Shane Stodghill

12/12/2013

**Political Change Throughout Australia’s History**

For better or worse, Australia’s political origins are deeply rooted in English tradition and custom. This is because Australia was governed by England as a series of colonies until 1901. Consequently, this relationship with England has influenced much of Australia’s political procedure. However, the founding fathers of the Australian constitution were also heavily influenced by their American counterparts. Subsequently, in 1890, Australia’s constitutional authors developed a sort of hybrid between England’s Westminster parliamentary system, and coupled it with an American-style senate and federalism. The modern Australian political system operates much different than what the constitutional framers had originally intended. In 1901 there were two separate spheres of government. Ultimately, the states would run their perspective territory without infringement by the federal government. However, contemporary Australia is much different in that the federal government has essentially integrated into almost every aspect of state governance.

In 1901, delegates agreed upon a finishing draft of the constitution and it was promptly enacted. The new Australian “constitution blended the British system of responsible government with the American model of Federalism: the colonies (henceforth) states are assigned certain specified powers to a bicameral national parliament, the House of Representatives report to the people and the Senate the states, with the government responsible to the popular lower House” (Ward and Stewart 2010, 138). The Australian constitution disburses power throughout its six states and two territories to prevent gratuitous power in state governments or the federal government. Originally the framers of the constitution had envisioned a political system of ‘coordinate federalism,’ where the states and the federal government would operate under their own spheres of jurisdiction. However, over time it became clear that some states had a greater capacity to raise revenue than others. This was due largely to economic factors and population dispersion, but it became very evident that there was a need for an overarching federal government to regulate funds between the states.

As time passed the founders of the constitution and the original High Court justices died off. As a result, the original meaning of the vague constitution was lost. Therefore, it became clear that Australia’s constitution was developed in a much earlier time, because the framers constitutional vision gifted the states with more power than the federal government. This vision of the constitution could no longer sustain Australia’s growing needs. George Williams argues “that two world wars have demonstrated the need for national leadership and control over many parts of daily life” (122). Furthermore, economic competition has illustrated the need for federal laws that empower Australian business to compete on an international level. The job to update the constitution into a more modern document has fallen on the Australian High Court. Generally, the High Court has ruled in favor of the Commonwealth therefore expanding its power over the states. Over a century the states have been transformed from dominant players to dependent upon handouts, which therefore expanded Commonwealth control over areas that it had thus far left alone (122).

Interestingly, the Australian High Court has not seen merit in holding judicial review to precedent. This practice has greatly enabled the High Court’s ability to modernize the constitution. For example, in 1920 under Chief Justice Isaacs, the High Court took on the *Engineers’* case. This case involved a question of federal jurisdiction between the nationally organized Engineers union and the government. At the heart of this issue was whether or not this dispute came within the Commonwealth’s scope of influence. Accordingly, the High Court “ruled in a way that expanded the scope of Commonwealth power, the Court established a completely new method of constitutional interpretation known as legalism” (114). This new constitutional interpretation known as ‘legalism’ was a superficial reading of the constitution, which the high court employed in an effort to stay within the scope of the constitutions original meaning.

Contemporarily, as a result of Australia’s growing cultural diversity the constitution changed once more under Chief Justice Mason. Between 1987 and 1995, the High Court diverged from its former superficial legalism approach, and began to expand the Common Wealth’s scope of power to incorporate “factors such as community values, international legal trends and the practical ramifications of the law in interpreting constitutional, statutory and common law” (115). Additionally, under Chief Justice Mason Judges were able to interpret situations by exercising personal discretion. More importantly, this interpretation illustrates the High Court’s role in developing the constitution to meet the needs of modern Australia. For example, in the famous *Mabo* case the High Court did away with the notion of terra nullius and granted the aboriginal people land rights.

Parallel to the expansion of the federal government under the High Court, nineteenth century colonial parliaments began to move away from the constitutions original intent as well. In the beginning, parliament tended to incorporate loosely undisciplined groups of members who would generally follow the most outspoken and robust man rather than a set of principles or political ideology. Consequently, “governments of the time found it difficult to sustain parliamentary support and were frequently short lived” (51). For example, Southern Australia suffered forty-two changes of government within a five year period. Subsequently, a need for disciplined political parties grew with the High Court’s move toward a stronger federal government. During the twentieth century disciplined political parties began to take shape, which gave parliament much more substance and security. These new disciplined “parties were not merely groupings of parliamentarians; they also possessed an organizational structure and a membership beyond parliament itself. They had rules and procedures that structured their activities- rules in the case of the ALP, which was the first mass party to emerge, that required disciplined voting” (51). The rise in disciplined party voting acts, since the 1901 constitution has been the most pivotal move in support of stability within the Australian parliament.

However, contemporary Australian parliamentary procedure remains similar to the Westminster theory of responsible government, and its 1901 constitutional origins. For example, recognition of an alternate government is acknowledged at the outset of each new government. This Westminster custom of acknowledgement acts as a check upon the current Prime Minister and the government’s larger bureaucracy. It allows the opposing government to challenge policy and question the governments political motives through a peculiarly practice known as “question time”. Moreover, “Westminster theory prescribes a chain of accountability, which binds the governors to the governed. Public policy is administered by public servants who are responsible to ministers. In turn, ministers are responsible to parliament, and parliament is accountable to voters who periodically decide its membership” (43).

Since 1901, Australia has undoubtedly put its own spin on the Westminster style government by incorporating what political scholars call a “responsible party government.” Responsible party government is the express competition between political parties, which in turn forces political accountability. This is the true fortification of federal government throughout Australia. Representatives from competing political parties come from economically different and socially diverse areas throughout Australia. This forces constant tension between the governing party and the opposition, which ensures a healthy political order throughout Australia by forcing democratic deliberation. Without healthy deliberation in the safety of parliament, Australian society would be vulnerable to radical left or right wing violence. Moreover, with the rise in disciplined party voting there is constant struggle between the so called ‘shadow government’ or the opposing government, and the current government. Members on either side are constantly posturing for leadership positions within their perspective parties, which is very different from the original 1901 parliamentary construction.

This occurrence seems to be directly linked with the High Court’s move to a stronger federal government, and the rise in disciplined party voting. This seems to be the case because of Australia’s growing global presence. With Australia’s growing economic strength there was a need for an energetic Prime Minister who is capable of making quick decisions for the entire country. Additionally, with the rise in disciplined political parties the Prime Minister and his or her Ministers have essentially taken over the House of Representatives, because the majority of Ministers reside in the House of Representatives. Ministers play a very important role in the function of government. They are the heads of the major government bureaucracies that control various services throughout the Commonwealth. Currently, Ministers are taking greater control of policy and its implementation, which in turn has increased the power of parliament, and therefore the Prime Minister. In essence, the House of Representatives is controlled by the Prime Minister, which is contrary to the founding constitutional view.

This occurrence is partly due to the development of the Cabinet system and its growing influence, which in turn has strengthened the executive branch as a whole. However, this phenomenon also mirrors Australia’s increasing move towards a more presidential-style of politics, which is focused upon party leaders. This has caused a concentration of power in the hands of the Prime Minister at the expense of their frontbench colleagues. Additionally, the Prime Minister presides over the ministers which make up his or her cabinet, therefore giving him or her substantial control over the government as a whole. Consequently, they have control over the direction of government and the different responsibilities of each cabinet member. This contemporary practice is linked to the High Court’s judicial decisions towards a stronger federal government, which in turn have strengthened the Prime Ministers position in government.

In contrast the Senate was meant to be smaller, so it could have a more intimate setting to review legislation. The Senate’s small size allows it to play more of a peace-making role, because partisan politics are not generally forcefully fought within its chambers. Constitutionally, the Senate’s primary purpose is to protect the rights of commonwealth states from government infringement. Ironically, this makes the Senate a Federal institution rather than a democratic institution. Interestingly, this illustrates one of the Senate’s underlying principles, which is that its members are meant to be a sort of quasi noblemen. Undeniably, “the Senate is elected in a manner which disregards the democratic one vote-one value rule. Originally each state elected six Senators, now the Senate comprises twelve Senators from each state, regardless of the substantial population imbalance between different states” (45).

The Senate wields considerable power within its review committees, and therefore provides a considerable check on the otherwise more powerful House. The contemporary Senate’s electoral procedure changed in 1949 to an electoral system that relies on a multi-member system of proportional representation, which in turn enables the Senate to resist the control of the government. Moreover, this construction enables minor political party candidates the opportunity to ascend to high level government positions. A good example of the check that the Senate wields against the House and in essence the government would be “in 1975 the Senate refused to pass supply bills, prompting the Governor-General to remove the Whitlam Government even though it had majority support in the House of Representatives. The Senate was not designed to ‘rubber stamp’ bills (or proposed laws) passed in the lower house” (46).

Constitutionally the Senate is empowered with the same legislative powers as the House barring legislation that initiates spending bills, which in turn makes the Senate a considerable force. More importantly, the Senate acts as a significant check on the Prime Minister and the House of Representatives. This is because of its more recent electoral reconstructing, which is at odds with the original intent of the constitution. However, this has proved to be extremely necessary in modern Australian politics, because it enables the Senate to hold political diversity in opposition to the House, which in turn makes it significantly harder for legislation to be passed without the strict securitization of the Senate and its extensive committee system. Moreover, the Senates committee system also provides a substantial check upon the portfolios of Prime Ministers and other public servants.

Contrary to the original intentions of the founders, the Australian government has developed into a muscular Commonwealth government that no longer employs a strong division of power. This occurrence is primarily the result of the original vagueness of the constitution, coupled with the High Court’s major rulings on the *Engineers’* court case and the *Mabo* court case. In turn, these court rulings have greatly empowered the scope of the Commonwealth. Moreover, the High Court’s incessant leaning toward a stronger Commonwealth government seems to be directly linked with the rise in discipline party voting, which has also been a major contributor to the diversion from the founders constitutional intent. Yet, with the rise of the responsible party governmental system, and party voting loyalty it seems as though the Australian political future is uncertain. This seems to be primarily due to the increased strength of the Prime Minister. And though the Senate is designed to keep the government in check, it does not seem to compare to the advantage that the House of Representatives wields over the majority of the Australian government.