

Chapter Twelve

Federalism and the Liberal Party

John Roskam

Thank you to John Stone and The Samuel Griffith Society for the opportunity to present this paper. As someone who attended the first meeting of the Society in Melbourne in July, 1992 I welcome the opportunity to reflect upon what has occurred since that first meeting – even if such a reflection provides little cause for joy.

It is entirely appropriate that this topic be considered, given that at a previous meeting of the Society the subject of “Federalism and the Australian Labor Party” was examined (although some might argue that such a juxtaposition of “Federalism” and the “ALP” is as bizarre as the conjunction of the words “economic management” and “Gough Whitlam”).

It is *not* the purpose of this paper to examine *what* has happened to federalism in Australia. This has been well-documented and it has been an important theme in the work of the Society.

Instead I will ask the question *why* federalism has been weakened by successive Liberal governments. I will argue that there are three key reasons for this:

1. The Liberal Party is above all pragmatic, and at times it has been willing to compromise its philosophical principles.

2. The Liberal Party defines itself, and its success, primarily around its policies on economic management and foreign affairs. Both economic management and foreign affairs require “national” approaches, and this attitude has been translated into other areas of policy that would not normally be regarded as “national”.

3. The Australian business community, which is a source of policy influence on the Liberal Party, is more likely to favour centralist rather than federalist models of governance.

(Throughout this paper, whenever the Liberal Party is referred to it will usually be taken to mean the party as it operates at the federal level.)

The pragmatism of the Liberal Party

Let me begin by providing two quotations:

“Now, I am a Federalist myself. I believe, as I am sure most of you do, that in the division of power, in the demarcation of powers between a Central Government and the State governments, there resides one of the true protections of individual freedom”.

And:

“...how true it is that as the world grows, as the world becomes more complex, as international affairs engage our attention more and more, and affect our lives more and more, it is frequently ludicrous that the National Parliament, the National Government, should be without power to do things which are really needed for the national security and advancement”.¹

The import of each sentence is quite different. However, in fact, both sentences are from the same paragraph, and the second sentence follows directly from the first. These are the comments of Robert Menzies, in one of a series of speeches delivered in 1966 after his retirement at the University of Virginia and subsequently published as *Central Power in the Australian Commonwealth*.

Menzies’ remarks demonstrate his ability to pay lip-service to the idea of federalism while purporting to acknowledge the reality that federalism might run counter to the requirements of a national government.

From its very beginnings, the Liberal Party’s rhetorical commitment to federalism was strong. But once the party had achieved government, that commitment in practice was weak.

The Liberal Party’s policy for the 1949 federal election had a very explicit view of federalism:

“As we believe in the division of power, so we believe that the States must be preserved as real governing bodies and not as the mere dependants of the Commonwealth. We shall therefore take an early opportunity of convening a special conference with the State Premiers to reconsider the problem of the

financial relations between the Commonwealth and the States”.²

Of course the “reconsideration” that was promised never occurred. After winning government in December, 1949 other matters took priority for Menzies and debate about uniform tax was deferred. By 1958 he was acknowledging the frustration that many in his party felt about the lack of progress towards reversing the process of centralisation of the war years under Labor:

“There are, naturally, complaints about Uniform Tax. The sound general principle is that each Government should raise its own taxes. This principle cannot be strictly applied to Australia”.³

The idea that this “sound principle” and, more broadly, that federalism might not be able to operate in Australia was a point often made by Menzies as he cited the need for national coordination to fully develop the country’s natural assets.

Menzies’ pragmatism is easily demonstrated in his approach to federalism. It must be noted however that, notwithstanding his reluctance to disturb traditional arrangements, he was always careful to at least acknowledge the *theory* of federalism. A different Liberal leader, John Gorton, who spoke the truth when in 1968 he talked about the need to face the reality that Australia was hardly “federal”, and who suggested that more powers could be centralised, incurred the wrath of his own party and Liberal State Premiers.⁴

The pragmatism of the Australian people (which implicitly the Liberal Party reflects) was recognised in a significant speech the Prime Minister, John Howard delivered in 2005 to The Menzies Research Centre. He said:

“Australians are a non-ideological, pragmatic and empirical people. They want governments to deliver outcomes and not make excuses. They want governments that take responsibility, not states of denial”.⁵

In that speech the Prime Minister enunciated what he believed were the weaknesses of Australia’s federal system. In contrast to Menzies, who stressed that action by central government was required for the purposes of national development, John Howard put forward the case that federalism, by allowing State governments to obstruct “reform”, was unsuited to the needs of modern Australia. He argued that the best custodian of individual rights was the federal government, not State governments. The Prime Minister used the case of industrial relations as an example:

“The desire to have a more national system of industrial relations is driven by our wish that as many businesses and employees as possible have the freedom, the flexibility and the individual choice which is characteristic of the Government’s philosophy in the area of workplace relations. And this can only be achieved at present by removing the dead weight of Labor’s highly-regulated State industrial relations systems. *In this area the goal is to free the individual, not trample on the States*”. [emphasis added]

Like Menzies forty years before him, the Prime Minister considered the benefits of federalism but at the same discounted their practical application:

“Like other Liberals, I am a strong constitutionalist. The dispersal of power that a federal system promotes, together with its potential, and I stress potential, to deliver services closer to peoples’ need, are threads of our political inheritance that I have always valued and greatly respected”.

But at the same time as he said this, John Howard also commented that:

“I am, first and last, an Australian nationalist. When I think about all this country is and everything it can become, I have very little time for vestiges of State parochialism”.

The Liberal Party and “national” issues

Ever since its formation in 1944 the Liberal Party has regarded itself as the custodian of the principles of responsible economic management and as the guarantor of a foreign policy that promoted Australia’s status as a liberal democracy in alliance with the United States.

These two positions have a prominence above all else, and they are the province of the national government. This phenomenon has had a significant impact on the party’s attitude to federalism. Social policy, for example in the areas of health or education, have traditionally been thought of as policies which provide a political advantage for the Labor Party, with the Liberals, at best, being able to neutralise this advantage. However, it is in areas of social policy that some of the benefits of a federal system are the most obvious, in that such a system allows for differentiation and experimentation.

A feature of the debate in the Liberal Party about federalism has been the clear division between the parliamentary party and the party’s own membership. There have been few occasions when federal Liberal MPs have resisted the urge to centralise (the offer of Malcolm Fraser to the States for them to collect their own

income tax being a rare exception).

The Liberal Party was deliberately established by Menzies in such a way that the parliamentary party would determine policy. The party organisation could determine the “platform” but the parliamentary party determined “policy”.

In the 1950s, after some years of the experience of government, Liberal Party members began to be frustrated by what they felt was the slow pace of change to federal arrangements under Menzies. So, for example, at the party’s Federal Council in 1956 the following motion was passed:

“That this Federal Council re-affirms its unswerving belief in the Federal system of Government. In so doing it stressed that the Federal system, which is based on the sovereignty of the individual States, is incompatible with uniform taxation.

“Accordingly, this Council asks the Federal Government to take the initiative to ensure the earliest possible termination of uniform taxation, and in the interim, to resist all actions conducive to further unification”.⁶

This was a direct challenge to the Menzies Government – but in response Menzies did nothing.

But while some of the party’s membership were railing against uniform taxation, there were larger issues at stake, which dwarfed any concerns about federalism. In 1956 the Federal Council passed another motion which neatly captures the feelings of the time:

“That this meeting, representative of the great Liberal organisation in all States, congratulates the Australian Government on its immediate and spirited support of the Hungarian people.

“It affirms its admiration for the undying heroism of the Hungarian patriots, who were actuated by a deathless courage, by hatred of tyranny and devotion to the great Human Rights. It recognises that the USSR has been exposed as a ruthless Imperialist aggressor, and the Communist ‘peace’ sham has been destroyed. The Hungarian massacre is the admission of Russia’s failure.

“This Council sees in the Hungarian struggle, not a matter for bleak and hopeless despair, but the start of a great spiritual drive for the democratic liberation throughout Europe”.⁷

A year later the Federal Council again urged the government to remove the burden of uniform taxation. By the end of the 1950s, after years of attempting to have Liberal MP’s change their position, the party membership resigned itself to what appeared to be an inevitable future.

The next bout of rebellion on federalism from the Liberals’ membership came in the 1960s in the wake of John Gorton’s various pronouncements on the need to centralise the activities of the Australian federal and State governments. This prompted many angry responses, including this one from the State Executive of the Victorian Division of the Party in 1969:

“The philosophy, approach and policies expressed by the State Parliamentary wing of the Party are at variance with the philosophy, approach and policies expressed by the Federal Parliamentary wing of the Party”.

It said that the longer the issue remains unresolved the worse it gets – how can the Federal Government retain the support of the Victorian membership?

“The ordinary Party member is being asked to support opposing viewpoints – as if he is above or incapable of the schizophrenic results of endeavouring to reconcile opposites”.⁸

Liberals in Victoria feared that the party could split over the issue of federalism in the same way that the Labor Party split in the 1950s over Communism. The attitude in Victoria was shared around the country, with many State divisions coming to the conclusion that the only way to resolve the question of federalism was to return to the States direct income taxing powers, and have the Commonwealth abandon section 96 grants. It was these pressures, prompted by the actions of Gorton, that later encouraged the Fraser Government in some of its tentative and ill-fated moves to restore a degree of federalist balance.

As questions of economic and foreign policy are mainly determined by the actions of the Executive, another consequence of the Liberals’ attention to these issues has been to neglect political institutions other than the Executive. Liberals have been quick to criticise the centralising tendencies of High Court judges, and more broadly the desire of judges to accrue to themselves more power at the expense of a democratically-elected Parliament, but Liberals have done little to reverse this trend. Similarly, a decade of Coalition government has had little impact on the prevailing bias of the nation’s cultural institutions.

Business and federalism

The links between the business community and the Liberal Party are nowhere near as close as is commonly represented, or as critics of the two would claim. However, it is true that the views of business are influential upon the Liberal Party, and to a certain extent the Liberal Party believes itself to represent the interests of employers.

Generally speaking, business leaders have little time for notions of federalism. To them different State and federal regimes are a cost burden that they must bear (and which is then passed on to the consumer).

The attitude of business to federalism and diversity within a country such as Australia is in stark contrast to its calls for “international competitiveness”. Diversity of laws is apparently acceptable between countries, but not within countries.

The rush to endorse the federal government’s takeover of industrial relations has been endorsed by much of the business community. However, what few have paused to ask is, what will the situation be when (not if) Labor eventually returns to power? One of the points of federalism is that it disperses power – it is a sort of “insurance policy”. The complications of differing State regimes on some issues are a small price to pay for such an insurance policy.

Conclusion

In his Menzies Research Centre speech the Prime Minister explained that his own attitude to federalism has changed over the years. Chief among the things driving his shift in approach were the forces of globalisation, and what he called the “nationalisation of both our economy and our society”.

As an example of change, he cited the example of Menzies’ defence on centralised wage fixation and arbitration – a position which he acknowledged few Liberals would hold today. He went on to say that issues in health, education, water, and indigenous policy might lend themselves to further Commonwealth interventions. In this regard the future for federalism under a Liberal government is not bright.

In defence of his policies, the Prime Minister cited the example of State governments many of which are hardly “decentralist”:

“At various times, State governments of both persuasions have found occasion to trample over local government decision-making. Without passing judgement on particular cases, it does expose the selective indignation of the States when it comes to the virtues of decentralisation. And a State education bureaucracy can appear pretty remote if you are a parent in Mount Isa or Kununurra struggling to make sense of your child’s unintelligible report card”.

This might be true. A bureaucracy in Brisbane or Perth certainly is remote from parents in Mount Isa or Kununurra. But imagine how much more remote parents in those places are from the bureaucracy in Canberra.

Endnotes:

1. Robert Menzies, *Central Power in the Australian Commonwealth: An examination of the growth of Commonwealth power in the Australian Federation*, Cassell, London, 1967, p. 24.
2. *Joint Opposition Policy, 1949*. Speech delivered by Robert Menzies, 10 November, 1949.
3. *Joint Policy 1958*. Speech delivered by Robert Menzies, 29 October, 1958.
4. Speech, John Gorton, Mornington, 14 October, 1968.
5. *Reflections on Australian Federalism*, Speech delivered by John Howard, 11 April, 2005.
6. Liberal Party, Minutes of Federal Council Meeting, 1956.
7. *Ibid.*
8. Liberal Party (Victorian Division), State Executive Minutes, 7 February, 1969.