

**THE INTENTIONS OF THE FRAMERS OF THE  
AUSTRALIAN CONSTITUTION REGARDING  
RESPONSIBLE GOVERNMENT AND  
ACCOUNTABILITY OF THE  
COMMONWEALTH EXECUTIVE  
TO THE AUSTRALIAN SENATE**

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‘the colonial upper houses were an important influence on the design of the Australian Senate ... and have assisted the maintenance of a culture of strong bicameralism which has supported a major and growing role for the Senate. It is too often overlooked in Australia that the institutions of national government devised in the Constitutional Conventions of the 1890s were not built from scratch but were powerfully shaped by the traditions of Australian colonial constitutionalism, within which strong elective upper houses were a prominent feature.’

Bruce Stone, ‘Bicameralism and Democracy: the Transformation of Australian State Upper Houses’ (Pt 2) (2002) 37 *Political Science* 267, 268

## ABSTRACT

This thesis aims to uncover the extent to which the framers of the Constitution of the Commonwealth of Australia conceived of the Commonwealth Executive as politically accountable to the Australian Senate. It explores how, through key financial controls, the political accountability of the Commonwealth Executive to the Senate was incorporated into the *Constitution* by the framers, not just in pursuit of federal concerns but also in pursuit of broader aims of accountability sourced in the role and benefits of upper chambers in bicameral parliamentary systems. This reflected the form of strong bicameralism with which the framers were most familiar through their own experience of constitutional practice in Australia's colonial parliaments. The thesis also considers the continuing relevance of the aims of dual accountability from Australian constitutional history to the High Court's interpretation of the need to protect a line of accountability to upper chambers in Australia.

Accordingly, this thesis concentrates on the role of upper houses in Australia's colonial parliaments prior to the Australasian Federal Conventions of 1891 and 1897-98 and on the record of the Convention Debates themselves. The investigation concludes that, when the framers came to design the *Constitution*, they transposed many of the ideas they had already developed about the appropriate role and benefits of an upper chamber to the new federal constitution. Whilst federal concerns were undoubtedly important in devising the role of the Senate, the framers were also motivated to include the forms of political accountability with which they had experienced under their own bicameral systems. Those systems provided for distinct lines of political accountability of governments to upper houses. Such accountability had been particularly conspicuous in disputes relating to parliamentary control of public finance in Australia's colonial constitutional history. The thesis also argues that concerns regarding accountability to upper chambers that were already present in Australia's pre-Federation history have remained relevant to the High Court's interpretation of the accountability of the Commonwealth Executive to the Australian Senate. It concludes with an examination of the post-Federation judicial interpretation of this constitutional relationship.

# CERTIFICATE OF ORIGINAL AUTHORSHIP

I, Karena Viglianti, declare that this thesis is submitted in fulfilment of the requirements for the award of Doctor of Philosophy, in the Faculty of Law at the University of Technology, Sydney.

This thesis is wholly my own work unless otherwise referenced or acknowledged. In addition, I certify that all information sources and literature used are indicated in the thesis.

This document has not been submitted for qualifications at any other academic institution.

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