Networks, Negotiations, and the Roles of Politicians and Bureaucrats in
Australian Intergovernmental Relations

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The purpose of this paper is to give an account of recent changes in political-administrative relationships in the intergovernmental arenas of the Australian federal political system. The first section identifies some of the major structural tensions in those arenas, and highlights some of the main problem areas for the conduct of effective governance. The second section provides a brief account of changes in some of these structural elements, as a result of greater entanglement and closer collaboration between state and commonwealth governments. The third section sets these changes in a context of wider administrative changes in the constituent state and commonwealth governments. Two case studies round the analysis off, each drawn from data being collected as part of an on-going research project on intergovernmental relations.

*Intergovernmental Relations and Australian Politics*

Australian state and commonwealth governments stand at arm's length, with little if anything in the way of constitutionalised interlocking or coordinating mechanisms, while the division of functions in the Australian constitution is essentially concurrent (Galligan 1995). Thus commonwealth and state governments share functions, but they have distinct, constitutional bases of authority or legitimacy. This paradox or contradiction is one reason for the rich complexity of the machinery of intergovernmental relations, which is essentially an extension of the executive machinery of the constituent governments. Increasing entanglement has been a continuing feature of Australia's federal history. While cooperation is the principal functional imperative, tension and competition between political and bureaucratic
executives are an ever-constant feature. The Commonwealth, with its over-arching reach and its overwhelming financial powers, has been the proactive partner and has often sought to act unilaterally. But a common outcome - generally accompanied by much rancour - is an intergovernmental arrangement of some kind, because the states so often possess both jurisdictional competence and the necessary administrative capabilities.

The machinery of intergovernmental relations includes tied grants and their administrative superstructure; intergovernmental agreements for the implementation of joint schemes; jointly mandated commissions and other agencies to administer such schemes; uniform legislation and lock-step amending procedures, or other forms of harmonisation; and ministerial councils and supporting bodies of officials to formulate joint policy and oversee joint legislative or administrative action.

Fritz Scharpf (1997) distinguishes between networks, regimes and joint decision systems as types of institutional arrangements to facilitate joint action in such settings. Networks facilitate trust and information sharing, reducing transaction costs and creating "opportunity structures" for problem solving (see also Rhodes 1997).

Regimes are characterised by on-going rule structures that may be imposed from above, or be mutually agreed on, imposing obligations and increasing the costs of certain kinds of damaging unilateral action. Joint decision systems, finally, are "constellations in which parties are either physically or legally unable to reach their purposes through unilateral action and in which joint action depends on the (nearly) unanimous agreement of all parties involved" (Scharpf 1997, 143). They are "compulsory negotiation systems". Such systems are prone to deadlock due to the
power of the hold-out, and require particular attention to institutional arrangements and to protocols for information exchange and negotiation in order to facilitate agreement (Scharpf 1988; Painter 1991, 1998).

Scharpf's categorisation of institutional arrangements in joint action contexts is a useful starting point. The analysis highlights effectively the fundamental distinctiveness of the requirements for effective policy action in intergovernmental relations in a federal system. Networks of cooperation and rigidly structured arenas of joint decision are both to be observed as part of the machinery and processes of Australian intergovernmental policy making.

In this context, it is helpful to conceive of the main actors in the federal system - whether officials or ministers - being involved in at least two sets of governmental interactions, or games. The first set is centred on the domestic policy processes of their domestic government; the second set is shaped by cross-jurisdictional intergovernmental networks and arenas of policy cooperation and conflict. Most of the first set of relations is deeply embedded in formal structures of bureaucratic and political accountability and control modelled on the Westminster system. The underlying principle of this set is command in a hierarchy. But the second set of relationships emerge in a context characterised by power sharing and interdependence, where cooperation rather than command is the underlying organising logic of effective policy making. The shift in orientations and styles necessary for an actor following the logics of the first set, when engaging in networks or arenas in the second set, can create a number of problems. Problem-solving strategies appropriate for the domestic setting are often countermanded by the rules of the game of the other. Contradictions
and tensions may emerge that block the facilitation of joint action among officials and politicians in the intergovernmental arena.

For example, line agency official often have to be pulled back into line by domestic control agencies for being too "cosy" with their intergovernmental partners, to the detriment of "whole of government strategy"; portfolio ministers sometimes have to be "gagged" for sounding off too enthusiastically about the need to expand intergovernmental grants-in-aid for pet projects in their sector; central agency officials are accused of forming their own "club" that undermines domestic agendas; and political leaders faced with cross-jurisdictional problems that have fired their imagination (such as "the drugs crisis", or the need for market reform of public utilities) sometimes put their names to communiqués from heads of government meetings that are critical of the bureaucratic or political parochialism of their government colleagues. Leaders may be deadlocked on a scheme approved by each jurisdiction's portfolio ministers, while agreeing to a scheme that is subsequently white-anted by portfolio ministers and advisers in their cross-sectoral forums.

The tensions and contradictions resulting from this juxtaposition of sometimes incongruent incentives and principles are often the source of adverse commentary by critics of federalism, and of hydra-headed government generally. The significance of the difficulties has grown as the scope and depth of intergovernmental policy agendas and executive activity have expanded, and there have been attempts at reforms. The shape and direction of these reforms is strongly influenced by the wider climate of public sector reform, albeit with mixed results (Fletcher and Walsh 1992; Painter 1998a). They range from root and branch attacks on "duplication and overlap", in
particular the search for a "clean separation of powers" to avoid the problems of cooperation and conflict in the first place, to more modest attempts to improve the machinery of cooperation and conflict resolution.

In recent times, attempts have been made to rationalise and institutionalise the working rules and protocols that govern intergovernmental forums, and in other ways to improve the effectiveness of intergovernmental policy making and management. One important development in Australia has been the emergence of organs of executive power that are mandated jointly by state and Commonwealth governments, creating a new cadre of officials who report to ministerial councils rather than to ministers. None of these developments, which are summarised briefly in the next section, can entirely eliminate the cross-cutting pressures of jurisdiction and subject matter that arise in a federal system, but they can and do reshape some of the traditional ways of doing government business, including relations between public servants and ministers.

*Directions of Change in Intergovernmental Relations*

In an ideal arm's length federation, where each government retains a sphere of authority and the capacity to exercise it over a defined field, cooperation (where it occurred) would operate through mutual adjustment, or purely voluntarily. Where the outcomes of such processes resulted in serious negative spillovers, governments might agree to more formalised mechanisms of joint action. However, the existence of the power to act unilaterally would require decision rules to preserve the status quo interests of any party in a joint decision process - that is, a strict application of the veto
power. Scharpf (1997, 112-4) calls the result "negative coordination". Some aspects of intergovernmental negotiations in Australia come close to this model. However, the degree of entanglement and interdependency of powers and functions makes the maintenance of such "unfettered" forms of coordination subject to serious public criticism, and over the years more collaborative arrangements, such as networks and joint decision systems, have evolved.

A major constraint on the persistence of more unfettered forms of coordination is the presence within the joint decision system of an increasingly dominant, overarching central government. It has important and unique resources, allowing it to exercise disproportionate power beyond that apparently granted by the division of formal powers. Most of the joint schemes, institutions and agreements resulting in closer collaboration have been initiated by the Commonwealth Government, usually in situations where it is clear that its unilateral powers are inadequate to overcome the hold-out powers of a state, or of the states collectively. Underlying some of the more significant steps towards closer collaboration in joint decision systems has been a steady growth in the density and scope of networks of official interaction in specific policy sectors, and within the central agencies. Network arrangements facilitate both mutual adjustment, through information exchange and the development of common assumptive worlds, and also joint decision processes. Joint decision arrangements have built on these exchanges, but they have also required innovation supported at the political level, in order to overcome the powerful status quo bias of more traditional systems of negative coordination.
More collaborative forms involve agreement on working rules to facilitate joint decision arenas that go beyond negative coordination. The most important of these include decision rules to limit the use of the veto and the power of the hold-out; and authority, information and position rules that give a special place in the decision making process for jointly mandated, semi-independent intergovernmental administrative bodies (Painter 1998, 123). Collaborative norms and procedures run through these arrangements: for example, governments take these decisions collectively by majority vote in a specifically constituted forum (a ministerial council), and only after receiving the advice of a jointly mandated body; and they also commit themselves not to act unilaterally to contradict such joint decisions. They agree to surrender some autonomy (e.g. to amend uniform legislation) to such joint decision making bodies. These forms of joint action have departed significantly from more arms' length, unfettered cooperative forms in which governments preserve their supposed autonomy of action (and that of their parliaments), severely limit a deliberative role for intergovernmental bodies and operate purely by consensus and unanimity.

It is possible to trace the development of these institutional arrangements over a long period, but the pace of innovation increased markedly in the 1990s. Prime Minister Bob Hawke's "New Federalism" in 1990 initiated a series of Special Premiers Conferences (SPCs), which were supplanted in 1992 by the Council of Australian Governments (COAG). These were accompanied by a spate of officials' committees and working parties, coordinated by a regular meeting of chief officials of the Premiers and Prime Ministers Departments. This concerted attack on a number of outstanding problems of joint action, particularly in the area of economic and
regulatory reform, but also in several major service delivery sectors, resulted in new intergovernmental schemes and agreements, a number of them embodying decision rules that facilitated more speedy and effective joint decision making. Ministerial councils were reformed and new protocols set in place for their operation.

In sum, the practical experience of cooperation over joint action involving uniform or harmonised policy, albeit in a context where conflicts were often bitter, grew. In many cases, this involved a concerted and determined effort on the part of Commonwealth leaders to negotiate outcomes that brought the states into the fold, even if they remained resistant. National Competition Policy was one such, involving a complex series of financial and other deals in the achievement of a national system of regulation, in a field where the states had significant jurisdictional sway. The most dramatic instance occurred in 1996, when the newly elected Prime Minister, John Howard, cajoled and bullied a few recalcitrant states into signing up to tough, uniform anti-gun laws. But in both these cases, as in many others, it should be noted that a majority of states shared the Commonwealth position.

This shift to collaborative forms of coordination might be explained in part by exogenous pressures such as globalisation and technological change, creating an agenda of pressing new coordination problems as governments pursued structural reform. Another type of explanation might be given in terms of “institutional learning” and “path dependency”. It is a common phenomenon that once an instrument has proven workable in one environment, it is imitated in another, and diffuses through the system. Collaborative institutions are now part of the repertoire of “normal” problem solving in intergovernmental relations, and hence likely to be called
on for future occasions when a coordination problem arises. Yet another kind of explanation would be to assess the roles of key actors in creating the conditions in which, at particular point in time, important steps were taken towards greater cooperation and successful joint decision outcomes. The manner in which officials and ministers in their relations with each other resolved the cross-cutting relationships and role tensions they encountered, is an important ingredient in such an account (Weller 1996). In the next section, it is argued that administrative and political reforms in state and commonwealth governments were an important ingredient in providing the administrative resources and political energy required to negotiate and craft these new institutional arrangements.

*Joint Decision Making: Actors and Roles*

The kinds of role requirements for effective collaborative forms of joint action, as distinct from the more unfettered forms of cooperation, are well illustrated by observing changing modes of exchange in ministerial councils in recent times. A commentary the Australian Agricultural Council, written in the 1950s, illustrates the traditional, more unfettered mode. Grogan (1958) notes the importance of the Standing Committee of chief agriculture officials from each jurisdiction, which met more frequently than the Council of ministers and invariably provided agreed reports and recommendations on items on the Council's agenda. The pooling and marshalling of technical expertise and advice provided an important basis for moving issues through the combined processes of intergovernmental and industry consultations and negotiations.
The description provided by Grogan of the Agricultural Council's decision making procedures clearly reflected the conditions under which negative coordination tends to be the dominant mode:

The decisions of the Council are not, generally speaking, binding on the Governments..., but the ...consistent aim is to reach agreement .... Where such agreement is reached ... recommendations ...will be submitted to the Commonwealth and state Governments concerned and will usually receive favourable consideration and, where appropriate, be implemented. Where majority agreement only is reached in the Council there is never any assumption that a resolution will have binding effect unless it is accepted by all the Governments concerned" (Grogan 1958, 5).

The Council's own Handbook in 1985 reiterated these comments in very similar phraseology, noting also that "recommendations are normally made on the basis of the greatest common ground after taking into account special problems of individual states" (ACIR 1986, 39). Most accounts of the work of other long-standing ministerial councils refer to "consultation" as the primary mode of interaction (e.g. Spaull 1987, 315). A survey of ministers and officials undertaken in the mid-1980s found that some participants were reluctant to talk of "decision making" procedures, as this "conveyed too strong an implication..., observing that progress was more often made through the exchange of information, through discussion and through the momentum the council process gave to the...respective bureaucracies" (ACIR 1986, 38). One minister made the same point in claiming that "issues were simply not pushed to the limits of such
decisiveness, as no worthwhile outcome could ensue - states had threatened withdrawal..." (ACIR 1986, 40).

Intergovernmental working parties of officials under this traditional model were places for exchange of technical information and the sounding out of each jurisdiction's positions, and hence the viable lowest common denominator basis for joint action. Officials in these arenas brought with them well-understood conventions about the subordinate role of the "classical" public servant, leavened with a strong dose of technocracy. The cross-jurisdictional networks were strong and effective precisely because they did not push the boundaries of exchange beyond these professional and official roles. The ministerial council, meanwhile, conveyed an aura of statecraft, where sovereigns met to exchange pleasantries or barbs, but kept mostly at arm's length. Expectations of outcomes were modest. Ministers rested their behaviour on classical notions of ministerial responsibility and accountability, laying jealous claim to a sacred preserve of jurisdiction in their home government in the face of pressures towards more positive coordination through joint decision arrangements. Deals were done, but were often bilateral and negotiated by prime ministerial fiat. Even the peak body, the Premier's Conference, had modest and circumscribed roles:

...it is clear that the premiers' conferences are not a forum for bargaining let alone an institution having a major coordinative and policy making function.... Their prime functions are essentially political and educational, in the sense that they alert the participating governments to the implications of their own policies and those of other governments (Sharman 1997).
The joint decision arrangements that emerged in the 1980s and 1990s required a different set of presumptions and priorities about appropriate and necessary roles and actions. The period 1990-1995 was a critical one in establishing new patterns of joint decision making as the norm. The changes demanded some major departures from prevailing forms and styles of intergovernmental relations, and were highly contested (and hence incomplete) as a result. A new energy and spirit was necessary to negotiate and craft these new arrangements, and was found among officials and ministers who were distinctively creatures of the reformed administrations of these eras. In a nutshell, they were more cosmopolitan, less parochial, and fired more by commitment to managerial generalities of good governance and the needs of policy reform than by sectoral or jurisdictional concerns to protect the status quo.
In the early 1990s, when the Special Premiers Conferences were getting off the ground, there was a conjunction of Labor Premiers and Prime Minister, with the exception of Nick Greiner in New South Wales. They had a common experience of and commitment to public sector reform and economic restructuring in each of their jurisdictions. There was intellectual commitment and enthusiasm on the part of several Premiers, and many of them had articulated in public similar views about federal reform. Just as important as the conjunction of personalities, their partisan relations and so on, was the way the process itself worked to establish a distinctive setting for cooperative styles of action. A process of team-building was set in train by the initial flurry of enthusiasm, and a “virtuous circle” of escalating commitment followed as each step of the process was taken. The personalities and friendships were often important, for example in facilitating last ditch efforts at settlement through personal intervention.

Equally important were the political and personal commitment to the project shown by senior officials and ministerial advisers. By the 1990s, all governments in Australia had adopted more overtly politicised senior personnel systems, along with various forms of contracting and corporatisation aiming to mould senior officials and ministers into more coherent units executive teams (e.g. Laffin 1995, Zifcak 1997). The chief officials involved in the negotiations in SPC and COAG were all trusted personal appointees of the premiers and prime minister. The new breed of officials shared common experiences of selection, recruitment and appointment, and had a vision of their role that was more proactive, entrepreneurial and political than those of
previous generations. These characteristics were invaluable in facilitating negotiation and bargaining.

The *persona* of political leaders and their closest advisers was hard sometimes to separate. For example, Garry Sturgess was almost Nick Greiner's alter ego, and their views on federal reform were indistinguishable (Sturgess 1993). Sturgess was Greiner's personal appointee as head of his Cabinet Office and a driving force in the reform program of his government (Laffin & Painter 1995). Standing at Queensland Premier Wayne Goss’s shoulder and echoing his commitment to the venture was his chief adviser, Kevin Rudd (later a Labor parliamentarian); and ever present in the process in its early days was Mike Codd, the Prime Minister’s department head, whose conciliatory and measured style matched nicely Hawke’s language of consensus. Just as their leaders found common intellectual ground and struck up close personal and professional relations, so too did these officials. This built on existing links and networks among them. Garry Sturgess, for example, sat on Kevin Rudd’s selection committee in 1991 when he won the job of Chief Executive of the Office of the Cabinet (Davis 1995, 76). Indeed, as Glyn Davis tells it, Goss got his idea of setting up such an Office from personal contact with Garry Sturgess: the networks and personal contacts that oiled the machinery of cooperation sometimes crossed the divide of official and politician, as well as party and place.

The people mentioned above were all at the centre of government. SPC and COAG would not have got off the ground without the presence in each jurisdiction of a whole of government capacity to prepare for meetings and commit to subsequent action. During the 1970s and 1980s, state governments and the Commonwealth built up
elaborate and sophisticated policy and coordination machinery at the centre of government, and put in place policy and planning instruments that facilitated prioritising and policy review (Painter 1987). The offices thereby created were peopled by the new breed of ministerial appointees with their sensitivity to political strategy and to broader, long-term policy priorities in the context of the electoral cycle.

It was of crucial importance for the conduct of relations on SPC and COAG that these domestic, as well as intergovernmental, coordinating mechanisms were in place and in good order. Central agency officials were key actors in energising some of the joint decision processes in particular areas of policy. In several cases their intervention, backed up by the commitment and urgency generated by their political leaders’ investments in the process, transformed the pace and scope of joint action. With a whole of government arena mobilised to deal with a broad agenda of sectoral coordination problems, negotiations between departmental officials and portfolio ministers on ministerial councils, and on their supporting officials’ committees, were transposed to new levels, where central agency officials took a lead role. The “central agencies club” (Weller 1996) took over. Within governments, what were formerly minor inter-agency squabbles or niggling obstructions became subject to the keen eye and impatient attention of the premiers’ fixers.

Cabinets themselves had to get involved directly in sorting out some of the details. The need for cabinet to review negotiating positions and to bring together disparate agency views on SPC and COAG agenda items required the machinery for cabinet clearance and coordination to be in good working order. This machinery had been
transformed in most jurisdictions in the preceding ten or fifteen years, allowing for the more effective processing of business, the greater exercise of strategic oversight and the more expeditious management of conflict so as to prevent obstruction and delay (Painter 1987; Davis 1995; Halligan & Power 1992). Weller (1996) argues that SPC/COAG led to a strengthening of these procedures and put more muscle behind the efforts of those in the central agencies who maintained them, making it easier for premiers to “corral ministers.”

A special role in the central agencies club fell to the Commonwealth Department of Prime Minister and Cabinet (PMC), which was at the hub of things by the very nature of the Commonwealth’s position in the federation. It provided many of the chairs of committees and working groups, undertook much of the drafting for reports and communiqués, and kept track of the progress of business for the forthcoming agenda. The roles of PMC officials were often ambiguous, including serving the Prime Minister as a protagonist in federal politics; mediating and representing Commonwealth inter-departmental politics and positions; maintaining the health and integrity of the SPC and COAG process; and acting as honest broker in seeking agreements among governments. During this period the Commonwealth-State Relations Secretariat in particular developed a reputation for fair dealing, even if on occasion the role tensions surfaced and produced frustration and mistrust.

The significance of the central agencies club was that this network of officials countermanded the status quo influence of the sectoral networks, and sought to impose on the whole arena of intergovernmental relations new styles of joint decision making. This can be seen in the way the committees and working parties of SPC and
COAG were structured and operated. A Commonwealth-State Steering Committee was set up from the beginning, chaired by the Secretary of the Department of Prime Minister and Cabinet (PMC) and attended regularly by directors of state premiers departments or cabinet offices. Their activity intensified in the period leading up to each meeting, preparing the agenda, seeing that recommendations and agreements were in place, prodding other committees or working groups into action, intervening to overcome log-jams and so on. The final job before each meeting was to prepare the communiqué, a task that was undertaken by the PMC for the first meeting, but which became a more collaborative effort in later years.

There were also specific purpose committees and working groups to prepare reports on matters earmarked for joint action. In each case, the setting up of a group was accompanied by a timetable, with a reporting date for a specified future SPC meeting. In some cases, the Steering Committee was charged with overseeing and pulling together a series of reports on a common subject, for example regulatory reform. Over time, the working parties and task forces proliferated. Some disappeared once an agreement was reached, others were transmuted into implementation bodies until other, more permanent arrangements came into being.

The key ingredient in this layered system of committees was the manner in which central agency and heads of government perspectives and timetables were introduced. In the case of the standing committees, central agency officials provided the greatest part of the membership. In some of the working parties, they sat as members alongside representatives from line agencies. SPC and COAG looked to the chief officials of the central agencies to oversee the work of these committees, and they all reported to the
heads of government meetings through the steering committee. What provided this machinery with its driving force was the close association of the coordinating role of the steering committee with the might of the heads of government themselves. In some cases, this rested on the personal authority that these officials carried as trusted advisers of their Premier or Prime Minister - they spoke with the latter’s authority as well as their own. When Mike Codd took a negotiating position or made a commitment, others knew that nine times out of ten the Prime Minister would stick by it as well. His successor, Mike Keating, worked with a very different Prime Minister. Paul Keating kept the business of making deals more to himself, and the power of the centre was more likely to be exercised through political directives following crisis meetings by the heads of government. Either way, this new federal coordinating machinery transmitted the political authority of whatever common ground existed at the centre.

SPC and COAG also focused attention on improvements to processing the wider business of cooperation in all ministerial councils and officials’ committees. Much of this work was undertaken by the Commonwealth-State Relations Secretariat in PMC, but continuous consultation and mutual learning among the central agency club also took place. Experience built up about how to channel business and to manage issues in these more complex intergovernmental arenas (Edwards and Henderson 1995; Weller 1996). In June 1993, following a review and a report to COAG, it was agreed that ministerial councils be restructured and reduced in number from 45 to 21. The protocols covered such things as representation, reporting, timing of public announcements, drawing up and circulating agenda items, and mechanisms for joint consultation between ministerial councils. Attention at this level of detail to such
basic matters of procedure illustrates the heightened awareness of the nuts and bolts of intergovernmental relations that accompanied the emergence of SPC and COAG as working institutions.

It must not be thought that the existence of these bits and pieces of machinery and protocols fully sanitised the brute politics of intergovernmental joint decision making in the 1990s. The new networks of exchange and cooperation were important, but so too were personal deals and pure gamesmanship. Two brief cases, one from the beginning of the decade and one more recent, illustrate the flavour and style of collaborative joint decision making.

*Case Study 1*

In 1991, Bob Hawke floated the idea of a Commonwealth takeover of vocational education and training (known as TAFE, or Technical and Further Education). The Commonwealth enjoyed no secure head of power in this area, and the consent of the states was necessary. Some Premiers and their advisers favoured the handover of responsibility for the TAFE system. Industry was complaining about the adequacy of services; the TAFE unions were militant; funds were short; and there was high unmet demand. Many senior TAFE managers and central agency officials in New South Wales and Victoria supported a takeover, but in New South Wales, Greiner could not convince his cabinet that it was a good idea. In the smaller states, TAFE was seen as a significant instrument of local development policy and a bastion of provincial jurisdiction. The lowest common denominator state position was to push for more money for the existing system. What was agreed was a national authority to oversee
policy planning and innovation, under the supervision of a ministerial council. The Commonwealth agreed to offer growth money to the states, so long as the smaller states agreed to maintain their existing levels of expenditure.

The negotiations that led up to the June 1992 agreement were conducted under the umbrella of COAG, but not primarily through its smoothly oiled machinery. State central agency officials, some of them suspicious of an unholy alliance between TAFE managers and Commonwealth funders, took the lead in negotiations with the Commonwealth, acting as personal emissaries of their heads of government in a process akin to “shuttle diplomacy.” They viewed some leading TAFE officials with suspicion, because the latter saw an opportunity to escape from under the supervision of state treasuries and their ministers, hoping thereby to win freedom to implement reform in their systems. Education ministers were also sidelined. The chief players at various stages included the Prime Minister’s chief advisor, Don Russell, Garry Sturgess from NSW and Kevin Rudd. Some of the hard bargaining was done bilaterally between the political leaders themselves. Queensland Premier Goss was hostile to the Commonwealth’s takeover bid and fought hard on the side of the smaller states. One of the keys to a final settlement was a deal between Prime Minister Paul Keating and Goss to site the new national authority in Brisbane. Not surprisingly, one of the professional educational managers involved in the process described the final stages, when he was squeezed out, as “chaotic”, and the outcome as a “dog’s dinner.”

This was a political deal struck in a climate of suspicion and hostility over the Commonwealth’s motives. The key was some old-fashioned wheeling and dealing in money and a down-to-earth parochial inducement for Brisbane, but the habits and
contacts of the central agency club were also important. Equally important was the inclusion in the settlement of a set of institutional arrangements that promised to provide safeguards for the states against a complete takeover, and to preserve the interests and independence of the smaller states. These arrangements, included a clear role for state ministers and the ministerial council in overseeing the national system and supervising the new national agency, the Australian National Training Authority. On the ministerial council, the states each had one vote and the Commonwealth two, and most decisions were to be taken by majority vote. Equally important were the advisory and planning functions given over to ANTA, which became the chief source of agenda setting and advice. ANTA, with its Board of outside industry appointees, and its bureaucracy of education reformers and managers, was only one of a growing number of such intergovernmental executive agencies, set down in an increasingly dense web of intergovernmental entanglements and potential accountability traps.

Case Study 2

On 28 April 1996 a deranged man ran amok with an arsenal of automatic weapons at Port Arthur, a tourist site containing extensive remains of a colonial outpost where the most recalcitrant of convicts were shipped. Following the saturation media coverage and the universal expressions of horror, public and political attention focused on the issue of the ready availability of automatic and semi-automatic weapons, and on the lack of uniformity in gun laws. It quickly became the most important national political issue. Constitutionally, the states and their criminal law powers had clear jurisdiction, with the Commonwealth involved on the margin due to its import powers. The Commonwealth Attorney General immediately placed the issue on the agenda of the
next Australian Police Ministers Council (APMC), due on 10 May. The Prime Minister, John Howard (only recently elected in March 1996) seized upon the issue as a personal crusade, promising tougher gun laws. Public opinion was overwhelmingly in his favour, with opinion polls consistently showing support of 80-90%.

But an active and powerful gun lobby, with strong support in rural Australia, posed political threats as well. A New South Wales State Labor Government in 1988 had lost an election at which the gun lobby had intervened actively in marginal seats, and Labor attributed its loss in no small part to the ability of the lobby to direct small but significant numbers of supporters to vote strategically. A member of the Shooters Party held in a seat in the NSW Upper House. In other states, notably Queensland, state leaders on both sides of politics trod very warily for fear of offending the gun lobby. The National Party was particularly sensitive, especially at state level, as members of the gun lobby were from their political heartland. Indeed, partly as a result of the struggle over uniform legislation, many farmers who had not been active in the gun lobby found themselves in that camp. Many outraged National Party voters deserted in droves to Pauline Hanson's far right One Nation Party.

Gun law reform had been on the intergovernmental agenda for ten years and more. Despite a number of efforts through the APMC to proceed uniformly, gun law reform proceeded unevenly in the states, with the predictable result that two states in particular - Tasmania and Queensland - lagged in the moves towards tighter controls. Commonwealth Ministers of Justice and Attorney Generals, and their advisers, were active in sponsoring reform through APMC. With a majority of Labor Governments in place in 1991, hopes of reform were high. Shootings in a NSW suburban shopping
centre had stimulated a new effort, but Queensland (albeit Labor) stood firm. As one participant recalls: "... this ministerial adviser, who I thought understood the issues, said 'we are just not prepared to move; this thing didn't happen in Queensland…". The issue resurfaced in 1995, with a combination of pressure from Victoria and a new Commonwealth minister. In Victoria, a new departmental secretary had arrived from the Commonwealth, where his career had once included running the Commonwealth Attorney General's Law Enforcement Policy Division, where he had actively supported gun reform. During 1995, a new set of proposals was drafted, drawing on earlier work from previous episodes. Consultations were continuing, albeit slowly, when the Port Arthur massacre occurred.

The principal Commonwealth agency involved was a semi-independent expert body set up in 1993 called the Commonwealth Law Enforcement Board (CLEB), serviced by the Office of Law Enforcement Coordination (OLEC). OLEC's head was a former public servant and Labor ministerial adviser, who had once been secretary to the APMC, and who had a long history of active advocacy of gun law reform. In April 1996, he was still in his job following the very recent change of government. After Port Arthur, he sought and gained immediate access to the Prime Minister's office and won his confidence as an adviser. Within five days, a detailed draft principles document, designed to launch a national, uniform gun law reform process, was ready for the forthcoming APMC meeting. It was drafted solely within the OLEC in consultation with Howard's office and with the approval of the Attorney General.

Howard saw an opportunity to make his mark early in his term. Such was his publicly voiced commitment and determination that his coalition partners, albeit nervous of the
backlash, could not defy him. Instead, they got behind him in the hope of protection.

The coalition party rooms and cabinet endorsed the draft. In the week after Port Arthur, Premiers in Victoria, New South Wales and Tasmania got firmly behind the PM, in part for exactly the same reason. The bandwagon was rolling. Two days before the 10 May APMC, the draft proposal was sent out to the states. One of those on the Commonwealth side recalls the events of that meeting:

On 10 May the state and territory ministers assembled in Canberra. Essentially, we locked the eight ministers in the Cabinet Room and didn't let them out until they agreed. The Cabinet Room is directly opposite the PM's office, with two anterooms in between ... and basically a couple of Commonwealth advisers were back and forth through that little corridor for most of the day. Apart from those two, all the other officials were left languishing upstairs. They were well fed, I can tell you. The Prime Minister was on hand all the time, and occasionally a couple of other ministers would be called in. At about 5.15 the Attorney General came out and said to the PM: 'They are insisting on these changes...' And the PM just said 'No'. He went back in and five minutes later they had agreed.

A state official had equally vivid memories:

We had two days to prepare the minister with briefings. We could see big problems in implementing the principles, the practicalities of it all. We went to Canberra with the minister, and we started with a big meeting with everyone in the room, the press and the cameras, and a couple of formal addresses, one
from the PM and one from the Tasmanian minister, wearing his heart on his sleeve. The ministers were taken off to another room, and we officials were left wandering around Parliament House for seven or eight hours, wondering what was happening. The press release was the first we heard of the outcome. It was a set up. The Commonwealth bushwhacked us.

From then on, some states - principally Queensland, the Northern Territory and South Australia - fought a rearguard action at further APMC meetings and in a series of working parties, against what they saw as some of the more extreme prohibitions and constraints on gun ownership. In every state, the police commissioners (the principal experts and advisers on firearms legislation) were in principle behind the reforms, but they were concerned to see that the new regulations were practicable and effective. Police advisers in some states sought to amend some of the measures not because they sided with the gun lobby, but because they wanted to protect their ministers from the gun lobby's anger, and thereby encourage stronger ministerial backing for more effective controls. Despite fierce lobbying and strong argument, the Commonwealth remained implacable on the principles, albeit making minor compromises to ease implementation problems:

Subsequent meetings of the APMC were in July and November 1996, and two in 1997. There were a lot of iterations and some changes. At one meeting it nearly all fell apart on the day. So (Commonwealth Attorney General) Darryl Williams just closed the meeting and said 'No. We won't go any further today'. We were in Queensland and the minister there was feeling his oats and had the media out in the corridor... Then there was a later meeting in Canberra, and the
Commonwealth was using its money influence to make available a proportion of the $500m promised for the administrative expenses, the buy-back of the guns. On that day, the officials of each state were sat down and asked how much the state needed to cover their expenses, and the ministers then agreed to that figure - and that was all the states ever got, we locked them in.

The funding commitment was crucial in persuading the states to agree. The Howard Government announced a special levy on all taxpayers, to be collected as an additional component of the Health Insurance levy, to fund the buy back of guns that would be made illegal. The amount of individual compensation thereby made available was in many cases very generous. Having signed up to the principles, and once locked into the details with the funding agreement, each state toed the line when it came to the legislative amendments and subsequent implementation. However, rather than agreeing to new uniform legislation based on a single template, each state amended its existing legislation to achieve a common set of laws for ownership, registration and licensing of firearms. In the Queensland Parliament, every speaker voiced objections of varying kinds, but the vote in favour was unanimous. Skirmishes continued over the precise details as particular states made minor concessions to the gun lobby, with the payment of Commonwealth funds being withheld as a result in one case. Most of this was shadow-boxing, however, as the principles in all but a few minor details have been implemented uniformly across all jurisdictions. The payment in instalments of the federal grants agreed under the scheme was an important factor in holding each state to the agreement.
Case 2 differs from Case 1 in that events took place entirely outside COAG, even though the Prime Minister was intimately involved. Howard saw COAG as a creation of his predecessor, which alone was enough to condemn it in his eyes. It continued to meet, but as a pale shadow. The networks of exchange on which joint agreement was built were those that had been forged around the APMC during the preceding ten years, when vigorous attempts had been made by a group of reformers across the jurisdictions to achieve joint action. The trigger of Port Arthur re-energised this group. But ultimately, the joint decision process was a matter of tough bargaining around the table, with the Commonwealth and its allies (principally NSW, Victoria, Tasmania and the ACT) able to win the day hands-down. The potential hold-outs ended up with no effective power because of the overwhelming weight of majority public opinion, expressed in a determined and forthright manner through the power of the office of the Prime Minister. The veto was rendered unusable because sufficient majority public support was mobilised by the prime minister in each jurisdiction to make holding out untenable. What happened behind the closed doors of the APMC was the imposition of consensus despite the presence of opposition. The institutions of collaborative federalism were manipulated to serve a political project supported by the majority of the political leaders present. All that was left to the recalcitrant was a rearguard action to try to water down some of the agreement.

Conclusion

At the outset, it was suggested that the transition between the domestic and the intergovernmental games of policy making creates tensions that could block effective problem solving. One element in these tensions was identified as the difficulties in
translating traditionally productive systems of advice, control and accountability from the hierarchical settings of intragovernmental systems to the multi-actor, network and joint decision settings of intergovernmental relations. To the extent that the agenda of joint action has grown, and penetrated deeper and deeper into the core of "purely domestic" state and commonwealth politics, the resolution of these potential problem-solving deficits has become critical for overall effective governance.

The analysis presented here suggests that the resolution of these problems is occurring through a heightened level of politicisation of intergovernmental policy making. Ministerial councils are no longer backwaters where networks of officials merely exchange information and consult (although they still do this), and where ministers gather periodically largely to rubber-stamp dull communiqués about administrative detail (although they still do this as well). The extent of entanglement and the issues at stake require more than negative coordination. Extensive informational and political resources of the kind necessary to negotiate and cement joint action have to be marshalled. Leading the way as activists has been a relatively new breed of cosmopolitan public officials, policy entrepreneurs who are mobile between jurisdictions, appointed personally and trusted by their ministers, and coordinated in their strategies by increasingly active informal networks and a growing range of protocols and official channels for joint discussion and negotiation. As well, at critical moments, instead of standing at arms length, political leaders have been corralled into joint decision making arenas by the adoption and diffusion of decision rules under which the power of the hold-out has been lessened. The growing power of the Commonwealth, which has a long historical trajectory, is behind much of this, but so too is a more contemporary logic of joint action in which a majority of states seek the
Commonwealth's support against the minority, to deal with problems of overspill and externality within their own jurisdictions.

While there is a structural logic behind these changes, there is also room for an account that focuses on actors and their relationships. In this paper, it has been argued that the personnel and other reforms that wrought major changes in all governments in Australia in the 1980s and 1990s had, as one of their consequences, the establishment of some of the circumstances under which it was possible to energise and manage these new intergovernmental processes. Moreover, as officials and ministers engage more extensively and intensively in joint decision making in intergovernmental arenas, the nature of domestic administrative and political relationships is being affected in its turn. Successful joint decision outcomes enhance the power of some actors in the domestic sphere over others. For example - and most obviously from the case studies - such outcomes are likely most often to enhance the power of prime ministers and of central agency officials.

References

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