 1972, ordained that Labor would hold office only during World War One, the Great Depression and World War Two and its immediate aftermath, never enjoying a period free of the pressure of external events. For those who subscribe to the 'politics matters' school of explanation, Australia is a crucial test case.²⁷ More than any other modern state, it manifests a disjunction between the salience of class politics (Labor had a consistently strong electoral showing and strong union support throughout this period) and

²² See Göran Therborn, 'The rule of capital and the rise of democracy', *New Left Review*, 103 (1977), pp.3-41.

²³ See Noel Ebbels (ed) *The Australian Labor Movement 1850-1907*, Sydney: Hale & Iremonger, (1983) pp.58-72.

²⁴ On the role of the latter in shaping ideas about the conciliation and arbitration of industrial disputes, see Marian Sawyer, 'The Ethical State: Social Liberalism and the Critique of Contract', *Australian Historical Studies*, 114 (2000) pp.67-90.

²⁵ G. Black, *Parliamentary Debates* (NSW) (1891), lii, p.126.

²⁶ See Crisp, *Australian National Government*, pp.148-51.

²⁷ See Francis G. Castles, *The Working Class and Welfare*, Sydney: Allen & Unwin (1985).

the extent of democratic socialist incumbency (Labor was rarely in office at a federal level and never at the right time)²⁸. For those who see democratic socialist incumbency as an important determinant of social policy development, federal Labor's difficulties in securing and holding onto political office in the five decades from 1920 to 1970 provide an obvious counter-explanation to the constraining impact of federalism in accounting for the slow pace of Australian social security development.

If the prospects for radical politics turned out badly, two other early portents had a more ambivalent legacy. Australian pensions legislation was pioneering in a variety of ways. Before the 1900 New South Wales legislation, only Denmark (1891) and New Zealand (1898) had introduced schemes offering benefits on a non-contributory basis. Moreover, the New South Wales legislation, unlike that in Denmark, gave no discretion to the authorities as to the form of the pension or its amount in individual cases. Like all early non-contributory benefit schemes, the NSW pension was means-tested, but again contrary to practice elsewhere, benefits were payable even when the applicant had some minor income from another source and quite considerable assets in the form of property.²⁹ The Commonwealth age pensions legislation retained all these features as have the vast majority of social security schemes enacted in Australia since that day.³⁰ For those who see social security development in terms of path dependent growth, Australia constitutes what is, perhaps, the best example. The legacy is ambivalent because it has left Australia with the most means-tested social security system in the world, but also, arguably, the means-tested system with the least residual emphasis, offering flat-rate benefits to the vast majority of ordinary Australians and excluding only those with incomes and assets well above community norms. Irrespective of how one evaluates such a system, the fact that, unlike contributory systems or ones offering income-related benefits, it provides only flat-rate payments on a selective basis must help explain why the trajectory of growth of social security expenditure in Australia over the course of the 20th Century has been less expansive than in most other nations.

Giving the Commonwealth the power to legislate on conciliation and arbitration also had important implications for the future of the welfare state in Australia. A Commonwealth Court was established in 1904 and, by 1907, its second President, Mr Justice Higgins, was arguing that the only appropriate standard for a "fair and reasonable" wage was one providing for "the normal needs of the average employee, regarded as a human being living in a civilized community".³¹ Using this quite ostensibly social policy criterion, the Court established the minimum or 'living' wage as one that would support a family of four or five in modest comfort.³² From the time when this judgement was delivered until well into the 1980s, the Commonwealth arbitration system has been the central focus of wage-fixing in Australia, either through its direct control of outcomes where workers from more than one state were involved or because state tribunals came to adopt its wage-setting standards. The use of

²⁸ This latter was not true in the states. At various times, Queensland, Tasmania and New South Wales have experienced long-term Labor hegemony of almost Scandinavian dimensions.

²⁹ For details of this and the Commonwealth scheme, see T. H. Kewley, *Social Security in Australia*, Sydney: Sydney University Press (1965), 43-95.

³⁰ The unusual coherence of Australian social security provision is noted in H. Bolderson, and D. Mabbett 'Mongrels or Thoroughbreds: A Cross-National Look at Social Security Systems', *European Journal of Political Research*, 28, (1995) pp.19-39.

³¹ Henry B. Higgins, *A New Province for Law and Order*, London: Dawsons of Pall Mall (1965), p.3 [Originally published in 1922].

³² Higgins also based his decision of a 42 shillings a week minimum for an unskilled man on a sort of amateur poverty line calculation, arguing that this was the least sum that could provide for "light, clothes, boots, furniture, utensils, rates, life insurance, savings, accident or benefit societies, loss of employment, union pay, books and newspapers, tram or train fares, sewing machine, mangle, school requisites, amusements and holidays, liquors, tobacco, sickness or death, religion or charity" for a family of this size. Higgins, *A New Province of Law and Order*, p.4.

Commonwealth powers in the industrial arena has always been extremely controversial and the scope of those powers has much influenced by successive High Court decisions over many decades, in the early years after federation, restricting the ambit of federal wage-setting³³ but, in the years thereafter, much extending its reach.³⁴ However, the legacy of federal arbitration was once again an ambivalent one, since, to the extent that the 'living wage' succeeded in raising the wages floor, and, thereby, compressing the overall distribution of incomes, it was doing things that in other climes and later times were to be functions of advanced social security systems. The underlying premise of a wage determination system that was effective in achieving its social policy goals was that, for wage-earners at least, it could make the welfare state unnecessary.

Marking Time

There is widespread consensus among domestic commentators that, between the world wars, the Australian welfare state was marking time. Typical are accounts in terms of a shift in emphasis from the encouragement of "social experimentation" to the promotion of "material development",³⁵ of an era of "disappointment, loss of vision and loss of national will"³⁶ and of a time in which "Australia was left behind and exposed...by its incapacity to cope with mass unemployment".³⁷ Arguably, the picture is a little more mixed than these judgements imply. Certainly, it is true that, with the exception of the establishment of a system of repatriation benefits for returned servicemen after 1918,³⁸ the Commonwealth failed to move into any major new fields of social provision. No less certainly, the lack of a concerted strategy to ameliorate the poverty caused by unemployment was a disaster in the early 1930s when almost one in three Australian men were out of work. Relief for the unemployed remained throughout a state responsibility, with most states relying on a mixture of food relief and public works activity of a non-productive kind. This was an area in which Australia was quite unequivocally behind most other nations of its time.³⁹ Nor were the deficiencies of the interwar welfare state simply a question of sins of omission. In the early 1930s, pension rates for the aged, for invalids and even for returned servicemen were reduced and maternity allowances became subject to means-testing. Whilst these cutbacks occurred in the context of mass unemployment and compulsory wage reductions across the board, they were clearly attacks on those who were already vulnerable.

On the other hand, there were also some positive developments. A number of states introduced their own social security schemes covering a limited range of eventualities. Queensland established a contributory system of unemployment insurance in 1923 and New South Wales introduced exchequer-funded widows' pensions in 1926 and child endowment in 1927. In terms of its ultimate significance, even more important was the further extension of the Commonwealth arbitration power permitted by the High Court's abandonment of "implied prohibitions", with cost-of-living indexation of the 'living' wage and the inclusion

³³ Robin Gollan, *Radical and Working Class Politics*, Melbourne: Melbourne University Press (1960), pp.205-6.

³⁴ Mendelsohn, *The Condition of the People*, p.142.

³⁵ Gordon Greenwood, *Australia: A Social and Political History*, Sydney: Angus and Robertson (1978) p.298.

³⁶ Mendelsohn, *The Condition of the People*, p.44.

³⁷ Jill Roe, 'Social Policy and the Permanent Poor', in E. L. Wheelwright and Ken Buckley (eds) *Essays in the Political Economy of Australian Capitalism*, Vol. 1, Sydney: Australia and New Zealand Book Company (1975) p.141.

³⁸ This was no minor exception in expenditure terms. Between financial years 1918-19 and 1925-26, expenditure on repatriation benefits was as great or greater than the sum of age and invalidity pension expenditure. After World War Two, repatriation was once again a substantial component of the welfare budget. See Mendelsohn, *The Condition of the People*, p.142.

³⁹ See Stuart Macintyre, *Winners and Losers*, Sydney: Allen and Unwin (1985) p.63.

of paid sick leave in employment contracts⁴⁰ major advances occurring in the early 1920s. Finally, one must note that domestic commentators have tended to judge Australia's interwar stagnation against the benchmark of Australia's radical past. However, in terms of cross-national relativities, there were areas in which Australia was doing reasonably well. Since the provision of paid sick leave quickly became a feature of both federal and state wage awards, this conclusion almost certainly applies in the case of compulsory sickness coverage, even though Australia as yet had no formal social security scheme in this area. Despite the benefits cuts of the early 1930s, it is also the case in respect of age pensions, which, in the years immediately preceding World War Two, had coverage and replacement rates appreciably higher than in the majority of comparable overseas nations.⁴¹ Since very few of these countries had yet introduced invalidity benefits, and since the invalidity pension rate was the same as the age pension rate, a similar conclusion would appear to be appropriate in this area also.

The absence of new Commonwealth programs during this period cannot be attributed to a lack of parliamentary interest in social security matters or even to an absence of legislative endeavour. In the 1920s, there was serious discussion of the introduction of a Commonwealth child endowment or family allowances, only abandoned as infeasible on the majority recommendation of a Royal Commission set up to consider the scheme. A Commonwealth unemployment scheme was also discussed, although taken no further. In 1929 and 1938, bills were introduced into parliament with the aim of establishing contributory social insurance schemes largely modelled on the British National Insurance Acts of 1911 and 1925, although, in the Australian case, unemployment insurance was excluded from the proposed legislation. Both of these bills were sponsored by conservative coalition governments, the first lapsing because of an imminent general election, and the second actually passing both houses of parliament before being indefinitely postponed because of the impending threat of war.

It might easily have seemed to contemporaries that contributory social insurance was an idea likely to come into its own in the interwar period. Opinion in the first decade of the 20th Century had decreed that contribution was unlikely to work in Australia because of the large number of itinerant workers. However, quite soon the non-Labor parties were beginning to be concerned about the impact of exchequer funding in reducing thrift and, by 1913, a national insurance scheme had already become part of the electoral program of the Liberal Party. Now, with the World War over, the lineal descendants of the Liberal Party, first the National Party and then the United Australia Party, were to be in office for all but two years of the next two decades. Moreover, questions of cost were becoming as salient as those of thrift and moral virtue. How to fund the increasing exchequer cost of pensions became a matter of concern to politicians of all persuasions and a major preoccupation of the Royal Commission on National Insurance, on whose recommendations the 1929 proposed legislation was based. In that year, pensions took up 13.1 per cent of total budget expenditure, an amount almost precisely equivalent to total Commonwealth income tax receipts for the year. By, 1938, when there was a second attempt to legislate, budget expenditure exceeded 18 per cent.⁴²

Without question, the most serious methodological problem in investigating the supposed expenditure constraining impact of federal arrangements is that it involves locating

⁴⁰ See Francis G. Castles 'On Sickness Days and Social Policy', *Australian and New Zealand Journal of Sociology*, 28:1 (1992) pp.29-44.

⁴¹ In 1939, the average proportion of the population over 65 receiving pensions in 14 European and New World countries was 40 per cent. In Australia, it was 54 per cent. The average figure for the after-tax replacement rate pensions as a percentage of net wages was 15.5 per cent. In Australia, it was 19 per cent. For these figures, see Gøsta Esping-Andersen, *The Three Worlds of Welfare Capitalism*, Cambridge: Polity Press (1990) p.99.

⁴² These figures come from Kewley, *Social Security in Australia*, p.134.

reasons why events did not take place. However, in the case of the abortive welfare initiatives of the interwar period in Australia, we are assisted by the extensive discussion and debate these initiatives inspired. On this basis, we can distinguish a variety of factors, which combine to account for the welfare state passivity of the period. One, clearly, was the federal division of powers. In the case of child endowment, the issue was straight-forwardly whether the Commonwealth had the necessary powers. When the Royal Commission reported in 1928, it was only two years since a referendum to give the Commonwealth full industrial powers had failed decisively,⁴³ and the Commission believed that such powers were essential to the adequate functioning of a system of family allowances.⁴⁴ In general, however, the issue was less one of divided powers than of anxieties and implicit demarcation lines borne of those powers, with the Commonwealth seeking to avoid taking on new responsibilities and, in particular, new expenditures and the states viewing with suspicion proposals initiated at a federal level.⁴⁵ This is not to say that the states and Commonwealth did not discuss such questions. In fact, all these proposals for welfare reform were raised and thoroughly debated at Conferences of Commonwealth and State Ministers held at regular intervals. It is just that here, as on many other matters, views were substantially conditioned by the way participants interpreted their own and others' institutionally defined concerns.

For 'politics matters' theorists another seemingly obvious part of the explanation for welfare passivity has to be that Labor was out of federal office for all but two years of the interwar period, with the potential impact of the incumbency factor further underlined by the fact that all the state initiatives in the social security field that did take place in these years occurred where Labor held the reins of office. A more idiosyncratically Australian factor delaying progress towards social insurance along European lines was opposition to the contributory principle on the grounds that employee contributions effectively meant a tax on the 'living wage'. Since a no lesser body than the Commonwealth Court of Conciliation and Arbitration had defined the 'living wage' as the minimum required for "civilized existence", it was hardly likely that reductions in take-home-pay would be acceptable to trade unions seeking to protect wage-earner interests. Moreover, given the peculiar logic of the arbitration system, this was an opposition shared with some employers, who were concerned that employee insurance contributions would be seen by the wage-fixing authorities as a reason for increasing award wages by an equivalent amount. Finally, there were other interests opposed to particular schemes, with friendly societies particularly prominent in criticising the 1920s variant of national insurance and medical pressure groups the 1930s variant. However, the 1938 Act demonstrates that, by itself, an interest group account is not enough. The proposed legislation brought together trade unions, employers and doctors in opposition, and that it alienated other important sectional interests, whose constituencies were excluded from coverage (small farmers and the self employed),⁴⁶ but party discipline ensured that the legislation duly passed in both houses of parliament. Although proving negatives is again a problem, it would seem that all that saved Australia from a national insurance along British lines was the advent of war.

Federal Departures

⁴³ Interestingly, in light of the general tendency to see the Labor Party as the initiator of attempts to centralise the Australian Constitution, this was a referendum sponsored by a non-Labor government.

⁴⁴ The problem was that the 'living wage' was designed to provide for a husband, wife and two or three children. However, the only way in which child allowances could be introduced without prohibitive expense would have been for state and Commonwealth wage awards to be modified so that they no longer made automatic provision for the needs of children. Of course, leaving aside questions of constitutional powers, such a move would have been strongly contested by the trades unions at both state and federal level.

⁴⁵ See Kewley, *Social Security in Australia*, p.165-9 for a full discussion of this point.

⁴⁶ See M. A. Jones, *The Australian Welfare State*, Sydney: George Allen & Unwin (1983) pp.42-44.

Although the years prior to World War Two were a lean time for the Australian welfare state, there were institutional departures in this period that were to be important in underpinning a more interventionist Commonwealth role in the years thereafter. By a Financial Agreement between the states and Commonwealth in 1927, ratified by referendum in the following year, the Australian Loan Council was established. This gave the Commonwealth exclusive power to raise governmental loans in return for taking over existing state debts and agreeing to pay a stipulated sum towards their servicing, with the states paying the remainder. The centralizing impact of this agreement was rapidly demonstrated when, during the Great Depression, the High Court ruled that the Commonwealth had first call on a state's revenues should it default on its interest payments. A second institutional innovation was the Commonwealth Grants Commission, established in 1933. This was a further attempt to adjust the revenue basis of the federation, made transparently fragile by the economic realities of the time. The smaller states had always needed Commonwealth assistance to provide services on anything like the same scale as the more populous states, but their predicament was now much exacerbated by the need to fund unemployment relief on a massive scale. The role of the Commission was to recommend additional funding under circumstances where a state could not discharge its functions as a member of the federation, with the degree of assistance being "determined by the amount of help found necessary to make it possible for the State by reasonable effort to function at a standard not appreciably below that of other States".⁴⁷ This principle of federal distribution to the states in proportion to 'fiscal need' was ultimately to become a doctrine of 'fiscal equalisation', making Australia, arguably, "the most equalizing federalist system in the world".⁴⁸

The decisive step towards complete Commonwealth fiscal domination was a wartime development. The Constitution had initially granted the Commonwealth a monopoly of excise duties, the major revenue source of early 20th Century Australia. Now, in 1942, a new wartime Labor administration gave the Commonwealth what amounted to a monopoly of income taxation by levying uniform income taxes throughout the Commonwealth and reimbursing to the states a sum equivalent to their former revenues on the condition that they vacated this area of taxation. Although this action was challenged by the states on a number of occasions both during and after the war, the High Court consistently ruled that the Commonwealth's actions fell within the scope of its concurrent taxing powers under section 53 and its power to attach conditions to grants to the states made in accordance with section 96. Moreover, the Court was quite explicit in concluding that, by attaching conditions to grants, the Commonwealth would always succeed in getting its own way, with the only remedy "to be found in the political arena and not in the courts".⁴⁹ From the point of view of understanding the subsequent development of the Australian welfare state, this development is hugely significant. It explains why the combination of fiscal centralisation and the section 96 power was ultimately to become so important in extending the social service functions of the states once Labor again belatedly achieved Commonwealth office in the 1970s and 1980s. At the same time, it suggests that the almost glacial pace of social security expenditure development in the intervening years cannot readily be attributed to any fundamental lack of constitutional authority on the part of the federal government.

This latter is, of course, all the more true because the war was not merely the occasion for further fiscal centralization, but also for an extension of Commonwealth social services

⁴⁷ Commonwealth Grants Commission, *Third Report* (1936), p.75.

⁴⁸ The quotation is from Edward M. Gramlich, "A Fair Go": Fiscal Federal Arrangements', in Richard E. Caves and Lawrence B. Krause (eds) *The Australian Economy: a View from the North*, Washington, D. C.: The Brookings Institution, p.231, who sees fiscal redistribution on this scale as a major source of economic inefficiency. A much more positive view is to be found in Russell Matthews, 'Fiscal equalisation: Political, economic and social linchpin of federation', Inaugural Russell Matthews Lecture, Canberra, ANU.

⁴⁹ *Uniform Tax case* (1942) p.429.

and Commonwealth social services powers. This process began in 1941, when a conservative coalition government introduced a child endowment scheme, funded by a payroll tax, which, by excluding the first child, helped overcome at least some of the differences with the states over industrial matters that had scuppered the earlier proposals of the late 1920s. Also in 1941, the coalition appointed a Joint Parliamentary Committee on Social Security, which, in a long series of largely unanimous reports, recommended a very substantial extension of Commonwealth social service provision. Many of these measures were implemented by the coalition's Labor successor, which took office in the following year and governed for the next eight years. Widows' pensions were introduced in 1942, partly as a trade-off to the states for their reduction in taxing powers. In 1943, a funeral benefits scheme was introduced as the next instalment of what the Labor government now described as a 'national welfare scheme' to be funded from a National Welfare Fund established from the Commonwealth's newly acquired tax resources. In 1944, legislation was passed establishing unemployment, sickness and pharmaceutical benefits schemes. With the exception of the child endowment scheme, the coverage of which was universal, all other benefits introduced in the wartime period were flat-rate and means-tested in the by now accustomed Australian fashion.

The outer limits of the new welfare consensus stopped at issues of health and freedom of medical practice. The pharmaceutical benefits scheme was strongly opposed by the non-Labor parties and by the medical profession, which regarded it as the thin end of the wedge of a nationalized health service. In 1945, on the instigation of the Medical Society of Victoria, the High Court declared the legislation to be invalid in terms suggesting that a challenge to other existing social services schemes might also be successful. Labor's response was to initiate a successful referendum campaign to extend the social services powers of the Commonwealth to cover all the new wartime welfare measures as well as "dental and medical services (but not so as to authorize any form of civil conscription)".⁵⁰ Although the constitutional amendment of 1946 secured the status of existing social services, it did not protect further pharmaceutical benefits legislation passed by Labor in 1947, which, after further amendment designed to force a still resistant medical profession to comply with its provisions, was adjudged by the High Court in 1949 to constitute a form of civilian conscription and, hence, to be unconstitutional. Further legislation in 1948 to establish a National Health Service was no less militantly opposed by the non-Labor parties and by the Australian Medical Association and lapsed with the electoral defeat of the Labor government in December 1949.

The implications of this episode are ambiguous. On the one hand, it constitutes a clear example of a major Australian interest organization successfully manipulating constitutional veto-points to limit the scope of welfare state reform. On the other, it offers, perhaps, the only really good example we have of successful activity of this kind in Australia and one that contrasts sharply with the failure of a wider array of interests to stop the enactment of the 1938 social insurance legislation. It, therefore, leaves open the issue of whether this particular episode reveals the visible tip of the iceberg of a mechanism through which federalism has limited the development of the welfare state in Australia or whether it is the exception that proves the rule. Indeed, the ambiguity is further compounded. Possibly underlining the exceptional character of such activity in an Australian context is the fact that the interest group in question is one with a long established and internationally proven track record of using federal institutional arrangements to limit the scope of public intervention in the area of their practice.⁵¹ However, accounting for the Australian exception in this way simply creates

⁵⁰ The Commonwealth of Australia Constitution Act, *section 51 (xxiiiA)*.

⁵¹ See on this topic Ellen Immergut, *The Political Construction of Interests: National Health Insurance Politics in Switzerland, France and Sweden, 1930-1970*.

another mystery, with the question being why federal institutions in so many countries have proved so vulnerable to pressure from this source.

There is also some ambiguity in what the federal departures of this era tell us about the role of the welfare state in modifying and reshaping federal arrangements. A simplistic account might see the close coincidence of the Commonwealth's acquisition of enhanced taxing powers and the introduction of a whole raft of social services schemes bringing Australia up to speed with social policy practice in other Western nations as evidence that popular pressures for the expansion of the welfare state had at last been victorious over the strictures of a conservative Constitution. However, such an interpretation ignores the context of total war within which both developments occurred. In terms of the intentions of real historical actors, a more convincing account is of the Commonwealth seeking greater fiscal control in order to finance the war effort, and of using a rhetoric of social policy reform to justify a substantially increased tax burden falling mainly on ordinary wage-earners hitherto untouched by income taxation.⁵²

But this account also misses something. The very fact that wartime governments focussed their rhetoric around the theme of increased income security was an acknowledgement of the potency of that appeal. Comparative research has shown how the fiscal demands of total war prepare the way for post-war, public expenditure growth⁵³ and how wartime solidarity translates into more expansive social solidarity thereafter.⁵⁴ Similar forces were at work in Australia. Creating a 'national welfare scheme' when welfare need was at an all-time low may have been cynical, and establishing a National Welfare Fund from tax revenues rather than from contributions may have been disingenuous, but after the war there was no turning back. The Commonwealth, despite occasional promises to the contrary, had no intention of returning income tax powers to the states and, more than ever, needed the justification that it was providing essential services in return for its fiscal hegemony.⁵⁵ By the same token, repeal of the new social services provisions would have been electoral suicide. In this sense, it is probably fair to conclude that, while war was the immediate occasion for the departures under consideration here, it was popular sentiment favouring welfare reform that underpinned these changes and made them, effectively, irreversible.

A Balance of Probabilities

We now finally arrive at the period of the 'old politics' proper, the post-war era in which in most Western nations social expenditure began to expand extremely rapidly. As Table 1 shows, this was not the case in Australia. The expenditure gradient for social expenditure in the two decades 1950-51 to 1970-71 only appears steep - the 5 percentage points change being equivalent to a 71 per cent increase in overall spending - because spending levels were so very low to start with. During these decades, there was absolutely no change in the proportion of national product going to social security programs, health expenditure increased only modestly as the conservative government in power sought to build a health system based largely on subsidising private insurance and only educational spending kept up with trends overseas. During the course of the 1970s, however, there was a more than 50 per cent

⁵² For this argument see Robb Watts, *The Foundations of the National Welfare State*, Sydney: Allen & Unwin (1987). See also Kewley, *Social Security in Australia*, p.244.

⁵³ See Alan Peacock and Jack Wiseman, *The Growth of Public Expenditure in the United Kingdom*, London: Allen & Unwin, 2nd edn (1967).

⁵⁴ Robert Goodin and John Dryzek, 'Risk sharing and social justice: the motivational foundations of the post-war welfare state', *British Journal of Political Science*, 16 (1986) pp.1-34.

⁵⁵ Because of the activities of the Commonwealth Grants Commission, this was an argument with a surprisingly strong appeal to the smaller states. See Julie Smith, 'Financing the federation: From the federation debates to 1970', in J. Hancock and J. Smith (eds) *Financing the Federation*, South Australian Centre for Economic Studies, Adelaide, pp. 5-43.

increase in total social expenditure measured as a percentage of GDP, a doubling of social security effort from 4.3 per cent to 8.2 per cent of GDP and not inconsiderable increases in both health and education spending. Understandably, then, from a domestic perspective, Australian commentators have tended to regard the 1970s, and, in particular, the years of the Whitlam Labor government from 1972 to 1975, as a period of welfare state catch-up after a long era of public expenditure stagnation presided over by a conservative Liberal-Country Party coalition.

In fact, apart from education, the extent of catch-up with the world outside was relatively modest. The OECD uses the term 'social protection' to denote the combined total of social security and health spending. In 1970, in a grouping of 19 OECD countries, only Japan spent less on social protection as a proportion of GDP than Australia.⁵⁶ At the high point of Australian spending later in the decade, the only other country Australia had managed to overtake was Greece. In 1970, only three of these 19 nations spent a lower proportion of GDP on public health than Australia. Eight years on, the tally was four, with Australia spending 89 per cent of the OECD mean as compared to 79 per cent previously. Social security catch-up was marginally more impressive in terms of movement towards the mean, although from a much lower base. In 1970, the only OECD country spending less on social security than Australia was Japan. By the end of the period, Australia had increased spending as a proportion of GDP from 42 to 58 per cent of the OECD average, but had only succeeded in putting one more country between itself and the bottom of the OECD expenditure league-table. In contrast, the change in Australia's comparative standing in education was genuinely impressive. Although educational spending had increased faster than other categories of expenditure in the immediate post-war decades, the Australian figure remained well below the mean for this group of countries in 1970. Eight years on, with 6.3 per cent of GDP devoted to education, Australia was amongst the West's biggest spenders in this area of provision, only just missing out a place in the top quartile.⁵⁷

The only conclusive way of determining what factors were responsible for Australia's welfare performance in the two or three decades following World War Two is to undertake a comparative analysis. In its absence, an historical case-study of the kind offered here can only identify candidate variables, which, on the basis of an analysis of the sequencing of historical events and/or the immanent logic of social policy development, can be seen as contributing to an understanding of the phenomenon in question. As between these candidate variables, the further question of which contributed to the greatest degree and which more slightly can, at best, be established as a balance of probabilities, always open to further interpretation in light of a closer reading of the historical record. Here we suggest that there are four strong candidates for explaining Australian welfare performance in the decades following World War Two and seek to identify their respective roles in shaping post-war developments. Since, ultimately, we believe that all four variables had at least some bearing on observed outcomes, we do not discuss them as rival accounts, but rather as a series of components needed to construct a reasonably complete account of the what happened to the Australian welfare state in these years.

Federalism was an important factor, but one that should, for the most part, be regarded as an antecedent condition rather than an immediate cause of much that occurred in the post-war period. Clearly, the absence of Commonwealth social services powers prior to the 1940s, and the federal/state anxieties and demarcation lines to which that gave rise, are parts of the explanation for the late start for most social security schemes, which, in turn, helps to account

⁵⁶ All OECD data on social protection, health and social security spending cited in this paragraph are from or calculated from OECD, *New Orientations for Social Policy*, Social Policy Studies No. 12, Paris (1994) pp.57-8.

⁵⁷ The educational spending data on which these calculations are based are from UNESCO, *Unesco Statistical Yearbook*, (1972 and 1981).

for the initially low levels of spending of most of these schemes at the beginning of the post-war era. Catch-up is all the harder when one starts out so far behind the eight ball. Arguably too, in areas like health and education, where the states were the major providers, vertical fiscal imbalance was a potentially important background condition for appraising proposals for the extension of services, since the states could only expand provision by pressuring the Commonwealth to tax more or, at least, to direct more tax revenues to the states. Finally, federal arrangements played an extremely significant part in the medical profession's successful attack on Labor schemes for 'socialized medicine' in the second half of the 1940s and this prepared the way for a coalition health policy in the 1950s and 1960s built around subsidizing private health insurance and providing hospital treatment on a means-tested basis. Although ultimately unsuccessful, medical pressure groups were once again ready to use whatever constitutional means were available to them when confronted with a Labor government in the early 1970s wishing to revisit the idea of a publicly-funded, national health service close to quarter of century after their previous attempt had been frustrated.⁵⁸

Federal arrangements cannot, on the other hand, easily account for the absence of expenditure growth in the early post-war decades, because, already by the late 1940s, the Commonwealth possessed all the fiscal and spending powers that were later to be used by the Whitlam government to expand expenditure so rapidly. This, in particular, applies to the combined use of the Commonwealth's monopoly over income taxation and its reliance on the section 96 power to require the states to comply with federally imposed conditions in order to obtain Commonwealth grants. In the 1960s, Whitlam had been a vociferous opponent of federalism in the old Labor tradition; by 1972, he was preaching a 'new federalism', which was to use special purpose grants as means of funding reform in health, education and in urban and regional planning.⁵⁹ It is clear that it was not constitutional obstacles that prevented Whitlam's Liberal predecessors from employing such methods to expand social policy spending, since the Liberals had no hesitation in using them to expand university funding and to extend state aid to independent schools. Using the same powers in the health and community services arenas, as Whitlam was to do in the 1970s, was simply not on the Liberal policy agenda of the 1950s and 1960s.

The question is why not and the obvious answer is because the Liberals and their coalition partner, the Country Party, were conservative parties that were ideologically opposed to the extension of public spending. While the impact of federalism contributes to our understanding of why expenditure levels were so low in the early post-war period, a 'politics matters' account appears to offer the most convincing account of the post-war trajectory of Commonwealth social spending. Between 1950-51 and 1970-71, there was no increase in social security spending and the trend of health spending was rather modest in comparison with other OECD countries. Between 1949 and 1972, a Liberal-Country Party government was continuously in office, the longest period of uninterrupted majority rule by a right-wing government in a democratic Western nation in the post-war era. Labor was elected in 1972 and, during the next three years, all categories of social expenditure increased substantially. After 1975, with the Liberals back in office, the upward trend slowed markedly, peaking in 1977, and did not resume its upward trend, albeit then more slowly, until the election of the Hawke Labor government in 1983 (see Table 2 in the next section). Overall, the coincidence of party control and social expenditure trajectory is as close as in any country in the OECD during the post-war decades, and extending the series backwards to cover the interwar period appears to strengthen the association further. An 'politics matters' account may also help to explain why some categories of social expenditure grew faster than

⁵⁸ The legislation was twice rejected by the Senate before becoming one of a number of defeated bills used by the government to justify a double dissolution of parliament in 1974.

⁵⁹ See Peter Groenewegen, 'Federalism', in Allan Patience and Brian Head (eds) *From Whitlam to Fraser*, Melbourne: Oxford University Press (1979) pp.56-7.

others in the early post-war years. At least, in some states, during these years, the degree of party competition between the Liberals and Labor was much fiercer than in the Commonwealth, where Labor was crippled by a party breakaway from within its own ranks. Arguably, this greater competition helps explain why education, the category of expenditure most within the states' own control, was the area of social spending with the most expansive growth trajectory in this period.

Finally, we turn to what is perhaps, the greatest anomaly of all: why Australia experienced no expansion in social expenditure as a percentage of GDP in precisely the years when it was growing fastest elsewhere. Party incumbency alone seems insufficient to explain this impact, which is so much more pronounced than in most other countries experiencing substantial periods of right-wing hegemony. Indeed, the only country with a comparable social security record in this period was non-federal, but decidedly right-wing New Zealand,⁶⁰ which shares two further characteristics with Australia: namely, a highly selective social policy resting exclusively on flat-rate and means-tested benefits and a wages system based on arbitrated wage minima. A strongly selective social policy provided a logic of expenditure growth, which, under the circumstances of ultra full employment pertaining in the 1950s and 1960s was most unlikely to lead to increased spending as a percentage of GDP. For expenditure effort measured in this way to increase, benefits rates had either be increasing faster than the rate of real GDP growth or benefit eligibility had to be increasing markedly. The first was within the control of the government and the second was minimized by the conjunction of large-scale immigration, full employment and high economic growth that characterised Australia at the time. Indeed, taking these factors into account, there was actually some room for the Liberal governments of the 1950s and 1960s to liberalise means-tests in response to demands from the conservative parties' own middle-class constituencies.⁶¹

By itself, however, selectivity is probably not a sufficient explanation of social security inaction. There are a number of nations with a strong selectivity bias, but, other than in Australia and New Zealand, this did not wholly prevent social security growth during this period. What seems to have made the vital difference in Australia and New Zealand was that the wages system produced a logic of collective action substantially reducing the probability of organised working class protest against the structure and generosity of the welfare system.⁶² High minimum wages meant that these countries had relatively few 'working poor' and that what poverty there was occurred largely amongst benefit recipients with no access to other income.⁶³ Within the working class itself, the functioning of the wages system made for a considerable equality of condition, with the majority of wage earners and their families going up the incomes ladder in lockstep with the expansion of the economy. Combined with full employment and an extremely high level of private home ownership, Australia could and did see itself in the early post-war decades as a 'lucky country',⁶⁴ in which the condition of those who remained poor would also improve as the economy continued to prosper. This was an optimism that evaporated with the adverse economic changes heralded by the First Oil Shock. By a twist of fate that extended Labor's unfortunate run of never being in office at the right time, this occurred rather less than twelve months after the Whitlam government took office. In Australia, the 'old politics' of the welfare state in the European sense of big spending and big taxing programs ended almost before it had begun.

⁶⁰ New Zealand was the only OECD country in which social security spending as a percentage of GDP actually declined markedly in the 1960s. OECD, *New Orientations for Social Policy*, p.57.

⁶¹ See Jones, *The Australian Welfare State*, p.59.

⁶² This case is argued in Castles, *The Working Class and Welfare*, pp.74-109.

⁶³ See R. F. Henderson, 'Social Welfare expenditure', in R. Scotton and H. Ferber, *Public Expenditures and Social Policy in Australia*, Vol. 1., Melbourne: Longman Cheshire (1978), pp.167-9.

⁶⁴ See Donald Horne, *The Lucky Country: Australia in the Sixties*, Ringwood, Vic.: Penguin (1964).

A Dialectic of Old and New?

The old politics of the welfare state was a matter of mobilizing support for the expansion of a wide range of services and income support measures demanded by democratic citizens. The supposed emergence of a new politics of the welfare state is about governments finding ways of avoiding blame for expenditure cutbacks made necessary by changing economic conditions and, in particular, by pressures emanating from the global economy.⁶⁵ In the period since 1970, Australia has experienced efforts by both major political parties to control public expenditure growth and an important part of this effort has been successive attempts to recalibrate the relationship between federal and state governments. However, accompanying these changes has been a further process of political evolution whereby the roles of existing federal institutions – in particular, the Senate and High Court – have been considerably modified, with consequences sometimes favourable to the entrenchment of welfare rights. The argument of this concluding section is that the continued evolution of federal institutions has provided the mechanism for a continuing dialectic of the old and the new politics of the welfare state.

Recent Social Expenditure Trends

The course of Australia's social expenditure development since 1980 is charted in Table 2. This data comes from the OECD and is categorised in a somewhat different manner from that appearing in Table 1. This means that comparisons pre and post 1980 can only be very approximate. On the other hand, the fact that the data appearing in Table 2 comes from an extensive international database means that comparisons are possible with other federal nations and with the OECD as a whole.

	Age Pensions	Health	Spending on Unemployment	Other Social Spending	Total Social Expenditure
1980	3.3	4.4	0.7	2.9	11.3
1985	3.0	5.3	1.7	3.5	13.5
1990	2.9	5.3	1.4	4.8	14.4
1995	4.2	5.5	2.0	6.1	17.8
1999	4.0	5.4	1.5	5.8	16.7
1980-1999	0.7	1.0	0.8	2.9	5.4

Sources and Notes: All data from or calculated from OECD, *Social Expenditure Database 1980-1999*, CD-Rom, Paris, 2001. Spending on unemployment comprises unemployment benefit expenditure plus expenditure on active labour market policy. Major expenditures under the other heading include disability, sickness and family cash benefits as well as services to the elderly and to families.

Examining Australia's expenditure performance in these comparative terms suggests two headline conclusions relevant to the linkages between federalism and the welfare state during this period. The first conclusion is that Australia's social spending levels remained

⁶⁵ For successive elaborations of this argument, see Paul Pierson 'The New Politics of the Welfare State', *World Politics*, 48: 2, pp.143-79 and contributions to Paul Pierson (ed) *The New Politics of the Welfare State*, Oxford: Oxford University Press, 2001.

relatively low compared to the generality of OECD countries and even compared with the other federal countries featuring in this study. In the case of pensions, Australia continued to be a spectacular laggard. In 1980, of long-term, Western, OECD members, only Canada and Japan spent less than Australia on age pensions and, by the late 1990s, only Ireland spent less. In the area of health, Australia did somewhat better. In 1980, only Portugal, Greece and the USA were lower spenders, but by the late 1990s Australian spending levels were close to the OECD median and higher than those of Austria and the United States. However, despite the improved health performance and the doubling of expenditure on other programs, Australia was still almost at the bottom of the overall expenditure distribution in the late 1990s, with only Ireland, Japan and the United States spending a lesser proportion of GDP on public welfare.

The second conclusion is rather different. Although Australia did not markedly improve its relative standing during this period, it cannot be considered a laggard in terms of expenditure growth over these two decades in which welfare retrenchment was more firmly on the Western policy agenda than at any other previous time during the post-war epoch. Between 1980 and 1998, total social expenditure in Australia grew by 6.5 per cent of GDP compared to 4.6 per cent in the OECD as a whole and an average of 5.9 per cent in the federal nations covered by this study. Nor can this increase be dismissed as a consequence of the growth of unemployment that occurred in these years, since this category of spending increased by less than one percentage point of GDP between 1980 and 1998, whilst total expenditure increased by more than six times that amount. Table 2 shows that pensions expenditure rose by one per cent of GDP and health by 0.7 per cent. More detailed figures from the OECD show that services to the old increased by 0.6 per cent and spending on cash benefits to families more than doubled – from 0.9 to 2.1 per cent of GDP.⁶⁶ The story told by these figures is that Australia's federal institutions had ceased to function as a strong brake on social spending precisely when that brake was beginning to be applied more forcefully elsewhere. In this final section we explore the contemporary functioning of federal institutions with a view to understanding the changing dynamic of Australian policy development.

The Flexibility of Federal Institutions

Earlier we discussed the process by which constitutional limitations on the federal government's capacity to legislate in the area of social services were removed. Here, we begin our discussion of the evolution of contemporary federal practice with another illustration. Precisely because it an exceptional case, the development of the Australian government's responsibility for indigenous affairs can help highlight the more conventional, if untidy, path of federal involvement in social policy.⁶⁷ This policy area demonstrates the ways in which 'different interpretations of social welfare need different interpretations of federalism for their attainment',⁶⁸ illustrated by reference to the changing models of central government responsibility for Aboriginal affairs.

This policy field is a good test of the capacity of Australian national governments to overcome federal restrictions on their institutional leverage. The federal aspect of the indigenous case begins with the 1901 Constitution, which effectively quarantined the new national government from the most marginal and dispossessed people in Australian society,

⁶⁶ This data from OECD, *Social Expenditure Database 1980-1999*, CD-Rom, Paris, 2001,

⁶⁷ See Will Sanders, 'Aboriginal Affairs', in Brian Galligan, Owen Hughes and Cliff Walsh eds *Intergovernmental Relations and Public Policy*, Sydney: Allen and Unwin (1991), pp 257-76; and Christine Fletcher, *Aboriginal Politics, Intergovernmental Relations*, Melbourne: Melbourne University Press (1992).

⁶⁸ Adam Graycar, 'Federalism and Social Welfare', in Dean Jaensch ed *The Politics of "New Federalism"*, Adelaide: Australasian Political Studies Association (1977), p.155.

who were treated as a responsibility of the states. The original federal settlement placed the most needy social group beyond the reach of federal social policy, providing a further illustration of how the original federal compact served to restrict future expenditure growth. The Commonwealth's only policy involvement came through its responsibility for territories, with the Northern Territory in particular having a substantial proportion of indigenous Australians among its population. The situation as it stood in the mid-1960s was one in which the federal government's indigenous policy was managed through low-profile intergovernmental meetings of welfare ministers to monitor modest financial assistance to state welfare authorities to assist with 'black welfare'.

However, following Menzies' long tenure as Prime Minister (1949-1966), his successor, Harold Holt, sponsored a constitutional referendum to give the Commonwealth legislative power over indigenous affairs.⁶⁹ Here was a major change in federal responsibilities, with ultimately major implications for social policy, initiated by a conservative government and overwhelmingly supported by a conservative electorate. Following the 1967 constitutional change, successive conservative governments funded an Office for Aboriginal Affairs and instituted more extensive financial assistance to the states for indigenous affairs. Intergovernmental tensions began to match the general pattern evident in other policy fields. The arrival of the Whitlam Labor government (1972-1975) only accelerated the process, with the establishment of a separate minister and separate department of state, which marked the growing momentum of expanded federal responsibility. Predictably, friction with the states was rarely far from the surface. However, the key point is that even later *conservative* governments defended the steady momentum of federal expansion against the 'states rights' claims of those states, like Queensland, which resisted federal intervention in this sphere of social policy.⁷⁰ The trend towards greater federal responsibility and expenditure growth accelerated under the Hawke Labor government (1983-1991), symbolised by the 1989 establishment of the indigenously-elected Aboriginal and Torres Strait Islander Commission (ATSIC) to replace the former public service bureaucracy and to shift the administration of indigenous policy to indigenous Australians, a major step along the more general social policy path from 'self-management' to 'self-determination'.⁷¹

Policy leadership is not confined to executive and legislative branches of government. Constitutional courts can contribute to policy expansion, even when they confine their focus to disputes within the common law tradition. In 1992, the 'Mabo' decision of the Australian High Court took the process of indigenous self-determination an important step further by overturning the prevailing view, reflected in state land-tenure regimes, that claims to native title had been extinguished with white settlement from 1788.⁷² Striving to balance legal certainty and social justice, the Keating government (1991-1996) overcame considerable state wariness and brokered a legislative package to establish a native title claims tribunal which further expanded the instruments and scope of indigenous social policy. Although this steady expansion has at least stabilised under the conservative Howard government (1996-present), and despite this government's discomfort with the concept of self-determination and its well-publicised resistance to reconciliation claims, it is impossible to imagine a substantial rollback in this field of national social policy. To the extent that 'retrenchment' describes the policy logic under Australian conservative governments, this is an area in which there is as much retention of expenditure commitment as there is retraction of policy reach. Indeed, perhaps the

⁶⁹ Henry Reynolds, 'Segregation, assimilation, self-determination', in John Wilson, Jane Thomson and Anthony McMahon, *The Australian Welfare State*, Melbourne: Macmillan (1996), pp 134-7; Sanders, 'Aboriginal Affairs', in *Intergovernmental Relations and Public Policy*, op cit, pp.260-62.

⁷⁰ Sanders, 'Aboriginal Affairs', in *Intergovernmental Relations and Public Policy*, op cit, pp.266-68.

⁷¹ Michele Ivanitz, 'Challenges to Indigenous Service Delivery', in Glyn Davis and Patrick Weller eds *Are You Being Served?*, Sydney: Allen and Unwin (2001), pp 133-7.

⁷² Brian Galligan, *A Federal Republic*. Cambridge: Cambridge University Press (1995), pp 162-3, 184-5, 211-2, 241-2.

most painful aspect of ‘retrenchment’ in this field of social policy has been the ‘retrenchment’ of policy rhetoric, with a substantial lowering of the public expectations around indigenous policy, with a substitution of so-called ‘practical measures’ like community health and housing in place of Labor’s earlier policy rhetoric of the goal of national reconciliation based on full and equal citizenship.⁷³

As suggested by the case of indigenous affairs, the Australian story since the late 1960s is not one which can be simply described in terms of the welfare inhibiting effects of federalism. Federal frameworks most certainly contain restrictions on welfare expansion, but those frameworks are far from rigid. Indeed, the very use of a constitutional referendum to overcome a dated and rigid federal division of powers, as exemplified in the 1967 referendum, is itself an articulation of the flexibility inherent in Australian federalism.⁷⁴ The same process that in 1967 expanded the policy domain of the national government was used by voters in 1951 to reject the Menzies government’s plans to expand Commonwealth legislative powers to enable the prohibition of Communism. Thus the federal system is flexible enough, on one hand, to expand welfarism and, on the other hand, to restrict entrenched political discrimination. Further, the federal system is flexible enough to allow voters to distinguish between these two types of expansions in the power of central government.

As this example of the referendum shows, federal institutions can just as readily screen out illiberal programs as they can screen in liberal programs. Thus when national governments complain about ‘federalism’ as an institutional system capable of obstructing their plans, the complaint is no longer confined to Labor governments lamenting roadblocks in the path to expanded welfare. Sometimes too, Labor governments have had positive reasons to be thankful for the operation of federal mechanisms, as for instance when the system accommodates a welcome expansion of governmental activity or when it prevents unwelcome expansions (or unwelcome retractions, as suggested by the ‘new politics’ thesis) of governmental activity.

Federal institutions should, therefore, never be regarded as permanent barriers to change. The indigenous case is only the starkest example of a wider if more subdued and subtle practice of evolving federal policy arrangements. No less significant in recent decades have been the gradual transformation of the Senate and High Court into institutions defending existing social rights. Traditional scholarship has long noted that neither the High Court nor the Senate used ‘states rights’ to justify their contribution to national governance. What has attracted less attention, however, is that both institutions displayed at a very early stage their potential to use ‘the Constitution’ to justify their role in expanding the scope of national governance. That is, those in positions of power in both institutions appreciated that ‘federalism’ did not simply mean ‘divided sovereignty’ and ‘limited government’. Federal institutions like the High Court and the Senate could contribute effectively by *multiplying* sovereignty instead of dividing it and by *developing* government instead of limiting it.⁷⁵

Although critics have sometimes seen the Senate as a failure because it has not performed as a states house, the Senate itself early understood that its real contribution as a federal institution would be as a protector of *individual* rather than *states* rights: originally individual rights against a centralist ‘big government’ and, as we will emphasise, later rights to social assistance from the welfare state. The classic instance which illustrates this tendency is the Senate’s treatment of Labor’s 1993 budget after Keating’s surprising election win earlier that year. Claiming a mandate to govern, the government struggled against a Senate

⁷³ Michael Keating and John Wanna, ‘Remaking Federalism?’, in Michael Keating, John Wanna, Patrick Weller eds *Institutions on the Edge?*, Sydney: Allen and Unwin (2000), pp 126-155.

⁷⁴ See Galligan, *A Federal Republic*, op cit, pp 110-32.

⁷⁵ See also Galligan, *A Federal Republic*, op cit, chapters 3 (Senate) and 7 (High Court).

which was under the effective control of two minor groupings: the Australian Democrats and the smaller Greens, both of which extracted ‘many concessions from the government’, during a process involving ‘deal-by-deal with Senators who commanded a relatively tiny electoral base but who exploited their strategic position to unpick or modify the government’s budget measures’.⁷⁶

Originally, the Senate’s ‘federal’ contribution was originally expressed in its promotion of negative rather than positive rights. Since 1980, however, the Senate has effectively been dominated by parties of the left, with much of the policy pace being set by minor parties which are fully aware that they will never face the budgetary responsibilities of parties in government. In this sense, the preference for positive rights comes naturally to parties free of the responsibilities of governing. Parliamentary reforms under the Hawke government took made it even harder for either of the major parties to control the Senate: the 1984 enlargement of parliament increased the number of senators from each of the six states from ten to twelve, thereby making it considerably easier for minor parties to win a quota of the larger number of seats now available at each election of senators. But the larger story is that the major parties can command an effective majority only by taking seriously the preferences of those minor parties holding the balance of power. Given the remarkable legislative power of the Senate to veto any government bill, it should come as no surprise to find Senate majorities clustering around the agenda of positive rights, promoting and expanding access and eligibility rights by individuals and groups to government services. In an era when governments of all complexions have become increasingly persuaded that a shift to new priorities was urgently required, the Senate has often stood four-square as an institutionalised bulwark of an older approach to the politics of the welfare state.

Rationalising Intergovernmental Relations

We have seen how the choices open to central government are affected by federal institutions near the centre such as the High Court and the Senate. We turn now to the routines of intergovernmental affairs, again trying to see how policy choices facing Australian national governments are conditioned by federalism. This period opens with the determination of the conservative Gorton government (1968-1971) to bring greater policy coherence to national governance. This can be seen in developments on two fronts. First, the attempt to institutionalise greater policy capacity at the centre with the establishment of a Department of the Prime Minister, in part to police the growth of alliances between federal and state line departments. This is no small point, as Australian policy-making has traditionally involved considerable co-operation across the federal divide by related policy agencies at the two levels of government. Co-ordinating agencies working directly to heads of governments at both levels have long tried, with surprisingly little success, to slow down initiatives in intergovernmental co-operation taken by related policy officials.⁷⁷

The second development is the imposition of greater ‘conditionality’ (i.e., terms and conditions of compliance) on financial assistance to the states. Gorton distinguished his political style as a new nationalism (read ‘centralism’), which found a policy outlet in his government’s increased expenditure on social policy, including increased welfare assistance to the states. Social analysts have acknowledged the instrument of the conditional grant as

⁷⁶ Wanna et al, *Managing Public Expenditure in Australia*, op cit, p228; see also Liz Young, ‘Parliament and the Executive’ in Paul Boreham, Geoffrey Stokes and Richard Hall eds *The Politics of Australian Society*. Sydney: Pearson Education (2000), pp99-115; and Uhr, *Deliberative Democracy in Australia*, op cit, pp 146-9.

⁷⁷ See Martin Painter, ‘Federal Theory and Modern Australian Executive Federalism’, in John Halligan ed *Public Administration Under Scrutiny*, Canberra: University of Canberra (1996), pp.89-90; Andrew Parkin, ‘Housing Policy’, in *Intergovernmental Relations and Public Policy*, op cit, p253; and Rolf Gerritsen, ‘Some Progress Was Made’, in Gwynneth Singleton ed *Australian Commonwealth Administration 1993-1996*, Canberra: University of Canberra (1997), pp129-30, 135-7.

‘that most potent weapon of co-operation (or coercion)’.⁷⁸ In 1970, the central government provoked unified state protests about the need for a new deal on intergovernmental financing, in response to Gorton’s clear articulation of his top priority of national expenditure control. Gorton defended the Commonwealth’s use of regional equity grants (‘horizontal equalisation’) to deflect the states’ clamour for a growth tax to provide them with independent access to budget capacity. The states received increases in federal grants but lost valued policy autonomy, reflecting a conservative but far from traditional leader who ‘challenged holy writ by insisting that the Commonwealth’s will must prevail in any conflict between Canberra and the States’.⁷⁹

The later 1970s witnessed a classic battle between Labor and anti-Labor parties wrestling for control of national government, with the Senate effectively ‘gridlocking’ the Whitlam administration in a partisan ploy to reclaim government for the anti-Labor forces. Both the Whitlam and the successor Fraser governments promoted ‘new federalism’ schemes: the former openly embracing welfare expansion and the latter proclaiming the need to ‘roll back the state’. Both illustrate political responses to the Gorton experiment of a modest expansion of social policy combined with a streamlining of central controls over expenditure by the states. The Whitlam approach was something of an exaggeration of both tendencies begun under Gorton. The Fraser approach was an attempt to reverse both tendencies, although with no commitment to relinquish the central government’s monopoly of income taxation. In neither case was there sufficient policy coherence to achieve the proclaimed administrative overhaul or the desired policy outcomes.⁸⁰ ‘Gortonism’, for want of a better term, tended to prevail, with each national government pragmatically searching for better co-ordination of social policy, including the growing proportion of social expenditure managed through intergovernmental arrangements. The results as of the early 1980s showed the balance of federal interests, with the federal government striving to ‘establish leadership in health, education and housing and the personal social services’, while the states ‘remain in effective charge’ through their control over implementation and service delivery.⁸¹

The era of Labor governments under Hawke (1983-1991) and Keating (1991-1996) started from a somewhat different model. Initially, Hawke sought to bypass traditional veto points in the policy system, including state governments, via corporatism and rule through national summits. In effect, this was an ambitious scheme to re-map the federation. Hawke saw more value in reaching a formal Accord on wages and conditions with unions, and agreements on prices and investments with big business, than the remoter prospect of any accord with state governments. Other institutions also were left to wither: Hawke ‘bypassed Parliament, negotiating directly with the great and the powerful. Every now and then the Senate gave his corporatism a jolt...’ The preoccupation of the Hawke government was ‘the structural malaise in the Australian economy that rendered it increasingly uncompetitive in a globalising world’.⁸²

When federalism resurfaced on the government’s reform agenda, it was less in the Gorton-style context of reforms to provide greater co-ordination over welfare than in the

⁷⁸ Mendelsohn, ‘Federalism and the Evolution of Social Policy’, op cit, p244; see also Ralph Chapman, ‘Federalism, inter-governmental relations and the Australian policy process’, in Michael Wood, Christopher Williams and Campbell Sharman eds *Governing Federations*, Sydney: Hale and Iremonger (1989), pp54-63.

⁷⁹ Ian Hancock, ‘Liberal Governments, 1966-1972’, in J R Nethercote ed *Liberalism and the Australian Federation*, Sydney: The Federation Press (2001), p207; and see also Holmes and Sharman, *The Australian Federal System* op cit, pp 123, 156-7.

⁸⁰ Consider Holmes and Sharman, *The Australian Federal System*, op cit, pp 122-3, 131, 149-54, 158, 164; and also Wanna et al, *Managing Public Expenditure in Australia*, op cit, pp 116-46.

⁸¹ Mendelsohn, ‘Federalism and the Evolution of Social Policy’, op cit, p245; see also Jim Butler, ‘Health Care’ in *Intergovernmental Relations and Public Policy*, op cit, pp168-71.

⁸² Neal Blewett, ‘R J L Hawke’ in Grattan ed *Australian Prime Ministers* op cit, pp 389-90, 397.

changing international context of a neo-liberal agenda of economic reform. The Hawke government appreciated that the central government alone could not overhaul Australia's uncompetitive economic system because much of the problem was at state level, where many traditional public utilities administered onerous regulatory regimes reflecting a venerable but outdated form of 'state socialism'. Hawke himself had long been a critic of Australian federalism and sympathetic to Whitlam's use of 'tied grants' to shepherd the states in his policy direction. Reconciled to the fact of federalism, Hawke, with the support of Treasurer Keating, simply pushed on with his top-down plan to restructure national capacities for economic growth, including greater expenditure on education and workforce training. During the years preceding his discovery of 'new federalism', Hawke led a government whose cost-containment preoccupations saw its social outlays fall as a percentage of GDP from 15.2% to 12.9%.⁸³ When he finally turned to reform of the federal framework, Hawke declared: 'the goals are to improve our national efficiency and international competitiveness, and to improve the delivery and quality of the services governments provide'.⁸⁴

Hawke's adoption of an explicit 'new federalism' strategy in the late 1980s was more a reaction to state resistance than a preferred position. The initiative came more directly from state governments complaining about escalating 'conditionality' (i.e. onerous terms and conditions, such as proof of 'maintenance of effort') associated with central financial assistance. The states sought a new deal to sort out the appropriate roles and responsibilities for both levels of government, claiming many areas of social policy as naturally their own, such as health, education and housing.⁸⁵ The states took the initiative by calling for a new effort to sort through the policy thicket of Australian federalism in order to redress 'duplication and overlap' and, ideally, to get fresh agreement on the spheres of discrete policy autonomy under state and central political responsibility. While publicly repeating their traditional complaints about their limited tax base, behind the scenes the states pursued a clever campaign to secure their real goal: 'predictable and increased transfers' from Canberra.⁸⁶ The Hawke and later Keating governments responded to the complaints over 'duplication' by steering the 'new federalism' process to a new deal which traded off the dream of state policy autonomy for the reality of increased transfers involving considerably greater negotiation and agreement between the two levels of government.

The last years of Hawke's prime ministership were troubled by his party's suspicion that Hawke was conceding too much to the states as the price for their co-operation with national schemes of economic restructuring. Surprisingly, Labor's 'new federalism' really took form only when Keating successfully challenged for the party leadership, appealing for a resurgence of central control over national policy-making. As former Treasurer and as the original engineer of Labor's policy of economic restructuring, Keating as prime minister saw the opportunity to drive deeper and further with a new plan for micro-economic reform of state public enterprises. Resisting state claims for enhanced policy autonomy, Keating bought their support with promises of greater central financial assistance and, more persuasively, demonstrations of his commitment to administrative and, in some cases, policy partnerships between the two levels of government. Keating presided over Hawke's institutional legacy, the Council of Australian Governments (COAG) established in 1992, immediately on the heels of Keating's significantly labelled *One Nation* policy statement which effectively defined his new prime ministership in terms of increased public investment in economic infrastructure, such as vocational training and a national electricity market, both well within

⁸³ Diane Gibson, 'Social Policy' in Christine Jennett and Randell Stewart eds *Hawke and Australian Public Policy*, Melbourne: Macmillan (1990), pp 185-6, 191.

⁸⁴ Quoted in Galligan, *A Federal Republic*, op cit, p203.

⁸⁵ Galligan *A Federal Republic*, op cit, pp 196-7; Gerritsen, 'Some Progress Was Made', op cit, pp 125-7, 132.

⁸⁶ Gerritsen, 'Some Progress Was Made', op cit, p 127.

the states' traditional policy sphere.⁸⁷ The budget situation was bleak, in large part because 'the largest contributor to the two large deficits over 1992-94 was increased social security spending' which rose to 36% of total outlays in 1993-94.⁸⁸ Under COAG, the prevailing agenda of micro-economic reform produced intergovernmental agreements through a new federal partnership to determine mutually agreed 'national standards' in relation to many areas hitherto considered state matters: including food, the environment, and public utilities dealing with electricity.⁸⁹

The underlying character of Australian federal policy-making is revealed by initiatives in the area of competition policy. Keating attempted to use COAG authority to legitimate a 'national competition policy' as a cross-cutting initiative bringing together both levels of government. The working party of officials which fine-tuned competition policy reflected the dominating perspective of co-ordinating agencies at both levels of government responsive to their respective heads of government. The potential losers were those ministers and officials in line agencies whose style of policy management would be fettered by new requirements to comply with 'competition policy'. By 1995 agreement had been reached for the federal government to begin a new system of competition payments to the states in response to their progress in meeting competition mile-stones. Labor party supporters had reason to believe that this was proof that smart thinking and innovative institution-building by the central government continued to justify Keating's famous 1994 quip that the central monopoly over income taxation was 'the glue that holds the federation together'.⁹⁰

Thus, in many ways the competition story shows that under Keating's clever if cautious management of COAG: 'Intergovernmental bodies and protocols were gaining heightened importance as part of the fabric of political settlement and the shaping of policy'.⁹¹ But the limits to this shared policy-making were only too evident in COAG's inability to help governments deal with the native title challenge thrown up by the High Court's 1992 Mabo judgment. Land title is normally a matter of state jurisdiction but the Commonwealth has, since the 1967 referendum, power to legislate for indigenous Australians. Once again, the main game was played out in the national parliament and more particularly in the Senate where Keating's post-Mabo legislation finally took shape.⁹²

The Dialectic Continues

During the Labor period from 1983 to 1996, the process of rationalising intergovernmental relations appears to have been compatible with maintaining or even increasing expenditures on the welfare state. Whether a continuation of the rationalisation process under the Howard Liberal Government, the conservative successor to Labor, will have similar consequences remains an open question. The expenditure data so far available to us (see Table 2) do not demonstrate a major cut in aggregate social spending. Nevertheless, there are clear signs of an intention to alter both the character of intergovernmental relations and of the welfare state in ways which might be interpreted as fulfilling the agenda of the 'new politics' of the welfare state, with trends towards tighter targeting, income and asset testing, narrowing of eligibility

⁸⁷ Martin Painter, *Collaborative Federalism: Economic Reform in Australia in the 1990s*. Cambridge: Cambridge University Press (1998), pp 40-44; see also Wanna, et al, *Managing Public Expenditure in Australia*, op cit, pp 233-4.

⁸⁸ Wanna, et al, *Managing Public Expenditure in Australia*, op cit, p 225.

⁸⁹ Galligan, *A Federal Republic*, op cit, pp 211-3.

⁹⁰ Quoted in Galligan, *A Federal Republic*, op cit, pp 212, 215.

⁹¹ Painter, *Collaborative Federalism* op cit, p 90.

⁹² Keating and Wanna, 'Remaking Federalism?', op cit, , p 137-8; see also Uhr, *Deliberative Democracy in Australia*, op cit, pp 127-131.

criteria and widening of qualifying periods.⁹³ Unquestionably these changes represent an attack on established welfare rights, which seems likely to continue if the Liberals are elected for a fourth consecutive term. However, those seeking to reform the welfare state have not had it all their own way, with much of the institutional resistance on this occasion coming from the states. With no promise that the eventual outcome will be anything like as favourable to the welfare state objectives as it was during the Hawke/Keating years, our reading of the evidence suggests that federal institutions continue to serve as a bulwark against radical policy change initiated by central government.

The Howard years began with an inquiry by an appointed Commission of Audit which quickly reported in mid 1996 that many areas of federal policy should be 'rationalised' by permanent transfer to the states: including education, health, housing, transport, indigenous affairs, the environment, and industrial relations. The Audit reflected the new mood of intergovernmental affairs with its recommendation that national policy-making should be confined to 'the development of standards, benchmarks and performance measures' but not service delivery.⁹⁴ The new government just as quickly distanced itself from this radical blueprint and applied itself to the more politically manageable challenge of incremental reform through the existing apparatus of COAG.

The series of official 'communiques' issued by COAG since the election of the Howard government document the initial continuation and expansion of the system-changes begun by the former Labor government, followed by the institutional transformation of federal arrangements with the introduction by the central government of the 'goods and services tax' (GST) from 1998-99. This remarkable reform of the national taxation regime saw the states agree to repeal a wide range of indirect taxes in return for sole access to the federally-collected GST, on the condition that the states maintain their commitment to the national policy of micro-economic reform begun under Labor and continued by the conservative Howard government. Although social policy featured significantly as an initial element in the COAG policy framework devised under the Howard government, most of this reflects the uncompleted agenda inherited the former Labor government. But a change at national level does not necessarily overturn COAG's agenda, which also reflects states' interests. Accordingly, the 1996 COAG meeting agreed on national principles for reform of health and community services, designed to replace traditional arrangements characterised as having 'too great a focus on financing and intergovernmental tensions' with a new ones that would promise greater 'value for money for taxpayers'. Central to the scheme was the shared determination to 'eliminate in a fundamental way the incentive to shift costs between the two levels of government'.⁹⁵

The plan did not involve either a federal takeover or a federal departure from social policy, but new shared responsibilities 'by both levels of government rather a separation of responsibilities'. The model was a partnership between the Commonwealth as purchaser and the states as managers of institutional service agencies. The stated aim was to bring both levels together to share responsibility for determination of targets, with the federal government taking overall responsible for core funding, standards-setting and overall evaluation. The initial field for experimentation was aged care, where the government tried to

⁹³ See eg Michael Keating, 'Can Government Cope?', *Australian Journal of Public Administration*, 60 (3), September 2001, pp 98-103; Michael Keating, 'Reshaping Service Delivery', in *Are You Being Served?*, op cit, pp107-112; and Jocelyn Pixley, 'Welfare, Poverty and Social Inequality', in Boreham, Stokes and Hall, eds *The Politics of Australian Society* op cit, pp 286-301.

⁹⁴ Wanna et al, *Managing Public Expenditure in Australia* op cit, pp 248-9.

⁹⁵ COAG (Council of Australian Governments). 'Communiques' of June 1996, Attachment B, pp 1-3. Available from: www.dpmc.gov.au; see also Keating and Wanna, 'Reshaping Federalism?', op cit, 143-4.

balance its political commitment to states rights with its national policy commitment to balanced budgets, only to find that the states proved formidable antagonists against its preferred option of cut-backs in social expenditure.

For the most part, the COAG public accounts reveal an intergovernmental focus on other areas that are relevant to social policy but are outside the core of welfare services, such as illicit drugs, environmental reform to devise a national scheme for accredited state-based assessment of environmental planning, energy policy, and the ongoing implementation of national competition policy. According to the Howard government's most senior public servant, the centre-piece of the last half-decade has been the 1998-99 intergovernmental agreement on the reform of Commonwealth-state financial relations.⁹⁶ One significant feature of this agreement is the clear limit to its own power accepted by the federal government, in that the rate of the GST cannot be altered unilaterally by the federal government. Beginning from mid-2000, revenue from the GST has been collected by the federal government according to the agreement that all such funds are to be distributed back to the states and territories, according to distribution criteria to be monitored (although not necessarily determined) by a new ministerial council, suggestive of a new parity in the federal partnership.

But the real focus of national government attention has been the establishment of new partnerships not only with the states, but also with citizens, under the policy rubric of 'mutual obligation', which is designed to 'assist' welfare beneficiaries in escaping from 'welfare dependency' and reclaiming their individual 'autonomy', albeit through obligatory forms of community service. Immediately on the heels of the new taxation system, the federal government moved to review the welfare system through the McClure inquiry. The key concept guiding the 2000 McClure report was the need for a new 'participation support system' i.e. skills training or related forms of community service to qualify for eligibility for benefits. The government response of May 2001, called *Australians Working Together*, introduced a range of new federally-sponsored measures designed to promote 'participation' thus understood, typically involving federal contracting-out of service provision to community based organizations prepared to oversee 'mutual obligation' schemes of community service, such as 'work for the dole'.⁹⁷

These schemes have been attacked by critics as undermining the basic principles on which modern social policy rests, reintroducing administrative discretion and stigma via the back door.⁹⁸ There have been no less principled objections on the grounds of their impact on the balance of power between states and federation, with three state governments recently establishing a committee to review federal financial relations with a view to highlighting the dubious distributional principles at work under the new post-GST regime.⁹⁹ The committee's task is to evaluate the emerging intergovernmental system against 'the broad principles of efficiency, equity and simplicity and transparency'. The suspicion is that the new regime further entrenches Australia's remarkable distinction as one of the most centralised of federal systems and, certainly, the one with the most centralized fiscal system. The states fear that the new supply of GST revenue is likely to enlarge and reinforce the pool of tied-grant assistance, and thereby widen the scope for influence by the Commonwealth Grants Commission with its mission of 'fiscal equalisation'.

⁹⁶ Moore-Wilton, 'The State of Intergovernmental Relations', op cit.

⁹⁷ Roskam, 'Liberalism and Social Welfare', op cit, pp 284-5.

⁹⁸ See Francis G. Castles 'A Farewell to Australia's Welfare State', *International Journal of Health Services*, 31: 3, pp. 537-44.

⁹⁹ Ross Garnaut, and Vince FitzGerald, *Background Paper*. Committee to review the allocation of Commonwealth grants to the states and territories. Melbourne, December 2001. Available at: www.reviewcommstatefunding.com.au

Those more sympathetic to the Commonwealth suggest that these changes to machinery of inter-governmental relations reflect a cross-party preference for 'more collaborative modes of federalist interaction'.¹⁰⁰ Such commentators speak of the renewed importance of 'federalist institutions', suggesting by this term 'federalist' that the system is undergoing a quite fundamental alteration beyond traditional Australian experiments with centrally-devised 'federal' institutions like the annual premiers' conferences that pitted national and state levels of government against one another. These critics champion the emergence of COAG as the classic illustration of this new mode of what they style as 'federalist interaction'. The decade of the 1990s has shown that both Labor and conservative national governments have accepted the necessity of 'power-sharing' between national and state governments, with the result that policy priorities for both levels of government take on the character of 'negotiated compromise objectives and strategies', particularly in areas of social policy where the national government is most distant and removed from the citizen-clients. The result has been rightly described as 'an entangled and adaptive power-sharing federalist matrix', demonstrating that the Australian constitution 'is a resilient document that imposes few legal restraints on inter-governmental relations, and has allowed the federation to reinvent itself as necessary'.¹⁰¹

The dialectic continues: between central and state governments and between the old and the new politics of the welfare state. Over the complaints of state governments, which would have preferred a model with a clear separation of national and state policy responsibilities, the central government has attempted to entrench a new understanding of shared responsibilities, giving the national government a new degree of legitimacy in monitoring the 'service delivery' dimension of policy exercised at state level, as for example in the areas of health and related community services such as housing.¹⁰² But the states no longer see themselves simply as service delivery mechanisms, and have vigorously defended their rights through a range of 'new joint-government institutions' entrenching the independent voting power of state governments, such as the Australian National Training Authority, or new state-sensitive federal institutions such as the parliamentary scrutiny of new treaties. The conventional response of social policy specialists to the 'new federalist' architecture in action is to argue that it undermines the historic agenda of social policy by promoting market solutions to non-market problems of social policy.¹⁰³ The realities of social policy development in a long-established, but still evolving, federal system of government suggest a reality that is rather far more complex.

¹⁰⁰ Keating and Wanna, 'Remaking Federalism?', op cit, p 127; c.f. Keating, 'Can Government Cope?', op cit, pp. 101-03.

¹⁰¹ Keating and Wanna, 'Remaking Federalism?', op cit, p 131.

¹⁰² Painter, *Collaborative Federalism*, op cit, pp 173-9; Sharman, 'Federalism and the Liberal Party', pp 299-300; and Keating and Wanna, 'Remaking Federalism?', op cit, p 137.

¹⁰³ Consider Pixley, 'Welfare, Poverty and Social Inequality', op cit pp 289-94.